

# The Problematic of Legal Compliance and Ethical Responsibility in the Organizational Environment

Hechache Hanane<sup>1</sup>

## Abstract

*The authority of an organization or institution requires a legal system to which the individuals working within it must adhere. The proper management and success of the institution depend on two basic factors: compliance with laws and organizational regulations as an imposed bureaucratic procedure, and ethical responsibility as a personal choice stemming from the individual's values. Each of these is linked, on the one hand, to the management style and the economic nature of the institution, and, on the other hand, to the individual's culture and value system. This is what management systems in most institutions focus on, as their success or failure depends on it. However, what is observed in the Algerian institution is that compliance with the law is completely absent under a culture of non-submission, because adherence to legal regulations is considered a weakness and a diminution of one's value and status. Likewise, the individual's ethical responsibility toward his work is marked by a value-based defect, which is considered the result of practices that were, and still are, prevalent in the organizational environment.*

**Keywords:** *Compliance, Law, Ethics, Organizational Behavior, Values, Control.*

*Received : 13/01/2026 ; Accepted : 22/04/2026 ; Published : 24/05/2026*

## Introduction

*A Reading of the Concepts:*

*The Concept of Compliance:*

Compliance is a behavior applied to the expectations of the group. It reflects conformity to social rules or norms and is expressed through responses that are similar to the behavior of others, or through responses whose methods are determined according to the customs and standards of the group. Compliance is defined as working to reinforce a set of behavioral levels on the part of the group that express voluntary imitation of common models of action, in contrast to passive aggressive action. (Ibrahim Jaber Al-Sayyid, 2013)

*The Concept of Law:*

Definitions of law vary due to the lack of homogeneity in the views of researchers interested in studying it. In the view of Roscoe Pound, law is the social control resulting from the orderly use of authority in a politically organized society. Based on this definition, law becomes the product of organized authority. In the opinion of Professor Max Gluckman, it means a set of rules accepted by the sound members of society as outlining the correct ways of behavior that individuals should adhere to in their relations with one another and with the things existing in society. (Qais Al-Nouri, 2019).

The Concept of Legal Compliance:

Legal compliance refers to acting in accordance with the legal system or legislation in a country or institution, meaning commitment under the legal system. (Riyadh Al-Numan, 2013)

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<sup>1</sup> Université 20 Août 1955 Skikda, Algeria, Email: h.hechache@univ-skikda.dz.

*The Concept of Responsibility:*

It is a legal connection by virtue of which one or more persons are bound to transfer it to another person. (Ahmed Zaki Badawi, 1980)

*The Concept of Ethical Responsibility:*

It means the ability to recognize ethical values and act according to the standards existing in a particular field or context. (Ahmed Zaki Badawi, 1980)

Before discussing law in its organizational framework, namely the institution, it is necessary to address its historical and social background. Despite the difficulty of determining the essence of law in a way that represents it in all human civilizations, it is necessary to diagnose some of the elements that enter into its formation. What is noticed at first glance is that law represents a complex human behavior. Nevertheless, the individual may wonder what distinguishes legal behavior from other types of behavior.

*The Importance of Law in Society:**Law and the Social Construction of the Individual:*

The idea of law revolves around the fact that the human being lives only with others in society, and that his social life cannot be upright without order, while social order cannot be achieved without general binding rules. Through this, two main positions become clear. The first position approaches the subject from the angle that law represents an external social force that contains its own objective power, including individuals' obedience and submission. The proponents of the second position believe in the role of the human self in the process of legal control. In their view, the individual is not merely a blind machine harnessed and automatically driven by the customs and laws of society, devoid of conscious subjective responses characterized by awareness of the benefits or shortcomings contained in laws and customs. (Qais Al-Nouri, 2019).

Contemporary anthropological scholars agree that the fields of law do not differ from the fields of other aspects of social and civilizational organization, in that they are based on compatibility and balance between the individual and society and their fusion into an integrated system. The idea of studying law on the basis of the organic integration of society goes back to Spencer. By virtue of the mutual dependence of the members of society, law becomes an effective means of facilitating the complex process of social life. Durkheim and Radcliffe-Brown followed him in the same direction.

