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HARMONIZATION OF THE LEGAL SYSTEM WITH THE MORAL SYSTEM - ESSENTIAL CONDITION FOR THE POSITIVE EVOLUTION OF THE UNIVERSITY ENVIRONMENT

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Abstract: *It is affirmed that the highest stage of human evolution will be reached when what is considered illegal will also be considered immoral and what is appreciated as legal will also be of moral value. In another expression, this desideratum requires that morality is in an identity relationship with legality, or it is the proximate type of legality, and immorality is the proximate type of illegality. In the circumstances of a globalized world where there are already laws that operate on an international scale and common values, such as social solidarity and international cooperation, the recognition of these fundamental values does not imply agreement on the common ground of understanding in terms of justice and morality. The University has a duty to assess how its students perceive morality and legality, but it also has the power to grow these values and foster an environment where they serve as a constant source of guidance for students. The quality of the content of the legal norms, as well as their harmonization with the moral norms will result in an ethical university environment where there will be no more differences between the moral and legal systems, or they will be negligible, when all or almost all of the system of rules that make up morality will be integrated into the legal system, there being no immoral legal rules.*

Keywords: **legal, moral, university environment, legal system, moral system**

1. Introduction

We maintain that the evolution and prestige of a university are ensured not only by the results achieved by its members, but also by their human and moral qualities.

As a rule, the university pursues both performance and the construction of ideas, as well as destinies. In this line of thought, it is natural for the university to be calibrated by a spectrum of regulated values to guide its activity, in other words, it needs benchmarks of morality and legality so that its performance is not just a quantitative illusion and less or not qualitative at all.

The university environment can shape characters and instill desirable behaviors or, on the contrary, it can cultivate the sentiment that morality and legality remain an isolated and theoretical dimension of the university environment and not a generally valid and assumed practice. Thus, it is argued that the university environment does not play a passive role in the moral and legal development of its members because it has the power "to coerce or stimulate members of the university to act morally or immorally" [1].

As such, the University has the responsibility to check and examine how its members relate to morality and legality, on the one hand, but above all, it has the ability to cultivate them and create an environment in which moral and legal values are a permanent source of calibration for its members. Beyond merely

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sanctioning, the legislation in this field must be a call to responsibility, drawing attention to the consequences of non-compliance with the law, through its preventive function. Academic integrity will remain an essential component of performance analysis. Even if its assumption does not, in itself, produce echoes, its violation, however, compromises not only the image of the university and the public's perception of it but also the fiber of trust of the entire academic community, which loses, together with it, both its foundations and purpose.

The hypothesis, from which the elaboration of this article started, consists of the following statement, namely: *the positive evolution of higher education is dependent, among other things, on the way in which the legal norms harmonize with the moral norms, as typical regulations of the field.*

The distinction between law and morality is an extremely complicated matter; it has been widely debated by specialists in the field of ethics and will likely be debated for a long time to come. The problem of the connection between law and morality has been a constant concern for both philosophers and jurists.

The configuration of the complex relationship between the two normative systems requires a deeper analysis of how they interfere with, regulate, and evaluate human behavior, in general.

The theories that develop this theme vary from one pole in which law is identified with morality to another, corresponding to legal positivism, in which law is denied any influence of morality.

However, it is justified to state that the starting line as well as the finishing line in this millennial journey of law is morality, which "circulates inside the law like blood through the body" [2].

2. Morality, moral norms, law, and legal norms

It is unanimously accepted that morality is the system of rules used for the good coexistence of people, whether in individual relationships or in relation to society.

Moral norms are social norms that regulate man's behavior in society, man's relations with his peers and with himself, and their observance is ensured by the force of public opinion and by his inner personal convictions regarding *good* and *bad*, *equity* and *inequity*, *virtue* and *vice*.

Law is defined as the set of rules of conduct, instituted or sanctioned by the state, that expresses the will and general interests of society, their application being ensured, if necessary, by the coercive force of the state, carried out by its empowered authorities [3].

Legal norms are social norms, instituted or recognized by the state, binding in the relations between the subjects of law, whose compliance can be imposed, if necessary, through the force of coercion exercised by the state [4]. Norms characterized by the fact that they represent state authority, are general, binding and coercive.

Returning to the moral norm, it must be specified that, though it is as old as society itself, it still plays a particularly important role in regulating social relations and ensuring social order [5].

3. The relationship between law and morality

Drawing the boundaries between law and morality, and detecting the similarities between them and their interaction, acquires a special significance in the regulation of existing social relations in the university environment.

