

What are the responsibilities of legal professionals vis-à-vis society? Why do legal professionals have these responsibilities?

The law is a mandatory and immanent element of society, which apparently arose together with social life at the same time. Professor S. Sarbash said on this occasion, that there is no law without society, just as there is no society without law¹. These phenomena of human life are deeply connected, and what has been attributed above to the law, also naturally applies to that social and professional group, which has special legal knowledge and skills that are more or less incomprehensible to others. It's about lawyers and their place in society.

From the above text appears that the problem of the relationship between society and lawyers has existed since the very beginning of legal history. It is based on what specificities lawyers have as a social group and how they relate to the law. The most striking early illustration of that problem is the legend of the roman scribe Gnaeus Flavius: he had allegedly published formulas of lawsuits and the religious and legal calendar (fasti) at the end of the 4th century BC, thereby breaking the monopoly of the first roman lawyers – pontiffs. Their college was so close to the admission of new members and so secret in terms of proto-legal knowledge that pontiffs had been the only ones who knew the necessary information to draw up lawsuits at the request of individuals based on the legislation and to give advice on understanding it². Pontiffs were based in their work longer on public-religious interests, rather than on the interests of individuals or their clients in modern terms.

The monopoly of pontiffs and the legend of liberation from it illustrate how much society depends on its lawyers. However, the existence of an excessively strict and closed professional legal environment is not the only and general foundation of that dependence, since it exists even in a modern society with transparent and democratic legal associations; e.g. Professor D. Luban said: "our [he means – U.S.] nation is so depend on its lawyers that their ethical problems transform themselves into public difficulties"³. To understand the main basis of this dependence, it is necessary first to say that the law is not simply part of mankind's knowledge. The law is an instrument of recreation power to change the world, the whole public and each private life, e.g. it may obey all people in society to change their habitat, to do something in a particular way or not to do something. That most powerful social instrument is owned by lawyers, because they take a lot of time for education in the law, they try to reorganize their minds to make them more open to understanding legal things, because it's not simply part of mankind's knowledge. Even though laws are usually passed by democratic representatives of the people, it is lawyers who ultimately determine how these laws will work and what the legal system as a whole will be.

Here is an answer to why legal professionals are responsible to society: because no one else in society can do what they do with the law as an instrument for transforming the social world. in short, because they made the law their life's work. However, this state of affairs is very dangerous for society, because a fairly small group gets significant power and control over society as it was during the time of the monopoly of the pontiffs. For this reason, society and lawyers have been trying for many years to formulate and consolidate a special framework for legal practice to avoid

¹The main provisions of civil law: comments on Articles 1-16.1 of the Civil Code of the Russian Federation / A. Asoskov, V. Baybak, V. Bevzenko and others; under the general editorship of A. Karapetov – Moscow: Statut, 2020 – P. 37

²The Roman civil law: textbook / D. Dozdev – Moscow: Norma, 2021, 3rd edition – P. 31-34

³Lawyers and Justice: An Ethical Study / D. Luban – Princeton, New Jersey: Princeton University Press, 1988 – P. XVIII

the degeneration of associations of lawyers into the college of pontiffs. Based on all of the above, I believe that the general responsibility of a legal professional vis-à-vis society may be formulated like that: make as many good things for society as possible.

Based on this general responsibility, three groups of more specific responsibilities can be identified: (a) to be humanistic and use skills and knowledge not only for a fee but because e.g. poor people need it; (b) to be client-oriented and do everything that he can to make to protect their interest by the law, if even their interest conflict with morality or interest of the lawyer as a person; (c) to control their level of competence and ethical in "client-lawyer" measurement – it means that legal associates need to do everything which will help to professional endearment to be humanistic and client-oriented.

These are the three main groups of duties of lawyers in society, all the others somehow just detail these three. Below is a more detailed discussion of each of the groups.

If people don't have enough money to pay a lawyer's fee, what should a lawyer do? He must help such people because otherwise, they will not be able to protect their interests by law due to the lack of necessary knowledge and skills. To solve this problem, there is a special institute - *pro bono*. According to Model Rules of Professional Conduct of the American Bar Association⁴, "a lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance"; in addition, under Rule 6.1 "each lawyer should aspire to render at least 50 hours of *pro bono publico* legal services per year and also delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations for poor people". In my opinion, everyone can get legal help for lawyers because everyone in society pays enough for it when they agree to their position in society and save power for them.

Another issue concerning the responsibility of lawyers concerns the relationship between role and objective morality. Objective morality is something that is recognized as justified and good by everyone in any situation. Sometimes lawyers have to do things that will not correspond to objective morality. One of the most famous examples concerns the relationship between an attorney and a client who committed a crime. The very idea of an attorney's defence screams that the fact of actual guilt should not change anything - that an attorney needs to do everything to protect the interests of the client and help him escape justice if he's guilty. Let it be immoral from the point of view of objective morality, but it is moral for an attorney as a lawyer who must fulfil his basic responsibility to society - to do as much good to society as possible in his simplest and the person of his client. I think there is another good moment of ethical reflection in this group: what should a lawyer do if he needs to protect the objective unfair interest of his client-corporation, not only because there is their client, but also because the law is on their client's side; for example, in labour disputes about the fair and lawful dismissal of an employee for whom losing his job at the moment would be a disaster for his family? In this regard, I like the concept of Professor D. Luban, who encourages lawyers to moral activism, consisting in influencing the client with the direction of his interest in a fair direction; Professor said: "morally activist lawyer will challenge her client if the representation seems to her morally unworthy; she may cajole or negotiate with

⁴Model Rules of Professional Conduct, Rule 6.1: Voluntary Pro Bono Publico Service // URL: www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_6_1_voluntary_pro_bono_publico_service/

the client to change the ends or means; she may find herself compelled to initiate action that the client will view as a betrayal, and she will not fear to quit"⁵. The adoption of such a concept will lead to the unprecedented importance of lawyers in society since the time of the roman pontiffs, entrusting them with a new category of responsibilities - to preserve good morals in society through law. This new moral responsibility would replace the concept of the increased importance of role morality over objective morality considered at the beginning of the paragraph. In my opinion, that alternative is inapplicable because of the spread of the subjective moral element to the whole society. Therefore, in the matter of correlating morals, it is necessary to be categorically guided by the provisions of general responsibility.

Finally, the most important responsibility of a lawyer is the need to be true professionals, to maintain and develop their legal knowledge and skills. In turn, the level of professionalism should be checked and determined independently by the legal community, which should be controlled by all lawyers with formulated responsibilities to society. The ABA agrees with this and believes that "the legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar"⁶.

A lawyer is an extremely important, interesting, significant, prestigious profession and that is why it requires compliance with exceptional ethical and moral requirements. Thus, lawyers are responsible to society and should, in each case, do as much good for society as possible.

⁵D. Luban, op. cit. P. XXII

⁶Model Rules of Professional Conduct, Preamble: a lawyer's responsibilities, *ibid*.