Nevertheless, some scholars still write under the influence of polarization between the individual and society. Some are biased toward the hypothesis of social structure, which is based on ignoring individuals, their emotions, and their subjective attitudes, in which the utopian nature of laws and customs is not reflected. Others view law as a product that satisfies individuals' responses in the manner suggested primarily by their own interests.

Malinowski believes that if the individual's obedience to customs results from his inability to violate or oppose them in his behavior, then this makes his actual behavior a legal behavior that conforms to the ideality of law. At that point, our need to define regular behavior and distinguish it from criminal behavior disappears, and the difference between the rules of law and ethics, and between other rules, also disappears. It is self-evident that this would happen if these rules were equal in the degree of obedience they receive from individuals. In his view, law represents an obligation between two persons that makes the duty of one of them a right for the other. This obligation does not arise merely from the psychological motive that gives it the quality of respect, but is also associated with the mutual interest resulting from the services of members of society to one another, and from the interconnection of their relations, which requires the existence of legal rules. (Qais Al-Nouri, 2019)

### *Law as an Organizer of Social Bonds:*

The human being is social by instinct, driven by it since creation. The need for belonging represents one of his most important psychological needs after the fulfillment of his physiological needs. Through the process of social integration, social bonds and relations are created, within which certain behaviors and innate instincts occur that affect the stability of society. In order to preserve the social life of individuals, there must be rules that organize and govern it, through laws that guarantee each individual his rights and define his duties. Each individual can enjoy a share of freedom if he allows others to enjoy, exactly like him, an equal share of freedom. These limits imposed on the freedom of the individual, or the restrictions placed on his activity in his relationship with the rest of the individuals, in order to provide security and peace in society and ensure stability within it, are self-evidently represented in rules that limit his freedom in relation to others and regulate his behavior toward them by prohibiting them from doing what harms them, or ordering them to do what benefits them. (Mahmoud Jamal Al-Din Zaki, 1969).

### *The Generality of Legal Rules:*

Generality means that the rule applies to all persons who possess the qualities specified in it on the one hand, and to all facts that possess the descriptions contained in it on the other hand. Generality is a necessary characteristic of the legal rule as a rule, “for every rule must establish a certain norm, and its application must be made available in a special way to an infinite category of similar circumstances.” However, if it loses this characteristic by being directed to a specific person, or by being related to a specific fact, then it becomes an individual order and not a general rule. Unlike the rule, the order is limited in its application to the person or persons concerned by it, or to the fact or facts specified in it, and its force is exhausted by this application.

The legal rule is also general with regard to the relationship or fact that is the subject of its address. It may be said that the generality of the legal rule with regard to facts is in fact only a result of its generality with regard to those addressed by its provisions, since the address of the law is directed to persons and not to facts, which represent only its subject. Its application is not limited to a particular relationship or fact, but rather applies to an infinite category of similar relationships or facts, and its ruling extends to every relationship or fact in which the conditions or descriptions contained in it are fulfilled.

Through this, it becomes clear that the legal rule is general in terms of the persons to whom its address is directed, and it is also general in terms of the relationships or facts that it regulates. (Mahmoud Jamal Al-Din Zaki, 1969).

### *The Binding Nature of Legal Rules:*

For a legal rule to be binding means that following it is imposed on individuals, even by force when necessary. A supreme authority within the group compels them to respect it through the material force it possesses, which they cannot resist. This binding characteristic is expressed through the element of sanction. It represents an important pillar of the legal rule. If the rule loses this element, the rule of conduct is excluded from the category of legal rules. The necessity of sanction is due to the fact that the legal rule is a social rule. Like all social rules, unlike natural laws, its ruling is obeyed through awareness and will; the individual can obey it, just as he can violate it. If every individual were left to his own will to follow its ruling or not, equality among individuals would be disturbed and the achievement of order would become impossible, and it is in establishing these two that the mission of law is confined. Therefore, sanction was established to prevent the individual from violating the legal rule.

### *The Legal Rule as a Social Rule:*

The legal rule arises to organize people’s affairs in society. It is a social rule whose existence cannot be imagined except where there is a society in order to organize relations between individuals. There is no need for its emergence if the individual lives in isolation, because the state of association is the one in which the activities of individuals conflict and their freedoms compete. This cannot be left unchecked, as it would

result in chaos and disturbances that hinder the process of social progress. If the way individuals submit to the address of the legal rule or deviate from it is addressed, psychology must be referred to. If the system of government and the forms of authority are to be understood, political science must be used as evidence. If there is difficulty in understanding and analyzing social phenomena, then sociology, with its rich theories, explains, analyzes, and answers all questions. Thus, law depends in establishing its rules on social facts.

