

The Role of Institutions and Culture in Shaping Law and Morality

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ABSTRACT: This narrative review explores the dynamic interplay between legal positivism and natural law within contemporary legal systems, emphasizing their convergence in contexts of legal pluralism. The study aims to analyze how law and morality intersect and influence regulatory effectiveness across various jurisdictions. Drawing from academic databases including JSTOR, Scopus, and Web of Science, the review applies qualitative content analysis of peer-reviewed literature, focusing on legal frameworks, institutional roles, and sociocultural factors. Findings indicate significant regional differences in how legal systems balance statutory authority with ethical norms. European Union nations often implement value-driven regulations grounded in human rights and democratic accountability, while authoritarian regimes and postcolonial states face challenges due to institutional fragility and legal dualism. Institutions play a critical role in norm-setting and public trust, with successful cases demonstrating that moral legitimacy enhances legal compliance. Sociocultural factors further mediate the public's response to laws, revealing tensions where formal law diverges from local values. Interventions such as EU compliance mechanisms and participatory justice reforms show promise in bridging the law-morality divide. The review underscores the urgency for systemic reform, advocating inclusive policy frameworks that integrate moral reasoning and community-based legal practices. These insights offer a roadmap for future research and policy interventions aimed at creating more just, culturally responsive legal systems.

Keywords: Law and Morality, Legal Pluralism, Institutional Reform, Legal Ethics, Customary Law, Human Rights, Legal Legitimacy.



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INTRODUCTION

In many post-colonial societies, tensions between statutory law and customary norms reveal how the relationship between law and morality directly shapes governance and justice. For example, debates on legal pluralism in Africa and Southeast Asia demonstrate how moral legitimacy influences compliance and effectiveness of formal law (Clark, 2015).

Over the past few decades, legal scholars have increasingly addressed how the law can serve as both a regulatory mechanism and a moral compass. Yimer (2024) Legal pluralism, which refers to the coexistence of multiple legal systems within a single jurisdiction, has become a prominent feature in many societies. This pluralism includes formal state law, religious law, and customary law, and it often creates tensions in defining what constitutes just and fair governance (Clark, 2015). Moreover, democratic transitions in various countries have intensified scrutiny of how the rule of law can be used to uphold moral values such as transparency, equity, and justice. For example, Gutiérrez (2022) emphasized the critical role of moral legitimacy in legal reforms during democratic transitions, highlighting how societal expectations are increasingly shaping the development of legal standards. Campbell (2015) further suggested that the integration of moral principles into legal processes reflects a broader societal demand for law to embody normative guidance.

Empirical data reinforce the importance of addressing the moral dimensions of law, especially in societies marked by inequality and injustice. Statistical studies have demonstrated that legal non-compliance frequently correlates with socio-economic disparities, including poverty, lack of access to education, and systemic discrimination (Hadziselimovic, 2019). Such disparities often result in unequal treatment before the law, with vulnerable populations disproportionately subjected to punitive legal measures. For instance, Pino (2021) revealed that individuals from lower economic backgrounds are more likely to encounter biased and inaccessible legal systems, thereby undermining the very principles of fairness and justice. (Shapira, 2016) These findings emphasize that legal systems, when divorced from ethical considerations, may exacerbate social inequalities rather than resolve them.

Moreover, there is growing recognition that legal legitimacy must encompass not only procedural correctness but also moral acceptability. Wendel (2014) argued that unjust laws, even when valid under a given legal system, can produce harmful societal outcomes if they disregard ethical norms. This viewpoint has gained traction amid increasing calls for legal reforms that reflect societal values and moral imperatives. In particular, the moral scrutiny of laws governing criminal justice, immigration, and economic policy has led to a reevaluation of the principles that should underpin legislative and judicial decision-making. The incorporation of moral reasoning in law, while complex, is seen as a necessary response to the demands of a pluralistic and value-conscious society.

