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## Conscientious Communities: The Question of the Government Legislation of Morality

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CONSCIENTIOUS COMMUNITIES:  
THE QUESTION OF THE GOVERNMENT LEGISLATION OF MORALITY

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Morality cannot be legislated, but behavior can be regulated. Judicial decrees may not change the heart, but they can restrain the heartless... The habits, if not the hearts of people, have been and are being altered everyday by legislative acts, judicial decisions, and executive orders (Wootton 303).

When Martin Luther King Jr. penned these words over forty years ago during the pinnacle of the civil rights movement, he addressed a question that has been on the hearts of mankind for ages. Aristotle asked this question in the wake of the conquests of Alexander the Great. Machiavelli asked yet again during his exile in pastoral Italy. Immanuel Kant questioned from Europe during the Enlightenment. It was Henry David Thoreau who asked from the banks of Walden Pond. And voice after voice continues to ask today. The question is simple in its wording, yet deeply complicated in its response. That question, the question of ages for political philosophers is, "Should governments legislate morality?"

Uniquely, this is a question that reaches beyond partisan lines. Proponents for or against this issue can neither be labeled Republicans nor Liberals in the American sense of the word. This debate reaches back far beyond the founding of the Republican or Democratic parties, and instead is set between two schools of political thought known as classic liberalism and civic republicanism.

One may see the terms classic liberalism and civic republicanism and assume they are irrelevant to society today. After all, what does all of that philosophy have to do with modern American society? However, I will argue that this question of the government legislation of morality is incredibly pertinent to society today, by means of three examples of controversy today that ask this question be answered.

The first example is prostitution. Currently in the United States, prostitution is legal only in the state of Nevada, and even then, it excludes the major cities of Lake Tahoe, Reno, Carson City, and Las Vegas. There are those in the United States who fully support legalizing prostitution within the entire United States. After all, they argue, prostitution is between two consenting adults, it is their right to do what they want, and the government has no right to dictate their behavior. However, opponents of legalizing prostitution point to the deeply detrimental effect it has on societal institutions such as marriage, as well as the physical, emotional, and mental harm it does to all those involved. They state that the government has every right to ban prostitution, and that without the government doing so, our society would slip into deep moral vice.

A second example is abortion. Following the Roe v. Wade Supreme Court decision, abortion became legal in the United States. A multitude of people in the United States view this ruling a moral travesty, and term it the legalization of murder of innocent babies. Others however, say that a woman has a right to do what she wants with her body, and that the government does not have a say in how she treats it, regardless of pregnancy. While a vast majority would agree that unwanted pregnancies in general, are unfortunate in society, the government's involvement in this issue is a prominent question.

A third and final example is the drastic rate of divorce in the United States. Although statistics vary due to the highly controversial nature of this issue, a majority of studies show that about fifty percent of marriages occurring in the past forty years end in divorce. Once again, some citizens on this issue are not deeply concerned about the effects of divorce. After all, hearts mend, and people go on. Divorce is unfortunate, not

a big deal, they say. However, there are those who fear that marriage, which is a government institution, has become virtually meaningless. They fear that vows given and families formed suddenly mean nothing; that the close sense of community that is built through this institution will be lost in the midst of divorce. They argue that stronger measures must be taken to encourage men and women to persevere through difficulties in marriage, and make it more difficult to divorce. Once again, the question of the United States government's involvement in divorce is a key issue.

Clearly, the issue of government legislation of morality is a relevant issue in American society today. It is a complicated issue, to be sure, but it is a question that is deserving of time and contemplation. In this paper, I will argue that not only should the government be allowed to legislate morality, but that it is imperative that it does. Additionally, I will refute common disputes against this stance, as well as delve into the intricacies of the implementation of this policy. Finally, I will paint a picture of how a modern United States would function while allowing the government legislation of morality.

To begin, perhaps it is best to establish a working definition of morals legislation. Support for morals legislation may be defined as follows. The government, if it is representative of its people, and each citizen has an equal voice within the political system, has the right to create and enforce laws that prohibit its people from generally agreed upon immorality. These laws are created in order to prevent the society from the detrimental effect of vice. Robert George explains the role of government in keeping people from vice.