A first question that emerges and requires a scientific answer is the following: *to what extent does the domain of the legal rule overlap with that of the application of the moral rule?*

Among the arguments brought in favor of the idea that law must be circumscribed to morality, we list the most representative ones in the following: law and morality have a common rational origin; jurisprudence appeals to moral and equity principles; the main purpose of law is to achieve justice, a moral precept in itself;

and last but not least, legal normativism does not explain the failure of certain clearly immoral legislation.

Among the most significant counterarguments that law must be circumscribed to morality, the following must be mentioned: unlike morality, law is fundamentally different because in its structure there is a specific component: *the sanction*, with the subsequent prerogative of coercion; in its relationship with morality, law is autonomous since the two notions have different fields of application; by imposing the conformity of law with morality, the legitimacy of law and, implicitly, its authority is called into question.

Moral theory represents a central concern of law, constituting the common framework for understanding ethics, in which the overlap between moral and legal obligations takes place. The reason for this overlap between morality and law is that they are parallel modalities, responsible for generating the type and degree of cooperation that a society needs in order to function and thrive.

A necessary condition for the development of any moral theory is an adequate ethical value system. A moral theory formulates the principles related to our moral obligations, indicating how we should behave in society.

Moral theories try to enunciate the values, principles and basic ideas of morality on a scale of *good-bad* criteria, to justify the universality of these principles, their coercive character, and their applicability in social life.

Respect for the law and the restoration of legal order are the essence of the rule of law [6]. The addressee of the law is obliged to connect his behavior to the legal norms in force at the time when he carries out the assessed conduct. The law upholds morality by adding legal sanctions to the sanctions of individual or collective conscience. However, many moral principles find no basis or support in law: lying is not considered a crime (unless under oath), saving a person in danger of death is not a legal duty, and there are many such examples in which the law is indifferent or permissive, leading to ambiguous situations in which it becomes difficult to create premises that would generate appropriate ethical behaviors. If a moral theory aims to affirm what is good in a collectivity and to offer solutions for moral dilemmas, the law is that rule imposed on all people living in the same social conditions, in a certain geographical and political area called the state. The law, therefore, finds its realization through the coercive power exercised by the state, a power that is put at the service of the law. The law changes when it is observed that a certain rule does not produce what is considered to be good (*the Good*) for the collective to which it applies.

Although unwilling to dissolve law into morality, Jurgen Habermas believes that law is only effective if the majority of people obey it, not because they are compelled to do so but because they accept the moral authority of the law [7].

"Law must do more than simply meet the functional requirements of a complex society; it must also satisfy the precarious conditions of a social integration that ultimately takes place through the achievement of mutual understanding on the part of communicatively acting subjects" [8]. So the law must provide the just ethical framework conducive to peaceful social interactions, in accordance with sustainable, long term public opinion.

4. The transposition of universal moral norms into law

Globalization has created increased interdependence between countries through markets, communication technology, finance and culture. Samuel Huntington states in *The Clash of Civilizations and the Remaking of the World Order* (1996) that we are witnessing a clash of civilizations, a contest between different, sometimes incompatible sets of values that call for harmonization and a reaffirmation of the

eternal values. This problem of cultural disharmony is sometimes based on a fundamental dissensus regarding the meaning of the notions of *good* and *bad.* In one culture abortion is forbidden, in another it is sometimes recommended, blasphemy, according to the Christian moral code is considered a sin, but it is a criminal offense punishable by law and carries with it the death penalty in the Arab world.

If we wish to debate a theology of global community and a moral code to reconcile these opposing ideals, we must be aware that creating a community is a cooperative endeavor involving ongoing negotiation between all parties involved. Building community requires reason, negotiation, communication, tolerance, compromise, cultural awareness, and a first-hand understanding of insurmountable moral boundaries. Even in the conditions of a globalized world in which there are already rules that function internationally and common values, such as international cooperation and social solidarity, the recognition of these values does not imply an agreement on the common ground of understanding in terms of justice and morality. The problems related to the possibility of a common fund of understanding and universal moral norms, reflected in a common international law, are reflected in metaethical theories such as *moral relativism, moral pluralism, moral subjectivism, moral skepticism, noncognitivism,* and *moral particularism*.

Moral relativism states that there are no absolute moral values; everything that is considered good or bad comes down to a matter of individual preference. Not every principle applies to everyone at all times and in all situations. There is no universal standard for defining the notions of *good* and *bad*; they are basically products of a cultural environment. There is no objective, universal, or transcultural morality. Moral perfection is therefore in question, being only in the eye of the beholder. Moral standards are culturally defined, so they differ from one culture to another, hence the recommendation to adapt our behaviors chameleonically: *When in Rome, do as the Romans do*.