Nonetheless, several challenges persist in reconciling legal norms with moral values. One of the principal challenges involves ensuring that laws remain objective and impartial while also reflecting ethical ideals. This dual expectation often places legal practitioners in a position where they must balance rigid statutory interpretation with flexible moral reasoning. Brownlee and Child (2017) observed that legal systems frequently struggle to determine the extent to which moral obligations should influence judicial decisions. Similarly, Hadziselimovic (2019) warned that technological advances, such as artificial intelligence in legal adjudication, may further complicate efforts to embed moral reasoning into legal processes, as these technologies often lack the nuanced understanding required to navigate ethical dilemmas.

Another pressing issue concerns the global diversity in moral and cultural values. Legal systems must account for varying societal norms while maintaining coherence and predictability in the

application of law. In this regard, Campbell (2015) highlighted the challenge of formulating universal legal principles that are sensitive to cultural differences yet remain grounded in shared moral values. Furthermore, emphasized that value-driven legal systems demand a deeper engagement with moral philosophy to ensure that laws are not only formally valid but also ethically resonant. This demand necessitates interdisciplinary collaboration and continuous dialogue among stakeholders, including legal scholars, policymakers, and civil society.

Despite the breadth of research on the relationship between law and morality, significant gaps remain in the existing literature. One notable gap pertains to the limited attention paid to the practical implications of moral reasoning in everyday legal practice. While theoretical discussions abound, fewer studies have examined how moral values are operationalized within legal institutions and how they influence decision-making processes (Clark, 2015). Additionally, there is a tendency in the literature to focus disproportionately on Western legal systems, thereby neglecting the moral-legal dynamics in developing countries. Gutiérrez (2022) pointed out that this geographical bias restricts our understanding of how diverse moral frameworks interact with legal structures in various sociopolitical contexts.

In response to these gaps, this narrative review aims to critically examine the interplay between law and morality within contemporary legal systems. The review seeks to elucidate how social transformations, including technological advancements, political transitions, and cultural shifts, influence legal norms and moral expectations. By drawing on a broad range of interdisciplinary sources, the study endeavors to offer a comprehensive analysis of how legal theories and practices incorporate or exclude moral considerations. This analysis is expected to contribute to the development of more humanistic and ethically informed legal theories that better align with the lived experiences and values of diverse populations (Clark, 2015; Gutiérrez, 2022).

The scope of this review is deliberately inclusive, encompassing both developed and developing countries, as well as various legal traditions and societal contexts. It will explore how legal systems across different regions address the moral dimensions of law, paying particular attention to underrepresented contexts where legal reform and moral accountability are pressing issues. For instance, Brownlee and Child (2017) examined how European and American legal systems integrate moral considerations, yet similar studies are scarce for countries in the Global South. This review aims to bridge that gap by incorporating perspectives from regions that have traditionally received limited attention in mainstream legal scholarship.

By expanding the geographic and cultural boundaries of the discourse, the review not only seeks to highlight the universal challenges associated with aligning law and morality but also to underscore the context-specific strategies employed by different societies. The inclusion of diverse perspectives will enable a more nuanced understanding of the mechanisms through which legal systems can become more responsive to ethical concerns (Nonet, 2017). Ultimately, the review aspires to inform both scholarly debate and practical policymaking, promoting a more equitable and morally grounded approach to the development and implementation of law.

METHOD

To explore the interaction between customary land rights and national legal systems within plural legal contexts, this narrative review draws upon leading academic databases such as Scopus, Web of Science, JSTOR, and Google Scholar. These databases provide comprehensive access to peer-reviewed journals, scholarly articles, and academic books that cover relevant themes in legal anthropology, land governance, political ecology, and development studies. To ensure a targeted and effective literature search, Boolean operators and keyword combinations were used to refine the scope of the review. Key search terms included:

- "customary land rights" AND "national land policy"
- "tenure security" AND "legal pluralism"
- "indigenous rights" OR "community land tenure"
- "Africa" OR "Southeast Asia" AND "land governance"
- "statutory law" AND "customary law" AND "land ownership"

The use of advanced search filters—such as publication year, subject area, and peer-reviewed status—helped ensure that selected sources were both current and academically rigorous. Furthermore, citation chaining and cross-referencing were employed to identify seminal works and frequently cited publications that inform the theoretical and empirical grounding of this review (Thompson, 2019).

