Expectations in Law and Criminalistics: Issue Formulation

Yurii Chechil * [a], Victoriia Bila ** [b], Stanislav Sheptukhovskyi * [c]**

* Doctor of Philosophy in Law, Ukrainian Research Institute of Special Equipment and Forensic Science of the Security Service of Ukraine, Kyiv, Ukraine, ORCID: https://orcid.org/0000-0002-4117-6737, e-mail: nauka_icte@ssu.gov.ua

** Doctor of Legal Sciences, Docent, Ukrainian Research Institute of Special Equipment and Forensic Science of the Security Service of Ukraine, Kyiv, Ukraine, ORCID: https://orcid.org/0000-0002-8201-219X, e-mail: nauka_icte@ssu.gov.ua

** Candidate of Legal Sciences, Ukrainian Research Institute of Special Equipment and Forensic Science of the Security Service of Ukraine, Kyiv, Ukraine, ORCID: https://orcid.org/0009-0007-0087-1868, e-mail: nauka_icte@ssu.gov.ua

[a] Writing – original draft, validation.
[b] Writing – original draft, project administration, supervision.
[c] Writing – original draft, methodology.

DOI: 10.32353/khrife.4.2025.02 UDC 343.98
Received: 28.10.2025 / Reviewed: 31.10.2025 / Accepted for printing: 25.12.2025 / Available online: 31.12.2025

Phenomenon of social expectations as a component of the legal norm and a factor determining the real status and behavior of a forensic expert is considered. The starting point is the concept of the rule of law, according to which law is not limited by law, but is formed by a wide range of social regulators: morality, traditions, cultural ideas, practices. They form a metanorm that is imposed on the law and often has a stronger influence on behavior than formal regulations. Existence substantiation of above-mentioned discrepancy determines the purpose of the article. Its achievement required the use of a number of general scientific and special methods. In the given context, forensic science appears not only as a procedural institution, but as a socio-cultural phenomenon. Its role is to transform specific expertise into evidence, but society expects much more from the expert than the law provides. These expectations are formed not only by legal norms, but also by cultural narratives, mass culture

This article is translation of the original Ukrainian content, which source is available at the link: *https://khrife-journal.org/index.php/journal* (translated by Andriy Bublikov). The author acknowledges translation as corresponding to the original.

© 2025 The Author(s). Published by National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» & Yaroslav Mudryi National Law University.
This is an open access article distributed under Creative Commons Attribution License (CC_BY_4.0.0) allowing unlimited use, distribution and reproduction on any medium, subject to reference to the Author and original sources.

and ideas about science as a source of infallible truth. They are implicit in nature, but act as norms: non-compliance with them causes social sanctions regardless of the real capabilities of science or procedure. It is shown that the mechanism of formation of expectations is based on the trinity of status, expectation, and sanction. Forensic scientist as a bearer of special knowledge acquires a status partially determined by cultural images, and not only by law. It creates a gap between real and perceived status, which becomes a source of pressure, errors, and stigmatization. At the same time, science providing forensics with methods, is itself a system of norms and can produce misconceptions that later turn out to be unsuitable for clarifying legal truth. Scientific novelty of the article lies in the introduction into the legal discourse of the category of "expectations" as a legitimate requirement of a participant in legal relations that follows not only from the law, but from social regulators in general that form the law. This makes it possible to explain why forensic science is under constant social pressure and why its cultural profile is much broader than the procedural one. The article opens up the prospect of further research into the role of culture in formation of legal norms and the need for public communication to reduce the gap between expectations and the real possibilities of forensic expert activity.

Keywords: *rule of law; metanorm; expectations; forensic science; criminalistics; implicit norms; legal intuition; normative dissonance.*

Research Problem Formulation

All types of legal proceedings are characterized by norms, if not about the equality of sources of evidence, then about the lack of predominant, in advance decisive importance of any of them. Such a negative declaration is not fully consistent with real practice. Thus, the growing burden on the forensic system is not an arithmetical synonym for an increase in the number of trials or an increase in their complexity. It shows that forensic examination has become a component of the standard of proof. The compound is integral and irreplaceable. Its exclusive role is to transform special, primarily scientific knowledge into a means of establishing significant facts.

Participants in procedural relations, when turning to the judicial expert system, expect to receive from its capabilities that are either equivalent to the current level of scientific knowledge or even ahead of it. Experts are under social pressure: as the sole intermediary between science and law, they must provide the disputing parties with the evidence they need, because it is with this evidence that the parties win their cases. The reason for the pressure is not only evidentiary, but also investigative and forensic capabilities: their lack is perceived, not only by procedural subjects, but by the public, as the helplessness of the entire law enforcement system, its lag behind the general development of technology and science,

etc. The clash between expectations that are inflated for various reasons (and therefore excessive demands) and the real capabilities of forensic examination causes disappointment and lays the groundwork for conflict.

The law defines the limits of an expert's rights, the procedure for their work, guarantees, and prohibitions. At the same time, it does little to protect forensic experts from expectations induced by a broader regulatory framework. The law is only one of many sources of cumulative, albeit sometimes contradictory, metanorms. Within the concept of the rule of law, the above requirements acquire a fully recognized legal basis. The dominance of law over legislation is currently the prevailing approach to overcoming competition and discrepancies between it and the rest of the law. It would seem that the coordination and harmonization of the provisions of various sources that determine the behavior of the addressee of the aggregate, "supreme legal" metanorm is a matter of time and practice. Instead, attempts by forensic experts to exceed their own capabilities in order to satisfy the demands of society have led to a series of high-profile mistakes since the very beginning of its independent existence as a narrow field of research practice. Such attempts, as a generally stable and recurring phenomenon, are obviously caused by a certain pattern. Presumably, it consists in the participants in procedural relations, primarily the expert, following a social requirement that is not limited by law but complies with legal norms.

Relevance of the chosen topic is determined by a number of trends that mark the further development of the rule of law in Ukraine: integration into the European political and legal space and the significance of Ukraine's contribution to the concept of the rule of law, which is dominant in this space; the strengthening of the humanitarian principle with increased requirements for proving the grounds for state intervention in the private sphere; deepening specialization and scientific intensity of production, business, and information processes to a level that necessitates professional mediation in the interdisciplinary application of specialized knowledge (in particular, in legal relations); the growing role of forensic expertise and closely related criminology during the global security crisis, which involves inter- and supranational judicial and law enforcement institutions, and the urgent need to ensure law and order at the international and national levels; the replication of the principles of forensic expertise in the pre-trial and extra-judicial fields, in particular in arbitration courts and administrative proceedings; clearer articulation of the positions of non-state actors in social norm-setting with the development of civil society institutions; development of expert deontology in the context of the objective complication of social processes and the social positioning of the individual.

Analysis of Essential Researches and Publications

Previous research in the field of expert studies has mostly focused on the technical aspects of an expert opinion as evidence, its admissibility, relevance, and reliability. In works on the philosophy and sociology of law, the issue of the plurality of sources of standardization has been raised by many researchers. Divergence idea of formal and substantive principles in law is a classic problem, clearly indicated by *Jeremy Bentham* as the ratio of the

"spirit" of the law to its "letter" [1]. The concept of "living law" was developed by *Eugen Ehrlich* [2]. The modern political and legal trend of the rule of law is the subject of scientific understanding by a wide range of scholars (including Oksana Kryzhova (2017) [3], Yulia Koroleva (2019) [4], Tetyana Tsuvina (2019) [5], Olena Zolotareva (2023) [6]) and the content of the legal positions of the judiciary. The achievements of Ukrainian sociology (Galyna Dvoretska (2001) [7], Natalia Chernysh (2004) [8], Yevhen Perehuda and co-authors (2012) [9], Maksym Yenin and Myroslava Kukhta (2022) [10], et al.) are massive and directly implemented into the professional educational process, which made it possible to consider social and legal control of a person's behavior as general and separate in a single mechanism. Despite the existing lively interest in the above areas, a narrower (but at the same time interdisciplinary) aspect of considering forensic expertise and its representatives (as carriers of not only a procedural, but also a social, civilizational mission) is absent as such. Just as there is a noticeable discrepancy between the "legal" and "cultural" expectations of performers of the corresponding behavioral role. The study of the effect of media expectations on forensics, stated by foreign authors (*Kimberlianne Podlas* (2005) [11], *Gianni Ribeiro*

1 Bentham J. An Introduction to the Principles of Morals and Legislation. 1781. Batoche Books : Kitchener, 2000. 248 p. URL: https://historyofeconomicthought.mcmaster.ca/bentham/morals.pdf (date accessed: 18.10.2025).

