

## The Relationship Between Law and Morality

Morality is seen as law and the law of the land is about morality that affects the public. The law has to overlook private faults for it is up to yourself to address your own faults when they don't hurt the public.

Is something right because a law says so or does the law just show it is right and support it? It cannot be both. A law condemning something cannot really in itself make it bad. There are bad laws. Does the law support the right not because it makes it right but because it is right regardless of what the law says? The answer is that if it doesn't it should. A law that tries to turn what is neutral or not wrong into wrong is not a law at all and is worthy only of disobedience. A real law presumes a right to make that law.

If a law can make something bad then that has to be true before anybody can become a lawgiver and turn something good bad by banning it. The order is this. There must be a law that a law can turn something bad or good just by saying so. Then the law can make a list of what is forbidden and that list is correct - if it forbids eating brandy balls then eating brandy balls is immoral.

Laws meant to create good and evil presume a law that allows them to. Thus unless there is such a law even God cannot make something bad or good by law.

So laws are either really fair or they have to make things fair just by saying so.

Either way law seeks to force. A law that is not about forcing is not a law at all. Even if a law cannot force it must at least "want" to and want you to feel an inner force driving you to do the "right" thing. You will respond in fear to such ideas. A law that is supposedly right only if God commands it is trying to be too forceful. In what way? Would you not feel more forced by a law that only let you drink water between 6 and 6.30 pm when there is plenty of water than by a law forcing you not to waste water for there is a danger of a drought? You feel forced to obey invented laws for they make no sense to you and even if they did they are still off putting for they intend to be mere inventions and do not respect your intelligence or opinion or needs.

A law that is independent of what God or man wants it to be is enough force.

### CAN THE LAW LEGISLATE MORALITY?

Morality says it is its job to create moral rightness not the law of the land for the law cannot deal with the heart. That does not mean the law cannot direct you to morality - it does though it will be public morality that it concerns itself about.

The notion that the law cannot legislate morality therefore a person who thinks say abortion is wrong could still vote for it without compromising their conscience is a popular one. It is true that the law cannot make anybody moral for people have to do that themselves. But that does not mean you can vote for anything you disagree with. If the law cannot make people any better it makes no sense to vote for what you think is wrong for that is trying to ensure the law will make them worse.

Many who say that the law cannot legislate morality mean that there are some moral matters that are not the states concern for example what adults get up in the bedroom. In this case they are referring only to sexual morality. They do not argue for example that if you are threatened that the law should not protect you. They do not say it is between you and the other person. So they usually have only sexual morality in mind.

It is bizarre how some Catholics say can they oppose same sex marriage and yet they vote for it on the grounds that it is up to the state to extend marriage rights to same sex couples and you cannot ask the state to live by the Catholic religious view for there are different views among the people. Reason says you be true to your view and it is insincere to be true to other people's view. Also if you want the state to create same sex marriage then you are imposing acceptance of same sex marriage even on those who condemn it. Legalising something means the state is now its official, public, international and active promoter. A state employee who actively opposes same sex marriage will have to be fired. The people are forced to condone same sex marriage by encouraging it or being silent in the face of it.

Roger Trigg wrote in his book *Morality Matters*:

Without morality, law could have little conception of what should be encouraged or discouraged. Like rules of the road, all law does have a regulatory function, but, without some conception of the purpose and aim of regulation, this can itself seem

pointless. Even traffic laws are based on the presumption that human lives should be protected.

Law ... is a teacher. We have sometimes lost sight of this elementary fact, because we value individual freedom so much.

Any society which values individual freedom, and human equality, is inevitably going to have a legal system based on those moral insights. It will be part of the social framework which is deliberately passed on through the generations...the law cannot ignore the demands of morality. All law should be based on moral principle. We should be very suspicious of it when it is being made with any other motivations; for instance, to serve particular commercial interests. Law operating in a moral vacuum — or, worse, based on injustice — cannot command the assent and obedience of those citizens who are expected to comply with it.