It is also based on the fact that the legal rule is a social rule, and that law cannot remain in one fixed state; rather, it is linked to the dimensions of time and place. Social relations differ from one place to another and develop in the same place over time. Law in developed countries differs from law in underdeveloped countries, and it is constantly amended and changed according to what social and economic circumstances require. This is inevitable. If the goal of the legal rule is to regulate social relations, then it governs only the outward behavior of individuals. In its regulation, it stops at the sphere of their external behavior and does not go beyond it to the thoughts of their souls or what takes place in the depths of their inner selves. Their hidden intentions remain beyond the reach of legal rules. No matter how deeply they penetrate the core of individuals' lives and surround their actions, they do not monopolize that penetration and surrounding in regulating their behavior within shared life. The prevailing culture, with its customs, traditions, religion, and ethics, also participates in this regulation.

#### *Stages of the Development of Labor Law:*

Labor law has gone through multiple stages throughout history, and each stage had its own environmental, cultural, and social circumstances through which its own law was determined.

#### *The Work System in Ancient Communities:*

The economy of ancient communities as a whole was based on the system of slavery. Slaves worked for their masters and were absolutely subject to them, which required working to create a system or legislation regulating the relations existing between these two classes.

#### *The Work System in the Middle Ages:*

Although the work system in the Middle Ages changed from what it had been in ancient societies, this change did not lead to the emergence of labor relations in the modern sense. In agriculture, the feudal system prevailed, whereby agricultural workers were permanently attached to the fief owned by the landowner. This permanent dependence eliminated the workers' right to choose the work they wanted and their freedom to leave it. In industry, the system of craft guilds prevailed, where the masters of each craft formed a guild among themselves to regulate its affairs and determine the ranks of those working in it through their own law.

#### *The Work System in the Era of Free Capitalism:*

The French Revolution led to the end of the feudal and guild eras, the establishment of the principle of public freedoms, and the granting of freedom of work through the employment contract concluded between the worker and the employer. The state was only required to ensure respect for the will of the two parties without intervening in the regulation of these relations. However, the unrestricted application of public freedoms and the dominance of the principle of free will led to the emergence of many disadvantages in the field of work, which became a commodity subject, like other commodities, to the law of supply and demand. Since the supply of labor was always large, employers exploited the workers' need for wages and imposed unfair conditions on them. As a result, the material and health conditions of workers deteriorated, which made it necessary for the legislator to intervene to regulate the relations of these workers with employers in a way that guaranteed their rights.

*The Intervention of the Legislator and the Emergence of Labor Law:*

In view of the effects resulting from the liberal doctrine, and in the face of the poor condition into which workers had fallen due to oppression, exploitation, and the violation of humanity, it was necessary for the legislator to intervene in the field of labor relations to limit the freedom of the two parties, especially on the part of employers, which resembled slavery but in a different form. As a result, labor law emerged. It should be noted that the legislator's intervention in regulating matters related to labor relations is due to several factors, including labor pressure resulting from workers' organization into labor movements, their affiliation with trade unions and political parties, and the emergence of the socialist doctrine. (Riyadh Al-Numan, 2013)

*Labor Law in Algeria:*

Algerian labor law went through several stages. The first was the colonial stage, which was characterized by the colonizer's control over labor relations, and there was no law specific to Algeria. French law was applied on the basis that Algeria was a colony affiliated with France. The Algerian worker lacked even the most basic rights, as his only concern was to demand freedom and independence. Nevertheless, the General Union of Algerian Workers was established in 1956 as a result of the strikes carried out by workers during that period.

After independence, Algeria experienced a legal vacuum in all fields. Therefore, the application of French laws was extended, and Law No. 62-57 of December 31, 1962 was issued, providing for the extension of the application of French legislation except for what contradicted national sovereignty. During that period, workers were also assigned the task of managing and administering the properties and institutions of the colonizer that had become vacant, following a series of legal and regulatory texts, such as Ordinance No. 62-20 of August 24, 1962 relating to the management and protection of vacant properties, which was repealed on June 19, 1965 and replaced by the system of public institutions of an industrial and commercial nature and national companies. This stage was characterized by the dominance of economic activity.

