

# The Some Issues of Law, Legal Gap, Morality, Happiness and Well-Being

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## ABSTRACT

The main goal of our study is to identify the focal points of state policy necessary to establish a stable and coherent legal system characterized by minimal gaps, overlaps, conflicts, and errors. Drawing on the country's long history of statehood and intellectual heritage, the study emphasizes the intrinsic link between legal stability and effective state governance. Law is understood as a universally binding system rooted in the collective will of society, functioning through both written legislation and dynamic state authority to maintain social order, justice, and protect fundamental rights. While legal gaps are inevitable, they highlight the critical need for continuous legislative review and judicial intervention to uphold fairness and clarity. Also explores how morality often influences behavior more strongly than formal legal legitimacy, particularly in cultures with deep-rooted social values. Recognizing well-being as a multidimensional concept encompassing physical, psychological, social, and economic factors, the research advocates for culturally sensitive policies supported by robust legal frameworks. Integrating law, morality, and well-being through education, cultural respect, and legal reform is essential to promote harmonious, just, and flourishing communities.

**Keywords:** law, legal gap, morality, happiness, and well-being.

## INTRODUCTION

Over the past more than thirty years, Mongolia's legal environment has undergone significant changes associated with the transition to a market economy and democratic system, during which new laws have been developed across all sectors starting from the Constitution, and the legal system has been reformed and established. While this has on one hand provided an opportunity to lay a completely new foundation for the legal system. On the other hand, it has created conditions where legal regulations are weakly coordinated, contradictory and contain gaps for weak, contradictory, and artificial regulations in laws.

## THEORETICAL FRAMEWORK OF STUDY

We studied each concept's, meaning and theoretical framework in our study.

**Firstly, Law:** Francis Delperee (2002), defined that the term "law" (lex in Latin\*, loi in French, legge in Italian, ley in Spanish, lei in Portuguese, nomos in Greek, law or statute in English†, wet

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\* In the Latin language, the word lex comes from the verb legate. It expresses an idea that it is something referred to delegation. It is about giving people the right to make a valid decision on a set of social issues.

† The terms statute and act of Parliament are considered to be equivalent. The first is more often used to designate the law in general, while the second one is used in the official title of a law.

in Dutch, gesetz in German, prawo or ustawa in Polish, törvény in Hungarian) is undoubtedly is one of the most widely used in the legal language.

Most European states practice written law. It expresses itself, first of all, in the form of legislative acts (laws) <sup>‡</sup>. Inspired by Contrat social (The Social Contract) of Jean-Jacques Rousseau, the Declaration of the Rights of Man and the Citizen (August 26, 1789) states that the law presents an incontestable advantage; it enjoys an indisputable legitimacy; it is "the expression of the general will" [1].

Amarsanaa and et al (2003)<sup>§</sup>, The system of social norms that ensures the legal regulation of social relations and is protected by the coercive power of the state, which must be universally observed and followed [2].

Nyamsuren Ch (2024)<sup>\*\*</sup>, In essence, it is a system of norms that are accepted, ensured, and protected by the state through the mutually agreed will of participants in social relations, the measurement of human rights, freedom, equality, and justice, and positive content [3].

Academician S. Narangerel (2001)<sup>††</sup> defines that law as a set of rules of conduct established, approved, protected, and universally binding by the state, and law as something that belongs to the free disposal of individuals under the protection of the state without anyone's interference [4]. Narangerel S. *Mongolian and World Legal Systems*. Ulaanbaatar, 2001, 3rd page.

Its broadest definition, law is a system of rules and regulations that control behavior and are upheld by governmental or social institutions. It is a multifaceted idea that can be interpreted in a variety of ways and is frequently referred to as a science, an art, or a strategy for establishing justice and order. There are differing opinions about the definition of law, including its function as a body of regulations made and upheld by a governing body.

The system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.

Law, the discipline and profession concerned with the customs, practices, and rules of conduct of a community that are recognized as binding by the community.

We agree that legal law is the term "law" is universally recognized across cultures and languages, reflecting its fundamental role in human societies. Whether referred to as lex, loi, nomos, or gesetz, law represents a system of rules that govern behavior and social interactions. In most European countries, law primarily exists as written legislation—formal statutes enacted by governing bodies. Inspired by foundational political philosophies such as

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<sup>‡</sup> See the famous work by R. CARRE de MALBERG, *La loi, expression de la volonté générale* (The Law as the Expression of the General Will), Paris, Sirey, 1931, reissued by Economica, 1984.

