

Comparative Analysis of Morality and Ethics in the Legal Profession

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ABSTRACT

The interconnected nature of law, ethics, and morality is the subject of this paper's investigation. There are some shared characteristics among these connected ideas. As a field of study, ethics seeks to answer questions about right and wrong, whereas the study of morality focuses on societal norms for appropriate behavior, and the study of law as a cognitive process governs social life by means of regulations established by an authorized body. However, how are the parallels and contrasts between these interconnected ideas conveyed? The first noticeable distinction between morality and law is in the language used. The law regulates the outward actions of citizens in their interactions with one another, whereas morality is manifested in how people act and relate to others. The rule of law and all systems of law include moral principles to varying degrees. The second point is that the words highlight the link between individual values and those inside the social and legal order; so, although ethics and morality are often used interchangeably, the distinction between them goes beyond mere nomenclature, as we shall see in the next section. Last but not least, the field of legal ethics is vital because it shapes the professional conduct and behavior of attorneys according to the ideals that they should uphold as members of the legal and social communities.

Keywords: Ethics, morality, law, legal ethics, professional conduct.

1. INTRODUCTION

Concepts that are "used synonymously, and sometimes distinguished, but in varying ways" are the focus of this paper. It will contend that when people use the words "ethics" and "ethical," they are not necessarily referring to moral philosophy but rather the study of legal ethics.

As a result, the concept of morality, which is employed to govern human activity, will be thoroughly examined in light of ethics. Therefore, we shall focus on legal ethics, morality, and law as connected and, more recently, contentious subjects for the sake of this study. First, though, let us take a step back and define law as a system of norms: the "normative order regulating human conduct in a specific way." To fully grasp this, we need to revisit the works of Bentham and Austin, two of the most influential classical English positivists. Only then can we move forward with our idea. Law, according to Bentham's conception, includes not only statutes passed by legislatures but also judgments made by courts and administrative bodies as well as domestic orders.

There is an inherent degree of command, restriction, or authorization toward a certain kind of behavior in the text of the law, as there is in all laws. "The fundamental aim of the law is to rectify the moral deficiencies associated with the circumstances of legality." Therefore, when an authority properly adopts legal norms, they become part of a particular legal system. This is according to legal philosopher John Austin, as explained by Michael Freeman in Lloyd's Introduction to Jurisprudence. According to Lon L. Fuller, there are eight essential elements of a good legal system: the laws that are issued from it must be clear, comprehensible, forward-looking, non-contradictory, broad, free from unreasonable demands and frequent revisions, and official acts must be in line with the rules that have been promulgated. Although the purpose of law is to govern society, according to H.L.A. Hart, "legal rules cannot be expected to provide for every factual situation that may arise." It is also highly desirable for a promulgated norm to have the desired impact in reality notwithstanding changes in society, economy, and technology.

Defining ethics and providing an explanation for its use are equally crucial. When applied to a broader context, the study of right and wrong, good and evil, is known as moral philosophy,

or ethics. A theory or framework of moral principles and values may also be referred to by this word. Ethical theory and practice are fundamental to the study of human nature and the evaluation of human deeds. In their article "Ethics and Deviations in Decision-making," Gagari Chakrabarti and Tapas Chatterjea explain, "The notions of philosophical ethics are based on rational, secular foundations that consider human well-being or human satisfaction as the ultimate objective." On the other hand, the term "legal ethics" refers to the "principles of conduct that members of the profession are expected to observe in the practice of law." Donald Nicolson and Julian Webb, in a book about the conflict between the ethical concern for justice in the legal profession and the fact that lawyers fulfill these ethical concerns throughout their careers, explain that professional legal ethics could be found in more than two meanings. Their reasoning goes something like this: legal ethics might be a conceptual framework for concepts like "morality" and "justice," or it could simply be a way of describing how individuals respond to moral and legal quandaries.

It would seem that there is a vast body of regulation comprising the domain of legal ethics, or professional responsibility. Actually, a Yale scholar put it this way: the area is becoming "increasingly rule-bound." It's also plausible that the growing body of ethical standards in law may lead to more intricate regulations. Thus, legal ethics may refer to both the regulations that regulate the legal profession and the personal standards that individuals have when faced with moral dilemmas. Last but not least, the public is safeguarded against attorneys who lack professionalism and ethics by the rule of legal ethics, which ensures that lawyers behave in a way befitting a fit and appropriate person. As a result, attorneys may use legal ethics as a guide to improve their own moral character and as a tool to ensure they are competent to practice law.