What worries the secularist is not that the law is about morality as in public morality but what kind of public morality should be expressed through the law. Each religion has its own version of morality.

The law is about striking the balance between different views of morality and giving nobody the power to coerce the nation into going along with his or her own personal moral opinions. Typically, if there is disagreement about abortion and homosexuality in a nation, the state takes that as its cue to allow abortion in some circumstances and to legalise homosexuality for example. So if you want the state to allow euthanasia you must get enough of the people to agree with euthanasia.

If a state was made up entirely of obedient Christians, clearly then the law would be expected to ban homosexuality for example. If the state is made up of good secularists you see that it will legalise homosexuality. Secularism is better for those who want freedom.

## THE AUTHORITY OF THE LAW

A law that does not enforce is not a law. If you can commit a crime and be convicted and remain unpunished that is saying that the crime does not really matter. That is not a crime at all. A crime is a breach of law that is to be punished.

The law of the land is probably the most important law we have. It is sometimes able to force a person not to commit a crime. It influences society.

The good person helps others and refrains from harming them.

The moral person is a person who practices a law of ethics which lays out punishment for those who disobey.

The law of the land selects the most important moral rules and enforces them. It may do the same for less important rules. It cannot punish every breach of the moral law so it has to be selective.

The law of the land is frequently wrong or biased when it selects the most important rules.

The law of the land is supposed to be based on the moral law. For the law to make decrees in favour of religious law is defying that. It undermines secularism.

While we do not know every individual law, we know general principles. Thus the law treats us as if we know these principles and thus argues that we can be punished for unwittingly breaking a law.

The law does not accept such reasoning as, "I did not tell the whole truth in my tax return. I paid then less tax than I should have. I lied because the state is so corrupt and I felt obligated not to give it too much money. I really did not know that what I was doing was illegal. For all I knew, there could have been a loophole allowing me to do what I did." Nor does it accept, "I did not know I was supposed to pay income tax". Ignorance of the law is no excuse when you break the law.

Morality is a form of law too. It rewards and punishes. If you do wrong people avoid you and disapprove of you. Disapproval is intended to hurt you for having done wrong. It will impact on how people treat you. You cannot become a teacher for example if you are too fond of whiskey.

Morality is meant to fill the void when the law of the land cannot intervene. The law of the land cannot cover every wrong. It has to be selective. And it is too expensive to punish everybody that does wrong and to investigate them. So the law has to be arbitrary to a large degree.

Punishment from the legal system often brings resentment and anger for the criminals feel they have to be punished while others worse than them walk away scot-free. Another problem is how those who make laws take advantage of the fact that

the law has to be largely arbitrary. Corrupt politicians steal from tax revenues with impunity while the desperate mother goes to jail for welfare fraud.

As poor as the law of the land may be, it is the law that protects and feeds us and is the most important law of all.

It is outrageous that the law of the land seems to think that God and religion are important in advancing civility in society and that they help the enforcement of the law to run more smoothly. They think more religion means less crime. They think more religion means more respect for the law.

This is a very cynical view in the light that the law will never conform that well to justice and will be sometimes cruel and arbitrary or stupid. It is really an attempt to use belief in God to reinforce devotion to the law and to rationalise and excuse its flaws. The law is a necessary evil - it is not something to be venerated as the will of God.

Religion worries more about the moral law than state law. It says that God does not invent right and wrong. Nor is right and wrong independent of what he thinks. It says that moral values come from the way God is - his nature. It says that though the law does not enforce all moral values the law tries to be derived from them.

If that is true, then the law of the land needs to acknowledge God's nature as its own ultimate source. So a law that is secular is not a law at all but a manifestation of rebellion against God. Belief in God implies secular law should be brought into divine and religious control. It would imply that as God comes first, it is better for secular law to be pulled down and demolished.

In summary, we should admit that we need the law of the land though its laws are often dubious and their application is often dishonest and arbitrary. We see the law as a work in progress and not something to be venerated for it is a necessary evil. The law should be secular and safeguarded from all godly philosophies.