<sup>§</sup> Amarsanaa J., Bayasgalan G., Byambaa J., Munkhjargal T., Narangerel S., Sovd G., Urantsetseg G. *Legal Dictionary*. Ulaanbaatar., 2003, page 374.

<sup>\*\*</sup> Nyamsuren Ch. *General Theory of Law* (III edition). Ulaanbaatar., 2024, page 89.

<sup>††</sup> Narangerel S. *Mongolian and World Legal Systems*. Ulaanbaatar, 2001, pages 3-4.

Rousseau's Social Contract, law is understood not merely as a set of arbitrary rules but as the embodiment of the collective will of the people, granting it legitimacy and authority. It serves as a framework that ensures social order, justice, and equality by regulating the rights and duties of individuals within a community. Law is more than just a collection of rules; it is a dynamic system upheld by the state's coercive power and accepted by society as binding. It protects fundamental human rights and freedoms while balancing individual autonomy with social responsibility. As such, law functions both as a science—studying legal principles—and as an art—applying those principles to achieve fairness and social harmony. Law is a universally recognized system of rules, grounded in the collective will of society, that governs behavior, ensures social order, protects rights, and balances individual freedom with social responsibility through both written legislation and state enforcement.

**Secondly, Legal Gap:** Legal gaps are best defined as an absence or inadequacy of law and therefore the issue at hand cannot be resolved by applying relevant legislation alone. Often it means that there are insufficient legal regulations or that certain areas of law are lacking. Legal gaps can also refer to the legal situation in which a required legal norm is foreseeable, but not provided for. From a teleological perspective, legal gaps can be understood as an omission in legislation that should be prohibited or forbidden. Legal gaps can result from various reasons including legislative oversight by the lawmaker or an unexpected social development gone unnoticed by the legislature.

Kotz H (1994), In the system of law, a legal gap has a significant impact and may lead to discrimination. This can be explained as, legal norms are not only a matter of the individual norm itself, but also depend on their systematic relation to one another. Different legal norms interact with one another and could create resulting legal gaps. To illustrate this, consider minorities who devote themselves to religion. In Islam, an older woman is allowed to marry a younger man. Normatively however, South African law does not allow for a man to have multiple wives. The relationship between the general prohibition of polygamy and the norms in Islamic law can be problematic. In a practical sense, the specific system of law gets disrupted [5].

Schauer, F. (1991), Legal gaps usually take two forms, namely, those that cannot be closed, and those that can be closed. The former may also be regarded as a "genuine" legal gap. These are further classified into the following:

"Genuine gaps" as referred to above, are also known as *bei Rechtsgünge*. These are instances in which the legislature omits relevant provisions in the act itself. This suggests the legislature did not intend to regulate the specific issue and therefore does not want to intervene therein. The effect of such gaps is the inability to take certain legal actions or to ask for the protection of the law, even where the law would ordinarily allow it. For example, one court may treat a legal action as inadmissible in a particular situation whilst another may consider the same action as admissible under similar circumstances.

"Voluntary gap" refers to provisions of law that are within the sphere of prohibition or permissibility by the competent authority. The Minister of Home Affairs makes the decision to issue a work visa to a foreigner in South Africa. This authority depends on whether the relevant criteria have been met. In cases where a condition is not specified in the applicable legislation,

the competent authority will be given a wide discretion to decide whether the requirement should be imposed or not [6].

Hesselink, M. W. (2010), Legislators are aware of the existence of legal gaps, though they are often unavoidable. When gaps exist, courts will determine how and when to fill the gaps with regard to each legal action. Courts can therefore play an important role when filling a gap in the law and thus ensuring justice in the particular situation.

One of the most problematic aspects of legal gaps is the potential for legal uncertainty. As mentioned, the majority of gaps exist due to one of the three causes of general and federal law gaps: unaddressed issues, outdated concepts, or the constant development of new technologies and societies. In response, gaps can create a grey area wherein citizens and businesses are left with no clear guidance on their legal rights or obligations. This generally forces citizens and businesses to interpret the law themselves or bear the costs of seeking out legal advice. All too often, however, those most in need of advice or legal assistance have the least access to that kind of information, and thus are left at a disadvantage during a legal dispute.

