

The Correlation between Criminal Procedural Law Norms and Moral Norms

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Abstract. *This article examines the correlation between criminal procedural law and moral norms. Crucially, it emphasizes the scientific dimensions of issues concerning the harmonization of criminal procedural legislation with moral and ethical standards. In this article, the analysis incorporates scholarly opinions as well as national and international legislation.*

Key words: *Constitution, criminal procedure, court, legal norms, moral norms, spirituality, reforms, ethics, justice, behavior, rights and freedoms.*

The adoption of the new edition of the Constitution of New Uzbekistan, within the framework of democratic reforms, has directly advanced to a new stage in the protection of human and citizen rights and freedoms. These changes have taken on a new priority, primarily aimed at ensuring the protection of individual rights during the implementation of various legal relationships. Certainly, further development of the rule of law in Uzbekistan is impossible without a new ideology, a system of human values, and principles of goodness, morality, and justice.

While positive reform processes are underway in our country, it is unfortunately also encountering highly contradictory situations. On the one hand, the creation¹ of a fair legal state and civil society, along with the harmonization² of our national legislation with international standards for the protection of human rights and freedoms; on the other hand, this highlights a steady increase in the number of crimes.

Therefore, this primarily involves not only the enhancement of the legal framework in the fields of criminal law, criminal procedure, and operational-investigative activities, but also the incorporation of moral norms into the law and the promotion of moral qualities, which, in turn, serve to effectively combat crime while ensuring the protection of the rights and freedoms of individuals and citizens.

Thus, it is closely connected to the development of the concept of moral improvement in criminal and criminal procedural activities. Specifically, there is a need to further intensify the scientific study of issues related to the harmonization of criminal procedural legislation with moral and ethical norms.

Legislation provides numerous guarantees and mechanisms for ensuring the rights and freedoms of individuals, with a primary focus on officials authorized to conduct criminal proceedings and their compliance with legal norms. Special attention must be given to procedural relations during criminal proceedings, as the actions taken by prosecuting bodies may lead to significant restrictions on rights and freedoms. As A.P.Guskova noted, the unity of law and morality determines the proper conduct of the parties involved in criminal procedural relations. Specifically, the proper conduct during

¹ Decree of the President of the Republic of Uzbekistan No. PD-5618, dated January 9, 2019, "On the Fundamental Improvement of the System for Raising Legal Awareness and Legal Culture in Society."

² Decree of the President of the Republic of Uzbekistan No. PD-11, dated January 16, 2023, "On Additional Measures to Further Expand Opportunities for Access to Justice and Increase the Efficiency of Judicial Activities."

operational-search activities, investigation, judicial proceeding, and resolution is a factor that predetermines the course of criminal procedural activity.³

If criminal procedural legislation establishes the conduct and resolution of criminal cases, meaning that the objective of criminal proceedings consists of relevant legal procedures and a system of socially conditioned norms expressed in law, then morality imposes on all parties involved in the criminal process the duty to act justly, seek the truth, fulfill their responsibilities, and express their views and representations in a socially conscious manner. As a result of the interaction between law and morality, it serves as a crucial regulatory factor in guiding the actions of participants during criminal proceedings.

Moral norms and the norms of criminal procedural law are deeply interconnected and exert a direct influence on the formation and evolution of each other. Consequently, the legal body responsible for a criminal case not only shapes the legal awareness of officials but also impacts the moral standards of society. Therefore, the interdependence between morality and law influences the conduct and communication style of investigators, judges, and other participants in the criminal process. Law, as a legal phenomenon, originates from moral principles, which guide its development and fortification. The strength of such a law lies in its alignment with moral value.

Based on the above, there is an increasing need to theoretically justify moral relations, as the priority direction of our society's development is centered on the individual and their rights and freedoms. Today, a critical and indispensable aspect of morality lies in an individual's understanding of moral norms and their ability to fulfill their criminal procedural responsibilities.

Moral and legal relations are interconnected with historically established and evolving views, principles, and beliefs.

As Hussein Vaiz Koshifi observed, every science has its own subject matter, and that subject is the human soul. Indeed, a person's soul can be cultivated to become beautiful and virtuous through proper upbringing and care.⁴

According to Aristotle, the only foundation for the self-preservation of society is that a person remains a person.⁵

A. Guseinov believed that any moral norm could take a legal form and become a rule of law. However, the actual legal formalization of morality depends on expediency, particularly on the tasks and goals set by the state and the law. The law serves as a tool regulating the external behavior of individuals, with coercion being a method of ensuring compliance with its requirements. Morality, on the other hand, addresses the inner world of a person.⁶

In Ancient Rome, attempts were made to idealize law. However, according to R. Pound, the true development of the philosophy of law began when the relationship between law and morality was raised, "when morality or moral habits began to permeate law. This revealed the extent of similarity between customs and moral norms and necessitated a rational explanation of this process." Initially, jurisprudence was part of theology and was studied within the framework of natural law⁷. As ancient philosophers noted, even if all laws were abolished, it would not affect the behavior of the wise, as they rely on moral reasoning and define the criteria for proper conduct for themselves: "The expert does not need laws."⁸ This perspective is relevant, as legal standards are not formed in isolation but are based on criteria derived from moral principles. This means that, being interconnected and having moral norms as their foundation, we can avoid violating legal norms by adhering to moral ones.

