Exploring the nexus between law and morality: Ethical considerations in legal studies

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Abstract This publication aims to furnish a comprehensive examination of the ethical elements inherent in the roles of judges, prosecutors, attorneys, and notaries, elucidating their influence on the content of pertinent legal statutes governing the professional status of these legal vocations. The research employed various methodologies, encompassing the analytical method, the synthetic method, the method of scientific generalization, the method of interpreting legal norms, and the formal-logical method. The examination of legal understanding from a moral and ethical perspective involves the scrutiny of two principal concepts: the concept of natural law and the concept of legal positivism. This analytical framework enables the author to assert that a hallmark of progressive law-making lies in the adherence to not only the tenets of natural human rights but also moral and ethical principles during the formulation of legislative acts. In the context of the role and significance of ethics in the professional conduct of judges, prosecutors, attorneys, and notaries, the author undertakes an analysis of pertinent Ukrainian laws. It is asserted that within each of the examined legal enactments, ethical requirements assume a predominant role in the regulation of the legal status of practitioners in the specified legal professions. For instance, the non-violation of rules of professional ethics is delineated as a fundamental duty for specific categories of legal practitioners, with breaches serving as grounds not only for disciplinary consequences but also for the termination of the authority. Building upon the aforementioned observations, it is affirmed that the ethical dimensions of jurisprudence hold significance within contemporary legal discourse across three dimensions: adherence to moral and ethical principles in the drafting of legislative instruments; avoidance of breaches against ethical principles in the course of judicial, prosecutorial, attorney-at-law, and notarial activities; and the imperative that moral and ethical requirements remain inviolate during the preparation of legally consequential documents.

Keywords: morality, professional ethics, judge, prosecutor, attorney, notary

1. Introduction

Correct understanding of the role and meaning of morality as the basis of legal norms is an ancient topic of scientific discourse. It is generally accepted that morality has historically functioned as a social regulator, governing social relations and generating an extensive system of normative and legal acts. The author chose four separate categories of lawyers - judges, prosecutors, advocates and notaries - in which compliance with ethical standards is a guiding principle in conducting legal activities. Legislative acts regulating the legal status of persons in these professions were comprehensively reviewed. Unfortunately, the level of trust in such activities as the judiciary in Ukraine is noticeably insufficient, which prompts legislative measures to establish strict ethical criteria not only for current judges, but also for applicants for these positions.

In general, an accurate understanding of the essence of moral and ethical norms in the legal profession, together with an awareness of their role and importance, not only contributes to the restoration of confidence in the legal profession, but also contributes to the development of a comprehensive legal perspective.

Maksimov S. I. in his own research points out that law and morality have a common element - ensuring the peaceful coexistence of people in society. In the process of differentiation of mononorms, they became independent social regulators (Maksimov, 2019). Instead, L. A. Karpets, supplementing his predecessor, says that moral guidelines are a reflection of a person’s internal self-determination, his sense of freedom and worldview. That is why morality helps to form a connection of personal and public interests at the level of rational thinking, where there is a need to regulate social relations in order to ensure the stability of the development of society (Karpets, 2020). According to I. V. Serdyuk, law and morality are elements.
of the general cultural normative system that are organically included in the social context, but remain autonomous and independent. Instead, the philosophical concept says that law depends on morality and is therefore inferior to morality (Serdyuk, 2016). Considering the statements of previous researchers regarding the relationship between law and morality, it is appropriate to point out that these two phenomena cannot exist separately. According to G. V. Peretyatko, the study of the interaction of morality and law shows that their role in law-making activity and in legal regulation is quite significant. Taking into account the above, in order to increase the effectiveness of the legal mechanism for ensuring the protection of the rights and freedoms of a person and promoting protection in the event of their violation, the subjects of law-making and law enforcement in their activities should be guided by moral values dominant in a certain society (Peretyatko, 2020). Morality, as a form of social consciousness, has many features in common with legal consciousness. It, like law, is a set of relatively established norms, rules of human behavior based on ideas about what is proper and fair (Tofut, 2020).