Moral pluralism considers that moral values, norms, ideals, virtues and ethical duties are diverse. Morality serves many functions, so a single moral theory cannot provide answers and solutions to the wide variety of ethical problems that people face. The idea of what constitutes a good life can also vary. We must therefore accept the existence in a society of several moralities, different and contextual. Contrasting moral views can be equally acceptable and worthy of validation and it is sometimes difficult to choose between diametrically opposed moral values, such as *freedom* and *responsibility*.

Moral subjectivism states that moral truths are subjective, with the truth itself being subjective. Moral truths are based on the individual perceptions or mental states of individuals or groups of people: *that's what seemed right to me at the time*.

Moral skepticism goes even further, asserting that there are no objective truths in morality; moral knowledge is not possible or must be subject to question mark. Moral theory cannot resolve ethical controversies by appealing to objective judgments; thus, it is impossible to state anything absolutely and definitively in the field of ethics.

Moral non-cognitivism states that moral predications do not have truth conditions, they express non-cognitive truths rather than states of approval, disapproval, attitudes and desires in relation to a factual situation, so ethical statements are expressive rather than cognitive.

Moral particularism asserts that there are no general principles of moral order but only moral intuitions, which can provide momentary solutions in particular situations and which cannot be transformed into a valid set of moral principles that can be applied regardless of the situation [9].

The idea that a universal moral order, translatable into law, unconditioned by spatial or temporal limitations, which can

provide criteria for judging the individual behaviors and beliefs of people, ultimately regulating the functioning of institutions on an international level, is possible will remain a subject of heated debate among ethical theorists. Moral theory cannot provide a singular basis for all moral judgments, or, even if it could provide a common basis for some such moral judgments, it could not be used to make decisions consistent with particular legal frameworks. Moral reasoning is not ultimately the same as normative reasoning.

5. Conclusions

Considering what was previously stated, the conclusion emerges that morality and law are not identical. However, the autonomy of the law must not be taken to the extreme, as there is a risk that, if it escapes rational and moral control, it will lead to monstrous constructions. There is no right against morality.

At the same time, we emphasize that not all morality is right, but the right that exists must be moral. The secularization of law does not have to mean its separation from morality, still, unfortunately, today the categorical refusal to impose a certain moral code is emerging above all others. It is worth noting that law continues to draw its sap from morality, trying to do so pluralistically, seeking those moral values that are perennial for the entire community, subject to the appropriate system of law.

The development of legal norms represents an approach subordinated to the conscience and reason of the factors that create them, as well as to the specific rules of their modeling, an approach that must ensure a balance between the reflection of reality and the regulation of reality, of course, in compatibility with the dispositions of moral norms.

Presently, the Parliament of Romania is the only legislative body with the authority to enact, amend, and repeal laws. Therefore, the quality of the content of the legal norms, as well as their harmonization with the moral norms, are co-shaped by the parliamentarians, in particular, and at the promulgation stage [10], by the interventions of the country's president.

As a result, we believe that the most important step in order to achieve the previously mentioned desired is the observance by the parliamentarians of “the obligation to act with honor and discipline, taking into account the principles of separation and balance of powers in the state, transparency, moral probity, responsibility and respecting the Parliament's reputation” [11], and the second step, achievable at the stage of the promulgation of laws, consists in the pertinent intervention of the president, an intervention characterized by honesty, balance and good faith.

In the event that there are contradictions between morality and legal norms, in the analysis of the connections between law and morality, between tradition and actuality, judicial errors, social tensions and various forms of dissatisfaction on a social scale will certainly occur. In such situations, interventions to correct defectively drafted laws, or legal norms that contradict moral values, become legitimate, so as to restore the harmony of law and morality at the level of each social group, as well as at the level of the legal system as a whole.

Deviations from a fair system of values and principles, especially in that stage of life when the young generation should acquire the right conduct, represent, perhaps, one of the most malignant disservices that a university can do to itself. As a conclusion, the university environment must remain the place where values, moral principles and legal norms must be respected, in order to be later reflected in society through concern for the common good.

Finally, a high level of morality in society in general is a support and a comfort both in the drafting stage, and later in the observance of legal norms: it contributes to a healthy legal order and to the firmness of legality in society.

We unequivocally assert that any injustice is implicitly immoral in a rule of law. Taking over to a greater extent the rules of moral behaviour in the domain of university normative ethics is an indicator that the university is on the right path.

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