In 1971, Ordinance No. 71-74 of November 16, 1971 relating to the socialist management of enterprises was issued, consecrating the right of workers to participate in management. Thus, the worker became both a producer and a manager at the same time. Ordinance No. 71-75 relating to labor relations in the private sector was also issued, although the private sector was almost non-existent because it conflicted with the socialist orientation adopted by Algeria during that period.

In 1975, legal texts in the field of labor were issued in line with the economic orientation of the state. These included Ordinance No. 75-31 of April 29, 1975 relating to the general conditions of labor relations in the private sector, which contained 362 articles; Ordinance No. 75-30 relating to the legal duration of work; Ordinance No. 75-32 relating to labor justice, which included two chapters, the first dealing with the court competent in social matters and the second devoted to the procedures followed before the social court; and Ordinance No. 75-33 relating to the powers of the Labor and Social Affairs Inspectorate, which also came in two chapters.

Law No. 75-12, containing the General Statute of the Worker, is considered one of the most important labor legislations in Algeria, as it introduced two important principles: the principle of comprehensiveness and the principle of unification. On the other hand, it consecrated the principles contained in the National Charter and the 1976 Constitution. In application of the provisions contained in this law, a set of laws and decrees were issued, including Law No. 82-05 relating to the prevention and settlement of collective labor disputes. Law No. 82-06 relating to individual labor relations was also issued to determine and clarify how to apply the provisions and principles contained in the aforementioned Law No. 75-12. In the same year, Decree No. 82-302 was also issued relating to the methods of applying the legislative provisions concerning individual labor relations.

In 1983, several laws relating to social security were issued, including Law No. 83-11 relating to social insurance, covering risks related to illness, maternity, disability, and death; Law No. 83-12 relating to

retirement, which unified wage-earners and employees in public bodies and administrations; Law No. 83-13 relating to work accidents and occupational diseases; Law No. 83-14 relating to the obligations of those responsible in the field of social security, such as declaring activity and workers; and Law No. 83-15 relating to disputes in the field of social security, including general, medical, and technical disputes related to medical activity.

At the end of 1986, preparations began for the stage of institutional autonomy as a result of the decline in oil prices, the collapse of the value of the dinar, the increase in state debt, as well as the deterioration and worsening of the social conditions of the working class. It was therefore necessary to undertake a set of reforms in various fields. A conference was held on December 21 and 22, 1986, aiming to improve the General Statute of the Worker and its implementing decrees. (Abdel Salam Maaziz, 2016)

From the above, the development of labor law in Algeria was the result of the various choices and changes experienced by the country in different economic, social, and political aspects. This made the Algerian worker live in a state of instability, which had negative repercussions on his behavior and his view of work within the institution. In addition, the industrialization project failed due to several considerations, the most important of which was the individual's original culture, which confronted the organizational culture that obliged the individual to follow a bureaucratic system that represented, for him, a constraint rather than a frame of reference.

#### *The Obligation to Perform the Work Linked to the Job Position:*

This obligation is stipulated in Article 7 of Law (90/11), as amended and supplemented, which required the worker to perform, to the best of his abilities, the work linked to his job position. Since the personality of the worker is taken into consideration, he must perform the work himself, taking into account what good faith requires in performance, in accordance with Article 107 of the Civil Code, which requires the contract to be performed according to what it contains and in good faith. Since the obligation to perform the work is considered an essential obligation in the contract, its breach constitutes a serious fault resulting in the dismissal of the worker from his job position. The employer may not assign him other obligations that have not been agreed upon. However, what is observed is that the lived reality in Algerian institutions does not reflect what these laws dictate. Rather, each institution adopts its own system, which is reproduced from one generation to another.

#### *The Obligation to Comply with the Employer's Orders:*

The worker's failure to obey the orders issued by the employer is considered an infringement of the authority granted to the employer in managing the institution, a destruction of mutual trust, and a violation of the principle of legal subordination. In addition to all this, it causes harm affecting the proper functioning of the institution. Therefore, Article 73 of Law (11/90) considered as cases of serious professional misconduct the worker's refusal, without excuse, to carry out instructions related to his professional obligations or those that may cause harm to the institution, issued by the proper employing authority. (Official Gazette, 1990) However, most employees in our institutions comply only with the laws that suit them, such as evading attendance at meetings with unconvincing excuses, especially when the meetings concern discipline regarding working hours or repeated absence permits.

