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# Lawyer's Integrity: Some Remarks from the Perspective of a Holistic Approach to Legal Practice<sup>2</sup>

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## Abstract

This paper presents the issue of a lawyer's integrity from the perspective of the assumptions underlying the original concept of a holistic approach to law and legal practice. In the course of the discussion, the basic principles of legal holism, the assumed understanding of lawyer's integrity and their personal qualities forming the lawyer personality, and the problem of integrity in the context of the formula (model) shaping the lawyer-client relationship will be introduced. Legal holism recognises a lawyer's self-knowledge, their conscious choice of professional role(s), the ways in which they are performed and the formula for working with clients and parties to disputes as crucial issues for the practice of law. It emphasises their complexity and possible impact on the postulated observance by a lawyer of the integrity of attitudes and actions in professional and private life. The author represents a research approach related to the concept of ontological and methodological multidimensionality of legal phenomena and the postulate of the so-called external integration of jurisprudence with the achievements of other sciences, including branches other than social (e.g. psychology or sociology).

**Keywords:** lawyer's integrity, the Lawyer Personality, legal holism, holistic approach to legal practice, lawyer-client relationship.

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# Integralność prawnika – kilka uwag z perspektywy holistycznego podejścia do praktyki prawniczej<sup>3</sup>

## Streszczenie

Celem artykułu jest przedstawienie problematyki integralności prawnika z perspektywy założeń autorskiej koncepcji holistycznego podejścia do prawa i praktyki prawniczej. W trakcie rozważań zostaną zaprezentowane podstawowe założenia holizmu prawniczego, przyjmowane rozumienie integralności prawnika i jego właściwości personalnych, tworzących prawniczą osobowość (*the Lawyer Personality*) oraz problematyka integralności w kontekście formuły (modelu) relacji prawnika z klientem. Holizm prawniczy za kwestie doniosłe dla praktyki prawniczej uznaje odpowiednie poznanie przez prawnika samego siebie, świadomy wybór przez niego roli zawodowej lub ról, sposobów ich wykonywania oraz formuły współpracy z klientem i stronami sporów. Podkreśla ich złożoność i możliwy wpływ na postulowane zachowywanie przez prawnika integralności postaw i czynów w życiu zawodowym i prywatnym. Autor reprezentuje podejście badawcze związane z koncepcją wielopłaszczyznowości ontologicznej i metodologicznej zjawisk prawnych oraz postulatem tzw. zewnętrznej integracji prawoznawstwa z dorobkiem innych nauk, nie tylko społecznych (np. psychologii czy socjologii).

**Słowa kluczowe:** integralność prawnika, prawnicza osobowość (*The Lawyer Personality*), holizm prawniczy, holistyczne podejście do praktyki prawniczej, relacja prawnik–klient.

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## Key Assumptions of a Holistic Approach to Legal Practice

The paper aims to present the issue of the integrity of a lawyer from the perspective of the assumptions underlying the original concept of a holistic approach to law and legal practice, presented in detail in the book *Holizm prawniczy z perspektywy Comprehensive Law Movement. Studium teoretycznoprawne* [Legal Holism from the perspective of the Comprehensive Law Movement. Theoretical Approach].<sup>4</sup> The focus will be on the broadest group of legal practitioners (particularly barristers and legal advisers) who provide specific assistance to clients which, in legal holism may, where appropriate, go beyond traditional advice or representation in judicial proceedings and extrajudicial procedures. The conducted analysis will primarily refer to a situation in which a lawyer is confronted with the effective management of a client's legal problem or dispute, which includes assuming an active approach towards not only learning about and eliminating the negative effects of the said problem, but also its multifaceted causes.<sup>5</sup>

For reasons of consistency and the order of things, it is necessary to indicate at the outset (in awareness of the risk of simplification due to space limitations of the article) at least the general assumptions of a holistic approach to the practice of law, which takes on a more detailed shape within the framework of the individualised attitude of each lawyer, carrying out their professional roles in a manner typical of elementary, proper or transformative holism).<sup>6</sup>

First of all, legal holism recognises and emphasises the potential of the multifaceted positive and negative impact of law and legal practice on the subjects within their orbit (not excluding the lawyers themselves), including specific therapeutic and transformative aspects, which can significantly contribute to shaping the emotional states, beliefs, motivation, personal development, attitudes, behaviour, interpersonal relations and even the psycho-physical health of these subjects. It attempts to construct an approach to the law, the roles and competences of a lawyer

<sup>4</sup> A. Zienkiewicz, *Holizm prawniczy z perspektywy Comprehensive Law Movement. Studium teoretycznoprawne*, Warszawa 2018, *passim*.