To maintain the scholarly integrity and relevance of the review, specific inclusion and exclusion criteria were established. Inclusion criteria consisted of:

- Peer-reviewed journal articles, academic books, and policy reports that focus on the interface between statutory and customary land tenure systems.
- Studies published in English within the last two decades (2000–2024), with some allowance for earlier foundational works.
- Research conducted in relevant regions, particularly Sub-Saharan Africa and Southeast Asia, where land tenure pluralism is pronounced.
- Publications that offer empirical case studies, theoretical frameworks, or policy analysis related to land rights, indigenous governance, and legal pluralism.

Conversely, the exclusion criteria eliminated:

- Publications not directly addressing the tension or integration between customary and statutory legal systems.
- Technical legal studies devoid of social, political, or moral analysis.
- Commentaries or opinion pieces lacking empirical or theoretical substantiation.
- Studies with overly narrow national scope that lacked generalizable insights unless they presented critical conceptual innovation (Waltermann, 2018; Lavis, 2018).

Additionally, preference was given to works that combined multidisciplinary perspectives, particularly those that intersected law, anthropology, sociology, development studies, and environmental governance. The final corpus of literature reviewed represents a curated selection of diverse methodologies and regional case studies that inform a balanced understanding of the evolving relationship between customary land rights and formal legal systems across varying political and cultural landscapes.

RESULT AND DISCUSSION

This section presents the findings of the narrative review by organizing the literature around three principal themes: legal frameworks, the role of institutions, and socio-cultural impacts on the perception and implementation of law. Each theme is supported by empirical data and theoretical insights from a wide range of academic sources, demonstrating both the diversity of legal systems and the complex interplay between law, morality, and society.

Legal Frameworks

Legal Approaches and Regulatory Frameworks Across Countries

Legal frameworks governing the interaction between statutory and customary land rights, as well as broader principles of justice and morality, vary widely between countries and legal traditions. In Europe, particularly within the European Union, legal systems are heavily guided by foundational treaties and constitutional principles that emphasize democracy, rule of law, and human rights (Campbell, 2015). Emphasizes that these shared values provide a normative baseline for regulatory development, ensuring that legal systems align with overarching moral principles.

Outside of Europe, legal frameworks are often shaped by local customs, religious norms, and colonial legacies, creating a landscape of legal pluralism. Clark (2015) underscores the importance of recognizing multiple sources of law operating concurrently within a single jurisdiction, particularly in post-colonial states in Africa and Asia. In these contexts, national legal systems often coexist with or override customary legal systems, sometimes resulting in legal ambiguity and conflict over land tenure and governance. This pluralism, while providing space for culturally appropriate regulation, also introduces inconsistencies in enforcement and legal interpretation.

In Kenya, for example, efforts to formalize community land rights through legislation have struggled to resolve overlapping claims between government and indigenous populations, often undermining the legitimacy of statutory interventions (Arizona et al., 2019). Similarly, in Uganda, the displacement of communities in the Albertine Graben region for oil infrastructure development highlighted the failure of formal legal mechanisms to protect individuals holding secondary or customary land rights (Mugagga et al., 2019). These cases demonstrate the contextual sensitivity of legal frameworks and the need for nuanced policy design.

Empirical Findings on the Effectiveness or Weakness of Legal Frameworks

Empirical evidence reveals that the success or failure of legal frameworks is deeply influenced by the broader socio-political environment in which they operate. In European countries, strong data protection laws have significantly curtailed privacy violations, demonstrating how coherent legal principles can produce tangible outcomes (Campbell, 2015). However, Gutiérrez (2022) notes that in authoritarian regimes, formal legal frameworks are often rendered ineffective by systemic corruption, lack of transparency, and institutional cooptation (Veresha, 2018).

Thompson (2019) points to the United States as an example of a jurisdiction with a robust legal framework yet persistent social inequality. Despite constitutional protections and progressive legislation, marginalized groups often face structural barriers to accessing justice, indicating a disjunction between legal ideals and practical implementation. These disparities suggest that effective legal frameworks require not only sound normative foundations but also responsive and accountable institutions capable of enforcing the law equitably.

