

The Conceptual Connection between the Moral and the Legal

Mazyar Khademii* | Ali Mohammad Fallahzadeh** | Alireza Eskandari***

Abstract

Law and morality and their relations involve classical but dynamic themes which have been always seriously debated and disputed in philosophy of law. Although a large number of these debates seem to be contradictory, the contradiction between them nonetheless has its origin in conceptual confusion. Thus this study aims to draw a functional distinction between law and morality without being concerned with theoretical controversies. This has at least two advantages: first, theoretical discussions would come under conceptual strict scrutiny, and second, one can avoid the fallacy of the level of analysis. The legal and the moral are distinguishable in this article by means of conceptual analysis which makes use of four opposite pairs: value versus obligation, institution versus person, persuasion and compulsion, and finally autonomy versus heteronomy.

Keywords

The moral, the legal, relation between law and morality, value, obligation, person, persuasion.

7

Abstracts

* PhD student of public law, Allameh Tabataba'i University, Tehran, Iran. (Corresponding Author) | mazyarkhademii@gmail.com

** Assistant professor, Department of Public and International Law, Allameh Tabataba'i University, Tehran, Iran. | amfallahzadeh2002@gmail.com

*** PhD student of public law, Allameh Tabataba'i University, Tehran, Iran. | alireza.sk.69@gmail.com