<sup>5</sup> Cf. the distinction between so-called *legal troubles* and *legal services* made by R. Cochran R. Cochran, J. DiPippa, M. Peters, *The Counselor-At-Law: A Collaborative Approach to Client Interviewing and Counseling*, New York 2006, p. 109.

<sup>6</sup> For more on the characteristics of the three main holistic attitudes in legal practice: elemental holism, proper holism, transformative holism – see A. Zienkiewicz, *op. cit.*, pp. 177–205.

on the fundamental premise that 'law in action' should, in particular, exploit the potential for positive individual and interpersonal change in a situation and the subjects themselves and offer solutions to legal matters that also give them a chance for more satisfying, harmonious functioning as individuals and members of society.<sup>7</sup>

Secondly, legal holism formulates the assumption on the legitimacy of a multifaceted (subjective dimension) as well as comprehensive (personal dimension) approach made by a lawyer to a case as only a part of the total life situation of a legal subject, especially being a party to a dispute. Without losing sight of the social environment in which the individual operates and of the presence and influence of extra-legal social norms, which are also products of a given culture.<sup>8</sup> The holistic approach assumes that a human being, while building self-awareness and discovering or creating their identity, hierarchy of values and needs or while choosing a lifestyle, attitudes and behaviours, is influenced by normative determinants (including legal and moral ones), which are nevertheless constantly 'confronted' with the entirety of this person's existential situation, created by (at least) the following dimensions: rational, emotional/relational, physical (bodily), social and spiritual (functioning in interdependence).<sup>9</sup> Such an approach results in the requirement for lawyers to take into account in their practice not only the needs and interests of clients or parties to legal and economic disputes (so-called *legal needs*) but also needs in a broader humanistic dimension (the so-called *human needs and rights plus*).<sup>10</sup> This affects the legitimacy of their search for optimal solutions to a given legal problem or case, also taking into account its non-legal dimensions of a psychological, emotional, communicative, ethical or relational nature, to determine their impact on the client/parties in a dispute, the related social environment entities and the lawyers involved, among others.

Thirdly, in view of the aforementioned, legal holism – bearing in mind the multifaceted personal, interpersonal and social objectives set for holistic lawyers – also seeks (without diminishing the importance of the traditional activities of judges and lawyers) to give due recognition to such professional activities of lawyers as:

- a) legal prevention in order to reduce the occurrence of legal problems and disputes and their escalation

<sup>7</sup> Cf. S. Daicoff, *Comprehensive Law Practice, Law as a Healing Profession*, Durham 2011, p. 36.

<sup>8</sup> Similarly, M. King, A. Freiberg, B. Batagol, R. Hymas, *Non-adversarial Justice*, Sydney 2009, p. 82.

<sup>9</sup> A. Zienkiewicz, op. cit., p. 29.

<sup>10</sup> The meaning of the term *Rights plus* is adopted after P. Tesler and S. Daicoff – see S. Daicoff, op. cit., pp. 36, 55. The term itself is attributed to P. Tesler, a lawyer co-creating the *collaborative law* orientation – for more, see P. Tesler, *Collaborative Law: Achieving Effective Resolution in Divorce without Litigation*, 2nd edition, Chicago 2008, passim.

- b) attentive listening to and interviewing the client together with establishing and building the right relationship with them
- c) a holistic diagnosis of the dispute, using various analysis criteria, both in the legal dimension and in relevant aspects beyond the strictly legal sphere
- d) counselling in order to identify, select and implement the optimal form of management of a given legal dispute from the wide range of forms present within the traditional adjudicative, Alternative Dispute Resolution (ADR) and Comprehensive Dispute Resolution (CDR) modes, also taking due account of the therapeutic and transformative dimensions of law and legal practice.<sup>11</sup>

Fourthly, legal holism, inspired by the ideas of the Comprehensive Law Movement orientation (and Therapeutic Jurisprudence in particular), by raising the legitimacy of the research into the therapeutic and transformative impact of law and legal practice, appreciates the search for such solutions to legal problems and disputes which will enhance their positive effects and limit negative consequences in human life, in the behavioural, psychological and social spheres.<sup>12</sup> A holistic lawyer, adopting, if necessary, a transformative attitude, alone or with experts from other disciplines as part of a so-called *collaborative team*, engages in the healing of interpersonal relationships and the promotion of positive behavioural change and sustainable personal development of the client/litigant, referred to as personal transformation, based, *inter alia*, on the enhancement of self-knowledge, self-improvement (learning) and gradual moral development.<sup>13</sup> In this context, moral growth is seen as a social benefit, linked to the potential for the positive transformation of not only individuals but also of society.<sup>14</sup>

Fifthly, legal holism recognises that it is important for the practice of law that lawyers should know themselves, including their so-called 'lawyer personality',

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<sup>11</sup> For a more extensive discussion of holistic approaches to mastering disputes using the traditional adjudicative mode, forms of ADR and CDR, and holistic administration of justice, taking into account the therapeutic and transformative dimensions of law and legal practice, see A. Zienkiewicz, *op. cit.*, pp. 248–275, 309–402 and the literature cited there.

