

Code of Ethics and Code of Conduct of the World Health Organization Código de Ética y Código de Conducta de la Organización Mundial de la Salud

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Abstract:

The importance of the recognition of ethical principles in a legal norm lies in the fact that it confers a mandatory character since it is constituted as part of the normative framework to regulate the conduct of the human being, mainly when valuable aspects such as dignity, life, and personal integrity can be put at risk. For this reason, the code of ethics and professional conduct of the World Health Organization is addressed to maintain ethical behavior and professional conduct of the officials of that organization.

Keywords:

Ethics, Law, WHO

Resumen:

La importancia del reconocimiento de los principios éticos en una norma jurídica, radica en que les confiere un carácter obligatorio, pues se constituye como parte del marco normativo para regular la conducta del ser humano, principalmente cuando pueden ponerse en riesgo valores tan valiosos como la dignidad, la vida y la integridad personal. Por ello, se aborda el código de ética y conducta profesional de la Organización Mundial de la Salud tiene por objeto mantener un comportamiento ético y una conducta profesional de los funcionarios de esa organización.

Palabras Clave:

Ética. Legislación. OMS

INTRODUCTION

The code of ethics and behavior of the World Health Organization has as its main objective to maintain ethical and professional behavior from the officials of this organization. Nonetheless, it is relevant to mention the existence of the ethical principles that regulate human actions and focus on health disciplines, it is a fundamental source.

Ethics constitutes one of the relevant sources of the rules of health law. Together with this discipline, bioethics –ethics applied in the sciences of life-it is also a source of this regulatory framework.

However, it is frequent to use the terms “ethics” and “moral” as synonyms, it can be a reason for the similarity to their etymological meaning: “custom” –from the Greek “ethos” and Latin “mores”, respectively. On one hand, the more refers to the set of autonomous internal norms that regulate the actions of the human being with good and evil. On the other hand, ethics can

be seen as the study or critical reflection of more human actions. In this sense, the more turns into an object of study of ethics. Establishing a distinction does not necessarily mean separation. Both concepts are intimately related and focused as well as the study, in a broad sense, human behavior.

The present work would be considered from the legal perspective, due to the author’s profession as a lawyer, and the importance of this concerning the ethics and the law to construct a regulatory framework for health disciplines.

LEGAL NORMS AND MORAL NORMS

Firstly, the difference between legal and moral norms will be demonstrated.

Legal and moral norms are distinguished in their characteristics; traditionally, it has been created the following classification:

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Moral standards	Legal standards
Unilaterality	Bilaterality
Interiority	Exteriority
Incoercibility	Coercibility
Autonomy	Heteronomy

While the main distinction of standards is unilaterality in mores, and bilaterality in legal ones.

Referring to the moral norms unilaterally refers to the front of the obligor there is no other subject that can demand the fulfillment of the duties. The bilateral nature of the legal rules means that correlative duties of faculties are imposed; paraphrasing García Máynez (García. E. 2001, p. 15), in front of the legally bound person we always find another person, empowered to demand the observance of what is mentioned.

To the greater abundance, there is no right to demand compliance with a moral obligation. Corresponding to the legal norms, if there is a possibility of demanding the fulfillment, in the exercise of a right, by a party other than the obligor. That supposes the existence of a legal relationship among diverse people, while moral norms only focus on the man as an individual.

On one side, legal norms impose duties and grant rights. On the other side, moral norms only impose duties, which means, the first ones are imperative-attributive, and the second ones are only imperative.

On one hand, the interiority of moral norms, in general terms, is characterized by the regulation of the internal behavior of a person. Nevertheless, not only focuses on the internal forum of the subject, since it orders us to conduct ourselves with rectitude in front of others. On the other hand, exteriority has characterized the legal norms, but it is not limited to the external adequacy or simple legality, but reaches into the conscience and analyzes the motives of the conduct.

Notwithstanding the above, it is important to be precise about the prevalence of each one of them that gives to both forums. While the moral mainly considers the internal aspect, legal norms take into account the interiority of the persons, and as a result, their exterior actions until they find out the goodness or badness of an action. The law essentially claims the external actions, and afterward the internal ones, but only when they have great transcendence to collectivity. (García. E. 2001, p. 21).