2 Ehrlich E. Grundlegung der Soziologie des Rechts. München und Leipzig : Duncker & Humblot, 1913. 410 p. URL: https://ia803401.us.archive.org/11/items/grundlegungderso00ehrl/grundlegungderso00ehrl.pdf (date accessed: 18.10.2025).

3 Крижова О. Принцип верховенства права у практиці Європейського суду з прав людини. *Вісник Національного університету «Львівська політехніка». Серія: Юридичні науки.* 2017. № 865. С. 544—549. DOI: 10.23939/law2017.865.544 (date accessed: 18.10.2025).

4 Корольова Ю. Кореляція принципів верховенства права та верховенства закону в системі джерел права. *Підприємництво, господарство і право.* 2019. № 4. С. 183—186. URL: http://pgp-journal.kiev.ua/archive/2019/4/35.pdf (date accessed: 18.10.2025).

5 Цувіна Т. Принцип верховенства права у практиці Європейського суду з прав людини. *Часопис Київського університету права.* 2019. № 4. С. 373—379. DOI: 10.36695/2219-5521.4.2019.66 (date accessed: 18.10.2025).

6 Золотарьова О. А. Співвідношення принципів верховенства права та законності в українському праві. *Юридичний науковий електронний журнал.* 2023. № 6. С. 654—658. DOI: 10.32782/2524-0374/2023-6/152 (date accessed: 18.10.2025).

7 Дворецька Г. В. Соціологія : навч. посіб. Київ, 2001. 340 с. URL: https://studfile.net/preview/9700642/ (date accessed: 18.10.2025).

8 Черниш Н. Соціологія. Курс лекцій. Вид. 4-те, перероб. і допов. Львів, 2004. 462 с. URL: https://duikt.edu.ua/uploads/l_715_63219046.pdf (date accessed: 18.10.2025).

9 Перегуда Є. В., Авдєєнко О. Д., Дьомкін П. О. та ін. Соціологія : навч. посіб. Київ, 2012. 140 с. URL: https://www.knuba.edu.ua/wp-content/uploads/2023/10/socziologiya-navchalnyj-posibnyk.pdf (date accessed: 18.10.2025).

10 Єнін М. Н., Кухта М. П. Соціальний статус / Велика українська енциклопедія : вебсайт. 12.10.2022. URL: https://vue.gov.ua/Соціальний_статус (date accessed: 18.10.2025).

11 Podlas K. "The CSI Effect": Exposing the Media Myth. *Fordham Intellectual Property, Media and Entertainment Law Journal.* 2005. Vol. 16. No. 2. Book 2. Art. 2. 38 p. URL: https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1343&context=iplj (date accessed: 18.10.2025).

et al. (2019) [12]; *Naomi Kaplan-Damary* et al. (2025) [13], etc.), made it possible to state that the above culturally conditioned legal expectations are a relevant problem for forensics outside of Ukraine.

Article Purpose

In order to state the discrepancies between the prescription of the law and the methanorm formed by the cumulative action of social regulators. Such a discrepancy determines the context of social (in particular, professional) activities (for example, a forensic expert). Indicate the presence, in addition to written requirements, also informal, caused not always by correct ideas and expectations of social (normative) pressure on him.

Achieving this goal requires a number of tasks to be completed: a brief overview of the concept of the rule of law, which recognizes the effectiveness, reality, and legal acceptability of the influence of a wide range of social regulators on individual (in particular, procedural and research) behavior (for example, that of a forensic expert); determining the relevance of such areas of social actualization as culture and science to these regulators; searching for a plausible reason for the formation of incorrect (in particular, premature) ideas about the epistemological and evidential capabilities of forensic examination; consideration of normative inconsistencies, dissonance that could explain the cause of typical violations during the conduct of forensic examination by compliance with the informal part of the aforementioned metanorm, which is denied by law but is more powerful than it; search for the source of objective inaccuracy of social demand for the forensic system.

Research Methods

For achieving research goal, general philosophical methods (analysis, synthesis, induction, abstraction) and special legal approaches (in particular, dogmatic and method of system interpretation) were used.

Main Content Presentation

Therefore, as mentioned above, one of the first steps in establishing the discrepancy between the requirements of the law and the actual behavior of participants in relations regarding the conduct of forensic examination and explaining such behavior is to accept the idea of the functioning of a broader metanorm, formed by combined action of social regulators. The recognition of the latter's participation in the development of legally significant behavioral norms is carried out within the framework of the concept of the rule of law [Here and below, *italics* and ***bold italics*** are ours—Authors]. In Europe, and in Ukraine in particular, this concept is a normative ideal [14], an imperative to which all aspects of the

12 Ribeiro G., Tangen J. M., McKimmie B. M. Beliefs about error rates and human judgment in forensic science. *Forensic Science International*. 2019. Vol. 297. Pp. 138—147. DOI: 10.1016/j.forsciint.2019.01.034 (date accessed: 18.10.2025).

13 Kaplan-Damary N., Jonathan-Zamir T., Perry G., Itskovich E. Public views of forensic science: An intersection of science and policing? *Forensic Science International. Synergy*. 2025. Art. 25:11:100640. DOI: 10.1016/j.fsisyn.2025.100640 (date accessed: 18.10.2025).

14 *Cf.*: paragraphs 3, 4, and 6 of section 4 of the explanatory part of the Decision of the Constitutional Court of Ukraine in the case of the constitutional submission of 62 People's Deputies of Ukraine regarding the constitutionality (constitutionality) of the Decree of the President of Ukraine "On the early termination of the powers of the Verkhovna Rada of Ukraine

functioning of the state and society must be subordinate. The principle of legality belongs to this imperative, but only as a derivative and secondary one. Legislation (as the substantive basis of the latter) tends toward deeper regulation of the expanding range of social, economic, and other relations. Despite its growing volume and complexity, legislation still has a specific character and is inherently written. "Rule of law" and "supremacy of law" are considered in legal literature [15] as related but by no means synonymous categories.

The comprehensive meaning of the rule of law, despite its mention, in particular, in the Constitution of Ukraine (cf.: Part 1 of Article 8: "*The principle of the rule of law shall be recognized and applied in Ukraine*") [16] and in the preamble to the European Convention on Human Rights, has not been defined in detail even in theory [17]. The report of the Venice Commission for Democracy through Law is considered [18] to be the main guideline regarding its components. Legality is only one of six elements identified by the authors of this report as a consensus of different opinions on this issue: 1) legality, including a transparent, accountable, and democratic law-making process; 2) legal certainty; 3) prohibition of arbitrariness; 4) access to justice in independent and impartial courts, including judicial review of administrative acts; 5) respect for human rights; 6) non-discrimination and equality before the law (para. 41) [19]. Such legality (in the sense of "accessibility of the law") means that laws are understandable, predictable, and consistent with certain legal principles. At the same time, this does not exhaust the meaning of the rule of law, otherwise the requirement for such consistency could be considered as one of the characteristics of the rule of law. The difference between the two supremacies of law and of the law lies in the fact that the aforementioned elements of the former are external to the latter: they do not belong to the law and are not defined by.

Consequently, it is not only the law that constitutes the content of the law. Regarding this, it is worth citing the text of one of the legal positions of the Constitutional Court of Ukraine:

"One of the ***manifestations*** *of the rule of law is that law is not limited to legislation as one of its forms, but includes* ***other social regulators, including moral norms, traditions, customs, etc.*** *that are legitimized by society and determined by the historically achieved cultural level of society.* <…>

This understanding of the right does not give grounds for its identification with the law, which can sometimes be unfair, includ-

and the appointment of early elections" dated on 20 June 2019 № 6-р/2019, case № 1-152/2019(3426/19). URL: https://zakon.rada.gov.ua/laws/show/v006p710-19#Text (date accessed: 18.10.2025).

15 Корольова Ю. Зазнач. твір. URL: http://pgp-journal.kiev.ua/archive/2019/4/35.pdf (date accessed: 18.10.2025) ; Золотарьова О. А. Зазнач. твір. DOI: 10.32782/2524-0374/2023-6/152 (date accessed: 18.10.2025).

16 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text (date accessed: 18.10.2025).

17 Крижова О. Зазнач. твір. С. 545. DOI: 10.23939/law2017.865.544 (date accessed: 18.10.2025).

18 Цувіна Т. Зазнач. твір. С. 373. DOI: 10.36695/2219-5521.4.2019.66 (date accessed: 18.10.2025).