<sup>12</sup> For more on the innovative and interdisciplinary legal movement referred to as *Comprehensive Law Movement* and orientations forming it (among others: *Holistic Justice, Therapeutic Jurisprudence, Preventive Law, Creative Problem Solving, Procedural Justice, Restorative Justice, Transformative Mediation, Collaborative Law*) – see: A. Zienkiewicz, *op. cit.*, pp. 39–100 and the literature cited there.

<sup>13</sup> On cooperation of a lawyer with a *collaborative team* within various types of cases and legal branches, see e.g. S. Gutterman, *Collaborative Law: A New Model of Dispute Resolution*, Denver 2004, pp. 97–244, 435–443.

<sup>14</sup> Cf. R. Baruch Bush, J. Folger, *The Promise of Mediation: The Transformative Approach to Conflict*, San Francisco 2005, p. 83; M. King, *Solution-focused Judging Bench Book*, Melbourne 2009, pp. 4–5.

the conscious choice of own professional role(s), the ways of performing those roles and the formula (model) of cooperation with clients and parties to disputes.<sup>15</sup> Legal holism recognises, in particular, its impact on the lawyer's postulated maintenance of the integrity of attitudes and actions in professional and private life, which is the main subject of further consideration.

## The Integrity of a Holistic Lawyer – Conformity to Oneself, That Is, to Whom?

The understanding of a lawyer's integrity as one of the fundamental issues for a holistic approach to the practice of law does not differ significantly from the basic uses of the concept in debates about the legal profession and implies the conformity of a lawyer's attitudes and actions with their own beliefs (not only in the moral sphere). This means preserving the lawyer's own identity, proper autonomy and distance from the professional and social roles performed, so that the lawyer, as the performer of a given role, could always be themselves and in harmony with themselves.<sup>16</sup> Reflecting on a lawyer's integrity, legal holism draws attention to three fundamental assumptions:

1. each person is a moral subject who is not relieved of personal moral responsibility by being guided/'blinded' by institutional morality or the demands of their professional role,<sup>17</sup>
2. the emanation of a person is what they do, what attitudes and behaviour they demonstrate both in private and professional life,<sup>18</sup>

<sup>15</sup> I adopt the term *the Lawyer Personality* after S. Daicoff, who conducted inspiring research on typical characteristics and attitudes of lawyers and the significant costs they incur in their personal lives due to the specificity of conducting legal activity – see e.g. S. Daicoff, op. cit., pp. 3–11; S. Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Bearing on Professionalism*, "The American University Law Review" 1997, 46, pp. 1337–1427; S. Daicoff, *Lawyer, Be Thyself: An Empirical Investigation of the Relationship Between the Ethic of Care, the Feeling Decisionmaking Preference, and Lawyer Wellbeing*, "Virginia Journal of Social Policy & the Law" 2008–2009, 87, pp. 88–140.

<sup>16</sup> Cf. P. Kaczmarek, *Tożsamość prawnika jako wykonawcy roli zawodowej*, Warszawa 2014, passim; idem, *Dystans do roli w zawodzie prawnika*, Warszawa 2019, passim. On the distinction between the categories: moral integrity, integrity of the profession and professional integrity see P. Skuczyński, *Integralność*, [in:] H. Izdebski, P. Skuczyński (eds.), *Etyka zawodów prawniczych. Etyka prawnicza*, Warszawa 2006, pp. 105–112.

<sup>17</sup> Similarly P. Kaczmarek, *Tożsamość prawnika...*, op. cit., p. 30. Idem, *Dystans do roli...*, op. cit., pp. 203, 205; cf. T. Pietrzykowski, *Etyka i deontologia zawodowa*, [in:] A. Bereza (ed.), *Zawód radcy prawnego. Historia zawodu i zasady jego wykonywania*, Warszawa 2014, pp. 239–240.

<sup>18</sup> Similarly S. Daicoff, *Comprehensive Law Practice...*, op. cit., p. 20.