Meanwhile, let us see the unenforceability of moral norms and the coercibility of juridical norms. Moral commands are incoercible since their fulfillment must be spontaneous. For law, duties must be fulfilled even against the will of the subject, like coercively. There is a widespread view that coerciveness implies the application of a sanction. However, moral norms themselves

can impose sanctions. Therefore, spontaneity in the fulfillment of the duty is what establishes the difference between morality and law, since coercibility refers to the fulfillment of the norm in a non-spontaneous way, independently of the existence of a sanction.

Concerning autonomy and heteronomy, the moral norm is autonomous since it has the source of the will for good of whom must obey it. To the legal norm applies the second one, caused by its origin is not the subject's free will, instead of that is the will-to-good of a third person, forgoing the self-regulatory power, because even if the person does not recognize the binding nature of the legal provision, that obligation persists.

WORLD HEALTH ORGANIZATION CODE OF ETHICS AND CODE OF PROFESSIONAL CONDUCT

Once the difference is exposed between the two types of norms of behavior, it will be checked everything related to the code of ethics and code of professional conduct from the World Health Organization.

World Health Organization (WHO) is an organism from the United Nations Organization that specialized in health, it is integrated into 194 Members States. This organization works all over the world to promote the maximum degree of health that can be done to all people, independently of race, religion, gender, political ideology, and economic or social conditions. For that, Article 12 of the International Covenant on Economic, Social, and Cultural Rights recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

WHO has a mission to foster health, preserve world security, and serve the most vulnerable populations. Access to affordable and adequate health care is a human right, and sanitary universal attention is an essential principle that leads to its labor.

This is an organism that represents the greatest aspirations of the towns from the world, to the highest level of health. Its personnel must observe the applicable requirements to the international officials, thus this constitutes a way of achieving the objectives.

The personal field of validity of the Code of Ethics and Professional Conduct is whoever collaborates with World Health Organization, that means, officials, independently from their place of destiny or degree, including the temporary appointees, seconded staff, and junior professional staff, as well as WHO collaborators, regardless of the type of contract they have and their remuneration.

It was written by the Compliance, Risk Management and Ethics Office (CRME) of the own World Health Organization, whose objective is to get the maximum quality of all the levels of the Organization in an efficient, effective, clear, and responsible

way, encouraging and defending the most strict institutional norms, ethical and conduct principles. In the same way, it looks to provide orientations to help solve ethical dilemmas.

Conduct norms are based on general character, impersonal, and abstract, since they regulate the behaviors of whom, and update the previous assumptions in the same without referring to someone in particular. For this reason, this code does not intend to be exhaustive instead of that, it looks for establishing the basis so that the person observes the basic principles of ethics principles and the conduct norms related to the guidance of the thoughts, decisions, and actions to respond to the diverse situations and trouble found during the time hired by the Organization.

It establishes the following ethical principles:

- A. Integrity.
- B. Accountability.
- C. Independence and impartiality.
- D. Respect.
- E. Professional commitment.

Let us see the meaning and demandable behavior of each one of them.

Integrity refers to the way of behaving according to ethical principles and acting in good faith, intellectual honesty, and equality. To do that, Code demands from the personnel the following:

- Comply with national and local laws at all times.
- Avoid any action that could be perceived as an abuse of privileges and immunities.
- Demonstrate the same degree of integrity in their activities as they do in the workplace.
- Never resort to physical or verbal violence, to any degree, or the threat of violence.
- Demonstrate the highest degree of scientific integrity as public health specialists or researchers.
- Protect the security of all confidential information provided to or generated by the World Health Organization.
- Report suspected irregularities or violations of ethical principles, rules, regulations, or policies of the World Health Organization through the mechanisms provided for this purpose.
- Demonstrate the same discretion and prudence in their communications, e-mails, or activities on social networks, whether professional or private.