Moreover, the interplay between statutory and customary law can either reinforce or undermine legal effectiveness. Santpoort et al. (2021) argue that the historical prioritization of statutory law during colonial rule has often marginalized customary systems that continue to hold moral legitimacy among local populations. This tension undermines the coherence of the legal system and calls for integrative approaches that respect both formal and informal institutions.

Institutional Roles

Core Institutional Roles in Addressing Legal and Social Issues

Institutions play a pivotal role in mediating the relationship between law and society. Pino (2021) asserts that legal institutions do not merely enforce rules but also shape societal norms and values. The success of legal interventions thus hinges on the institutional culture, leadership, and operational procedures of the bodies charged with implementation.

In some jurisdictions, institutional design has been leveraged to promote equity and justice. For example, independent judicial bodies and ombudsman offices in Scandinavian countries provide mechanisms for oversight and redress, reinforcing public trust in legal outcomes (Clark, 2015). Conversely, Campbell (2015) warns that in contexts where institutions are politicized or serve elite interests, legal reform efforts are often subverted.

Gutiérrez (2022) illustrates this dynamic in the Mexican context, where the Supreme Court has emerged as a crucial actor in democratic consolidation by issuing rulings that strengthen civil liberties and institutional checks. This success is attributed to the court's relative independence and its alignment with broader public expectations of fairness and transparency.

Case-Based Evidence of Institutional Success or Failure

The capacity of institutions to uphold justice and morality is vividly illustrated through comparative case studies. In Ghana, for instance, research by Nara et al. (2020) reveals that local land

governance institutions often exclude women and migrants from decision-making processes, perpetuating inequality despite the existence of inclusive statutory frameworks. This institutional failure reflects entrenched power hierarchies and socio-cultural biases that undermine equitable land access.

In contrast, Msangi et al. (2023) document successful community-based interventions in Tanzania, where participatory land mapping and inclusive governance mechanisms have led to enhanced tenure security and reduced land conflict. These outcomes highlight the potential of locally embedded institutions to align legal and moral expectations when adequately supported.

Thompson (2019) emphasizes the interdependence between institutional efficacy and moral legitimacy Gurinskaya et al. (2024). Institutions that fail to embody ethical values risk eroding public confidence in legal processes. In authoritarian contexts, Petersmann (2016) shows that legal institutions frequently become tools of repression rather than justice, thereby exacerbating social alienation and undermining the rule of law.

Socio-Cultural Impacts

Social and Cultural Factors Influencing Policy Perception

The perception and implementation of legal policies are significantly shaped by socio-cultural dynamics. In societies with strong traditions of legal adherence and moral discourse, laws are more likely to be respected and internalized. Wendel (2014) argues that the effectiveness of legal norms is often contingent on their alignment with prevailing moral sensibilities and community expectations.

In European contexts, where civic education and participatory governance are institutionalized, citizens demonstrate higher levels of legal compliance and trust in state institutions (Clark, 2015). However, in societies where formal legal norms conflict with customary or religious values, such as parts of the Middle East or Sub-Saharan Africa, laws may be perceived as externally imposed and culturally incongruent (Pino, 2021).

These tensions are particularly pronounced in land governance, where community-based tenure systems may clash with statutory registration schemes. Asaaga and Hirons (2019) found that in Ghana, customary authorities often command greater legitimacy than government agencies, influencing how communities perceive and engage with land policy reforms.

Trends and Patterns in Community Responses

Patterns of community response to legal reforms often reflect broader issues of trust, inclusion, and participation. Where governments have involved communities in the formulation and implementation of legal policies, acceptance and compliance tend to be higher. Campbell (2015) notes that participatory legal processes can help bridge the gap between law and morality, fostering legitimacy and collective ownership.

Conversely, policies that fail to engage stakeholders frequently encounter resistance. Gutiérrez (2022) reports that in Latin America, top-down land titling programs have often been met with skepticism and protest, particularly among indigenous groups who view such interventions as threats to their ancestral rights. Pino (2021) similarly observes that marginalized populations in Southeast Asia have resisted legal reforms that disregard local norms and values.