Thus, it is worth noting that jurisprudence is based on a system of legal norms and principles that are defined at the legislative level. The relationship between law and morality is a necessary condition for building a just society, where legal norms meet generally accepted ethical standards, and morality contributes to the formation of legality and the observance of human rights.

2. Literature Review

The research conducted by Rottweiler B. and Gill P. (2022) is noteworthy for its exploration of conspiratorial beliefs and violent extremist intentions within the framework of incidental consequences stemming from self-efficacy, self-control, and law-related morality. Iovan M. (2020) delved into the analysis of the relationship between law and morality, considering aspects of tradition and modernity. Floarea T. (2022) scrutinized the correlation between law and morality. Horn C. (2020) provided insights into the works of Aristotle within the context of law and morality. Allan T. R. (2020) contributed to the discourse by addressing the unity of the practice and principles of law as a branch of morality. Møller S. (2023) authored a work focusing on law and morality, using the Nazi legal theory as an illustrative example.

The collective effort of authors Odo C. O., Nwatu U. L., Makkieh M., Ametepe P. E. K., and Banks S. (2023) delves into the examination of cases and commentaries about ethical issues in social work practice, approached through the lens of law and morality. Eggert L.’s work (2022) is dedicated to the exploration of the aspect of humanitarian intervention within the realms of law and morality. Pashayeva A.’s (2022) research is intriguing for its focus on the relationship between law and morality within a religious context.


Thus, the existing body of research on the topic of the publication primarily centers around the correlation between law and morality, with relatively less emphasis on the ethical dimensions of jurisprudence.

3. Methods

The employed methodologies in this study encompassed the method of analysis, the method of synthesis, the method of scientific generalization, the method of interpretation of legal provisions, and the formal logical method.

The method of analysis facilitated the isolation of specific provisions related to the moral and ethical standards of the activities of judges, prosecutors, attorneys, and notaries from the extensive content of the Laws of Ukraine, namely "On the Judiciary and the Status of Judges," "On the Public Prosecutor's Office," "On the Bar and Practice of Law," and "On Notaries."

The method of synthesis was applied to provide a thorough presentation of both the shared and distinct characteristics inherent in the rules of professional ethics within the chosen category of legal practitioners.

Conversely, the method of scientific generalization was employed to conduct a systematic examination of doctrinal accomplishments about the subject matter of this publication.

The method of interpretation of legal provisions was applied to discern the legislator’s perspective regarding the accurate interpretation of legislative provisions concerning the rules of professional ethics for judges, prosecutors, attorneys, and notaries. This method, in particular, aided in clarifying the textual content associated with the concept of a "one-time" violation of the rules of professional ethics.

Concurrently, the formal logical method was utilized to identify judges, prosecutors, attorneys, and notaries as representatives of archetypical legal professionals from a diverse spectrum of legal vocations. This method was instrumental in emphasizing the paramount significance of adherence to the rules of professional ethics in the daily activities of these selected legal professionals.
4. Results

It is an established premise that legal norms ought to find their foundation in moral norms. In this context, it is pertinent to acknowledge the existence of two fundamentally opposing concepts within legal philosophy – the concept of natural law and legal positivism.

The concept of natural law posits that a legal statute, even if enacted by formal prerequisites, can be deemed unlawful if it conflicts with inherent human rights. According to this concept, there exist fundamental natural human rights that serve as the paramount criteria for assessing the legality of a specific legal enactment. These natural human rights derive from moral imperatives, thereby making the moral content of a law a guiding factor within the framework of the natural law concept.

Within the framework of legal positivism, adherence to the formal procedures in the adoption of a legal act is deemed pivotal for determining its legality. Consequently, a normative legal act may be deemed lawful under this perspective, even if it runs counter to (does not align with) the mandates of natural human rights and, by extension, moral norms. The author contends that a progressive approach involves adhering to such legislative techniques wherein the content of the enacted normative legal act aligns not only with natural human rights but also with moral norms (Omelchuk et al., 2022).

Ethical principles exert a significant influence on the conduct of judges, lawyers, prosecutors, and notaries, encompassing nearly the entire spectrum of the legal sector. Adherence to the ethical requirements within this category of legal professionals is prescribed by several normative legal acts, which will be examined in greater detail.