3. the attitudes and behaviours of a person can have a significant impact on them – their identity can be shaped/changed during the person's life.<sup>19</sup>

Hence, the framework of legal holism demands, as an important initial issue, an adequate, in-depth knowledge of one's own personal qualities, constituting the lawyer personality, by each lawyer, to be able to determine, in a fully conscious manner, whether a given attitude or behaviour present in the professional sphere is consistent with their current and authentic identity (which, in turn, may undergo further transformations under their influence). It is worth noting the frequent significant differences between what a person is like (the real self) and what they wish to be like (the ideal self) or what they think they are like (the subjective self), or how they appear in professional interactions (the professional self) and what they are like in private life (the personal self).<sup>20</sup> Therefore, legal holism proposes that a lawyer enriches their findings about themselves, obtained through spontaneous self-reflection or introspection, creating their self (subjective, objective and reflected) with the result of applying a 'tool', which offers an extensive catalogue of categories, covering model, general personal qualities, creating the lawyer's personality of a given lawyer. This catalogue has been designed to help holistic lawyers and others with the important (not only for integrity issues) postulates, such as 'lawyer, know yourself', 'lawyer, be yourself and work on yourself'. An analysis of this catalogue and appropriate reference to oneself can provide the lawyer concerned with a more comprehensive and in-depth knowledge of themselves at a given stage of life. It can provide individuals with the opportunity not only to learn about and more consciously co-create their own personal qualities but also to accurately establish an individual personal reference point to be used when solving dilemmas related to the maintenance of integrity by the lawyer during professional practice. Adequate knowledge of oneself is particularly justified by the fact that the personal qualities of the lawyer (legal personality), in the broad sense of the term, may constitute significant factors that co-shape (in addition to others of a normative, objective or relational type) one's individual scope and the specific way of performing one's professional role(s). This is true not only within the same profession (e.g. barristers or solicitors) but also within a specific professional role, performed within its framework (e.g. an adviser, a litigation representative, a defence counsel, a negotiator or a mediator). Moreover, they affect the individual formula of the lawyer-client relationship, which is only partly defined by the relevant legal acts or codes of professional ethics. A detailed presentation

<sup>19</sup> Ibidem. Cf. J. Koziński, *Koncepcje psychologiczne człowieka*, Warszawa 2000, p. 10.

<sup>20</sup> Cf. T. Mądrzycki, *Osobowość jako system tworzący i realizujący plany*, Gdańsk 2002, pp. 210–212.

of the individual categories proposed by the holistic approach from the model, broad complex of personal qualities constituting an individual lawyer's personality (*the Lawyer Personality*) goes beyond the limited scope of this text; however, it should be pointed out, at least in general, that they include, in particular:<sup>21</sup>

- a) psychological features, most often indicated as components or traits defining the personality type (among others: temperament, character, level of emotional balance, openness to experience, agreeableness, conscientiousness or extraversion/introversion)
- b) characteristics concerning the hierarchy of values and needs, religiousness, type of motivation, aspirations, beliefs, including the way of defining professional success and attitudes towards moral norms, professional ethics and the problem of integrity in the moral and professional sphere
- c) characteristics relating to attitudes and behavioural patterns and preferences regarding the choice and performance of professional roles and the type of clients and cases to be handled
- d) characteristics involving multifaceted constraints and resources (knowledge, skills, abilities, experience) including, in particular, the structure and level of various aspects of intelligence.

An individualised complex of personal properties, forming a specifically understood legal personality of a given lawyer may significantly influence their style and process of cognitive functioning, decision-making and the way of performing their professional activity. At the same time, it should be noted that the objectives and manner in which a lawyer exercises their profession have a reciprocal effect on their personal dimension, which, in reality, is usually not permanent and may be subject to change, consequently justifying appropriate periodic self-reflection.

## The Integrity of a Holistic Lawyer and the Relationship with the Client

From the perspective of a holistic approach to the practice of law, the question of how a lawyer maintains integrity in the context of choosing an appropriate formula (model) for their relationship with clients/parties to disputes gains in importance and degree of difficulty and complexity.

<sup>21</sup> For more about the catalogue of categories including personal properties forming *the Lawyer Personality* of a given lawyer, see A. Zienkiewicz, *Holizm prawniczy...*, op. cit., pp. 225–236; idem, *The Lawyer Personality. Właściwości personalne prawnika a wykonywanie roli zawodowej*, „Archiwum Filozofii Prawa i Filozofii Społecznej” 2018, 1(16), pp. 94–102.



Firstly, a holistic lawyer, as a matter of principle, includes in their diagnosis and scope of assistance the legal dimension and relevant extra-legal dimensions of their clients' problems and disputes, which are frequently subject to the regulation of different normative systems, sometimes competing with law.