To make matters worse, the lack of clarity can also allow individuals and businesses to take advantage of the gap for their own gain—whether through exploitation of unaddressed issues in the law or intentional circumvention of existing legal concepts. The lack of ambiguity can also lead to uneven enforcement of existing laws because it may be difficult or confusing to apply the law in a particular circumstance. This can mean essentially that instead of everyone being held responsible under the same set of rules and being held to the same standard, some individuals or businesses can get away with fewer consequences than others.

Another area where this uneven enforcement comes into play is when a legal gap is used by regulators and prosecutors to target more vulnerable parties or those more reliant on certain goods or services. Imagine if a state tried to exploit a gap in federal transportation law to limit shipments of specific, important goods, such as medical equipment or food. Because "need" is subjective, a lot of people would be affected and forced to deal with the legal uncertainty of whether there is a legal loophole that the government is trying to use to justify its actions [7].

We agree that legal gap is Legal gaps arise when existing laws fail to address certain issues, leaving those matters unregulated or inadequately governed. These gaps can occur due to legislative oversight, outdated laws, or unforeseen social and technological changes. They may manifest as either "genuine gaps," where lawmakers intentionally omit regulation, or "voluntary gaps," where authorities have discretion due to vague or absent legal provisions.

The presence of legal gaps can disrupt the coherence of the legal system, sometimes leading to discrimination or conflicting applications of the law, especially when different legal norms intersect, such as cultural or religious practices clashing with general statutory rules. Courts often play a crucial role in interpreting and filling these gaps to ensure justice and legal certainty.

However, legal gaps also create uncertainty, leaving individuals and businesses without clear guidance on their rights and obligations. This uncertainty can disproportionately affect vulnerable groups who lack access to legal advice and may enable exploitation or uneven

enforcement of laws. Furthermore, legal gaps can be manipulated by regulators or other actors to target specific groups or justify controversial actions, exacerbating social and legal inequalities.

In conclusion, while legal gaps are sometimes unavoidable, their existence highlights the need for continuous legislative review and judicial intervention to maintain fairness, clarity, and equality within the legal system.

**Thirdly, Morality:** Morality refers to the principles and standards that distinguish right from wrong or good from bad behavior within a society. It encompasses shared values, ethical beliefs, and norms that guide individuals' conduct and social interactions. Morality often serves as the foundation for laws, influencing the creation and interpretation of legal rules to promote justice, fairness, and social order. However, while law and morality are closely related and sometimes overlap, they are distinct: laws are formal rules enforced by the state, whereas morality is a broader set of informal social norms that may vary across cultures and communities. The relationship between law and morality is complex and dynamic, with law often reflecting prevailing moral values but also sometimes diverging from them, leading to debates about the legitimacy and enforcement of certain laws.

Feinberg, J. (2004), Morality refers to the system of principles, values, and standards that help individuals and societies determine what is right or wrong, good or bad behavior. These moral guidelines are shared beliefs and norms that influence how people interact with one another and make ethical decisions in their daily lives. Morality is often rooted in cultural, religious, or philosophical traditions and serves as an informal code of conduct that shapes social expectations [8].

Hart, H. L. A. (2013), Morality plays a crucial role in shaping laws because it provides the ethical foundation upon which legal rules are built. Laws are formalized versions of some moral principles, created and enforced by governments to maintain justice, fairness, and social order. However, morality is broader and more flexible than law—it includes unwritten social norms that can vary widely between different cultures, communities, and historical periods [9].

Green, L. (2017), While law and morality frequently overlap, they are not identical. Laws are explicit rules backed by the authority of the state, with clear consequences for violations. Morality, on the other hand, relies on social acceptance and personal conscience rather than formal enforcement. Because of this distinction, there are situations where laws may not fully align with moral beliefs, leading to debates about whether certain laws are just or legitimate. The relationship between law and morality is complex and evolving: laws often reflect the dominant moral values of a society but can also diverge from them, prompting ongoing discussions about how best to balance legal authority with ethical considerations [10].