Commencing with judges, the obligation to adhere to the rules of judicial ethics is codified as one of the responsibilities of a judge, as articulated in Part 7 of Article 56, of the Law of Ukraine "On the Judicial System and Status of Judges." The observance of these ethical norms assumes a pivotal role in judicial activities, as the non-violation of the rules of judicial ethics is instrumental in discerning and upholding elevated standards of justice. This adherence contributes to fostering public trust in the judiciary, ensuring the perception that judges maintain honesty and incorruptibility.

A noteworthy aspect is the dedicated coverage of judicial ethics in Article 58 of the Law of Ukraine "On the Judicial System and Status of Judges," which explicitly references the Code of Judicial Ethics. This code, following the endorsement by the Council of Judges of Ukraine, received approval from the Congress of Judges of Ukraine.

Additionally, it is pertinent to highlight that Part 4 of Article 59 in the same legal framework introduces a specific criterion for evaluating the monitoring of a judge’s lifestyle. This criterion involves an assessment of a judge’s adherence to the rules of judicial ethics (Law of Ukraine "On the Judicial System...", 2016).

Breach of the rules of judicial ethics can constitute a basis for the High Council of Justice to decline the inclusion of a judge's candidacy in the submission presented to the President of Ukraine for appointment. This disciplinary measure aligns with the provisions outlined in the Law of Ukraine "On the Judicial System and Status of Judges," particularly elucidated in Part 2 of Article 83, where judicial ethics serves as a criterion for the qualification assessment of judges.

The judicial dossier encompasses details about the adherence of a judge to the mandates of judicial ethics, alongside the dossier of an individual aspiring to the role of a judge (Code of Judicial Ethics, 2013). It is noteworthy that in Article 87 of the Law of Ukraine "On the Judicial System and Status of Judges," the legislator employs the term "professional ethics" instead of "judicial ethics" concerning the context of the Public Integrity Council.

Furthermore, Article 94 of this law mandates members of the High Qualification Commission of Judges of Ukraine to observe the ethical standards applicable to judges. Breach of ethical standards by a judge can serve as a basis for the dismissal of a member of the High Qualification Commission of Judges of Ukraine.

Non-compliance with the rules of judicial ethics is specified as one of the reasons for initiating disciplinary proceedings against a judge, leading to potential dismissal. In historical context, it is pertinent to note that the High Council of Justice also historically utilized criteria related to the adherence of judges to ethical standards.

Subsequently, an examination of the Law of Ukraine "On the Public Prosecutor’s Office" will be undertaken to assess the significance of professional ethics in the responsibilities of prosecutors. Article 3 of the Law of Ukraine "On the Public Prosecutor’s Office" establishes the stringent adherence to professional ethics requirements as a fundamental principle of the public prosecution service.

The curriculum at the Prosecutor’s Training Center of Ukraine incorporates essential training on prosecutorial ethics. Similar to judges, prosecutors are obligated to observe the rules of prosecutorial ethics in alignment with current legislation. However, the legal formulation of this obligation differs and encompasses directives such as refraining from discrediting prosecutors and avoiding actions that could harm the authority of the prosecution (Nazar et al., 2022).

Notably, the systematic or one-time severe breach of prosecutorial ethics serves as a basis for initiating disciplinary proceedings against a prosecutor. According to the Law of Ukraine "On the Public Prosecutor’s Office," systematic violation of prosecutorial ethics is defined as occurring two or more times within a single year (Law of Ukraine "On the Public Prosecutor’s Office," 2015).

The Code of Professional Ethics for Prosecutors is sanctioned through approval by the All-Ukrainian Conference of Prosecutors. Historically, it is noteworthy that before the adoption of the Code of Professional Ethics and Conduct of Prosecutors, the preceding regulatory framework was the Code of Professional Ethics and Conduct of Prosecutorial Office.
Workers. This historical context indicates that the earlier ethical standards for prosecutorial activity had a broader scope, extending their applicability not only to prosecutors but also to prosecutorial officers (Code of Professional Ethics..., 2017).