Accountability is being responsible for the own actions, decisions, and consequences. The officials shall:

- Clearly define objectives and realistic results to the tasks based on consultation with their supervisors.
- Take responsibility for their decisions and the consequences of their actions.
- In the case of the supervisors, attend to evaluate the development of the officials impartially and objectively under the agreed objectives.
- Ensure that human, financial, and material resources provided have been used optimally and benefit the World Health Organization.
- Take notes of all the transactions and have ready precise and extensive records based on the established procedures.
- When necessary, assess, guide colleagues, supervise them, and have control of the tasks assigned.
- Keep in mind they are speaking on behalf of the World Health Organization when speaking to the media on topics within their area of responsibility and expertise, seek permission from their supervisor and seek advice from WHO communications officers when appropriate.

Independence and impartiality remember that the interest of the World Health Organization and under the authority of the General Director and ensure that opinions and personal convictions should not be questioned the ethical principles, official obligations, or the interests of the WHO. As a result, the officials must:

- Respond fully and with integrity to any conflict of interest and possible situation of conflict of interests through the declaration of interest form or by seeking advice from the Office of Compliance, Risk Management and Ethics on a confidential basis, or by consulting with your supervisor, as appropriate, on the appropriate action to be taken, including possible recusal.
- Refrain from seeking or obtaining, under any circumstances, improper instructions or assistance from any public official or any authority external to the World Health Organization.
- Show discretion at any moment about personal political activities and give opinions and personal beliefs.
- Guarantee external experts and/or non-staff persons with whom they collaborate complete declaration of interest forms, systematically review such forms, seek advice from the Office of Compliance, Risk Management, and Ethics, and take responsibility for the ultimate decision on their collaboration with the World Health Organization.
- Bring any intimate relationship with another World Health Organization staff member or collaborator to the attention of their supervisor, the Human Resources Department, or the Office of Compliance, Risk Management and Ethics, if there is a reporting relationship between them.
- Written permission is requested from the supervisors and the Office of Compliance, Risk Management, and Ethics before committing to external activity.
- Refuse gifts of a value greater than US\$100, unless the refusal is an affront, in which case they must be reported to the Compliance, Risk Management, and Ethics Committee.

- Request authorization from the Chief Executive Officer or Regional Director, through the Compliance, Risk Management, and Ethics Committee, before accepting an award or honor.
- Resigning before starting a political campaign or a candidacy process.

Respect: Respect dignity, worth, equality, diversity, and privacy. To this end, staff members shall:

- Respect and value differences.
- Treat others with tact, courtesy, and respect.
- Demonstrate an awareness that statements or actions that are not necessarily intended to be offensive to another person may be perceived as such, proceeding with restraint and refraining from unpleasant or derogatory remarks or actions.
- Maintain a professional environment characterized by good working relationships and an atmosphere of courtesy and mutual respect.
- Actively avoid and discourage all forms of harassment, particularly verbal, physical, or written insults or abuse.
- Never engage in sexual harassment, and report any that come to their attention.
- Never participate in acts of sexual exploitation and abuse, and report any that come to their attention.
- Refrain from engaging in gossip.
- Never disclose misinformation in bad faith.

Professional Commitment: demonstrate a high degree of professionalism and loyalty to the Organization, its mandate, and objectives. To achieve this, staff members shall:

- Be mindful of WHO's long-term objectives in the management of short- and medium-term activities or operations.
 - Follow professional developments in their field of activity to maintain technical excellence.
 - Use their professional expertise constructively for the benefit of the World Health Organization.
 - Respect and promote the standards of their professional codes of conduct.
- Perform the duties of their position ethically and professionally.
- Demonstrate openness to new ideas and approaches, and encourage new ways of thinking and concepts.

Within this Code, the Oath of Office to be professed by all staff of the World Health Organization, contained in paragraph 1.10 of the Staff Regulations, also stands out, which ad litteram states:

"I solemnly swear (promise, affirm, declare) that I will perform with complete loyalty, discretion, and diligence the functions entrusted to me as an international civil servant of the World Health Organization, that I will discharge them and order my conduct with no other aim than the service of the Organization, and that I will neither seek nor accept from any government or any authority external to the Organization instructions concerning the performance of my duties."