2. ETHICS, MORALITY AND LAW: THE INTERRELATED CONCEPTS

We shall begin by tracing the etymological history of the two ideas under discussion—ethics and morality—back to their shared antecedents in classical Greece and Rome. "Ethicos" replaced "ethos," the earlier word for "custom or habit." Although "moralis" was the Roman word for "group conduct," Chakrabarti and Chatterjea contend that the two terms were not exact synonyms because ethics usually refers to an individual's actions and morality to those

of a group. Be that as it may, there are a myriad of personal ramifications, results, and repercussions stemming from ethical judgments. The distinction between ethics and morality lies in the fact that the former pertains to personal standards and the latter to group behavior, even if the two appear interchangeable.

The standards of behavior that are sanctioned by public power to create an order to human interaction that is most advantageous to the common welfare are compiled into laws, which may be characterized as a collection of broad and abstract principles. There is a complementary relationship between law and morality, according to philosophers and authors like Jürgen Habermas, who saw "the relationship between law and morality as inseparable." This is due to Habermas's belief that moral principles are inherently related to legal principles. "Ordering interpersonal relationships through justified norms" is a problem that both morality and law seek to address. However, drawing on opposing views from schools of thought like natural law and legal positivism would lead to disagreements over how much moral consideration should be incorporated into legal text for it to be considered valid.

But there may be concerns about the operation of the law under systems like natural law and legal positivism. Some, like Habermas, who hold to the natural law theory, make it seem as if morality and law are inseparable. Ronald Dworkin, who views law as an element of political morality, argues in a similar vein, stating that law and morality are not independent systems.

Thus, morality inherently affects how society comprehends the legal system, as per natural law theory. On the other hand, legal positivism acknowledges that there are cases when excellent moral reasoning does not align with legal interpretation, leading to conclusions about the law that are ethically flawed. Similarly, laws and morals are not inherently related, according to Hart; the two are capable of existing independently. This is why legal positivism sees morality and law mainly as systems of norms, or collections of propositional rules and ideas. Legal morality, according to Willy Moka-Mubelo, serves as a "code[of conduct" for "rational beings" who would adhere to the code and apply it throughout society. However, how primarily does the law serve this purpose? The use of force by the state is one area where the law has a disproportionate impact on moral norms. There are two schools of thought on the subject of law: one holds that it is an objective set of rules that cannot be

changed based on individual conscience; the other believes that traditional or religious ideas have had an impact on the formation of moral standards.

In addition, as mentioned by M.D.A. Freeman, a renowned English judge named Lord Devlin "argued that there is a public morality which provides the cement of any human society, and that the law, he suggested especially criminal law, must regard it as a primary function to maintain this public morality." Typically, individuals can face punishment for actions that go against general moral principles, but not by a formal legal body with actual or legal authority. In fact, people are subject to legally binding standards set by the legal system, and they must adhere to these standards or suffer legal consequences. As a result, people might start to think that there are key differences between law and morality.

The fundamental difference between morality and the law, as pointed out by Moka-Mubelo, is how people articulate their understanding of each. People engage in moral behavior in order to build relationships with others, and they follow the law in order to keep society running smoothly in accordance with predetermined legal standards. While he acknowledges that "morality has in some ways dictated the development of the law," he goes on to say, "Law, however, has a structure that gives primacy to entitlements and morality points to individuals' obligations towards one another." Still, there are many who think the two ideas are inseparable, despite their differences.

Tony Honoré argues that "the connection between law and critical morality is necessary in that it is not contingent" and is rather ever-present, and that "morality is to be understood as a persuasive source of law and not as its authoritative source." This is in line with Tony Honoré's previous claims. "The proposed interpretation of every law in every legal system can legally be challenged on the ground that it is not morally defensible, whether the challenge succeeds or fails in a particular instance." Consequently, law is a normative order embedded in a practice of legality, and this relationship is so important that it can be argued.

Peter Cane, on the other hand, was worried about the close relationship between the two ideas because, despite their differences in real power, appeals to morality might control the evolution of the law. Therefore, it is true that morality is based on universally accepted principles of "equality of respect, solidarity, and the common good," and that laws are

implicitly derived from moral codes of conduct. If morality is a product of evolving human connections and authoritative legal systems are their direct cause, then the question of whether laws can be invalidated because they do not adhere to moral principles is uncertain, as pointed out by Joseph Raz.

3. THE ETHICS OF LAWYERS

For those who have already reviewed the significance of ethics, I will restate it: "ethics is about what we should or ought to do per se, either because the action in question is intrinsically good or bad or because it is a means to achieving a goal or purpose that is intrinsically good or valuable." In other words, ethics is the philosophical discipline that seeks to interpret, explain, and guide moral decision-making and behavior. Furthermore, ethics is a "moral philosophy" that takes into account the effect of morality on a particular occupation, like law. According to legal ethics, a lawyer must adhere to certain standards of professional fitness to prevent the detrimental influence of "unethical" attorneys on the profession.