Let us further examine the role and significance of ethical requirements within the framework of the Law of Ukraine "On the Bar and Practice of Law."

The possession of theoretical knowledge about attorneys' ethics is assessed in individuals aspiring to become attorneys, and it is an integral component of the qualification examination for attorneys.

Adherence to the mandates of attorneys' ethics is expressly incorporated into the content of the attorney's oath. Article 20 of the Law of Ukraine "On the Bar and Practice of Law" delineates that an attorney has the right to undertake actions aligned with the attorney's ethics, establishing this as a prerogative of attorneys.

Embedded within the professional duties of an advocate, as stipulated in Article 21 of the Law of Ukraine "On the Bar and Practice of Law," is the obligation to adhere to the rules of attorneys' ethics, an obligation reinforced by the advocate's oath (Law of Ukraine "On the Bar...", 2012).

Article 27 of the Law of Ukraine "On the Bar and Practice of Law" mandates that a legal aid agreement must conform to the stipulations outlined in the rules of attorneys' ethics. Non-compliance with the content of a legal aid agreement with the rules of attorneys' ethics constitutes a basis for refusal to conclude said agreement, as per Article 28 of the Law of Ukraine "On the Bar and Practice of Law."

A severe one-time lapse in adherence to the rules of professional conduct or their recurrent violation provides grounds for the suspension of the right to practice law. Nonetheless, in contrast to the Law of Ukraine "On the Public Prosecutor's Office," the legislation governing the Practice of Law lacks a substantive definition of what constitutes a systematic violation (Reznik et al., 2022).

Breath of the rules of professional conduct is deemed a disciplinary offense and forms the foundation for the disciplinary liability of the attorney.


Finally, let us turn our attention to the ethical conduct requirements outlined in the current legislation governing notaries.

The establishment of professional ethics for notaries is recognized as an integral component of the state's regulation of notarial activities, as articulated in Article 2-1 of the Law of Ukraine "On Notaries" (Law of Ukraine "On Notaries," 1993).

Similar to the aforementioned laws, adherence to the rules of professional ethics is encompassed within the responsibilities of a notary.

Repetitive failure to adhere to the rules of professional ethics by a notary is recognized in the existing legislation as a justification for the revocation of the certificate granting the right to practice notary. In contrast to preceding legislative acts, the Law of Ukraine "On Notaries" does not impose specific criteria for systematic violation of the rules of professional ethics, nor does it define what qualifies as a "repeated" violation of these rules (Dutchak et al., 2020).

In the realm of notarial practice, an entity tasked with overseeing the adherence to professional ethics by notaries exists—the Notary Chamber of Ukraine (Rules of Professional Ethics of Notaries of Ukraine, 2021).

The author of the article suggests that, beyond moral and ethical aspects inherent in legal comprehension such as adherence to legislative technique and professional conduct, it is pertinent to discuss the imperative to consider moral requirements when formulating legally significant documents (Lakhno et al., 2021).

In this context, our focus is primarily on the criteria for a court decision. Beyond the mandates of legality and validity, court decisions are required to embody fairness. The concept of justice, as a legal category, is intricately connected to moral imperatives. Furthermore, unjust court decisions have the potential to erode public trust in the judiciary.

Similarly, moral considerations should be taken into account when formulating legally significant documents by prosecutors, lawyers, notaries, and other representatives of legal professions.

5. Discussion

The investigation conducted by Rottweiler B. and Gill P. (2022) delves into the influence of conspiracy beliefs on violent extremist intentions. More precisely, the researchers explore whether the association between conspiracy beliefs and violent extremism is contingent on individual characteristics, such as varying levels of self-efficacy, self-control, and adherence to law-related morality. Their analysis draws from a German nationally representative survey. The findings of their study substantiate that a heightened inclination towards conspiracy beliefs corresponds to an escalation in violent extremist intentions. However, this correlation is contingent upon several individual differences. The impact is notably more pronounced for individuals characterized by lower self-control, weaker adherence to law-bound morality, and higher self-efficacy scores. Conversely, when robust conspiracy beliefs coexist with high self-control and a firm commitment to law-bound morality, the propensity for violent extremist intentions diminishes. Hence, these individual characteristics function as interacting protective factors against violent extremism. The findings presented by Rottweiler B. and Gill P. (2022) carry significant implications for practical applications in the domain of violent extremism risk assessment and management. Conceptually, the outcomes of their
research underscores the necessity for further exploration of the conditional effects of specific risks and protective factors associated with violent extremism.