19 Report on the Rule of Law. Adopted by the Venice Commission at its 86th plenary session (Venice, 25—26 March 2011). 16 p. URL: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)003rev-e (date accessed: 18.10.2025).

ing restricting the freedom and equality of the individual. <...>" [20].

It follows from the above that legislation, the law, is only one form of existence of law, and not the only one. The list of these forms, i.e., social regulators that define "law," is debatable and, in the presented legal position, inexhaustible (as evidenced by the word "etc."). According to some views, the rule of law presupposes unity of written and unwritten law [21]: with such unity, law enforcement could be limited to the formalized part only. However, the latter does not ensure either comprehensive normalization or guaranteed justice. The law may lag behind the will of society, interpreting it inaccurately, incompletely, or unclearly, which has led to the need for the principle of the rule of law.

Own secondary character does not prevent the law from recognizing and taking under its protection different social regulators and considering them as a source of law, for example: the already mentioned morality or custom (1) or tradition (2), as well as administrative (3) and judicial practice (4) and even common sense (5), etc. Let's back up our statement with quotes from the legislative and regulatory framework:

1) morality or custom (see Part 1 of Article 438 "War Crimes" of the Criminal Code of Ukraine: *"Cruel treatment of prisoners of war or civilians <...> other violations of the laws and customs of war provided for by international treaties, the binding nature of which has been approved by the Verkhovna Rada of Ukraine <...>"* [22] *and the Civil Code of Ukraine (para. 2 of Part 1 of Article 7 "Custom," Part 4 of Article 213 "Interpretation of the Content of a Transaction," Article 333 "Appropriation of Publicly Available Natural Resources," respectively): "Custom is a rule of conduct which is not established by civil legislation, but is established in a certain sphere of civil relations," "If <...> it is not possible to determine the true will of the person who committed the transaction, the purpose of the transaction, the content of previous negotiations, established practice of relations between the parties,* ***customs of business turnover****, further behavior of the parties, the text of a standard contract, and* ***other circumstances of significant importance****," "A person who has gathered berries, medicinal plants, caught fish, or obtained other items in a forest, body of water, etc., is their owner if they acted in accordance with the law,* ***local custom****, or general permission of the owner of the relevant land plot"* [23]);

20 *Cf.*:paragraphs 2 and 3 of subparagraph 4.1 of paragraph 4 of the reasoning part of the Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of the Supreme Court of Ukraine on the compliance with the Constitution of Ukraine (constitutionality) of the provisions of Article 69 of the Criminal Code of Ukraine (case on the appointment of a milder punishment by the court) dated on November 2, 2004 № 15-рп/2004, case № 1-33/2004. URL: https://zakon.rada.gov.ua/laws/show/v015p710-04#Text (date accessed: 18.10.2025).

21 Темченко В. І. Верховенство права у практиці Євросуду та Конституційного Суду України. *Наукові записки НаУКМА. Юридичні науки*. 2007. Т. 64. С. 16. URL: https://ekmair.ukma.edu.ua/server/api/core/bitstreams/9f486e50-ff7c-4178-88ee-e5a1a8ca0509/content (date accessed: 18.10.2025).

22 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 18.10.2025).

23 Цивільний кодекс України від 16.01.2003 р. № 435-IV (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/435-15#Text (date accessed: 18.10.2025).

2) traditions (*see paragraphs* 1 and 8 of Art. 11 of the Statute of the Internal Service of the Armed Forces of Ukraine:
"11. The need to fulfill Ukraine's defense tasks <...> imposes the following duties on military personnel:
<...>
*respect combat and military **traditions** <...>"* [24]);
3) administrative practice (*see* paragraph 4 of Part 3 of Article 6 of the Law of Ukraine "On Administrative Procedure" (hereinafter referred to as *the Law on* Administrative Procedure):
"3. Exercise of discretionary powers by an administrative body shall be considered lawful if the following conditions are met:
<...>
4) choice of decision of administrative body is made without derogation from previous decisions made by the same administrative body in the same or similar cases, except in justified cases" [25]);
4) judicial practice (*Cf.:* Part 4 of Article 6 of the Law on Administrative Procedure: *"Conclusions on the application of legal norms set forth in Supreme Court rulings are binding on all administrative bodies that apply in their activities a regulatory legal act containing the relevant legal norm"* [26]); Part 5 of Article 13 of the Law of Ukraine "On the Judicial System and Status of Judges": *"Conclusions on the application of legal norms set forth in the resolutions of the Supreme Court are binding on all subjects of authority that apply in their activities a normative legal act containing the relevant legal norm"* [27]; Part 1 of Article 17, Part 5 of Article 19 of the Law of Ukraine "On the Enforcement of Decisions and Application of the Practice of the European Court of Human Rights": *"Courts shall apply the Convention and the practice of the Court as a source of law when considering cases", "Ministries and other central executive bodies shall ensure systematic control over compliance with administrative practice that complies with the Convention and the practice of the Court within the framework of departmental subordination"* [28]);
5) common sense (*cf.* Part 2 of Article 10 of the Law on *Administrative Procedure: "The administrative authority in the implementation of administrative proceedings must act in accordance with **common sense**, logic and generally accepted norms of morality, in compliance with the requirements of the law"* [29]).

24 Статут Внутрішньої служби Збройних сил України : затв. Закон. України від 24.03.1999 р. № 548-XIV (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/548-14#Text (date accessed: 18.10.2025).
25 Про адміністративну процедуру : Закон України від 17.02.2022 р. № 2073-IX (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/2073-20#Text (date accessed: 18.10.2025).
26 Там само.
27 Про судоустрій і статус суддів : Закон України від 02.06.2016 р. № 1402-VIII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/1402-19#Text (date accessed: 18.10.2025).
28 Про виконання рішень та застосування практики Європейського суду з прав людини : Закон України від 23.02.2006 р. № 3477-IV (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/3477-15#Text (date accessed: 18.10.2025).
29 Про адміністративну процедуру ... . URL: https://zakon.rada.gov.ua/laws/show/2073-20#Text (date accessed: 18.10.2025).

The sources and method of forming a requirement for a participant in relations, the procedure, the method of applying incentives and sanctions to them, the intensity of influence, the mechanism and subjects of control, etc. differ, which is the difference between such regulators. There is also a completely common: the social context of their action and the relative overall coherence (which still does not exclude the competition of requirements), the cumulative and relatively high level of influence on the behavior of a person, the internalization of these norms by the latter in the process of socialization (in particular, during the formation of individual legal consciousness).

The idea of the dominant role of law gives grounds to determine the circle of regulators, that is, the factors of law, very broadly.

The social regulator, which belongs to the sources of law, exists thanks to the social norm and at the same time forms it. The latter is superimposed on the legal norm, but is broader than it – just like the legal norm, which is also broader than the norm of the law. The scale of both the social norm and its part, the legal norm, is determined (as in the case of written law) by the corresponding sphere of public application, the actual social context: corporate, local, industrial, etc. No one speaks of local or sectoral supremacy. On the other hand, in contrast to the hierarchy of legislative acts, the size of the community in which the social norm is developed is inversely proportional to the degree of influence on the individual: group norms have a noticeable advantage over corporate ones, and the latter over general social ones. It seems that the growth of the power of influence as the community narrows with the simultaneous strengthening of social ties in it is also characteristic of the legal norm, since it is a component of the social norm and is provided by its own regulators. That is why, in the event of competition between two prescriptions – defined by law or derived from other sources of law – the latter can and must have an advantage for the subject when choosing a behavioral option. This explains why the commission of actions permitted or even desired by law, which are not tolerated by society, sometimes causes a negative reaction from the latter. The fear of such a reaction – even if it is only about condemnation from a negligible part of society influences the behavior of a person to a greater extent than the law. For example, the relatively new institution of whistleblowers for Ukraine, despite material incentives (*Cf.:* Part 1 of Article 130-1 of the Criminal Procedure Code of Ukraine [30]) and legal protection (in particular, Section VIII: *Protection of Whistleblowers* of the Law of Ukraine: *On Prevention of Corruption* [31]) of a person who reports a violation of the law, has not worked to its full potential precisely because of the unresolved problem of the whistleblower's ethical positioning at the micro-social level (for example, current version of the State Anti-Corruption Program for 2023-2025 states, in particular, the following:

"Problem 1.6.1. Lack of respect for whistleblowers of corruption in society <...>

<...>

<...> *The main reasons for the reluctance of a person to report the facts of corruption known to him/her are fears of being condemned by his/her environment (colleagues,*

30 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 18.10.2025).