People become morally bad by yielding to vice; and they can be protected from the corrupting influence of powerfully seductive vices by laws that prohibit them (in so far as they are manifest in outward behavior) and prevent them from flourishing in the community. By suppressing industries and institutions that cater to moral weakness, and whose presence in the moral environment makes it difficult for people to choose uprightly, such laws can protect people from strong temptation and inducements to vice. The extent that morals laws help to preserve the quality of the moral environment, they protect people from moral harm (George 45).

Not only does a morals legislated society protect people from moral harm, but it benefits the people as well.

...a good moral ecology benefits people by encouraging and supporting their efforts to be good; a bad moral ecology harms people by offering them opportunities and inducements to do things that are wicked. A physical environment marred by pollution jeopardizes people's physical health; a social environment abounding in vice threatens their moral well-being and integrity (George 45).

There are three primary arguments against morals legislation. The first is that men can be trusted to their consciences to do the right thing. Second, forced morality leads to resentment. People will resent the government for imposing morality. And finally, personal rights are more valuable than the good of the whole of society. When people are left to their own devices, that freedom makes society more virtuous.

Henry David Thoreau based his opposition to morals legislation on the premise that men can be left to follow their own consciences. Henry David Thoreau, in his essay entitled "Civil Disobedience" stated, "I heartily accept the motto, -'That government is best which governs least;' ...Carried out, it finally amounts to this, which also I believe, - 'That government is best which governs not at all.'" Thoreau goes on to state that men should be left up to their consciences to choose right actions. He describes the State as a power which is completely ineffective in altering a man's will. In carrying out the law "the State never intentionally confronts a man's sense, intellectual or moral, but only his

body, his senses. It is not armed with superior wit or honesty, but with superior physical strength” (Political Thought in America 251). Today, many Americans also ascribe to Thoreau’s statement, specifically in the area of government legislation of morality.

Many contemporary liberal theorists argue that the legal enforcement of morality is inconsistent with the moral concern for a person’s individual rights. These arguments regarding individual rights can be divided into two broad categories: perfectionist and anti-perfectionist. The perfectionist argument regards autonomy, or self-rule, in itself as an intrinsic human good which governments should protect and promote. As a result, governments should refrain from coercion that encourages people to lead morally worthy lives. This theory also holds that one cannot hope to ascertain what is right for governments to legislate, without considering promotes human well-being and fulfillment. This theory also maintains that respect for civil liberties is required because individual self-determination is a central element of a well-lived human life.

Perfectionists criticize non-liberal thinkers for not placing enough value on individual autonomy and freedom. They argue for the superiority of individual rights over collective good on the basis that the act of self-rule best protects and advances human well-being, beyond that of a morally legislated society. Finally, perfectionists, or liberal thinkers such as John Locke place a high value on human reason. In his “Second Treatise of Government” Locke states that “reason...teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health liberty or possessions” (Modern Political Thought 313). In essence, Locke is stating that each individual is equipped with a capacity for reason. That reason, when employed, will naturally keep men from harming one another, and therefore keep men moral. That



individual, therefore, who denies his reason in harming another, is literally denying his humanity. Therefore, overall, the perfectionist argument is based upon two primary ideals. The first is that men and women are reasonable creatures who can be trusted to their consciences to not harm their fellow man. The second is that this fundamental right of trusting men and women to their own actions is in itself, inherently a good and moral quality. Therefore, to infringe on this autonomy, is to deprive men and women of the fundamental moral good in life.

The anti-perfectionist argument is based heavily upon the theory of John Rawls. Its premise treats respect for self-rule as a non-axial, or without intrinsic value, principle of political morality which forbids governments from restricting people's liberties for the sake of making them morally better. Anti-perfectionists will argue that a morally good political government will refrain from interfering with controversial social issues. In essence, anti-perfectionism promotes rights, while attempting to deny any sense of inherent moral rights or wrongs. John Rawls, in his book entitled A Theory of Justice, describes each person in society as entering into an 'original position' in which each person, as unencumbered selves, bent only upon self-interest, will determine what their best actions will be. (George 133).

"Laws cannot make men moral. Only men can do that; and they can do it only by freely choosing to do the morally right thing for the right reason. Laws can command outward conformity to moral rules, but cannot compel the internal acts of reason and will which make an act of external conformity to the requirements of morality a moral act" (George 1). Robert P. George, a renowned ethics professor from Princeton University begins his book, Making Men Moral with these words. He then goes onto states that

although laws cannot make men moral, throughout history, “morals laws” as he calls them, are a vital part of a healthy political entity. Sir Isaiah Berlin describes the central tradition of western thought as the belief that morality, politics, and law are deeply interrelated, and that sound politics and good law should aspire not only to make people safe, comfortable, and prosperous, but also to make them virtuous. (George 3). It is, above all, the belief that law and politics are *rightly concerned* with the moral well-being of members of political communities.