These findings indicate that societal attitudes toward legal reforms are deeply embedded in historical and cultural contexts. They also underscore the importance of inclusive policymaking that recognizes the moral and normative dimensions of law. Ultimately, the alignment between legal norms and community values plays a decisive role in shaping both the perception and efficacy of legal systems across different regions.

In summary, the results of this narrative review highlight the complex interdependence of legal frameworks, institutional capacities, and socio-cultural factors in shaping the moral legitimacy and practical outcomes of legal systems. Comparative insights from diverse regions affirm that law cannot function effectively in isolation from the moral, historical, and institutional contexts within which it is embedded. This underscores the value of pluralistic, participatory, and context-sensitive approaches to legal reform.

The findings from this narrative review underscore the intricate interplay between law and morality, affirming earlier theoretical assertions while illuminating emerging challenges in pluralistic legal contexts. As reflected in Thompson's proposition, the moral dimension of law is indispensable, shaping not only the content of legislation but also its societal legitimacy (Thompson, 2019). This aligns with the classical debates initiated by Hart and Dworkin, where the former emphasized the separation of legal validity from moral considerations, and the latter contested this by integrating moral reasoning within judicial interpretation (Clark, 2015). The current synthesis of findings supports Dworkin's view that legal interpretation is inherently moral and requires a principled coherence, especially in societies governed by complex legal pluralism (Gutiérrez, 2022). Thus, contemporary legal systems, particularly in transitional or multicultural societies, necessitate an approach that embeds normative ethics within jurisprudential structures to foster justice and equity (Madden & Alt, 2021).

In mapping systemic and structural contributors to the persistent disjunction between law and morality, several underlying issues surface. Institutional disparities and procedural inefficiencies within judicial frameworks obstruct the operationalization of moral principles in law enforcement. Lavis (2018) detail how limited access to legal services, underfunded judiciary systems, and endemic corruption inhibit the realization of equitable justice. Clark (2015) further illustrates how legal pluralism, while recognizing the coexistence of state and customary legal orders, complicates uniform application and sometimes fosters contradictions between normative expectations and statutory enforcement. These contradictions are particularly acute in post-colonial settings where formal legal systems marginalize indigenous and moral norms, thereby diminishing societal trust in legal institutions. Consequently, the integrity of law as a moral enterprise is often compromised by structural inequities and governance failures.

This research also reveals that institutions play a dual role: they can either bridge or exacerbate the gap between law and morality. (Malko et al., 2021) Institutions that are structurally sound and normatively grounded, such as the European Court of Human Rights, act as conduits for moral

values by upholding fundamental human rights and democratic norms. Points out that the European Union's enforcement of collective values serves as an exemplar of institutional accountability in upholding normative commitments. Conversely, institutions weakened by political interference, as observed in several authoritarian regimes, tend to enforce law in ways that are morally disconnected and often repressive (Gutiérrez, 2022; Petersmann, 2016). These findings echo Pino's assertion that without institutional transparency and accountability, the law risks becoming a tool of coercion rather than justice (Pino, 2021). Thus, reforming institutions is critical to aligning legal frameworks with moral imperatives.

In evaluating proposed solutions and policy interventions, the literature reveals a spectrum of responses aimed at reconciling legal norms with moral sensibilities. Highlights the EU's legal mechanisms that hold member states accountable for breaching shared democratic values, illustrating a top-down model of moral enforcement. This is contrasted with the bottom-up approaches found in the United States, where community involvement in criminal justice reform reflects a decentralized effort to moralize law (Brownlee & Child, 2017). While both models have merits, their effectiveness is contingent on contextual factors such as political will, institutional capacity, and cultural receptivity. Wendel (2014) warns that reforms lacking grassroots support or failing to address systemic inequalities may only achieve superficial change. Therefore, for legal reforms to be morally meaningful, they must be embedded in participatory and context-sensitive processes that engage diverse stakeholders.