31 Про запобігання корупції : Закон України від 14.10.2014 р. № 1700-VII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/1700-18#Text (date accessed: 18.10.2025).

friends, acquaintances) and suffering consequences in the form of negative measures of influence by the management" [32]).

A similar problem befell the introduction of the institution of whistleblowers in the EU: according to a study conducted in 2017 (a total of 5,707 respondents, of which 97% (5,516) were individuals, 3% (191) answered on behalf of organizations), the main reasons not to report violations are fears of: legal consequences (80% of persons and 70% of organizations); financial consequences (78% of persons and 63% of organizations); bad reputation (45% of persons and 38% of organizations) [33]. Another, more general example is the functioning of the shadow economy.

Without delving into a full-fledged excursion into norm creation from a sociological perspective, and recognizing the differences in such perspectives depending on the specific school of thought, let us turn to some [34] of most general ideas. Thus, in the legal context of social normalization, it is important to emphasize the connection between social norm creation and culture. Culture shapes a system of values, social norms, patterns of behavior, and ideas about what is appropriate in society. Values are a factor in the formation of social communities (groups). The latter become direct subjects of norm-setting. Loyalty to values and the development of appropriate norms aimed at protecting them are subject to both group and social control. The instruments of this control are the introduction of models, roles, social statuses, and the encouragement of the person to whom such a status is attributed to adhere to role behavior and meet role expectations. The simultaneous collision of the rules of behavior of several roles for one individual turns into a role conflict; the performance of one role, during which there is internal conflict or discomfort due to conflicting expectations, requirements, or restrictions within that role, is role tension. The norm may not be specific or clearly formulated, but may be implicit in nature. Compliance with this apparent, amorphous norm, however, is the duty of its addressee, since negative consequences in case of its violation still occur, as in the case of an explicit, formalized norm.

Thus, the requirements for behavior of the subject are determined, in particular, by the role status (which, given the name, indicates the function, role in the group's activities to achieve common values), as well as the expectations of such status. Both culture in general and the group in particular offer models of behavior, i.e., certain standards, requirements for the bearer of such a role. This is how the content of role behavior and expectations are

32 Державна антикорупційна програма на 2023—2025 роки : затв. постанов. КМУ від 04.03.2023 р. № 220 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/220-2023-%D0%BF#Text (date accessed: 18.10.2025).

33 Summary results of the public consultation on whistleblower protection / European Commission : web. 2017. 28 p. URL: https://ec.europa.eu/newsroom/just/document.cfm?doc_id=47885 (date accessed: 18.10.2025).

34 Черниш Н. Зазнач. твір. URL: https://duikt.edu.ua/uploads/l_715_63219046.pdf (date accessed: 18.10.2025) ; Дворецька Г. В. Зазнач. твір. URL: https://studfile.net/preview/9700642/ (date accessed: 18.10.2025) ; Перегуда Є. В., Авдєєнко О. Д., Дьомкін П. О. та ін. Зазнач. твір. С. 39—40. URL: https://www.knuba.edu.ua/wp-content/uploads/2023/10/socziologiya-navchalnyj-posibnyk.pdf (date accessed: 18.10.2025) ; Єнін М. Н., Кухта М. П. Зазнач. твір. URL: https://vue.gov.ua/Соціальний_статус (date accessed: 18.10.2025) ; Орбан-Лембрик Л. Б. Соціальна психологія : посібник. Київ, 2003. 446 с.

defined. From the point of view of legal science, important differences between social norms and the instruments for ensuring them may lose their significance, since both elements perform a normative function. What ensures compliance with the norm is precisely the rule of behavior. Status, role, model for example, expectation; all of these can be considered normative elements that perform a function characteristic of a norm. This is evidenced by their ability to determine behavior and their provision of incentives and punishments.

However, a notable discrepancy with the norm of law is the possibility of the existence of a social norm not only in an unwritten but also in an unspoken form. At the same time, the generally recognized and unambiguous affiliation of legislative norms with social norms makes it possible to consider this discrepancy as a relationship between the general and the specific. That is why the specificity characteristic of a particular phenomenon — implicitness — is not always a defining feature of every phenomenon of the class of social norms. Therefore, a norm may or may not be written, may or may not be pretended, and at the same time remain a norm. Obviously, the law also has an implicit component, and this presence is the subject of a rather long-standing philosophical and legal discourse on the relationship between the "letter" and the "spirit" of the law. It is their difference that constitutes the implicit, unspoken part: as is well known, Jeremy Bentham called the "spirit of the law" a dangerous fiction that allows judges to usurp the function of the legislator [35]. For his part, *Eugen Ehrlich*, on the contrary, considered real social relations, "living law" [36] to be a priority and mandatory for judges. However, there are no grounds for identifying the "spirit" of the law with the law (in the sense of "the rule of law"), in particular because of the subjective discrepancy between the legislator (sovereign, parliament) and the lawmaker (society).

The actions of the bearer, the role performer are determined, in particular, by expectations. In jurisprudence, expectations have acquired a specific and rather narrow meaning within the concept of legitimate, lawful expectations (from the English. legitimate expectations are reasonable, not unreasonable or justified expectations. ***Note***: *According to the legal position of the Supreme Court, the implementation of the principle of legitimate expectations consists in achieving the desired result by taking lawful actions in connection with previously foreseen probable consequences; the implementation of legitimate expectations is impossible, in particular, when a person cannot achieve the predicted result as a result of a change in the legal basis within unreasonable and unjustified terms. A mandatory condition under which a certain expectation (requirement) of a person acquires the characteristics of a legitimate expectation is that such an expectation (requirement) has a proper legal basis, that is, there is a sufficient source for the corresponding expectation (requirement); legitimate expectations cannot be identified with expectations arising on the basis of personal perception or erroneous assessment of certain circumstances or norms of law (legislation); these expectations cannot arise if there is a real dispute about the correct interpretation and application*

35 Bentham J. Op. cit. URL: https://historyofeconomicthought.mcmaster.ca/bentham/morals.pdf (date accessed: 18.10.2025).

36 Ehrlich E. Op. cit. URL: https://ia803401.us.archive.org/11/items/grundlegungderso00ehrl/grundlegungderso00ehrl.pdf (date accessed: 18.10.2025).

of national legislation.) [37], the right to expect – both in a narrow sense (as part of the right to peaceful property possession [38]) and in a broad sense (as predictability of the law as such, the predictability of its application [39]), as well as in temporal aspects (deferred obligation, deferred results of the exercise of rights, deadlines [40], etc.). Lawyers distinguish between legitimate expectations and ordinary expectations – in the sense of *"hopes, desires, aspirations of a psychological or ethical nature"* [41]. The peculiarities of the effect of expectations in law, obviously, constitute an independent interesting problem. Now let us note that in fact, "written law" does not reject this means of influence, often and widely uses expectations as a method of manifesting a requirement, since it is on it that the idea of the correspondence of the rights of some subjects of duty to others is built, who, according to the law, must respect or ensure it. In this case, expectations are an integral part of any duty or right recognized by law.

Returning to the considered correlation between law and law, we note: in addition to legitimate, legal, etc., expectations (that is, based solely on the law, the norms of the law), there should be broader ones, based on methanorms (rule of law). Violations of cultural, moral, etc. regulators, in particular, behavior that does not meet certain expectations, should also have legal consequences.

In legal terms, but almost unthinkable in imperative categories, there is a phenomenon of social trust as a type of expectation. Types of trust, among other things, are called political, institutional (institutional) in terms of the categories of legitimacy of the authorities [42]. In sociology, they talk not only about institutional, but also about general (generalized) trust [43]. Social trust is considered as a cultural norm: *"The trust of a particular subject (individual, social group, community, society) to an indefinite, impersonal object, which can potentially be both an individual and a social institution; this*

37 Мамченко Н. Верховний Суд визначив підходи щодо застосування принципу «легітимних очікувань» (legitimate expectations) / Судово-юридична газета : вебсайт. 24 лютого 2023. URL: https://sud.ua/uk/news/sudebnaya-praktika/262928-verkhovnyy-sud-opredelil-podkhody-k-primeneniyu-printsipa-legitimnykh-ozhidaniy-legitimate-expectations (date accessed: 18.10.2025).

38 Кисіль В. Право очікування: транскрипції змісту. *Юридична Газета.* 2019. № 7 (661). URL: https://yur-gazeta.com/publications/practice/neruhomist-ta-budivnictvo/pravo-ochikuvannya-transkripciyi-zmistu.html (date accessed: 18.10.2025).