We agree that morality consists of the shared principles and values that guide individuals and communities in distinguishing right from wrong and shaping ethical behavior. It forms the underlying foundation for laws, which are formalized and enforceable rules designed to uphold justice and social order.

In other words, while morality and law are closely connected, they are distinct systems—morality is broader and more flexible, rooted in social and cultural norms, whereas law is a structured set of rules enforced by the state. This distinction means that laws may sometimes conflict with moral views, highlighting the ongoing need to balance legal frameworks with evolving ethical standards.

**Fourthly, Happiness:** Ruut Veenhoven (1984), defined that the term happiness has different meanings. In current scientific language it refers to various states of being that are considered 'good' for people as well as to different pleasurable states of mind. Here the term refers to an attitude towards one's own life. Happiness is defined as the degree to which an individual's overall evaluation of his life-as-a-whole concludes positively. As such happiness is an experience which only creatures of consciousness can undergo. It is an essentially experiential phenomenon which cannot be identified with particular external conditions or with a way of life.

'Overall' judgements of life are presumed to draw upon more specific appraisals. Two of these seem especially relevant. The first is 'hedonic level of affect': the degree to which affective experience is dominated by pleasantness during a certain period. The second is 'contentment': the degree to which an individual perceives his conscious aims to be achieved. I refer to these appraisals as the 'affective' and the 'cognitive' component of happiness respectively. Happiness is not necessarily stable: people may change their attitudes towards life. Neither are happiness judgements always definite, nor does a persons' appreciation of life necessarily match with ethical standards [11].

Happiness, as defined here, must be distinguished from what is commonly referred to by terms like 'well-being', 'quality of life', 'morale', 'mental health' and 'adjustment'. However, all these terms are used in varying ways. Some of their meanings do fit the object of this study.

Finally it must be observed that the phenomenon called 'happiness' here is currently given other names as well. Terms like 'life-satisfaction', and 'psychological well-being' sometimes cover the same notion. Diener, E., Suh, E. M., Lucas, R. E., & Smith, H. L. (1999), Happiness is defined as a psychological state characterized by a positive attitude toward life, emotional balance, hope for the future, and subjective well-being. It encompasses overall life satisfaction and the experience of more frequent positive emotions than negative ones, reflecting a positive subjective experience. Happiness involves both affective components—such as joy and contentment—and cognitive evaluations of life circumstances, often referred to as subjective well-being. It is a multifaceted emotion ranging from momentary pleasure to a deeper sense of fulfillment and life satisfaction. [12].

Lyubomirsky, S., Sheldon, K. M., & Schkade, D. (2005), who studied that positive psychology studies happiness as a flourishing state involving positive mindset, personality traits, and social support (Myacare, 2023). Overall, happiness is both an emotional state and a cognitive judgment about life quality, influenced by internal and external factors [13].

Seligman, M. (2011) who was psychologists emphasize two key components as the balance of positive over negative emotions and life satisfaction across various domains like relationships and work. The concept also includes emotional stability, optimism, and resilience, which

contribute to a person's overall happiness. Theories such as Hedonic Adaptation explain how happiness relates to physiological and emotional responses to life events [14].

We concluded own understanding from as allow, happiness is a complex and dynamic experience that combines both emotional feelings and cognitive evaluations of one's life as a whole. It reflects not only momentary pleasures but also deeper fulfillment shaped by personal goals, relationships, and resilience. Understanding happiness requires recognizing its multifaceted nature, influenced by internal attitudes and external circumstances, and its distinction from related concepts like well-being or life satisfaction.

**Fifthly, Well-Being:** Waterman, A. S. (1993) Chutiyami, Cheong and Salihu, (2023), Well-being is a multifaceted construct defined by the Centers for Disease Control and Prevention as "the presence of positive emotions and moods, the absence of negative emotions, satisfaction with life, fulfillment, and positive functioning" It encompasses how people feel and function personally and socially, involving emotion, behavior, cognition, and relationships, and is often described as "how well someone's life is going for them" . Well-being includes multiple dimensions such as physical, economic, social, emotional, and psychological well-being, reflecting both objective conditions and subjective evaluations [15].

