
LAW AND MORALITY: RELATIONSHIP INCLUDING CRITICAL ANALYSIS

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Introduction

To understand the relationship between Law and Morality, it is first necessary to understand what the terms "Law" and "Morality" mean. Law is not something that can be read and taken literally. The school of natural law interpreted law in relation to morality by using the term morality. It focused on what should be the rule rather than what is currently the law. They argued that law should be interpreted in terms of faith, morality, liberty, justice, and conscience, rather than merely in terms of the law. However, positivism characterised law as stressing that it is only subject to our own experiences. There is no connection between morality and the law. The law is the coming of the Sovereign that can be enforced through punishment.¹

Morality is a collection of principles that allow people to live together in communities. It's what societies deem "right" and "appropriate." Morality isn't set in stone. What you consider appropriate in your culture will not be acceptable in another. Morals are influenced by geographical areas, faith, family, and life experiences.²

Difference between Law and Morality

There was no difference between law and morality in Ancient Societies. They were both thought to be the same person. With the arrival of the Middle Ages, faith provided a spiritual foundation for the law. Modern philosophers in the post-Reformation period stressed the contrast between law and morality. The following are some of the differences between law and morality:

1) Law is concerned with a person's individual liberty, while morality is concerned with collective conceptions of what is good and evil.

¹ <https://www.lawcolumn.in/relation-between-law-and-morality/> (Visited on April 10, 2021)

² <https://www.verywellmind.com/what-is-morality-5076160> (Visited on April 10, 2021)

- 2) Law governs a man's behaviour when he is a member of a particular society, whereas morals govern a man's behaviour even when he is alone.
- 3) Laws consider a man's outward behaviour, while morals consider factors such as inner resolve and willpower direction.
- 4) Law is imposed by "external coercion," while values appeal to an individual's free will.³

Case laws on Law and Morality

1) Queen vs. Dudley and Stephen's Case⁴

For many days, the defendants, Dudley and Stephens, as well as two other gentlemen, Mr. Brooks and the survivor, Richard Parker, sat on the boat. When it became clear that everyone would perish from thirst and hunger, the defendants agreed to kill Parker for the sake of the others. A man who kills another to eat his flesh in order to escape hunger death is guilty of murder; however, he is in such circumstances at the time of the act that he believes and has fair reasons to believe that it is the only way to save his life.

Judgment of the case: In this case, the court held that one person cannot sacrifice another person's life to save his or her own. And on these facts, there was no evidence of any necessity that could justify the prisoners in killing the boy and they were guilty of murder. **It becomes very much clear by the decision in this case that what appeared to be morally right from the eyes of the defendants was considered as a crime in the eyes of the law.**⁵

2) Oppenheimer v Cattermole⁶

He lost his German citizenship and was liable to pay taxes under German law 1913, "When there were no problems of the countries being at war," which claimed that a German lost their German nationality if they obtained a foreign nationality without permission.⁷

Relationship between Law and Morality:

While law is a subject of study in Political Science and morality is a subject of study in Ethics,

³ <https://www.legalbites.in/relation-between-law-and-morality/> (Visited on April 10, 2021)

⁴ (14 QBD 273 DC)

⁵ <https://legalpaathshala.com/law-justice-and-morality/> (Visited on April 10, 2021)

⁶ [1976] AC 249

⁷ <https://indianlegalsolution.com/law-and-morality/> (Visited on April 10, 2021)

the two have a close relationship. Law and morality are mutually reinforcing. People are taught the code of conduct by ethics. It demonstrates the difference between fact and deception. It makes us aware of our acts' wrongness and rightness. Ethics allows us to think morally and improves our moral standing. It aids in the creation of our moral standards. The same goal is pursued by state-enacted legislation.

The overarching goal of the state is to promote people's well-being. Individuals can also benefit from political science in order to become better people. An individual can only become an ideal citizen if he adheres to the morality code of conduct. As a result, there is a strong connection between law and morality. And when a state functions under ideal moral rules can it be called an ideal state. The foundation of ideal laws is morality. It would aid the emergency of an ideal state if the state works under ideal laws based on morality.

For example, moral laws are those enacted with the aim of eliminating evils and malpractices such as wine drinking, gambling, theft, dacoity, and murder. They arouse spiritual feelings in us and help us develop as humans. Only such morally based rules are everlasting. Progress is impossible to achieve in a society ruled by moral principles. In a state where crime is promoted, people will be too preoccupied with committing crimes to think about their own success. As a result, they will return to their natural state of savagery.

Citizens who live in a bad state will be bad, while citizens who live in a good state will be good. As a result, the state bears full responsibility for upholding a high moral standard. Adopting a discrimination policy based on caste and creed, colour and race, clans and tribes, communities and classes is almost a sin. Generally, laws are the image of morality. In most democracies, there is no such rule as opposed to morality. Wilson is right in his observation that a state's law is the product of the creation of morality within the state. This is why the sovereign law-making authority pays close attention to the code of law-morality intimacy, which states that "the line between the illegal and immoral is blurry." Both public sentiment and attitudes are influenced by the state and legislation; law, in turn, represents public opinion and therefore serves as a barometer of moral change.⁸

Critical analysis of the relationship between law and morality:

⁸ <https://www.politicalsciencenotes.com/articles/relationship-and-difference-between-law-and-morality/290>
(Visited on April 10, 2021)

Whatever the various schools of jurisprudence have to say about the relationship between law and morality, it is clear that law and morality are relevant at different levels of practise. That is, when moral considerations must be added to a statute, morality often refers to that situation. It is obvious that whether the legislation is founded on morality or not, it achieves the maximum process for social change in order to achieve the law's main goal.

Those who follow the law often argue that it should be linked to morality, and sometimes they do so without making such a statement. The spread of the Covid 19 virus, for example, resulted in the imposition of travel laws in each state, preventing several religious festivals from being observed. People, on the other hand, respected the law and could not claim that they did so out of fear of retribution. In any case, it achieves the aim of social advancement.

According to sociological jurisprudence, the law must evolve to meet the needs of society. Many states have developed new legal principles based on that definition, some of which are linked to morality and others which are not. Law, on the other hand, nurtures culture and society nurtures law in modern society. As a result, morality has some bearing on the law.

Sometimes it has to be ignored if it is an impediment to progressive law in the analysis of moral matters. For example in a landmark judgment **Navtej Singh Johar v. Union of India**⁹, confirming the rights of homosexuals was issued, stating that “love is love itself.”

While there are religious and moral objections to this, the court upheld a long-standing legal status for social change. As a result, it is clear that the relationship between law and morality is complex, but it is nevertheless an essential feature of law. “He is the most intelligent animal in the world when separated by law and justice,” Aristotle writes, “but man is the worst animal in the world when separated by law and justice.” Consequently, whether or not it applies to morals, the rule must be for full justice.¹⁰

Conclusion

Human behaviour is regulated by moral values or man-made law in either case. They should be progressive in nature and possess the ability to distinguish between right and wrong. Individuals' basic needs should not be harmed by any form of legislation. The law is a tool for efficiently enforcing moral values. Morality is an internal concept, while the law is external; if

⁹ [2018] SC 746

¹⁰ <https://www.lawcolumn.in/relation-between-law-and-morality/> (Visited on April 10, 2021)

someone does not follow morality in his actions, there will be no consequences; but, if someone disobeys the law, there will be consequences.