#### *The Obligation to Preserve Professional Secrecy:*

Article 7 of Law (11/90) required workers not to disclose professional information related to techniques and technology, and not to reveal the content of internal documents belonging to the employing body unless required by law. Failure to comply with this is considered a violation punishable by law, pursuant to Article 73 of the same law. (Maaziz Abdel Salam, 2016)

### *Ethical Commitment:*

Ethics represents a form of human consciousness based on controlling and regulating human behavior in all fields of social life without exception: at home with the family, in dealing with people, at work, in politics, in science, etc. Moral commitment stems from human nature, in that the human being is a being capable of choosing between good and evil. (Ahmed Zaki Badawi, 1980)

Ethics is concerned with studying and evaluating human behavior in light of the moral rules that set standards for behavior, which the human being establishes for himself or considers as obligations and duties through which he performs his actions. It is an attempt to remove the moral dimension of ethics and make it an adapted element within the framework of the scientific and realistic application of the meanings that ethics deals with theoretically and abstractly. The word ethics is derived from the Greek word *ethos*, which means character. Ethics is a set of beliefs or guiding ideals that permeate the individual or a group of people in society. The word *ethic* differs from the word *déontologie*, which means what must be done, and *logos*, which means science. Together, the two words refer to the science that studies duties, and they also indicate a synonym for the professional ethics of a particular profession. (Mustafa Hasiba, 2012)

### *Professional Ethics:*

The term ethics refers to a document that defines the moral and professional behavioral standards that members of a professional association are required to follow. It is defined as a statement of the ideal standards of a profession adopted by a professional group or institution to guide its members in assuming their professional responsibilities. Every profession has general ethics and etiquette defined by its specific laws and regulations. Professional etiquette and ethics mean the set of rules and principles recognized among members of the same profession, whose observance preserves the profession and its honor. (Mustafa Hasiba, 2012)

## **7- Sociological Approaches:**

### **7-1 The Organizational Approach:**

Max Weber believed that the organization needs to codify the rules and laws on which it relies to perform its work. It is also characterized by a hierarchical system, with authority concentrated at its upper levels. Bureaucracy is the only method for dealing with administrative requirements and social systems, and with the increasing complexity of tasks, systems of control and domination must be developed. He therefore presented his ideal model of bureaucracy, through which he defined the rules that must be adhered to during work as a mechanism of control and rational guidance of the individual's behavior within the organization. Through this, he focused on the hierarchy of authority and the necessity of submission to regulations and legal texts, emphasizing the principles of discipline, coordination, and impersonality.

Robert Merton, through his critical study of the bureaucratic model, addressed elements that had not been taken into consideration, such as informal organizations and their consequences. He believes that strict adherence to written rules and procedures, and the failure to open space for consultation and participation in decision-making, lead to the rigidity of what is called "bureaucratic rituals," in which rules and laws rise above all organizational matters. This creates a state of tension and contradictions between bureaucratic institutions, especially governmental and public ones. This increases the rigidity of relations between members of the organization and obscures their humanity, as if they were programmed machines.

Gouldner also observed, through the experiment he conducted in a wallboard factory and a gypsum mine to test the degree of workers' compliance with bureaucratic rules, that the more flexible the procedures were, the higher the degree of compliance became. Weber also considered social action to be guided by ideas and cultural values, which contribute to directing our individual actions.

Michel Foucault indicated, through his theory of control over time and space, that most modern organizations were designed according to physical and material arrangements. The buildings that house

large companies are generally organized vertically, with the upper floors allocated to those in positions of authority. The closer an employee's office is to the top of the building, the stronger the signs of his proximity to the center of power. This affects the method of performance in terms of physical proximity, which facilitates communication between primary groups, while physical distance leads to the polarization of groups and the drawing of dividing lines between "us and them."