Carol Ryff's model (1989) of psychological well-being identifies six key domains that contribute to an individual's overall mental health and life satisfaction:

- a. Self-Acceptance involves having a positive attitude toward oneself, recognizing and accepting both strengths and weaknesses, and feeling satisfied with one's past life experiences. People high in this domain embrace their imperfections without harsh self-criticism.
- b. Autonomy effects independence and self-determination, where individuals regulate their behavior based on personal standards rather than social pressures. High autonomy means having confidence in one's opinions even when they differ from the majority.
- c. Environmental Mastery refers to the ability to manage one's life and surrounding environment effectively, including handling everyday responsibilities and creating opportunities that meet personal needs.
- d. Personal Growth captures a sense of continued development and openness to new experiences. Individuals perceive themselves as growing, expanding their potential, and improving over time.
- e. Purpose in Life involves having meaningful goals and a sense of directedness in life, with beliefs that give life significance and motivation to pursue objectives.
- f. Positive Relationships with others emphasizes the importance of meaningful, trusting, and empathetic social connections characterized by intimacy and affection. Ryff's model moves beyond simple happiness to a richer understanding of thriving, rooted in Aristotle's philosophy that a good life involves virtuous living and fulfillment across these multiple dimensions. The model is measured using self-report scales where individuals rate their agreement with statements related to each domain, providing a comprehensive framework for assessing psychological well-being.

Seligman's PERMA model (2018) identifies five core elements essential for well-being and flourishing beyond mere happiness:

1. Positive Emotions includes a broad range of feelings such as joy, satisfaction, pride, and awe. These emotions contribute to positive outcomes like longer life and healthier social relationships. It's not just about feeling happy but experiencing a variety of positive moods.
2. Engagement refers to being deeply involved in activities that match one's skills and interests, often described as "flow," where a person is fully absorbed and loses self-consciousness. This state of intense focus leads to a sense of ecstasy and clarity.
3. Relationships are meaningful, trusting, and positive social connections are fundamental to well-being. Relationship's fuel positive emotions and are crucial during both good and bad times. Human beings thrive through sharing positivity with others.
4. Meaning called purpose, meaning involves having a clear "why" in life—something greater than oneself that provides direction and motivation. Finding meaning helps individuals persevere through challenges by linking life's parts into a coherent whole.
5. Accomplishment involves pursuing success, mastery, and achievement. Accomplishments can be personal or communal and may not always produce positive emotions directly but often activate other PERMA elements like pride [17].

Dodge et al., (2012), studied that well-being types include subjective well-being and psychological well-being, reflecting the complexity of human flourishing International Journal of Wellbeing). Subjective well-being (SWB), associated with hedonic pleasure, focuses on life satisfaction and the balance of positive over negative emotions, capturing how people feel about their lives. Psychological well-being (PWB), linked to eudemonic meaning, emphasizes personal growth, purposeful living, and self-realization, reflecting how people function and thrive (Ryff, 1989; Chen et al., 2012). While SWB measures happiness and emotional states, PWB assesses deeper fulfillment through autonomy, relationships, and meaning. Research shows these two types are strongly related but distinct constructs, each contributing uniquely to overall well-being (Chen et al., 2012). Together, they provide a comprehensive understanding of well-being, combining pleasurable experiences with meaningful life engagement [18].

We concluded that well-being is a complex and multifaceted concept that encompasses both how individuals feel emotionally and how they function in their personal and social lives. It includes various dimensions such as physical, psychological, social, and economic factors, reflecting both objective realities and subjective perceptions. Ryff's model highlights six essential domains—self-acceptance, autonomy, environmental mastery, personal growth, purpose in life, and positive relationships—that contribute to deeper psychological well-being beyond simple happiness. Seligman's PERMA model complements this by identifying five core elements—positive emotions, engagement, relationships, meaning, and accomplishment—that foster flourishing and life satisfaction. Together, these models emphasize that well-being involves both hedonic pleasure and eudaimonic fulfillment, balancing emotional happiness with meaningful life purpose. Research confirms that subjective well-being and psychological well-being are distinct yet interrelated, providing a comprehensive framework for understanding human flourishing in all its complexity.