39 Право очікування: pro et contra. Виступ судді КЦС ВС В. І. Крата. *Право очікування: феномен в площині цивільно-правових відносин* : вебінар Civil Platform (11.09.2020) / Youtube.com : web. URL: https://www.youtube.com/watch?v=8flGOsbRa2w (date accessed: 18.10.2025).

40 Кіріяк О. В. Легітимні очікування та строковість їх реалізації. *Юридичний науковий електронний журнал.* 2021. № 2. С. 71—74. DOI: 10.32782/2524-0374/2021-2/15 (date accessed: 18.10.2025).

41 Сліпченко С. О. Поняття законних очікувань як різновиду майна. *Форум права.* 2020. № 3. С. 73. DOI: 10.5281/zenodo.3883845 (date accessed: 18.10.2025).

42 Симисенко І. В. Інституційна довіра як чинник впливу на трансформацію політичної участі в сучасній Україні. *Політикус.* 2025. Вип. 2. С. 132—137. DOI: 10.24195/2414-9616.2025-2.20 (date accessed: 18.10.2025).

43 Андрущенко Г. І. Інформаційно-змістовне наповнення понять «соціальна довіра», «узагальнена довіра» та «інституціональна довіра»: соціологічний аналіз. *Соціальні технології: актуальні проблеми теорії та практики.* 2016. Вип. 69—70. С. 7—14. URL: http://soctech-journal.kpu.zp.ua/archive/2016/69-70/3.pdf (date accessed: 18.10.2025).

is, rather, a general tendency to trust anyone and anything, based on ideas about the actions of people or about the activities of organizations, social institutions, etc." [44].

Mechanism of formation of social statuses and expectations is holistic. Without denying the shortcomings of such simplification, we note that it is precisely expectations that significantly affect the definition of social status, the limits of acceptability of its implementation. As completely social phenomena, status and expectations arise in the process of social relations between people. Each individual learns to build his own behavior towards other people in accordance with the perceived status of the remaining participants in social interaction, forming certain ideas and expectations. Within the limits of a specific social situation (as the conditions of a role-playing game), a person endows specific relationships with these ideas and expectations, adhering to the requirements in accordance with the awareness of his own status and demanding (expecting) the same conforming behavior from the bearer of another status. The aforementioned perception is not entirely spontaneous: the understanding of social processes encompasses the functioning of the triune mechanism *status → expectations → sanctions*. The result of the understanding is a certain position – convincing, available for relaying and borrowing by others. Thus, culture is a source of social norm-setting, both on a general social and local (local traditions, subculture) scale. In this light, it is worth noting that a number of ideas about social roles, their models, standards of behavior, etc. are formed with the help of cultural polylogue in some social and legal systems, but belong to the social norm beyond their borders. Legal globalization, unification of legal norms (in particular, about statuses) does not keep up with the "fashion trendsetters" who operate in the cultural sphere. In addition, strict correspondence between, for example, legal status under the law and the behavior of artistic characters is often not a requirement that determines the artistic value of the product. As a result, the cultural background of a social norm does not always take into account legal circumstances.

General (generalized) trust in science (and, accordingly, in its representatives and institutions, including criminologists) is often formed not through real mechanisms, but through cultural narratives. In popular culture, science is not simply authoritative: it has become a mechanism that provides humanity with what previously belonged to the realm of fantasy. At the same time, in some works, investigative and judicial procedures are depicted in such a way that science and the special knowledge it produces appear to be a reliable tool for uncovering hidden truths. The audience, i.e., society, naturally develops culturally conditioned expectations, but now as part of the rule of law, requirements for capabilities, competencies, accessibility, etc. These virtues are expected from experts, technologies, and judicial procedures. Although such expectations are not binding, they influence the perception of legal reality. Objectively, this state of public trust reflects a social demand for development, while in the mass consciousness, scientific capability (whether mistakenly or not) is already a factual, achieved state, an existing reality, a level of service to strive for. This creates preconditions for disappointment or pressure on institutions.

44 Андрущенко Г. І. Зазнач. твір. С. 11. URL: http://soctech-journal.kpu.zp.ua/archive/2016/69-70/3.pdf (date accessed: 18.10.2025).

Within the framework of research into current problems of forensic science conducted, in particular, in the USA, the so-called *CSI Effect* (named after the popular television series Crime Scene Investigation) has been established. Despite a certain positive contribution to the popularization of forensic science (its positioning as objective and practically infallible; informing about the possibilities and raising the importance of forensic technology and the value of the evidence obtained through it; increasing the prestige of the forensic profession), such an effect is a source of many risks, such as: increasing the requirements for forensic evidence in criminal trials and inflated expectations of their capabilities and accuracy [45]. Because of this, experts and lawyers are forced to restrain such expectations, contrasting the artistic depiction of forensic science (with its emphasis on the speed of investigation and the use of advanced technologies) with the conditions of its real existence, where the validity, reliability and general scientific logic of forensic practice occupy a prominent place [46]. When artistic interpretations of forensic science are presented as a reflection of reality, society tends to expect much more from science than it can actually deliver. For example, films (without bothering to delve into real-life complexities) feature 100% accurate voice matching; story lines, if necessary, rely on instant search and facial identification even on the basis of low-quality [47] recordings or images, or vice versa, on the fugitive's ability to skillfully bypass technological traps.

Taking into account the effectiveness of *CSI Effect* to a greater [48] or lesser [49] extent, we will formulate separate conclusions on the role of media products in the formation of the norm, the requirements for a forensic scientist or an expert. Representations that function as the background of a social norm often come not from real, but from simulated social relations. The validity of such models is beyond any control. Even a conscious contrast with real circumstances does not deprive us of deliberately fantasy ideas: illusions move freely into the "undeclared", pretended part of the social norm.

As noted above, the induction of general features to the level of a specific phenomenon forces us to consider social norms belonging to law not only as explic-

45 Strengthening Forensic Science in the United States: A Path Forward. Washington, DC : The Nat. Ac. Press, 2009. Pp. 48–49. DOI: 10.17226/12589 (date accessed: 18.10.2025).

46 Koehler J. J., Mnookin J. L., Saks M. J. The scientific reinvention of forensic science. *Proceedings of the National Academy of Sciences of the United States of America.* 2023. Oct 2. Art. 120(41). DOI: 10.1073/pnas.2301840120 (date accessed: 18.10.2025) ; Ribeiro G., Tangen J. M., McKimmie B. M. Op. cit. DOI: 10.1016/j.forsciint.2019.01.034 (date accessed: 18.10.2025) ; Swofford H. Forensic Science Environmental Scan 2023 / NIST Interagency // Internal Report (NISTIR) : web. March 7 2024. 154 p. DOI: 10.6028/NIST.IR.8515 (date accessed: 18.10.2025).

47 Zjalic J. The CSI Effect — Expectations Vs Limitations / Forensic Focus : web. 2017. 30th Nov. URL: https://www.forensicfocus.com/articles/the-csi-effect-expectations-vs-limitations/ (date accessed: 18.10.2025).

48 Kaplan-Damary N., Jonathan-Zamir T., Perry G., Itskovich E. Op. cit. DOI: 10.1016/j.fsisyn.2025.100640 (date accessed: 18.10.2025).

49 Podlas K. The "CSI Effect". *Oxford Research Encyclopedia of Criminology.* 2017. Aug 22. DOI: 10.1093/acrefore/9780190264079.013.40 (date accessed: 18.10.2025) ; Ibidem. "The CSI Effect": Exposing … . URL: https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1343&context=iplj (date accessed: 18.10.2025).

it, but also as ephemeral, based on guesses, implicit. Clear, predictable, understandable – in other words, explicit, "written law" (legislation) usually constitutes the content of the "letter of the law". The "spirit of the law" as its meaning, the purpose of a specific norm, and, ultimately, the "spirit of law" has a more complex nature. The internalization of law in the latter part can no longer be based only on thinking. Other epistemological means are needed that are capable of ensuring the choice of an individual solution in conditions of partial, incomplete (normative) certainty. Intuition belongs to such means. In the legal connotation, it is believed that it *"manifests itself as superconsciousness, imaginative thinking, an unconscious connection with the natural beginning of nature, the* ***general spirit, common knowledge****, as well as the ability to recognize <...> qualities of surrounding world without differentiated analysis, through oneself" and "determines the stability of a person in the spiritual environment, therefore it can be conditionally called a spirit"* [50].