The article authored by Iovan M. (2020) scrutinizes the perspectives of three eminent Romanian thinkers—legal theorists and philosophers—regarding the nexus between law, morality, and customs. The aim is to delineate, drawing upon their ideas embedded in Romanian legal culture, the methodological and substantive distinctions among them. This analysis seeks to elucidate the practical significance of the relationship between law and morality in the realms of justice administration and legislative processes. Situated at the heart of European legal culture during their era, Romanian thinkers engaged in a rationalistic and humanistic reevaluation of the relationship between law and morality. They advocated for the alignment of law with moral and ethical principles, substantiating this imperative from historical and practical perspectives, including in the domain of lawmaking. Consequently, Romanian thinkers created room for the assertion of fundamental human rights and freedoms within a democratic judicial framework, in contrast to legal norms subordinating morality and customs, which were deemed susceptible to fostering totalitarianism.

Floarea T. (2022) delves into the historical evolution of law formation, illustrating the gradual detachment of law from religious precepts, moral norms, and customs. The scholar initiates the exploration by delineating the distinct legal concepts of law and morality. Specifically, the law is characterized as objective ethics oriented towards evaluating the external actions of individuals in their interactions with others, while morality is construed as subjective ethics, focused on appraising the internal facets of human intentions. Additionally, the author proceeds to outline the intricacies of both law and morality, distinctly emphasizing the interconnection and disparities between these two realms.

The article authored by Allan T. R. (2020) scrutinizes the proposition that law and morality form a unified normative sphere. The author advocates for the interpretive approach to law, challenging the perspective that posits the content of law as directly determined by reference to political morality in its entirety, with the sole influence of the actions of law-making institutions. Legal practice and political principle are intricately linked in significant aspects, with each having the capacity to shed light on and elucidate the other. Positioning law as an approximation of justice rooted in practice, the author asserts its fundamental connection to moral principles that ultimately shape a political community. The interpretation of the content of law becomes a matter that relies on an understanding of practice, providing concrete contours to abstract concepts of equality and justice.

In the publication authored by Odo C. O., Nwatu U. L., Makkieh M., Ametepe P. E. K., and Banks S. (2023), the authors engage in a discourse on two cases that depict ethical challenges encountered by social workers. These challenges revolve around decisions related to maintaining professional boundaries or fulfilling moral obligations when working with service users in vulnerable situations.

Eggert L. (2022) investigates the factors that impede legal actors from enforcing the moral imperative to safeguard human rights during military operations conducted exclusively for humanitarian purposes. The researcher contends that the explanation is not rooted in conventional objections to aligning the law more closely with morality but rather in the ambiguity within international law concerning the use of force. The imperative to maintain stability in the emerging international legal system entails a trade-off, as the current legal framework refrains from safeguarding individual rights, even when military action is ostensibly justified for the protection of human rights. Consequently, the inherent tension between state sovereignty and the imperative to protect human rights not only sparks familiar debates over the legality of military intervention but also hinders the evolution of laws designed to protect human rights in the context of wars aimed at halting human rights violations. Consequently, the endeavor to protect human rights during humanitarian interventions may persist as both a seemingly futile pursuit and a moral imperative.

Moore J. G. (2020) has contributed to the discourse on the essential relationship between law and morality. The author highlights that legal positivism endorses a clear differentiation between the law in its existing state and the law in its ideal state. According to positivists, a law can possess a legally binding force irrespective of its moral alignment. The researcher delves into the ongoing debate between legal positivism and natural law, ultimately asserting that this debate creates a conceptual space for a theory of natural law grounded in moral authority rather than strictly legal validity.