### **THE COMPARISONS OF LAW, LEGAL GAP, MORALITY, HAPPINESS AND WELL-BEING**

There are lots of scholars studied about of law, legal gap, morality, happiness and well-being in the world. We collected Asian countries' scholars' study in our study as below:



**Table 01: The comparisons of main concepts**

| Scholars, Year                      | Main Concepts  | Journal/Source                                     | Study Results  | Recommendations  |
|-------------------------------------|--|--|--|--|
| Gao & Zhao (2018)                   | Legitimacy vs. Morality in law compliance                        | <i>Law and Human Behavior</i>                      | Morality strongly motivates law compliance in China, more than legitimacy or risk of punishment.                                     | Emphasize moral education and procedural fairness over strict enforcement to improve compliance.           |
| Korean Law Students Study (2022)    | Personal values (family loyalty) vs. professional legal values   | <i>University of Pennsylvania Asian Law Review</i> | Korean law students prioritize Confucian personal values like family loyalty over professional norms.                                | Legal education should integrate cultural values alongside professional ethics to enhance moral grounding. |
| ICCS Asian Report (2009)            | Morality, civic knowledge, trust in government                   | <i>IEA ICCS Report</i>                             | Students in East Asia show high civic knowledge; Indonesia and Thailand show higher trust and acceptance of authoritarian practices. | Promote civic education focusing on democratic values and critical understanding of governance.            |
| Asia Barometer Survey (2013)        | Quality of life, daily values, well-being                        | Asian Traditions of Wellness (ADB Report)          | Diverse Asian countries vary greatly in valuing material status, family, and personal well-being.                                    | Policies should be tailored to cultural and regional differences in well-being priorities.                 |
| Moral Identity Meta-analysis (2024) | Moral identity and emotional well-being in collectivist cultures | <i>Frontiers in Psychology</i>                     | Moral identity correlates positively with emotional well-being, slightly stronger in collectivist Asia.                              | Encourage moral identity development to enhance emotional well-being in collectivist societies.            |
| WHO SE Asia Region (2022)           | Legal frameworks for health and well-being                       | World Health Organization Publication              | National laws support universal health coverage and well-being goals, aiding SDG3 achievement.                                       | Strengthen legal frameworks and court practices to advance health and well-being sustainably.              |

Noted by: The results of our study.

We summarized and compared such as morality vs. legal compliance, Gao & Zhao (2018) highlight morality as a stronger motivator than legal legitimacy in China, aligning with the Korean study (2022) where Confucian values deeply influence law students' ethics alongside professional norms. Cultural Influence of both the Korean study and the moral identity meta-analysis (2024) emphasize collectivist cultural values such as family loyalty and moral identity as key to emotional well-being and ethical behavior. Civic Knowledge and Governance (2009) and Asia Barometer (2013) reports reveal regional differences in civic knowledge and trust,

with some countries showing acceptance of authoritarian governance, suggesting a complex relationship between morality, law, and political culture. Well-being Dimensions: Asia Barometer (2013) and WHO (2022) focus on well-being's multifaceted nature, including physical, social, and psychological aspects, recommending culturally sensitive policies and robust legal frameworks to promote health and well-being. Policy Implications: Across studies, there is a consistent call for integrating moral education, cultural values, and legal reforms to bridge gaps between law, morality, and well-being in Asian contexts.

## CONCLUSION

Law is universally recognized as a binding system of rules that governs human behavior and social interactions, rooted in the collective will of the community. It functions not only as written legislation but also as a dynamic framework upheld by state authority and societal acceptance, ensuring social order, justice, and the protection of fundamental rights. While legal gaps may arise, they underscore the ongoing need for legislative review and judicial intervention to maintain fairness and clarity within the legal system.

Morality often exerts a stronger influence than formal legal legitimacy in guiding individuals' behavior, especially in cultures where values such as family loyalty and social connections are deeply embedded. The relationship between law, morality, and governance varies regionally, reflecting differences in civic knowledge, trust, and political culture. Well-being is a multidimensional concept encompassing physical health, psychological fulfillment, social relationships, and economic conditions, requiring culturally sensitive policies supported by robust legal frameworks.

Happiness and well-being are complex, dynamic experiences that integrate emotional states and cognitive evaluations of life. Models of well-being emphasize both momentary pleasures and deeper fulfillment through personal growth, meaningful relationships, and purposeful living. The integration of hedonic and eudemonic aspects provides a comprehensive understanding of human flourishing. Ultimately, aligning law, morality, and well-being through education, cultural respect, and legal reform is essential for fostering harmonious, just, and thriving communities.

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