³ Гуськова А. П. Нравственные начала реализации прав человека в уголовном 'судопроизводстве // Проблемные вопросы законотворческой и правоприменительной деятельности в России на рубеже нового тысячелетия: Сб. науч. тр. / Под ред. А. П. Гуськовой. Оренбург: Издат. центр ОГАУ. 2001. С. 96.

⁴ Hussein Vaiz Koshifi. Futuvvatnamai Sultani. Akhlaq-i Muhsini. State Scientific Publishing House, 2011. - p. 16

⁵ Хабермас Ю. Демократия. Религия. Нравственность // Моск. лекции и интервью. М., 1995. с. 17

⁶ Гусейнов А. А. Мораль и право: линия разграничения // Lex Russika. 2018. № 8. URL: [ps://cyberleninka.ru/article/v/moral-i-pravo-liniya-razgranicheniya](https://cyberleninka.ru/article/v/moral-i-pravo-liniya-razgranicheniya)

⁷ Лейбин. Фрейд, психоанализ и современная западная философия. М. 1990. С. 155-168.

⁸ Гусейнов А. А. Мораль и право: линия разграничения // Lex Russika. 2018. № 8. URL: [ps://cyberleninka.ru/article/v/moral-i-pravo-liniya-razgranicheniya](https://cyberleninka.ru/article/v/moral-i-pravo-liniya-razgranicheniya)

However, in some cases, there may be an imbalance or even a contradiction between morality and law.

A.P.Guskova notes that “ethics is the doctrine of the behavior and moral foundations of judges, prosecutors, investigators, and lawyers.” Certainly, when it comes to ensuring the moral foundations of criminal proceedings, it is appropriate to consider the professional ethics of its participants. After all, it is they who, through their procedural activities, bear responsibility for the guaranteed protection of the individual, their rights, and freedoms.⁹

In the process of considering a case, a judge can rely on their intuitive sense of morality and justice. For example, R.Pound argues that the judicial process will never become a set of mechanical stages; in his opinion, decisions will never be made based solely on a set of pure legal rules that define facts.¹⁰ In fact, when issuing a verdict, the judge has the discretion to seek moral guidance when necessary. For instance, the wording of Article 455 of the Criminal Procedure Code of the Republic of Uzbekistan (the verdict must be lawful, substantiated, and just) indicates that the judge acts in accordance with morality. In such cases, the judge, of course, cannot disregard their moral convictions and sense of justice.¹¹ A judge, at the moment of delivering a verdict, directly exercises their will. In other words, they are compelled to critically assess the evidence collected in the case in a comprehensive and objective manner.

Morality encourages the investigator and the judge to act fairly and procedurally, establishing the foundation for compromise between the parties and guiding the will of the subjects to think based on specific laws and rules. Therefore, morality governs the subjects in a particular way.

L.D.Kokorev expressed a valid opinion on this issue. He noted that, for example, the possibility of asking questions to a witness in court is considered a procedural relationship. However, the relationships related to the form in which this question is asked are not procedural. For example, it is forbidden to ask insulting questions. The difference between the two is that the first (the question) is legal, while the second (the insult) is moral. Therefore, the subject of these issues is not only legal relations, but also moral relations that exist within the framework of the criminal process.¹² We will further analyze this issue at a later stage.

B.Croce, G.Gentile, and A.Kojeve note that law and morality should work towards achieving a single goal, namely the establishment of an ideally civilized state.¹³

From the above, it can be concluded that: **1)** moral norms are aimed at creating the basic conditions necessary for resolving cases on the merits based on justice, humanism, and respect for the rights and freedoms of individuals during the investigation and resolution of cases in court; **2)** they are based on fundamental values aimed at protecting individuals affected by crimes, eliminating the causes of crimes, and protecting the innocent from unjustified prosecution; **3)** they ensure the implementation of the goals and tasks of criminal procedural legislation; **4)** they call on the investigator and the judge to take fair, procedural actions, creating the basis for achieving a compromise between the parties and the will of the subjects based on certain laws and rules; **5)** moral norms complement legal norms and encourage participants to follow the legal path.

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¹² Кокорев Л. Д. Участники правосудия по уголовным делам. Воронеж. 1973. С. 118.

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