Therefore, intuition can be a tool for perceiving implicit norms. That is why it is possible and necessary to talk about unstated, informal parts of legal norms that are not expressed in text or social articulation, implicit components of legal status, expectations, and condemnation. For example, legal restrictions arising from the recognition of an act as criminally unlawful (state condemnation) or from criminal punishment are much narrower than the stigmatization of the convicted person, which he or she may experience as a type of social sanction. The legally defined sets of rights and obligations of educational institutions or parents are much narrower than society's ideas about the proper organization of the educational or upbringing process. It is important that the social principle here dominates the legal one, leaving the latter with the role of a repository of only certain (not always the most important) components. The explicit form is also inapplicable to expectations which (despite the presence of signs of a norm) do not have an imperative, coercive means of enforcement. Examples of such normal, socially normative expectations are mutual emotional support within the family, respectful attitude towards elders, religious tolerance, etc.

From the point of view of the individual, social being is a constant process of fulfilling social roles, mental and logical activity (regarding explicit components) and intuition (regarding implicit components) during the assimilation of the content of the social norm, the participant in the application (implementation, application, observance, etc.) of which he is. As part of groups and communities in society, the individual also participates in influencing others, contributing to their internalization of norms that he himself considers mandatory, and within the wider process of social control. Through active or consumer participation in cultural activities, each of us determines ideas about what is appropriate, social values, ethics, etc. Culture as a meta-environment provides the material necessary for the development of legal consciousness and legal intuition.

This is especially noticeable in areas where social expectations about the role have a high normative force, for example, in forensic science.

In this light, returning to the question of socially conditioned normalization of a specific type of activity, forensic science, we note that the cultural aspect simply cannot be ignored when determining the actual

50 Шевців М. Б. Інтуїція в праві: культурологічний вимір : монографія. Львів, 2013. С. 52. URL: https://surl.li/tbmydb (date accessed: 18.10.2025).

legal status of an expert. The concept of the status, role, competence, forensic scientist image (model), expectations (including institutional trust) is only partially enshrined in legislation. The entire legal norm governing their rights and obligations contains unwritten and implicit elements. Unlike purely legal liability, social liability for deviating from this norm arises even if some of its elements are imaginary, id est, derived from ideas that are not based on the actual status or capabilities of the expert or specialist. Social pressure operates regardless of whether the above-mentioned legal metanorm has been internalized, i.e., whether the performer of this role has accepted.

The problem formulation of our research requires considering the danger of excessive social, normative pressure on the performers of practical research, the imposition of demands on them (in particular, by them themselves) that (from a scientific or procedural standpoint) exceed the real investigative and evidentiary abilities. Let us consider the presence of such pressure as a factor in expert errors. An example is the Alfred Dreyfus case (the turn of the 19th and 20th centuries, Europe), in which Alphonse Bertillon's conclusion regarding the identification of the accused's handwriting was refuted. Another example of such pressure, not just regarding ability, but also regarding proving circumstances that, due to social prejudice, seemed beyond doubt is the case of the Chamberlains (1980s, Australia), who were accused of murdering their own child. The forensic examination of traces of the child's blood in the car was of key importance for the guilty verdict. The expert was under massive social and media pressure. the child death and the "sectarian" religiosity of the couple. In the end, the mother was sentenced to life imprisonment. Six years later, she was rehabilitated thanks to the accidental discovery of elements of the victim's clothing in a wild dog den [51]. The traces of blood from the car were re-examined, which turned out to be paint.

The list of examples in which convictions were based on forensic examination results that were later refuted could go on. The mistakes made by those responsible for conducting such discredited examinations have various causes, ranging from negligence to dependence on social opinion. Among these causes, a systemic problem is conformist behavior resulting from loyalty to the social and, in particular, legal metanorm addressed to the expert. Despite the absence of direct mention of science, in particular, in the previously cited Decision of the Constitutional Court of Ukraine on the list of social regulators subject to the rule of law, it is science that has the greatest influence on the conduct of forensic examinations. Obviously, this absence is due to the fact that science is viewed primarily as a sphere for acquiring new knowledge, rather than as a regulatory principle. However, scientific activity is, to a large extent, a system of rules. In addition, science shapes ideas that society subsequently perceives when developing social norms and values. At the same time, analysis of errors in forensic examination shows that the reason for their large number is adherence to scientific ideas and procedures for verifying experimental results, which, as science itself has developed, have proved unsuitable (at least for establishing legal truth). A disciplined expert, adhering to the norms of such science, is responsible for its errors.

51 Берк М. «Мою дитину забрав собака». Як жінку помилково посадили за вбивство дочки / BBC News Україна : вебсайт. 23.10.2023. URL: https://www.bbc.com/ukrainian/articles/ckrepm412yvo (date accessed: 18.10.2025).

Consider an example. In 2015, a crisis in the US justice system was caused by the compromise of one of the common methods of forensic identification, microscopic analysis of hair. The official investigation confirmed that in 257 out of 268 cases, the experts provided the FBI investigators with exaggerated or erroneous conclusions about the microscopic analysis of hair, in 33 cases the convicts received the death sentence, 9 were executed until the errors were exposed. The technique, today recognized as scientifically untenable, has been used as a standard for decades. In general, according to the estimates of the American non-governmental initiative *Innocence Project*, misapplied *forensic science* has caused almost a quarter of false convictions since 1989 [52].

It is worth citing another critical example in which the role of expertise was secondary, while the root cause of judicial errors and inhumane practices was the "achievements" of pseudoscience, which served the needs of politics and ideology. Thus, from the beginning of the 20th century until the 1940s, the court commissioned physiognomists and "eugenicists" to assess "degenerative" traits in order to determine the propensity for crime, mental illness, and sexual minorities. In Germany, this became an instrument of racial policy, and in the United States, it became the basis for forced sterilizations.

Lawyers, sociologists and philosophers are unanimous in their opinion about the secondary nature of law in relation to culture. That is why recognizing the latter as a social regulator would not be entirely correct from a structural point of view. However, within the concept of the rule of law, culture has a significant normative impact. Therefore, it seems appropriate to consider cultural norms, perceptions, values precisely as components of the repeatedly mentioned methanorm, which determines, in particular, the status, behavior, self-perception, and conditions for forensic expert activities .

It should be noted that in the cultural space, images and ideas do not appear out of nowhere, they are organic precisely because they follow from the logic, content, intensity, style, etc. of certain social relations. In particular, works of fiction denote, and elsewhere program, the content of public demand for forensic science services, forensics as an applied activity to meet a specific cognitive need.

The image of a person with extraordinary knowledge, the competent application of which gives an advantage and allows to reveal, at first glance, hopelessly complicated investigative situations, thanks to cinema and literature has taken root in the mass consciousness and acquired the properties of an archetype. His actions are correct not only from a technical but also from an ethical standpoint, he is the personification of objectivity, impartiality; he directly contributes to society in restoring justice through his service to justice. In mass culture, forensic scientist is never mistaken: he sees the hidden, and moreover, hidden intentionally. His knowledge cannot be questioned: it is scientific, and therefore objective, pure, above political or personal interests. This creates the effect of unverifiable truth, where the expert's conclusion becomes the last word, almost like a sentence of fate. Such sacralization, of course, has negative consequences – expert knowledge within the boundaries of judicial ritual is transformed from science into dogma.

Almost immediately after the creation of literary archetypes of investigative

52 Misapplication of Forensic Science / Innocence Project : web. 2025. URL: https://innocenceproject.org/misapplication-of-forensic-science/ (date accessed: 18.10.2025).

scientists, from the very beginning of criminology as an independent discipline, an opposite literary trend (in terms of social vector and definition of the place of special knowledge) has been developing. Adventurers and loners who challenge the social system by resorting to well-thought-out, sophisticated crimes take the stage. Criminalistics, like investigation in generalis not the triumphant force here, yielding to criminals in terms of flexibility, speed, and resource capacity. The image of the criminal mastermind has become a kind of genre cliché. Against the backdrop of the struggle between good and evil, he proves the exhaustiveness of the investigative and evidentiary capabilities of criminalistics. A natural offshoot of this exhaustiveness is the idea of the *perfect crime*, a crime that is perfect because it has been carefully planned and elegantly executed.

This example is interesting in a security context because it demonstrates how the same methods can be applied *against* the law enforcement system. And this becomes an important argument in favor of a comprehensive approach to forensic science as a science that should work not only "after the fact" or "to the fact", but also in the plane of constant updating of tools and procedures, taking into account the experience and logic of a potential violator.