Secondly, the question of whether a lawyer maintains integrity within a holistic approach to the practice of law is complicated by the fact that they may perform (unlike a traditional lawyer) a variety of ancillary tasks, thus operating in a more complex, multi-role environment, not only normative but also relevant to competence. Apart from the classic role of a client's representative in competitive litigation or positional negotiations, the lawyer may perform, for instance, the role of a holistic advisor, a negotiator, a mediator, an arbitrator (*preventive lawyer*)<sup>22</sup> or a lawyer recognising the importance of the emotional aspects of the case, including the restoration of positive interpersonal relations (*affective/relational lawyer*).<sup>23</sup> Moreover, legal holism allows for the activities of a lawyer as a professional who not only tries to solve the conflict in an effective, creative and multifaceted manner (*creative problem-solver*), but also to bring about the transformation and inner development of the client (*coach*) or to establish peaceful and cooperative interpersonal and social relations, supporting the acts of apology, forgiveness and reconciliation between the parties in dispute (*peacemaker*).<sup>24</sup> At the same time, a lawyer is able to take action (particularly in accordance with the proposals of Therapeutic Jurisprudence) which will lead to the identification and diagnosis of legally and psychologically sensitive areas of the law in a given case (the so-called *psycholegal soft spots*)<sup>25</sup> and, subsequently, to implement a coping strategy for the client/parties to the disputes towards achieving specific therapeutic consequences in:

- a) a behavioural dimension (e.g. in the form of stopping negative behaviours and changing one's lifestyle, refraining from returning to crime, stopping domestic violence, getting a job or fighting addictions)

<sup>22</sup> More in T. Barton (ed.), *Preventive Law and Problem Solving: Lawyering for the Future*, Lake Mary 2009.

<sup>23</sup> More in L. Mills, *Affective Lawyering: The Emotional Dimensions of the Lawyer-Client Relation*, [in:] D. Wexler, B. Winick (eds.), *Practicing Therapeutic Jurisprudence: Law as a Healing Profession*, Durham 2000, pp. 419–446; M. Silver, *Emotional Competence and the Lawyer's Journey*, [in:] M. Silver (ed.), *The Affective Assistance of Counsel: Practicing Law as a Healing Profession*, Durham 2007, pp. 5–52.

<sup>24</sup> See: K. Wright, *Lawyers as Peacemakers: Practicing Holistic, Problem Solving Law*, Chicago 2010, *passim*; A. Zienkiewicz, *Prawnik jako peacemaker – przeprosiny, przebaczenie, pojednanie w oparowaniu sporów prawnych*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny” 2019, 81(4), pp. 43–57.

<sup>25</sup> The effect of co-occurrence in the case of legally-psychologically sensitive sites is the emergence of *positive psycholegal soft spots* or *negative psycholegal soft spots* – see: D. Wexler, B. Winick, *Practicing Therapeutic Jurisprudence: Psycholegal Soft Spots and Strategies*, [in:] D. Stolle, D. Wexler, B. Winick (eds.), *Practicing Therapeutic Jurisprudence: Law as a Helping profession*, Durham 2000, pp. 45–67.

- b) a psychological dimension (e.g. in the form of increased self-awareness, self-determination, socio-moral development, development of emotional intelligence, reduction of distress or improvement of mental well-being/emotional condition).<sup>26</sup>

Thirdly, given the above wide range of possible activities of a lawyer, the problem of a lawyer's integrity may be further intensified when the lawyer engages in multifaceted problem solving or management of the client's dispute, with the participation of other experts as part of a so-called *collaborative team*. This will frequently result in the need for the lawyer to consider attitudes and behaviour with appropriate reference not only to the expectations, preferences or beliefs of the client/party in dispute, but also to the position of other actors assisting in the case (e.g. a psychologist, an addiction therapist, a doctor, an expert witness, a social worker, an employer or relatives involved in the case).

Fourthly, holistic legal practice should be accompanied by the lawyer's self-reflection on their own attitudes (judgements, stereotypes, feelings) towards the expectations, preferences or other characteristics of clients (*client screening*) and the nature of the cases handled (*client screening*), also in the context of the anticipated difficulties that they may cause when it comes to the lawyer's integrity. This self-reflection is carried out with a view to optimally adapting the formula to the provision of legal assistance from the point of view of both the client and the lawyer, taking into account mandatory rules of law and standards of professional ethics.<sup>27</sup> A holistically oriented lawyer, apart from the classic question: 'What is the problem or the essence of the case with which the client comes to the lawyer and what solutions are provided by the legal norms?', also attempts to answer cardinal subjective questions of the following types:

- a) What personal characteristics does the client have that are relevant to the problem/dispute/issue?
- b) Are characteristics or factors arising from the personal qualities of the client (e.g. their hierarchy of values and needs, beliefs, emotions, mental state or personality type) among the relevant causes?
- c) To what extent do the nature and subject matter of the dispute/case and the person of the client and their proposals regarding the manner and content of resolving the case correspond to the lawyer's own characteristics and preferences, and which mutual attitudes and formula (model) of the lawyer-client relationship do they co-shape?

<sup>26</sup> Cf. *ibidem*, p. 48.