No one deserves more credit than Aristotle for shaping the central tradition of western thought’s belief that a just and good society is one which legislates morality. Aristotle’s philosophy, centuries before it was assaulted by mainstream liberal criticism, firmly rejected the belief that the law of a political community should be only a “guarantor of men’s rights against one another” (George 4). Instead, the law of a political community, in Aristotle’s estimation, should be a rule of life such as will make the members of a polis good and just. (George 4). In his essay on Politics, Aristotle writes,

Any polis which is truly so called, and is not merely one in name, must devote itself to the end of encouraging goodness. Otherwise, a political association sinks into a mere alliance...a polis is not an association for residence on a common site, or for the sake of preventing mutual injustice and easing exchange... What constitutes a polis is an association of households and clans in a good life, for the sake of attaining and perfect and self-sufficing existence...It is therefore for the sake of good actions, and not for the sake of social life, that political associations must be considered to exist.

Thoreau, in response to this argument may pose the question, “Why must the political entity ensure that men are moral? Shouldn’t sound moral arguments given to reasonable men and women be sufficient to lead them away from immorality and towards virtue?” In response, Aristotle notes that there are men who are prone to virtue, and upon

hearing sound moral arguments will choose virtue over vice. However, while Aristotle places faith in a few men, he places less in what he calls the “many”, or society as a whole. “While [moral arguments] seem to have power to encourage and stimulate the generous-minded among our youth, and to make a character which is gently born, and true lover of what is noble, ready to be possessed by virtue, they are not able to encourage the *many* to nobility and goodness” (George 22).

In response Thoreau may ask, “So are we then to assume that the “many” are without reason? That they are stupid? That they are simply mentally unable to reasonably choose the good?” No, this is not the case. The problem with the “many”, Aristotle writes, is that the “many” “do not by nature obey the sense of shame, but only fear, and do not abstain from bad acts because of their baseness but through fear of punishment; living by passion they pursue their own pleasures and the means to them, and avoid the opposite pains, and have not even a conception of what is noble and truly pleasant, since they have never tasted it’ (George 22-23). In short, while people may understand the right thing to do, they are without motivation to do it. In short, people are hedonists, driven by pleasure. In order to pursue moral good within a society, a polis must counter their pleasure with punishment. If understanding is the response to reason, then punishment must be the response to pleasure. “If people have passionate motives for doing what is morally bad, they must be presented with more powerful countervailing passionate motives not do it” (George 23). For example, for years I worked within junior high and high school classrooms promoting sexual abstinence. There are a multitude of reasons which exist to dissuade students from engaging in sex before they are married. However, we have found that the most persuasive reasoning for students is that “My

parents will absolutely kill me if I have sex before marriage.” As a result, a lively fear of sufficient punishment typically provides the countervailing motive needed to get the average person to do what is right and avoid doing what is wrong. Aristotle’s point is not that good behavior is purely the product of fear of punishment. Rather, his point is that, given the natural tendency of the majority of people to act on passionate motives in preference to reason, the majority of people act on passionate motives in preference to reason, and therefore, the law must first settle people down if it is to help them gain some appreciation of morally upright choosing.

A second objection to morals legislation is that coercion leads to resentment. Henry David Thoreau wrote, “I was not born to be forced. I will breathe after my own fashion.” Some might object to Aristotle’s claim that government enforcement can help put people into shape to appreciate moral values by way of habit. They may state that the affect of coercing people to good would not instill in them a habitual morality, but a sense of resentment, and even lead them toward rebellion against said government. Here, as well, Aristotle has an answer: “While people hate men who oppose their impulses, even if they oppose them rightly, the law in its ordaining of what is good is not burdensome” (George 26). What Aristotle seems to be saying is that men may have a tendency to resent other men. However, law is an impersonal entity. It is not flesh and blood, but simply the act of government. Furthermore, in a democratic society, that law which regulates a man’s morality is generally agreed upon. As a result, in order for a man to resent a law, he must resent every citizen, because in a democracy, each citizen is a participant in the creation of law.