It turns out that the special knowledge of a forensic scientist (expert or specialist) is just a tool that, depending on the ethical need, can be turned both in favor and against the law enforcement system. However, even in the latter case, the bearer of this knowledge does not automatically belong to the criminal world.

Actually, in the IT sphere, the term "anti-criminalistics" (anti-forensics) is already established, which refers to a set of methods of protecting information from actions unauthorized by its owner; it is not about means of countering law enforcement, but about information discipline. That is why it seems that "*anti*-criminalistics", born in a cultural stratification in the field of information technology, should denote a much wider range of practices designed to destroy or mask material and digital traces. At the same time, the denial used in the title only emphasizes the connection with forensic science.

Thus, fiction and cinema have created a diverse pantheon of investigators and antiheroes who embody—sometimes exaggeratedly—the leading methods and challenges of criminalistics. At the same time, beyond the confines of fictional plots, this science appears to be much broader than trace evidence analysis or even its opposite, the commission of the "perfect crime." Culture presents criminalistics as a multi-functional tool whose potential can and should be applied far beyond criminal proceedings or court trials. Implicit, hidden behind the scenery of authorial fiction or science fiction, but no less powerful for that, the demands placed on forensic scientist determine the content of expectations in real relationships. Failure to meet these expectations triggers sanctions. Society exerts pressure regardless of the objective ability to satisfy expectations, both reasonable and naive, based solely on artistic fiction: because, along with legitimate expectations, these expectations are part of the social norm, which (given the nature of its sources) cannot be taken beyond the limits of the rule of law.

Conclusions

Currently, dominant concept of legal relations in the world (particularly in Ukraine)

is the rule of law, which is based on a wide range of social regulators, including the law. Among all regulators, the law plays a subordinate, less significant role both de jure and de facto. Social norms are becoming increasingly important in the legal regulatory system. The mechanism of its formation and operation differs significantly from the procedure of law-making and law enforcement. People's behavior is determined by statuses (social roles), social expectations attached to such statuses, and social sanctions that are applied depending on the degree of compliance with such expectations (in particular, those that are not articulated with the formal clarity characteristic of the law).

Taking into account the legal positions of the Constitutional Court of Ukraine, formed within the framework of this concept, the law loses the position of the leading regulator of public relations. The law should correspond to the latter, not define them. Instead, other public regulators within the rule of law take on greater importance. Custom, morality, traditions, principles are the sources of law. Accordingly, the mechanisms of their formation are nothing more than a process of social regulation, that is, rule-making. The social norm provides a person with a status, it forms expectations and provides for a sanction. Means of social norm-setting are, in particular, literary, artistic, audiovisual works. Their perception by society, the transfer of their ideas to the plane of their own functioning completes the process of lawmaking in its broadest sense.

The object of one of the culturally determined statuses was a criminologist. Literature and film not only created several versions of the image of a forensic scientist, they also formed — or articulated the public request for forensic science. This request is much broader than facilitating the disclosure of crimes. In addition to the use of knowledge-intensive reconstructions, such a request contains areas that may seem opposite to forensic science, methods and techniques of mashing, masking (substitution) of traces, overcoming protection systems, etc. In the mirror of mass culture, forensic science also appears as a mental practice of assessing threats, far from always criminal ones.

At the same time, as emphasized in the description of the concept of the rule of law, law and justice are not entirely consistent. In terms of status and rights, as well as actual epistemological capabilities determined by established methodologies (in particular, forensic investigations), the status of a criminal investigator is much narrower than what follows from their cultural profile. Failure to meet expectations, in line with how social norms work is punished by social sanctions. Expectations as requirements for forensic scientists (specialists, forensic experts, specialized state institutions) stem from their status. At the same time, this status is partly determined by participants in legal relations not so much by the norms of law and real experience as by cultural sources and metanorms. Discrepancy between real and perceived statuses may lead to a negative assessment of their bearers as too slow, bureaucratic, narrow-minded, etc. Special public diplomacy activities aimed at informing the public about actual legal and scientific-technical limits of criminalistics should help to eliminate possible stigmatization. However, it is difficult to determine the entity from which such measures should be expected, since such explanatory work does not directly fall within the tasks of, in particular, state specialized institutions.

Експектації у праві та криміналістиці: постановка проблеми

Юрій Чечіль, Вікторія Біла, Станіслав Шептуховський

Розглянуто феномен соціальних очікувань як складової правової норми та чинника, що зумовлює реальний статус і поведінку судового експерта. Вихідною тезою є положення концепції верховенства права, згідно з яким право не обмежено законом, а формується широким колом соціальних регуляторів — мораллю, традиціями, культурними уявленнями, практиками. Саме вони утворюють метанорму, яка накладається на закон і часто має сильніший вплив на поведінку, аніж формальні приписи. Обґрунтування наявності згаданої вище розбіжності визначає мету статті. Її досягнення потребувало застосування низки загальнонаукових і спеціальних методів. У наведеному контексті судова експертиза постає не лише як процесуальний інститут, а як соціально-культурний феномен. Її роль полягає у трансформуванні спеціального знання в доказ, проте суспільство очікує від експерта значно більшого, аніж передбачає закон. Ці очікування — експектації — формуються не лише правовими нормами, а й культурними наративами, масовою культурою, уявленнями про науку як джерело безпомилкової істини. Вони мають імпліцитний характер, але діють як норми: невідповідність їм спричиняє соціальні санкції незалежно від реальних можливостей науки або процедури. Показано, що механізм формування експектацій ґрунтується на триєдності статусу, очікування та санкції. Криміналіст як носій спеціального знання набуває статусу, частково зумовленого культурними образами, а не лише законом. Це породжує розрив між реальним та удаваним статусом, що стає джерелом тиску, помилок і стигматизації. Водночас наука, яка забезпечує експертизу методами, сама є системою норм і може продукувати хибні уявлення, що згодом виявляються непридатними для з'ясування юридичної істини. Наукова новизна статті полягає в уведенні до правничого дискурсу категорії «експектації» як правомірної вимоги учасника правовідносин, що випливає не лише із закону, а й загалом із соціальних регуляторів, які формують право. Це дає змогу пояснити, чому криміналістика перебуває під постійним соціальним тиском і чому її культурний профіль значно ширший за процесуальний. Стаття відкриває перспективу подальших досліджень щодо ролі культури у формуванні правових норм і необхідності публічної комунікації для зменшення розриву між очікуваннями й реальними можливостями експертної діяльності.

Ключові слова: *верховенство права; метанорма; експектації; судова експертиза; криміналістика; імпліцитні норми; правова інтуїція; нормативний дисонанс.*

Financing

This research did not receive any specific grant from funding institutions in the public, commercial or non-commercial sectors.

Disclaimer

Founders had no role in the research design, data collection and analysis, decision to publish or manuscript preparation.

Participants

Authors contributed solely to the intellectual discussion underlying this document, case law research, writing and editing and assumes responsibility for its content and interpretation.

Declaration of Competing Interest

Authors declare no conflict of interest.

References

Andrushchenko, H. I. (2016). Informatsiino-zmistovne napovnennia poniat «sotsialna

dovira», «uzahalnena dovira» ta «instytutsionalna dovira»: sotsiolohichnyi analiz [Information and Content Filling of the Concepts of «Social Trust», «Generalized Trust» and «Institutional Trust»: a Sociological Analysis]. *Sotsialni tekhnolohii: aktualni problemy teorii ta praktyky*. Vyp. 69—70. URL: http://soctech-journal.kpu.zp.ua/archive/2016/69-70/3.pdf [in Ukrainian].

Bentham, J. (2000). *An Introduction to the Principles of Morals and Legislation.* 1781. Batoche Books : Kitchener. URL: https://historyofeconomicthought.mcmaster.ca/bentham/morals.pdf.

Berk, M. (2023). *«Moiu dytynu zabrav sobaka». Yak zhinku pomylkovo posadyly za vbyvstvo dochky* [«My child was taken by a dog.» As a woman, she was mistakenly imprisoned for the murder of her daughter] / BBC News Ukraina : vebsait. 23 zhovtnia. URL: https://www.bbc.com/ukrainian/articles/ckrepm412yvo [in Ukrainian].

Chernysh, N. (2004). *Sotsiolohiia. Kurs lektsii* [Sociology. Course of lectures]. Vyd. 4-te, pererob. i dopov. Lviv. URL: https://duikt.edu.ua/uploads/l_715_63219046.pdf [in Ukrainian].