<sup>27</sup> Cf. R. Sarkowicz, *Amerykańska etyka prawnicza*, Kraków 2004, pp. 74–75.

At this point, attention should be drawn to an issue that is fundamental to the maintenance of integrity by the lawyer, of choosing an appropriate formula (model) of the relationship between them and the client, shaping the course and degree of their participation in making various decisions in the case, including those related to emerging moral dilemmas.<sup>28</sup> The following solutions, at least, can be identified as a model, referring to all or any of the three general areas of the case (substantive, formal or moral):

- a) the client imposes a decision on the lawyer, which the lawyer executes
- b) the lawyer imposes the decision on the client
- c) the decision is reached jointly in a certain manner and is ultimately decided by either the lawyer or the client
- d) the decision is reached jointly in a certain manner – both parties have to agree on its content before it can be implemented.

Legal holism, referring to the fundamental for shaping the lawyer-client relationship issue concerning the distribution of responsibility and decision-making power and the manner of participation by the parties in the decision-making process (in opposition to the traditional *client-centred model of decision-making* or *lawyer-centred model of decision-making*), is based on a specifically formulated reflexive model of legal counselling, proposing an appropriate 'balancing' of the 'conflict autonomy' principles, the assumptions of the *collaborative decision-making model: the lawyer as a friend* and the concept of *relationship-centred lawyering*.<sup>29</sup> At the same time, to strengthen the implementation of the postulate of integrity, it recommends that lawyers should seek appropriate assumptions also within the continuum of different variants of lawyer-client relationship formulas, centred around the so-called *ethical models*,<sup>30</sup> particularly: *moral lawyering* and *wise counsellor*.<sup>31</sup>

<sup>28</sup> Cf. R. Sarkowicz, *O nie całkiem marginalnym problemie etyki prawniczej*, [in:] H. Izdebski, P. Skuczyński (eds.), *Etyka prawnicza. Stanowiska i perspektywy*, Warszawa 2008, pp. 92–93; T. Pietrzykowski, *Czy prawnicy mają szczególne powinności moralne*, [in:] H. Izdebski, P. Skuczyński (eds.), *Etyka prawnicza. Stanowiska i perspektywy*, Warszawa 2008, pp. 77–91.

<sup>29</sup> More in R. Cochran, J. DiPippa, M. Peters, *The Counselor-At-Law...*, op. cit., pp. 1–9, 169–189; S. Daicoff, *Comprehensive Law Practice...*, op. cit., pp. 16–32; J. Macfarlane, *The New Lawyer: How Settlement Is Transforming the Practice of Law*, Vancouver 2008, pp. 125–164; R. Sarkowicz, *Amerykańska etyka...*, op. cit., pp. 57–72; T. Shaffer, R. Cochran, *Lawyers, Clients, and Moral Responsibility*, St. Paul, Minnesota 1994, pp. 5–54; S. Brooks, R. Madden (eds.), *Relationship-centered Lawyering. Social Science Theory for Transforming Legal Practice*, Durham 2010. Cf. also L. Riskin, J. Westbrook, Ch. Guthrie, T. Heinsz, R. Reuben, J. Robbennolt, *Dispute Resolution and Lawyers*, Saint Paul 2006, pp. 65–71.

<sup>30</sup> Cf. R. Atkinson, *A Dissenter's Commentary on the Professionalism Crusade*, "Texas Law Review" 1995, 74, pp. 259, 302–320.

<sup>31</sup> More in S. Daicoff, *Comprehensive Law Practice...*, op. cit., pp. 19–22.

Fifthly, when a lawyer carries out a variety of professional tasks, particularly when they adopt an attitude of transformative holism, taking on the responsible role of a kind of 'guide', 'personal coach' or 'authority' – a fundamental issue for legal holism is its particular concern for high self-awareness, good mental (emotional) health and a high level of ethics and integrity of attitudes in professional and private life. This is particularly important in situations in which, based on a formula of cooperation with clients founded on a high level of trust, a lawyer has access to a great deal of sensitive information concerning various, not only legal, aspects of their lives and the possibility of exerting a real impact on them. A lawyer who raises awareness and positively motivates a client/party to a dispute, helping them to develop coping skills, prevent the emergence and escalation of conflicts or resolve disputes in a multifaceted manner, should, above all, set high ethical and professional standards for themselves. It is only then that it will be possible to recognise that the lawyer has full legitimacy to implement, in addition to standard legal assistance, the educational (ethical) aspect of counselling, if only by making the client/party in dispute answer personal questions, related to their integrity – of the following type: 'Whom will I be, what will I do with myself, whom will I be if I behave this way and not another in a contentious situation, will it be in line with my identity/self?' 'Is it only/mainly efficiency, victory, proving my point, the desire to make a point or retaliate, even at the cost of e.g. truth, equity, deterioration or severance of the relationship with the other side of the dispute, regardless of the financial, emotional, health or moral cost, which matters to me?' At this point, it should be emphasised that, despite recognition by legal holism of different lifestyles and competing hierarchies of values, it chooses to formulate a pro-developmental postulate, particularly encouraging people (including lawyers) to strive to become increasingly morally perfect, allocentric, treating each other with respect and love, awareness, reasoning, to be able to properly discern their needs, the causes and effects of problems and disputes, avoiding extremes, striving for peace and personal, interpersonal and social harmony.<sup>32</sup>

