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MORAL DIMENSION OF LAW

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Abstract: *In this paper we intend to present the moral dimension of law. The right regarded in all its components, both as science and as a method of regulating human conduct, is an intrinsic component of the social reality seen in its historicity, which determines in the Conceptual plan the paradigm that The legal reality is distinguished in the appearance of its obvious methodological autonomy as part of the structure and functional mechanism of the company itself. The right regarded as science analyses and penalizes behaviors related to the dimension of human existence under determined social-historical conditions.*

Key words: *moral, law, legal acts, the right.*

1. Introduction

The exhaustive analysis and valorisation of human behaviour is also achieved through other social sciences such as ethics, sociology, social psychology, politicology, historical sciences, etc., alongside which the right also provides a volutive perspective under a double aspect, reflecting on the hand an objective collective will at the level of formal sources of law, and on the other an individual will manifested in the subject of law called to be obey the legal order but to act in accordance with its own interests, without prejudice to the values protected in the legal plan.

The link between the state and the law is the foundation on which the entire social edifice is conceived in all its institutional and related components, with a purely speculative plan to the view that the states does not exist outside the right as the law does not exist in the absence of the social-political organization of the company. By its nature the right motivates human actions, the side through which it overlaps most of the time with the concepts and notions formulate by ethics science.

Prescribing actions, but also typologies of behaviours and imposing sanctions in the event of violations, between law and morals since ancient times there has been a perfect congruence that has often spoken, when defining the functions of the right to resort to moral concepts. It remained exemplary in this respect the wording made by

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Celsus that *Jus est ars aequi et boni.*(Molcut E., Oancea D, 1996, p.6). Thus, the right was defined by two moral values, so that the good and the fair made both a science and an art of law regards the ordering of the conduct of each member of a determined social group.

2. The right versus the moral

The confusion between the right and the moral is evident when the legal reality was defined, all the more so, the word equity had a double sense both moral and legal, which made it a similarity in terms, which led directly to a confusion between law and moral in the aspects of normative content.

Moral precepts were the defining of all ancient people when attempting a definition of what was legal as a social reality, which leads us to the assumption that both the right and the moral were intrinsically determined by the sphere of interests people objected by social norms often equivalent, but often with different effects in terms of their coercion side. If, in the case of moral norms, their violation by some members of a human community was decommissioned in a diffuse manner and was a little institutionalized, we see that with the emergence of the states as a form of social political organization, a violation of a rule. Recognized moral and legal plan is more energetic and more coherent, attracting much more serious consequences for those who do not comply with them.

This made it possible for the right to be removed from the moral, but it remained crowned by the old patterns, traditions and customs that resorted by excellence to moral precepts, ruled and recognized at the level of a collective socially-historically determined.

The phenomenon of relative autonomy of the right in relation to the morals regarded as the form of social normatively is evidenced by the Illusative Solicitor Ulpianus defining the principles that ruled the right show-,, *Juris Praecepta are HAEC – Honeste vivere, Alterum non ledere suum cuique tribuere*,,(Sâmbrian T., 2009, p.27) so this time we see that a moral command that referred to,, *to live honorably, so in line with the ethical framework assumed in the Romanian society, is juxtaposed over two precepts of Legal order, not to harm another, and, to give to everyone what is his*,,.

With regard to the latter two principles, making a comprehensive analysis, we will find that they have as their foundations and ethical purposes, as they have transposed into two genuine legal acts that will be the true constant of Roman Law on the basis of which other legal figures with own identity subsumed along the evolution of Roman law in what was designated by,, Iniuria,, or,, DamnumIniuria datum,, “metus,, ,”Dolus,, etc. All these examples come to certify that social practice has imposed new forms of manifestation of both the activity in time and space of the ethical or legal invoice rules, which often interferes with, came to justify the fact that the right Represented the main form in which the political-legal ideology of the Roman society was manifested, the right being considered the conceptual cruelty in which the class interests were also contained with the magical-religious feelings, and not in The last line with the traditions and mores of the ceaseless in ancient Rome.