Dvoretska, H. V. (2001). *Sotsiolohiia* [Sociology] : navch. posib. Kyiv. URL: https://studfile.net/preview/9700642/ [in Ukrainian].

Ehrlich, E. (1913). *Grundlegung der Soziologie des Rechts.* München und Leipzig : Duncker & Humblot. URL: https://ia803401.us.archive.org/11/items/grundlegungderso00ehrl/grundlegungderso00ehrl.pdf.

Kaplan-Damary, N., Jonathan-Zamir, T., Perry, G., Itskovich, E. (2025). Public views of forensic science: An intersection of science and policing? *Forensic Science International. Synergy*. Art. 25:11:100640. DOI: 10.1016/j.fsisyn.2025.100640.

Kiriiak, O. V. (2021). Lehitymni ochikuvannia ta strokovist yikh realizatsii [The legitimate expectation and the timelines for its implementation]. *Yurydychnyi naukovyi elektronnyi zhurnal.* № 2. DOI: 10.32782/2524-0374/2021-2/15 [in Ukrainian].

Koehler, J. J., Mnookin, J. L., Saks, M. J. (2023). The scientific reinvention of forensic science. *Proceedings of the National Academy of Sciences of the United States of America.* Oct 2. Art. 120(41). DOI: 10.1073/pnas.2301840120.

Korolova, Yu. (2019). Koreliatsiia pryntsypiv verkhovenstva prava ta verkhovenstva zakonu v systemi dzherel prava [Correlation of the principles of the rule of law and the rule of law in the system of sources of law]. *Pidpryiemnytstvo, hospodarstvo i pravo.* № 4. URL: http://pgp-journal.kiev.ua/archive/2019/4/35.pdf [in Ukrainian].

Kryzhova, O. (2017). Pryntsyp verkhovenstva prava u praktytsi Yevropeiskoho sudu z prav liudyny [The rule of law in the practice of the European court of human rights]. *Visnyk Natsionalnoho universytetu «Lvivska politekhnika». Seriia: Yurydychni nauky.* № 865. DOI: 10.23939/law2017.865.544 [in Ukrainian].

Kurylenko, T. (2024). Dovira yak sotsialnyi fenomen [Trust as a social phenomenon]. *International Science Journal of Jurisprudence & Philosophy*. Vol. 3. No. 1. DOI: 10.46299/j.isjjp.20240301.03 [in Ukrainian].

Kysil, V. (2019). Pravo ochikuvannia: transkryptsii zmistu [Right of expectation: transcriptions of content]. *Yurydychna Hazeta.* № 7 (661). URL: https://yur-gazeta.com/publications/practice/neruhomist-ta-budivnictvo/pravo-ochikuvannya-transkripciyi-zmistu.html [in Ukrainian].

Mamchenko, N. (2023). Verkhovnyi Sud vyznachyv pidkhody shchodo zastosuvannia pryntsypu «lehitymnykh ochikuvan» (legitimate expectations) [Supreme Court determined approaches to the application of the principle of "legitimate expectations"] / *Sudovo-iurydychna hazeta* : vebsait. URL: https://sud.ua/uk/news/sudebnaya-praktika/262928-verkhovnyy-sud-opredelil-podkhody-k-primeneniyu-printsipa-legitimnykh-ozhidaniy-legitimate-expectations [in Ukrainian].

Misapplication of Forensic Science (2025) / Innocence Project : web. URL: https://innocenceproject.org/misapplication-of-forensic-science/.

Orban-Lembryk, L. B. (2003). *Sotsialna psykholohiia* [Social psychology] : posibnyk. Kyiv [in Ukrainian].

Perehuda, Ye. V., Avdieienko, O. D., Domkin, P. O. ta in. (2012). *Sotsiolohiia* [Sociology] : navch. posib. Kyiv. URL: https://www.knuba.edu.

ua/wp-content/uploads/2023/10/socziologiya-navchalnyj-posibnyk.pdf [in Ukrainian].

Podlas, K. (2005). “The CSI Effect”: Exposing the Media Myth. *Fordham Intellectual Property, Media and Entertainment Law Journal*. Vol. 16. No. 2. Book 2. Art. 2. URL: https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1343&context=iplj.

Podlas, K. (2017). The “CSI Effect”. *Oxford Research Encyclopedia of Criminology*. Aug 22. DOI: 10.1093/acrefore/9780190264079.013.40.

Pravo ochikuvannia: pro et contra. Vystup suddi KTsS VS V. I. Krata [Right of expectation: pro et contra. Speech of the judge of the CCC of the Supreme Court V. I. Krata] (2020). *Pravo ochikuvannia: fenomen v ploshchyni tsyvilno-pravovykh vidnosyn* : vebinar Civil Platform / Youtube.com : web. URL: https://www.youtube.com/watch?v=8flGOsbRa2w [in Ukrainian].

Report on the Rule of Law (2011). Adopted by the Venice Commission at its 86th plenary session (Venice, 25–26 March 2011). URL: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)003rev-e.

Ribeiro, G., Tangen, J. M., McKimmie, B. M. (2019). Beliefs about error rates and human judgment in forensic science. *Forensic Science International*. Vol. 297. DOI: 10.1016/j.forsciint.2019.01.034.

Shevtsiv, M. B. (2023). *Intuitsiia v pravi: kulturolohichnyi vymir* [Intuition in law: a cultural dimension] : monohrafiia. Lviv. URL: https://surl.li/tbmydb [in Ukrainian].

Slipchenko, S. O. (2020). Poniattia zakonnykh ochikuvan yak riznovydu maina [The concept of legitimate expectations as a kind of property]. *Forum prava*. № 3. DOI: 10.5281/zenodo.3883845 [in Ukrainian].

Strengthening Forensic Science in the United States: A Path Forward (2009). Washington, DC : The Nat. Ac. Press. DOI: 10.17226/12589.

Summary results of the public consultation on whistleblower protection (2017) / European Commission : web. URL: https://ec.europa.eu/newsroom/just/document.cfm?doc_id=47885.

Swofford, H. (2024). Forensic Science Environmental Scan 2023 / *NIST Interagency* // Internal Report (NISTIR) : web. March 7. DOI: 10.6028/NIST.IR.8515.

Symysenko, I. V. (2025). Instytutsiina dovira yak chynnyk vplyvu na transformatsiiu politychnoi uchasti v suchasnii Ukraini [Institutional trust as a key factor influencing the transformation of political participation in contemporary Ukraine]. *Politykus*. Vyp. 2. DOI: 10.24195/2414-9616.2025-2.20 [in Ukrainian].

Temchenko, V. I. (2007). Verkhovenstvo prava u praktytsi Yevrosudu ta Konstytutsiinoho Sudu Ukrainy [The rule of law in practice of European court of human rights and Constitutional Court of Ukraine]. *Naukovi zapysky NaUKMA. Yurydychni nauky*. T. 64. URL: https://ekmair.ukma.edu.ua/server/api/core/bitstreams/9f486e50-ff7c-4178-88ee-e5a1a8ca0509/content [in Ukrainian].

Tsuvina, T. (2019). Pryntsyp verkhovenstva prava u praktytsi Yevropeiskoho sudu z prav liudyny [Principle of the Rule of Law in the Case-law of the European Court of Human Rights]. *Chasopys Kyivskoho universytetu prava*. № 4. DOI: 10.36695/2219-5521.4.2019.66 [in Ukrainian].

Yenin, M. N., Kukhta, M. P. (2022). Sotsialnyi status [Social status] / *Velyka ukrainska entsyklopediia* : vebsait. URL: https://vue.gov.ua/Sotsialnyi_status [in Ukrainian].

Zjalic, J. (2017). *The CSI Effect – Expectations Vs Limitations* / Forensic Focus : web. 30th Nov. URL: https://www.forensicfocus.com/articles/the-csi-effect-expectations-vs-limitations/.

Zolotarova, O. A. (2023). Spivvidnoshennia pryntsypiv verkhovenstva prava ta zakonnosti v ukrainskomu pravi [The correlation of the principles of the rule of law and legality in Ukrainian law]. *Yurydychnyi naukovyi elektronnyi zhurnal*. № 6. DOI: 10.32782/2524-0374/2023-6/152 [in Ukrainian].

Chechil, Yu., Bila, V., Sheptukhovskyi, S. (2025). Expectations in Law and Criminalistics: Issue Formulation. *Theory and Practice of Forensic Science and Criminalistics*. Issue 4 (41). P. 13—34. DOI: 10.32353/khrife.4.2025.02.