By definition, legal ethics would also necessitate that attorneys adhere to certain moral norms, since ethics often encompasses both morality and rule-making. The field of legal ethics, according to Kenneth Kipnis, "asks what principles lawyers must conform to, what ideals they must strive to achieve," and what professional behavior must adhere to. For the most part, "The most important factor in determining ethical behavior is perhaps the individual's perception and internalizations of the concepts of morality and ethics and the process by which such awareness is formed, shaped, modified or discarded over one's lifetime." Following this line of thinking, legal ethics refers to the standards of behavior that lawyers are expected to uphold when practicing law. In addition, "these principles of conduct are an outgrowth of the development of the legal profession itself" because, as part of their job, attorneys are expected to adhere to certain standards of behavior. Because of the inextricable link between a lawyer's personal and professional ethics and the success they achieve in their practice, the standards of professional conduct are an inherent component of the legal profession. One example is Australia, where "these rules and regulations can be found in the legal practice or legal profession statutes, in the self-regulatory professional

conduct and practice rules of the various professional associations, and in the way the general law" stands. ..relate to attorneys and their interactions with clients. The standards of ethical conduct in the legal profession have changed significantly over the last several decades. As a result, "many lawyers believe the culture in which these rules are set and are meant to express is weakened and in danger of collapse," even if "these rules are today more numerous and detailed than they were earlier."

Since attorneys are required to adhere to ethical standards in this line of work, "Lawyers' ethics in the legal profession is dominated by legalism," as pointed out by Christine Parker and Adrian Evans. Because both the lawyer and the judge are required to seek "justice" via their positions, an ethical lawyer must provide clients with "advice" in an impartial and honest way, similar to how a judge would. This is something that David Luban points out. According to Nicolson and Webb, a lawyer's responsibilities include upholding professional and ethical standards in their dealings with clients, colleagues, and employers, all while striving for the attainment of "truth, justice, and the public interest." Ethical behavior on the part of lawyers requires them to integrate their own personal values with standards of professional conduct and societal ethical concerns.

According to Parker and Evans, ethical attorneys see their work as serving as a mediator between clients and the legal system. Not only do they look out for their customers' best interests, but they also act as a legal representative for their clients and ensure that their clients follow the rules. Those attorneys who assist clients in developing business plans that take into account the industry's regulatory landscape as a whole tend to practice responsible law.

One of the most important parts of being a lawyer is being loyal to your clients. As a result, you should internalize ethical rules and use your knowledge of the law and ethics to help you serve your clients. However, you should also be aware of the rules that are strictly imposed on you and the ones that are more open to personal interpretation.

While it is the duty of attorneys to protect their clients' interests, they should be cognizant that some of those interests may run counter to what is considered the "public good." This creates an additional challenge for attorneys when defending clients in matters that are seen

to be in opposition to that ideal. The fact that lawyers face such opposition "is implied by the claim that every lawyer is an officer of the court, and the law a public calling," as stated in "the first of the four features of law practice that explains its standing as a profession."

Although many people enter the legal profession with the intention of helping others or protecting them from harm, they may later become disillusioned when they realize they must act in a way that goes against their personal beliefs or overacts on behalf of their clients. However, lawyers must do this because they possess superior knowledge of the law and must use it to protect their clients' interests. To help lawyers navigate this difficult situation, it's helpful to think about four "ethical types" that they might utilize to serve their clients' best interests without letting their own values and principles show. The four interconnected sorts of ethics are as follows: (1) the ethical lawyer; (2) the ethic of caring; (3) passionate advocacy; and (4) moral activism. Any lawyer who puts himself in one of these boxes understands how ethics play a role in the judicial system.

As passionately as possible, lawyers should fight for their clients' interests, but they must do it within the law. To rephrase, it is the duty of a lawyer to ensure that their client benefits from the law in a reasonable and equitable manner. Ensuring the integrity and conformance with the spirit of the law is an important part of advocacy. It helps to prevent matters from being settled only on procedural or formal grounds, but rather on their substantive merits. As pointed out by Parker and Evans, there are two ways in which attorneys might use their position to promote justice and engage in moral activism:

(1) representing clients in matters of public interest and reforming legal systems to increase access to justice and make laws and legal institutions more fundamentally serving the public interest; and (2) counseling clients to help them make moral decisions or to step back if they prefer an alternative.