## Conclusions

Legal holism recognises, among others, a lawyer's adequate knowledge of themselves, including their own legal personality (*the Lawyer Personality*), their conscious choice of professional role(s), the ways of performing them and the formula of cooperation with clients and litigants as important issues for the practice of law.

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<sup>32</sup> A. Zienkiewicz, *Holizm prawniczy...*, op. cit., p. 133.

It emphasises their complexity and possible impact on the postulated observance by the lawyer of the integrity of attitudes and actions in professional and private life. The recommended profound lawyer's self-reflection is justified, in particular, by the fact that widely understood personal qualities of a lawyer (lawyer's personality) may constitute important factors contributing (apart from other factors of normative, subjective or relational type) to their individual scope and specific manner of performing various professional roles. This is true not only within the same profession (e.g. barristers or solicitors) but also within a specific professional role, performed within its framework, e.g. as an adviser, a litigation representative, a defence counsel, a negotiator, a therapeutic lawyer, a peacemaker, a mediator or an arbitrator). A conscious choice of more or less holistic attitudes and ways of performing professional roles provides an opportunity to establish optimal ways of fulfilling them and harmonising the professional, personal and social consequences of the practice of law. Furthermore, it should be carried out in accordance with the individual preferences of a given lawyer and their client, with due regard to the relevant legal regulations, professional ethics, as well as the general values of the legal profession and the principle of the moral responsibility of lawyers. Legal holism encourages lawyers to adopt a specific 'think like a professional' attitude,<sup>33</sup> based, *inter alia*, on the lawyer's adequate definition of professional success and prioritising so-called intrinsic values and motivations (e.g. personal development, strengthening positive interpersonal relations, providing assistance or caring for the community).<sup>34</sup> An attitude which requires the lawyer not only to study legal ethics or disciplinary jurisprudence but also to recognise the particular need for human integrity in the private and professional dimensions, which may be an essential condition for the lawyer to practise law ethically and professionally, supporting their psychophysical well-being, sense of professional satisfaction and even happiness.<sup>35</sup> To paraphrase P. Schiltz, leading to the stage at which lawyers

<sup>33</sup> More in A. Zienkiewicz, *Holizm prawniczy...*, op. cit., pp. 194–203.

<sup>34</sup> Cf. L. Krieger, *The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness*, "Clinical Law Review" 2005, 11, pp. 427–429.

<sup>35</sup> At this point, it is worth noting the results of empirical research presented by L. Krieger on the relationship between the achievement of life satisfaction and the motivations and values that influence the way lawyers practice their profession and the role of the lawyer's moral integrity in achieving good psychophysical condition. Within the framework of the proposal of *Self-Determination Theory to Measure Professional Character Formation*, L. Krieger, examining the relationship between ethics, professionalism and satisfaction, draws attention to the significant influence of various personal factors, such as, among others: goals, attitudes, values, character, integrity or behaviour towards others – for further details, see L. Krieger, *The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, "University of St. Thomas Law Journal" 2011, 8(2), pp. 168–193. Idem, *The Inseparability of Professionalism...*, op. cit., pp. 425–445.

are happy, healthy and ethical members of our otherwise unhappy, unhealthy and unethical profession,<sup>36</sup> bearing in mind that through their attitudes and behaviour, they express and co-shape their identity and build their own reputation, as well as influence the authority of the law and other lawyers in society.

