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Modernity and the Question of the Existence of Moral Probabilities

Salome Khizanishvili
Georgian Technical University
Faculty of Law and International Relations

Kakhaber Dzagania
Georgian Technical University
Faculty of Law and International Relations

Arkadii Butovecky
University of Manitoba, Canada

In any era, the legal field of human life is open to both the renewal and implementation processes of its theoretical and practical requirements. The necessity of fulfilling practical requirements is caused by epochal changes including economic, political, socio-cultural fields; And the necessity of fulfilling the theoretical requirements is due to both the peculiarities and consequences of the development of thinking**.**

The connection between the forms of consciousness is logical. However, there are still empty spaces between them. In order to fill these gaps, we would like to start discussing topic related to a relatively ambitious approach. We refer to the innovative case of using a morality algorithm in litigation.

The main difficulty of legal consciousness is to determine the concept of law and the essence of justice; The subject of constant judgment is also the issue of the coexistence of law and morality. This is the space where the contradictions of law are most clearly revealed. Here are the contradictions related to the possibilities of independent existence of law representing both a private field and a special form of consciousness.

Our research has two main goals: 1. We try to follow traditional approaches in both the study of legal issues and in relation to modernity. We underline both the existing and probable challenges facing it; 2. We attempt to promote the development of mechanisms regulating both moral and legal issues. We try to achieve the main goal in a specific way - by developing a moral algorithm model.

We believe, that the need for a moral algorithm model has solid foundations. However, before we get focused on the perspective of its usefulness, we should talk about the expediency of its "allowance". This will give us some clue on the validity of algorithm needs.

It is known, that the values are subjective and they are historically variable; Cultural differences give rise to different attitudes towards values. i.e. there are lots of difficulties related to both

the field of action of the moral algorithm and its application. These difficulties are obvious in many ways.

First of all we need to determine the equal importance of values and then define the most appropriate way for its structural presentation. In this regard, it is also important to analyze the content of values and present them in the form of regulations. In this case, we do not emphasize diverse field of its use, including Judicial System, Penitentiary Institutions, various social institutions, labor organizations, etc. These are the spheres where the existing problem is clearly visible. This problem requires to make morally oriented decisions towards the individual. To be more precise, these are spheres where both the Justice and the law often "fail". Difficulty appears in another aspect as well.

The question of existence of values is always assessed by degree of their correspondence with historical events. That's how it always was, that's how it is and that's how it will be.

And how can we evaluate the current situation from this point of view nowadays?!
Regarding to the above mentioned issue: "what should be and what is" i.e., what should be the valuable existence of a person and what is the benchmark for its implementation today, we have obtained a huge gap, clearly demonstrated by the Russia-Ukraine war. The ongoing global rift has exposed the failure and imperfection of civilizational outcomes. It showed us, that the abundance of means of material well-being is never directly proportional to the spiritual readiness of a person. In addition, it convinced us once again, that "human freedom remains to be an enigma". [3.279]

The circle is intersecting.
The moral algorithm, i.e. the "questionnaire of morality" and its use in litigation, is given the role of "a secret key". In a broad sense, the above mentioned issue considers the opening of the world of human freedom, where the question of morality is the most important aspect. To be more specific, we believe that its use is quite possible and even justified in the legal activity of ether limiting or preventing the freedom of a person, or in maintaining the proportionality of punishment, blame and damages to the individual, also in managing the offender's resocialization, etc. In our opinion, the above-mentioned processes should be carried out on the basis of identifying and determining the moral features and characteristics of an individual.

The above mentioned issue can be discussed from another point of view. The most difficult but interesting world of human freedom is a space, sharply defining both the possibilities and contradictions of the moral ideal of human coexistence, "the most perfect morality". [1.98] They establish the basis of the quality of justice. It is known, that the period of realization of the most perfect virtue Justice is equal to the duration of a person's conscious life. However, it is not always possible to use justice as the most perfect virtue for good deeds. This is confirmed by the genius of the ancient world- Aristotle.

We try to present a legal-ethical model of moral algorithm. In order to achieve the maximum possibility of justice, we try to consider it as a legal provision and the perspective of its possible practical application in litigation. We think, that it is a peculiar attempt to increase the implementation of fair justice.

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This is an attempt to make the questionnaire of moral algorithm protect the individual's self-interest, which aims to do justice - the highest virtue.

A moral algorithm fulfills the purpose of a schematic version of justice paradigm, the meaning of moral values, which will partially simplify both moral-legal evaluations and fair decisions towards a person. i.e. the questionnaire will have two objectives: 1. to facilitate the opening and revealing of the inner moral nature of a person; 2. to help the judge in the process of making fair decisions.

At the same time the recognition and use of the moral algorithm in the legal sense acquire theoretical importance. The aspect raises questions as well. In the field of law, it involves an attempt to obtain guarantees of "the right of access" to morality. It is known, that since XIX century, according to the positivism of law, Jurisprudence considers the need to separate morality, psychology, sociology, politics from the field of law. According to the great proponent of normative law, Hans Kelsen, **the sole purpose of law is to monopolize the force of law. But if we consider this reality in another way: "justice is a necessary sign of judgment, and with its permission, the judgment acquires both a moral and ethical content along with the legal one" and a verdict "justified only on the basis of law is not always fair".** [4.183] In the process of making practical solutions to both judicial and moral problems, we are increasingly convinced, that the use of a moral algorithm is harmless and moreover, it should be used in practice. However, the above mentioned schematic list of issues convinces us, that both the existence of a moral algorithm and the issues related to its proper use require serious research and analysis.

Due to our great interest in the case, we believe, that the initiated case will undoubtedly have appraisers and associates. We think if the use of the moral algorithm or questionnaire is allowed in court practice, it may be quite beneficial step in real litigation.

P.S. "We live in a problematic and unfair world". In the era of nanotechnologies, man's destiny is “locked in windmills” Therefore, we are well aware, that the use of algorithm of morality, presented by us, cannot ensure the victory of the eternal idea of justice as well as it cannot remove the risks of injustice. But we are sure, that a man -a master of great works- has to do lots of great things and these great things require a service.

We support the “service with the idea of using algorithm of morality”.

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