He also referred to the issue of visibility or invisibility before others in the architectural structure of modern institutions and its implications for the distribution of ranks of authority. The degree of visibility determines the level of subjection to surveillance; those in lower ranks are more exposed to scrutiny and examination than others. (Anthony Giddens, 2005) This is what is observed in our institutions: beneficial laws are enjoyed by those at the top of the hierarchy, while the categories at the bottom of the hierarchy are subject only to deterrent laws merely for committing an error. This increases the employee's lack of loyalty and lack of compliance with laws in the absence of organizational justice.

#### *The Behavioral Approach:*

The main problem faced by sociological theory in its interpretation of individuals' behavior within the productive field is the position or view through which individuals are perceived in the organizational field. All sociological conceptions focus on the behavior of the individual, as it contributes to explaining and analyzing how the institution functions. The individual or collective behaviors performed by these individuals, whether they are leaders or ordinary workers within the institution, used to be interpreted on the basis of the personal traits of each worker, while the system of relationships, rules, values, and norms produced by organizational groups was ignored. (Mohamed El-Mahdi Ben Aissa, 2010)

#### *The Relationship between Attitudes and Values:*

Several researchers have linked the concepts of attitudes and values. Oppenheim, for example, believes that an attitude consists of the sum of opinions accumulated throughout the individual's history toward a subject or issue. With the stability of this attitude after a certain period, and with the interconnection of attitudes, the individual's personality is formed. Whatever the similarity and strong connection between the formation of attitudes and the emergence of values, research on attitudes arose within the framework of psychological studies, whereas research on values began within the framework of philosophical studies. The German researcher Spranger is considered the first to transfer this subject from the field of philosophy to the field of psychology, where he formulated a theory of personality types in which he tried to classify people into types based on the basic values that move and motivate them in their daily lives.

Katz and Kahn (1973) distinguish between two types of values in organizations: moral values and utilitarian or pragmatic values. What should be emphasized is that there is no separation between these two types of values. In one organization, we may find both moral and pragmatic values, especially in economic institutions. However, what usually prevails is the dominance of one system of these values, depending on the type of organization, over the overall relations prevailing among different individuals and work groups. This affects the general climate prevailing in the organization, on the basis of which patterns of behavior are determined in a semi-regulated and commonly recognized manner.

The two researchers give loyalty as an example of moral values, meaning the feeling of belonging to a group or a union, for instance, defending its principles and goals, complying with its orders, following its plans, and adhering to its commitments and pledges, even if this requires effort and sacrifice. On this basis, the organization uses these values to defend itself and preserve its existence, and considers any attack on these values as an attack on the organization itself.

As for utilitarian values, they are mainly represented in dealing with the environment on a purely commercial basis, without allowing moral values to intervene, as they may restrict private benefit that harms the public interest. An example of utilitarian values in the organization is what happens in capitalist institutions that, in some cases, dismiss a group of workers in order to preserve the organization's effectiveness, continue its

activity, and avoid loss or bankruptcy. In other words, utilitarian values are usually linked to an economic logic stripped of moral values.

Regardless of the pattern of values prevailing in a given organization, organizations, through their hierarchical form in organizing authority and distributing organizational power, represent a vital field for the emergence of several patterns of values and attitudes that may reach the point of conflict. This arises from the multiplicity of work groups, some of which constitute a pressure force, others a driving force, and others a rejecting force, and so on, according to the position of these groups in the hierarchy of authority and according to their material and moral benefit from the organization. (Mustafa Ashwi, 1992)

### Conclusion:

The issue of legal compliance and ethical responsibility is one of the complex issues in the Algerian institution, which researchers continue to investigate, interpret, and seek solutions for, within an organizational environment that has a social specificity marked by an organizational culture dominated by traditional thought attached to its culture and values, which it attempts to consecrate in the workplace. Among the essential elements in all cultures is the system of ideas that determines what is favored and desired in society. This is reflected through actions and social practices in the industrial institution. This has been shown through socio-organizational studies, which revealed that every attempt to eradicate local cultural values in order to replace them with foreign cultural values is doomed to failure, for it is impossible under any circumstances to consider human nature as one. (Mohamed Bachir, 2017) In addition, the individual's pragmatic tendency makes him seek his own interest. Actual compliance is therefore directed toward the holder of authority and mutual interest. As for the ethical aspect, it is subject to the principle that the end justifies the means.

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