This Oath translates into a promise assumed by the person to exercise the position of an official of the Organization, to conduct himself/herself with loyalty, discretion, and diligence, understanding that he/she will not receive instructions from any State or institution outside WHO.

As mentioned, the Code has the function of guiding the conduct of personnel. To this end, it poses the following questions to be answered before deciding on a possible course of action:

- Would my actions be consistent with WHO ethical principles?
 - o What would a reasonable person think of my actions?
 - o Am I personally comfortable with the course of action?
- Do I have all the data?
 - o Have I examined and weighed the data carefully?
- Would my actions positively or negatively impact me and/or WHO?
 - o Could my actions negatively affect someone's life, health, safety, or reputation?;
 - o How would WHO be affected if this action were in the public domain?
- Would it violate any article, rule, or regulation of the Staff or Financial Regulations or Rules?
- Are there any alternatives that would not raise the same concerns?

On one hand, with these questions, WHO staff will have the opportunity to reflect, analyze and deliberate on what conduct to deploy in the face of various possible courses of action.

On the other hand, the Organization assumes the institutional commitments:

- Fair and respectful workplace.
- Prevention of sexual exploitation and abuse.
- Human rights and humanitarian contexts
- Child protection.
- Gender equity and equality.
- Reconciliation of work and personal life.
- Conduct scientific research.
- Fair and transparent procurement.

With these commitments, the World Health Organization intends to guarantee respect for the integrity of the people who work in it, prohibiting conduct that would violate their dignity.

CONCLUSION

In conclusion, to achieve social coexistence, it is necessary to dictate rules for human conduct. In the health field, the actions of health personnel require a special legal regime, since public

health, medical care, and health research, in addition to being changeable, are aimed at the individual.

It is therefore of the utmost importance that these rules also emerge from ethics since it is a suitable means of complementing the legal provisions to protect the dignity of human beings.

A general principle of law states *lege sine moribus vanae* -law without morality is vain-.

As stated, the provisions that regulate human conduct are characterized by being general, impersonal, and abstract, since it is up to the legal operator the hermeneutic exercise for its proper interpretation in the light of the General Theory of Law and not only of an exegetical reading and thus be able to apply that rule to the specific case.

Through these norms, standards of conduct are set as minimum requirements for the conduct of the health professional.

This makes it easier for the legal provisions to be updated to take into account the different situations that everyday life may generate.

Biotechnological advances and the use of information and communication technologies are scenarios that have a greater impact on human dignity, in particular, the confidentiality of personal data, the non-instrumentalization of the individual in health research, respect for personal autonomy by obtaining informed consent, mention a few.

It is therefore necessary to have these ethical rules for healthcare personnel.

Similarly, as stated, the International Covenant on Economic, Social, and Cultural Rights recognizes the enjoyment of the highest attainable standard of physical and mental health as a human right. The World Health Organization is the institution that embodies this human aspiration.

To make the above a reality, institutions require officials who, in their capacity as guarantors, will carry out the necessary actions to achieve the objectives entrusted to them.

Consequently, it becomes unavoidable to regulate their conduct in the light of legal and ethical principles, since these are considered a formal source of law.

This Code of Ethics and Professional Conduct of the World Health Organization must keep pace with social evolution to be an effective document that provides certainty to the entire population that has placed its trust in the Organization as an international entity that will always watch over individual and collective health.

REFERENCES

- García Máynez, E. (2007). " Philosophy of Law". México. Ed. Porrúa.
- García Máynez, E. (2001). " Introduction to the study of Law". Mexico. Ed. Porrúa.
- Pacheco Gómez, A. (2011) Relations between Bioethics and Law. In Morales, J., Nava, G., Esquivel, J., & Díaz, L. (Eds). Principles of ethics, bioethics, and knowledge of man (pp. 93-102). Mexico: the Autonomous University of the State of Hidalgo.
- World Health Organization (2017). Code of Ethics and Professional Conduct. Available at https://cdn.who.int/media/docs/default-source/ethics/code_of_ethics_full_version-es.pdf?sfvrsn=2393d888_12&download=true accessed August 13, 2022.