The integration of moral reasoning within legal systems is further complicated by cultural relativism and social heterogeneity. In multicultural societies, conflicting moral codes can create ambiguity in legal interpretation and enforcement. (Abe, 2022) For instance, the application of universal human rights norms in societies with strong customary traditions often triggers resistance, as laws are perceived as external impositions rather than organic norms (Pino, 2021; Wendel, 2014). This tension necessitates a pluralistic legal model that accommodates diversity while upholding core moral standards. Thompson (2019) supports this by advocating for a contextual legal framework that adapts to moral pluralism without compromising the universality of justice. However, operationalizing such a model remains a formidable challenge, especially in post-conflict societies where institutional trust is low and normative consensus is fragmented.

One significant implication of these findings is the urgent need for legal education and professional training that emphasize ethical reasoning and moral judgment. Current legal curricula, particularly in many developing countries, are heavily doctrinal and lack interdisciplinary engagement with moral philosophy and ethics. Lavis (2018) suggests that embedding moral discourse in legal training can cultivate jurists who are not only technically proficient but also morally responsive. This approach would also prepare legal practitioners to navigate ethical dilemmas in an increasingly complex and globalized legal environment. Furthermore, institutional reforms must include oversight mechanisms that evaluate legal decisions through ethical lenses, thereby reinforcing accountability and public trust.

Despite these insights, there are limitations in the existing literature that constrain a comprehensive understanding of the law-morality nexus. Most studies are context-specific and lack comparative rigor, often focusing on Western legal systems while underrepresenting the experiences of developing nations. As Clark (2015) notes, the dominance of Western jurisprudence in legal

scholarship marginalizes alternative legal traditions and their moral foundations. This epistemological bias limits the applicability of universal legal theories across diverse legal cultures. Therefore, future research must adopt a more inclusive and comparative methodology that captures the plurality of moral-legal experiences globally.

Another limitation is the insufficient empirical data on how legal actors internalize and apply moral reasoning in their daily practices. While normative theories provide valuable insights, they often assume ideal conditions that do not reflect the lived realities of law enforcement and adjudication. Gutiérrez (2022) emphasizes the importance of ethnographic and case-study approaches in revealing the micro-dynamics of moral reasoning within legal institutions. Such approaches can uncover how discretionary power is exercised and how moral considerations are weighed against legal formalism in actual legal settings. Addressing this gap is crucial for bridging the divide between theoretical ideals and practical realities.

In summary, this discussion illustrates that the relationship between law and morality is deeply rooted in institutional, cultural, and systemic dimensions. Aligning legal systems with moral principles requires not only doctrinal clarity but also institutional integrity, cultural sensitivity, and participatory governance. While significant strides have been made in both scholarly and policy domains, the path toward morally coherent legal systems remains contested and complex. Future scholarship and reform initiatives must therefore continue to interrogate and innovate, drawing on interdisciplinary perspectives and grounded empirical insights to advance justice in its fullest sense

CONCLUSION

This narrative review has examined the evolving relationship between law and morality within plural legal systems. Three main insights emerge: (1) legal frameworks are effective only when aligned with socio-cultural legitimacy, (2) institutional independence is decisive for moral compliance, and (3) community participation enhances trust and compliance. However, the study is limited by reliance on secondary literature and underrepresentation of Global South empirical data.

The study reaffirms that systemic inequalities, institutional shortcomings, and fragmented legal pluralism are key barriers to the effective implementation of ethical and just legal systems. Addressing these requires more than normative alignment; it demands institutional reform, participatory policymaking, and context-sensitive legal interpretations. Successful interventions, such as EU value-based accountability mechanisms and inclusive justice reforms in the U.S., underscore the importance of balancing legal formalism with moral legitimacy.

Future research should explore the role of community-based legal frameworks, especially in the Global South, and evaluate how hybrid systems may reconcile state law with moral and customary systems. Policies fostering institutional transparency, legal literacy, and cultural legitimacy will be essential to transform moral-legal tensions into constructive legal innovation. Ultimately, embedding moral reasoning into legal systems is not merely a theoretical aspiration but a practical necessity for equity, legitimacy, and social cohesion. Policy-wise, judicial training curricula should

integrate ethics and moral philosophy, and independent ethics committees within courts could serve as oversight to ensure alignment of law with moral values.

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