Last but not least, in terms of care ethics, the purpose of the attorney-client relationship ought to be the promotion of the client's and the lawyer's moral dignity and well-being, or the maintenance of mutually beneficial connections and communities. By focusing on the duties of attorneys toward their clients, communities, and interpersonal connections, ethics of care tend to prioritize individual and interpersonal concerns.

Think about it: as part of their job, attorneys are required to follow the law, but they also want to do a good job of enforcing it. Even if lawyers shouldn't take sides, it's safe to say that those who actively seek to discredit the rule of law aren't suited to practice law. In addition, attorneys shouldn't do anything—in or out of the courtroom—that violates the law, is dishonest, might disgrace the legal profession, or hinders the fairness of the justice system. Within the scope of their engagement, lawyers are obligated to advise clients on the interpretation and application of laws and to provide sound counsel to advance their interests. A lawyer's responsibility to advise their client is inherent in the nature of their professional relationship. It is also against the law for a lawyer to intentionally encourage a client to engage in criminal activity, even if the lawyer is not operating as an entrepreneur.

Since the goal of any system of laws is to ensure fair treatment of all parties involved, it stands to reason that attorneys should prioritize this goal. It is the responsibility of lawyers to use their profession to influence societal and political justice principles via influencing individuals, organizations, and the legal system to adopt them. Following from the previous topic, ethics, which is concerned with doing the right thing, reveals that doing the right thing is founded on obligations, which have their origins in the juridical system and seek to bond and foster a feeling of community and sociability among lawyers. Furthermore, as a result of their human nature, the parts of legal ethics that demand accountability from attorneys stem from the fact that they interact with clients and remain loyal to them. Similarly, attorneys have a number of ethical and professional responsibilities, such as representing their clients' best interests, maintaining client confidences, and advocating in an honest and forthright way.

At the end of the day, attorneys must always keep their principal responsibility to their clients, other parties, justice, and equality in mind while they use their professional talents. Professional legal ethics require that attorneys refrain from actions that are considered unethical in the workplace, whether it's putting their clients' needs and wants first or ensuring that the law is applied fairly and justly.

4. CONCLUSION

The purpose of this study was to draw attention to key points about the distinct but interrelated ideas of law, morality, and ethics. In essence, both ideas are interchangeable, but

they have certain commonalities: ethics is the study of right and wrong, good and evil, while morality is the study of social norms and expectations for appropriate behavior. A brief definition of the law was provided before the paper's main concept was developed. The law is an abstract norm that encompasses degrees of command, restriction, and authorization toward some kind of behavior. Additionally, morality, professional responsibility, and legal ethics were all adequately addressed in light of the paper's subject. So, it's clear that the vast body of rules that make up the study of legal ethics is there to make sure that attorneys behave in a way that is consistent with the standards of the profession while representing clients and doing legal work.

This article drew on scholarly work to clarify that ethics and morality are not synonymous; although morality contributed to the formation of the legal system, ethics offers a set of principles that lawyers can follow in their work. Furthermore, attorneys may look to the law as an authoritative basis for behavior, while morality is based only on individual norms formed through social interactions and lacks any real authority. This research shows that there are clear distinctions in the development of moral and legal notions of responsibility, taking into account that morality is not as institutionalized as law. Regardless of these important distinctions, the fact that ethics has had a role in shaping the law suggests that ethics and law go hand in hand.

At the outset of the paper's treatment of legal ethics—that is, the professional conduct of attorneys—it explains how this field has shaped lawyers' behavior and how they seek to conduct themselves professionally as members of the social and legal communities. The field of study known as "legal ethics" encompasses both the principles and the jurisprudential obligations of lawyers, as well as the expected behavior of those in the legal profession. The stated norms and regulations that apply to attorneys and the legal profession further illustrate that professional behavior forms the law of lawyering. Most people go into law with the intention of protecting others or advancing moral principles. In order to keep up this level of dedication, students need to learn to be responsible.

It was carefully considered how four interconnected categories of ethics—the "responsible lawyer," "ethics of care," "zealous advocacy," and "moral activism"—could shed light on the

professional legal ethics obligations of attorneys. The only attorneys who can consciously identify with one of the four aforementioned ethical approaches will have a better chance of understanding ethics and their own personal preferences, according to the discussion of these kinds.

On top of that, it is the duty of a lawyer to protect their client's interests by using the law in a fair and reasonable manner. As a result of the trusting relationships they build with their clients and the loyalty they owe them, lawyers have a responsibility to learn the ins and outs of the law so they can help their clients with their legal problems. They must also act professionally by adhering to ethical standards, such as protecting their clients' privacy. A lawyer's professional ethics can only be maintained if they have strong beliefs about the nature of justice in various contexts and actively seek for methods to put those beliefs into practice.

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