Starting from these theoretical considerations, the eminent Romanian juristconsules considered that the Quiritar right was a gift that the gods gave to the Roman people, which is why the Roman legal system is identical in content and form, and it is evergreen and a which the Roman society is called upon to preserve it in its unspoiled substance. This phenomenon of Roman law has as conceptual support the arsenal of norms and values of an ethico-religious nature that will often wear legal clothing in the various forms of expression of formal sources of law, in which the legal habit, custom Will be an eloquent example of this. The relationship between the moral and the right and the direct influence that the first element, the ethical invoice had on future legal regulations, would crystallize in the complex process of crossing from the legal habit, the ancestral form of regulating Social relations arising in the period of service in legal habits, which will be recognized as high-value social norms within the political organized community. Now the legal norms also acquire a magical-religious character, so that the legal habits were secretly held by the great priests – pontiffs – in order to accustom the divine origin of the law (Hanga Vl., 1957, p.67), and there was often a conceptual distinction between Legal norms, Jus,, and religious norms, Fas,, (Bonfante P., 1934).

Highlighting the major role that the custom of a formal source of law played even after the appearance of the law as a form of expression of law, the Illusified solicitor Salvius Iulianus who lived at the beginning of the second century A.D. said that, the habit expresses the common will of The people and he has a repeal function,, (Tomulesc St., 1956, p.32). Through the Digeste, opera drafted during the time of Emperor Justinian, it is true that the habit accompanied the entire evolution of the history of Roman law both in the old, classical and postclassical era in all the provinces of the Roman Empire. Thus, the same Salvius Iulianus emphasize-, the habit of great seniority is not unjustly respected as law, and that is the right which is said to be established by morals, for when we obey the laws even, not for any reason other than that they have been admitted By the judgment of the people, as a word and what the people have approved without express form, it is necessary to all because they are interested in whether the people have manifested their will by voting or by its very deeds,, (Iulian, Digestele,1.3.3.2.1).

The right moral report was synthetically expressed in the mentality of the Roman people who unequivocally stated that the legal habit – *mores majorum* – is in fact the quintessential of the Elders ' morals. This feature suggested from Roman antiquity would also be found in some contemporary theoretical and philosophical interpretations that analyzing the relationship between law and morals come to suggest the paradigmatic idea that morality is constitutes a tool for guiding the social behavior of the responsible individual. Thus the American philosopher William K. Fienkena asserts that ,,*morality is made for man and not man for morality*,, (Coposescu S., 2003, p.546).

Thus in the specialty doctrine was identified as the priority of the ethical approach the conception that the fundamental purpose of morality is to establish the appropriate constraints for human behaviour,, (Coposescu S., 2003, p.546), purposes which are With the modelative and formative function of the right. Thus a behavior which the ancient Greeks underwent to the concept of Etikor, similar to that of Moralis, the term introduced by the great Roman speaker Cicero (106-43 B.C.) came to circumscribe a

series of human virtues such as honesty, modesty, courage, Moderation, etc., which translated into the legal plan came to cover a universal principle of both public and private law, namely not to commit an act which by action or inaction brought a touch in the exercise of a right or interest belonging to Another person. A concept that represents the point of convergence between morals, ethics and law is that of, well, which is equivalent both to moral and legal relations, he comes to answer the question with conceptual accents concerning what It is right or unfair, just or unjust, correct or incorrect, major themes addressed in its Code of conduct elaborated by the great Greek thinker Plato. It extrapolates the concept of, well, analyzing it both at the level of the individual, as a man of the fortress, and at the universal scale offered by the whole society regarded as both systematic and relational structure.