The article authored by Pascal A. M. (2021) explores the United Nations’ endeavors to establish a legally binding treaty addressing corporate responsibility for human rights impacts. The discussion encompasses the coexistence of this proposed treaty alongside existing voluntary initiatives like the UN Guiding Principles. The researcher aims to investigate whether the introduction of the treaty signifies a transition from voluntary initiatives, grounded in moral obligations, to a legal framework emphasizing compliance. Additionally, the study aims to assess the potential impact of the treaty on the interconnections between judicial and non-legal entities.

Heimer C. A. (2023) is the author of a study focusing on moral free will. The scholar posits that law and morality serve as distinct frameworks for normative obligations and the feasibility of alternative courses of action. The author delves into an examination of how the relationship between law and morality has been transformed through the introduction and intensification of infrastructural, managerial, technologically mediated, and algorithmic modes of structuring and controlling activities within organizations. Illustrative examples from sectors such as health care (characterized by stringent guidelines and organizational rules), law enforcement (utilizing “big data” in intelligence-driven policing), and the military (embedding laws of
war and rules of engagement in artificial intelligence software) elucidate how changes in work processes diminish the scope for moral agency among participants.

Roots L. (2022) addresses the evolution of law and morality within the context of LGBT communities, spanning from the communist past to contemporary realities. The author observes that the rights and discrimination experienced by LGBT individuals undergo continual changes across time and geographic locations. The treatment of this group is influenced by the prevailing values and morality endorsed by leading political parties or the perceived moral stance of the state. Despite the foundational principle that "All human beings are born free and equal in dignity and rights," as articulated in the first article of the Universal Declaration of Human Rights, the scholar contends that this fundamental universal value is often overlooked when it comes to the recognition of LGBT rights (Girko et al., 2022). The most overlooked right is the right to family life, particularly in the context of many countries not recognizing marriage between same-sex couples. However, this issue is not the sole concern. The work delves into an exploration and analysis of diverse legal and political approaches and their impact on LGBT rights, examining their correlation with the morality and values upheld by states. To illustrate the varied approaches to legal challenges faced by LGBT individuals, the author draws on examples from European countries, including Estonia, Hungary, and Poland. The findings reveal that Hungarian society displays greater acceptance of minorities and higher satisfaction with their democracy compared to Estonia, suggesting a lesser impact from the historical communist regime (Zavhorodnii et al., 2022). The Soviet Union exerted a more significant influence on shaping public attitudes toward sexual minorities in Estonia and a comparatively lesser influence in Hungary. This study underscores that societal acceptance of sexual minorities is a gradual process, with the legacy of communism still influencing contemporary attitudes.

Following an analysis of publications related to the subject matter, the author concludes that this work distinguishes itself significantly from its predecessors. For the first time, this article provides a comprehensive examination of the ethical foundations underpinning the roles of judges, prosecutors, attorneys, and notaries. It elucidates the role of moral and ethical norms within the realm of jurisprudence, presenting a tripartite perspective on the subject.

6. Conclusions

The study has undertaken a comprehensive examination of the ethical aspects inherent in the professions of judges, prosecutors, attorneys, and notaries. It has scrutinized their impact on the content of pertinent legal acts that govern the legal status of these professional roles.


Henceforth, adherence to ethical requirements is deemed obligatory for the specified legal professionals, and transgressions thereof may not only invoke disciplinary measures but also lead to the cessation of duties for judges, prosecutors, attorneys, and notaries. The author’s methodology enables a comprehensive exploration of the ethical dimensions in jurisprudence within three facets of contemporary legal comprehension: upholding moral and ethical principles in legislative technique; abstaining from transgressions of ethical norms during judicial, prosecutorial, attorney, and notarial activities; and ensuring the preservation of moral and ethical requisites when formulating legally consequential documents.

The comparative analysis of the specific and substantive content of the Code of Judicial Ethics, the Code of Professional Conduct and Ethics of Prosecutors, the Rules of Attorneys’ Ethics, and the Rules of Professional Ethics of Notaries of Ukraine offer a foundation for subsequent doctrinal and legal investigations.

Ethical considerations

Not applicable.

Conflict of Interest

The authors declare no conflicts of interest.

Funding

This research did not receive any financial support.

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