## Bibliography

- Atkinson R., *A Dissenter's Commentary on the Professionalism Crusade*, „Texas Law Review” 1995, 74.
- Baruch Bush R., Folger J., *The Promise of Mediation: The Transformative Approach to Conflict*, San Francisco 2005.
- Barton T. (ed.), *Preventive Law and Problem Solving: Lawyering for the Future*, Lake Mary 2009.
- Brooks S., Madden R. (eds.), *Relationship-centered Lawyering: Social Science Theory for Transforming Legal Practice*, Durham 2010.
- Cochran R., DiPippa J., Peters M., *The Counselor-At-Law: A Collaborative Approach to Client Interviewing and Counseling*, New York 2006.
- Daicoff S., *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Bearing on Professionalism*, „The American University Law Review” 1997, 46, pp. 1337–1427.
- Daicoff S., *Comprehensive Law Practice, Law as a Healing Profession*, Durham 2011.
- Daicoff S., *Lawyer, Be Thyself: An Empirical Investigation of the Relationship Between the Ethic of Care, the Feeling Decisionmaking Preference, and Lawyer Wellbeing*, „Virginia Journal of Social Policy & the Law” 2008–2009, 87, pp. 88–140.
- Gutterman S., *Collaborative Law: A New Model of Dispute Resolution*, Denver 2004.
- Kaczmarek P., *Tożsamość prawnika jako wykonawcy roli zawodowej*, Warszawa 2014.
- Kaczmarek P., *Dystans do roli w zawodzie prawnika*, Warszawa 2019.
- King M., *Solution-focused Judging Bench Book*, Melbourne 2009
- King M., Freiberg A., Batagol B., Hymas R., *Non-adversarial Justice*, Sydney 2009.
- Kozielecki J., *Koncepcje psychologiczne człowieka*, Warszawa 2000.
- Krieger L., *The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness*, „Clinical Law Review” 2005, 11.
- Krieger L., *The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, „University of St. Thomas Law Journal” 2011, 8(2).
- Macfarlane J., *The New Lawyer: How Settlement Is Transforming the Practice of Law*, Vancouver 2008.
- Mądrzycki T., *Osobowość jako system tworzący i realizujący plany*, Gdańsk 2002.

<sup>36</sup> P. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, „Vanderbilt Law Review” 1999, 52, pp. 872, 920.

- Mills L., *Affective Lawyering: The Emotional Dimensions of the Lawyer-Client Relation*, [in:] D. Wexler, B. Winick (eds.), *Practicing Therapeutic Jurisprudence: Law as a Healing Profession*, Durham 2000, pp. 419–446.
- Pietrzykowski T., *Czy prawnicy mają szczególne powinności moralne*, [in:] H. Izdebski, P. Skuczyński (eds.), *Etyka prawnicza. Stanowiska i perspektywy*, Warszawa 2008, pp. 77–91.
- Pietrzykowski T., *Etyka i deontologia zawodowa*, [in:] A. Bereza (ed.), *Zawód radcy prawnego. Historia zawodu i zasady jego wykonywania*, Warszawa 2014, pp. 235–252.
- Riskin L., Westbrook J., Guthrie Ch., Heinsz T., Reuben R., Robbennolt J. (eds.), *Dispute Resolution and Lawyers*, Saint Paul 2006.
- Sarkowicz R., *Amerykańska etyka prawnicza*, Kraków 2004.
- Sarkowicz R., *O nie całkiem marginalnym problemie etyki prawniczej*, [in:] H. Izdebski, P. Skuczyński (eds.), *Etyka prawnicza. Stanowiska i perspektywy*, Warszawa 2008, pp. 92–93.
- Shaffer T., Cochran R., *Lawyers, Clients, and Moral Responsibility*, Saint Paul 1994.
- Schiltz P., *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, „Vanderbilt Law Review” 1999, 52.
- Silver M., *Emotional Competence and the Lawyer's Journey*, [in:] M. Silver (ed.), *The Affective Assistance of Counsel. Practicing Law as a Healing Profession*, Durham 2007, pp. 5–52.
- Skuczyński P., *Integralność*, [in:] H. Izdebski, P. Skuczyński (eds.), *Etyka zawodów prawniczych. Etyka prawnicza*, Warszawa 2006, pp. 105–112.
- Tesler P., *Collaborative Law: Achieving Effective Resolution in Divorce without Litigation*, 2nd edition, Chicago 2008.
- Wexler D., Winick B., *Practicing Therapeutic Jurisprudence: Psycholegal Soft Spots and Strategies*, [in:] D. Stolle, D. Wexler, B. Winick (eds.), *Practicing Therapeutic Jurisprudence: Law as a Helping Profession*, Durham 2000, pp. 45–67.
- Wright K., *Lawyers as Peacemakers: Practicing Holistic, Problem Solving Law*, Chicago 2010.
- Zienkiewicz A., *Holizm prawniczy z perspektywy Comprehensive Law Movement. Studium teoretycznoprawne*, Warszawa 2018.
- Zienkiewicz A., *Prawnik jako peacemaker – przeprosiny, przebaczenie, pojednanie w opowywaniu sporów prawnych*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny” 2019, 81(4), pp. 43–57.
- Zienkiewicz A., *The Lawyer Personality. Właściwości personalne prawnika a wykonywanie roli zawodowej*, „Archiwum Filozofii Prawa i Filozofii Społecznej” 2018, 1(16), pp. 94–102.