The principles of ethics must be extended in Plato's opinion at the level of politics, as the leaders of the fortress must comply with rules which relate in particular to the relationship of knowledge, power, elements that ultimately define the relationship between, ethics,, and, Legal Sciences,,. This reflection is also operative in the contemporary world where the natural question arises whether it is good or not, whether it is incriminating or not, certain human behaviors. The moral perception of,, well,, is antagonistic to that of,, evil, which practically in the sphere of law is assimilated with any physical or psychological harm to a particular person or human collectivities. The relationship between the right and the moral presents specific particularities identified at the level of the relationship between moral behavior and law. It was pointed out in the correct doctrine that between respecting the legal order and the standards of morality existing at some point in society there is no perfect synchrony, or sometimes there is a possibility that certain provisions Conflict with moral or religious standards. It is notoriously to criminate or deincriminate, for example, the death penalty or abortion receiving different responses from one cultural area to another according to more or less subjective criteria plus numerous Social-legal mentalities structured in the collective mental.

This is why the legislature must prospecting a more diversified area of social relations that transposed into legal relations come to object in those rules and legal institutions that must also harmonise the interests of the collective Defending the values enshrined at some point in a society with the traditions and moral precepts pertaining to the typology and social psychology of the people concerned. It has been stated in a suggestive manner by the representatives of the historical school of law that the right reflects the living soul of the people – the so-called Volkgeist (Popa N., 1996, p.197). In this way, the axiom was issued according to which the right is – per Excellentiom-customary (Popa N., 1996, p.197), and subsequently through the evolution of the legislative technique developed by the specialized institutions, this form of expression of legal reality is exceeded. An aspect of relevance and divergent views in the specialized doctrine is represented by the exercise of subjective right (Deleanu I., 1988, p.59), which confers a special dimension on the concept which the right in this situation is clothed. The possibility of a subject of law to have or to claim certain behavior from another subject of law raises issues of morality issues. It was formulated in this regard that the paradigm of subjective law can only be exercised within national boundaries in

accordance with social habits and morals and according to their natural purpose,, (Popa N., 1996, p.199). By failing to comply with those orders, any right in exercising it exceeds the limits for which the legislature has prescribed them, it enters into the circumstances subject to the so-called abuse of law-a phenomenon liable to undermine the order of law on the one and moral norms and social co-habitation on the other hand. It is reaffirmed once the close link between the moral and legal norms in which. Although under the sanctionality the effects are different, it is found that their ultimate aim is the same, namely to ensure a climate of safety and social cohesion.

3. **Conclusions**

It is again found that the custom is constituted in an effective and relevant way in assessing and classifying what is generically referred to as the lawful exercise of a subjective right. In various substantive and procedural provisions, the legislature enshrines the principle converted into legal norms according to which the exercise of a subjective right must be exercised with, in good faith, and in accordance with the legal requirements and Moral. In this respect, the new Civil Code in the content of art. 14 mentions that any natural person or legal person must exercise their civil obligations in good faith, in accordance with public order and morality, and-*per a contrario*-is then ordered In article 15 that the abuse of law presupposes that, no right may be exercised in order to harm or otherwise be abused or excessively unreasonable, contrary to good faith,,. The concept of good faith, ex bona fide,, ceased yet from Roman law, is presumed until proven otherwise (see art. 14, para. 2 C. Civ.). We note that the contemporary legislature also resorted to a moral precept referring to the generic term, ' injury ', which leads to the opposite of, for good,, that is, evil, with which contrary to good faith in the abusive exercise of a subjective right would cause A subject determined by law as material or moral damage. The deed committed in the case of abuse of law must be framed in unreasonable behaviour, which is determined according to the standards of moral and customary nature.

It is again an additional argument that comes to certify the structural symbiosis that exists between the norms and principles of law and moral-ethical nature. This makes us affirm without any doubt that the right at some point on the scale of history of morals remained strongly connected and anched in the coordinates of the moral perceptions of the so-called national Eyos, specifically Each people. The right by its functions within the company must be receptive to all the reflexes and trends in the collective morale succeding in this way to ensure a similarity between the law regarded,,Lato-sensu,, and National specificities.

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