A final argument against morals legislation is that personal rights, or individualism, are more valuable than the good of the whole or civic republicanism. The eighteenth century gave rise to a philosophy known as individualism. This philosophy, first explained by John Locke, and later expanded upon by many others, places an intrinsic value on the autonomy of each individual. Individualism could commonly be described as a “political and social philosophy that places high value on the freedom of the individual and generally stressed the self-directed, self-contained, and comparatively unrestrained individual or ego” (Encyclopedia Britannica). This philosophy is deeply embedded in the philosophy of the United States. Many Americans use the Bill of Rights as an anthem to act in whatever manner they choose. Others say that the American freedom to do whatever a person desires is what makes America such a wonderful place, and if those personal rights were infringed upon, we’d be no better off than the Soviet Union at the height of communism. When Locke wrote of rights and self-rule, it was in direct response to a state in which the monarchy could decide virtually any direction of a person’s life. If the king suddenly decided a peasant was to give him his land, it would be given. If the king ordained that a person should be a blacksmith, they became a blacksmith. If he decided that he desired to marry a man’s wife, she married him. So from there, it was that Locke decided that he had a right to keep his life (unless he forfeited it by killing someone else), his profession and location, and to keep his land and wife and children. It was from this viewpoint that Locke stated men had three inalienable rights; life, liberty, and property. Clearly these are not radical rights; they are simply in response to a government that was radically oppressive. However, what is often excluded from common discussion of personal rights today is the fact that when John

Locke wrote of rights, and self-rule, he also lived in a society in which the community and the family instilled deep, typically Christian moral values into individuals from birth. He lived in a society which was saturated with morality, and as a result, in speaking of autonomy, Locke could not fathom a society in which morality was not an intrinsic part, despite individual rights.

Our nation's Founders also failed to foresee the declining role of religion and morality within the American culture. At the beginning, that is, at the Founding, there was no particular reason for American statesmen to pay special attention to families, neighborhoods, or other small associations. These social systems were just there; seemingly natural, like gravity on whose continued existence we rely on to keep us grounded, steady, and attached to our surroundings. These are the organizations which instilled morals in us. In all likelihood, the Founders just took for granted the depth of morality that was instilled through families and communities. And as for religion, whatever views men like Jefferson or Madison may have entertained personally, they probably supposed that churches deeply embedded in community life would always be around too. How could they have foreseen that even families would lose much of their importance? So they too, in creating a bill of rights, were responding to the oppression of their former king, while believing morals would still be instilled through secondary institutions such as families. Mary Ann Glendon, in her book, *Rights Talk*, which addresses the language Americans use to discuss self-rule today, she also addresses what she calls the "missing dimension of sociality" (107). She writes,

As for religion, whatever views men like Jefferson and Madison may have entertained personally, they probably supposed that churches deeply embedded in community life would always be around, too. How could they have foreseen that even

families would lose much of their importance as determinants of individual social standing and economic security? (Glendon 117)

While the Founders valued the institutions which they created in the United States of America, there is also evidence that they counted on “families, custom, religion, and convention to preserve and promote the virtues required by our experiment in ordered liberty” (Glendon 116). Alexis deTocqueville, perhaps upon consideration of the French Revolution which placed government and society starkly in confrontation with one another, foresaw with astonishing ability the implications of individualism and the lessening of moral sociality. He insisted on the vitality of a connection between a government and social ties which instill morality.

For in a community in which the ties of family, of caste, of class, and craft fraternities no longer exist, people are far too much disposed to think exclusively of their own interests, to become self-seekers practicing a narrow individualism and caring nothing for the public good (Glendon 118).

Another French theorist, Emile Durkheim, echoed concern regarding the loss of social rootedness.

...the State is too remote from individuals; its relations with them too external and intermittent to penetrate deeply into individual consciences and socialize them within. Where the State is the only environment in which men can live communal lives, they inevitably lose contact, become detached, and thus society disintegrates. A nation can be maintained only if, between the State and the individual, there is intercalated a whole series of secondary groups near enough to the individuals to attract them strongly in their sphere of action and drag them, in this way, into the general torrent of social life (Glendon 119).

Neither de Tocqueville nor Durkheim sought to discredit the role of the State, nor the vitality of its institutions and functions. Instead, each sought to articulate the importance of social structures such as families, churches, and closely-knit communities for nations as a whole to remain upright.

Over the course of our nation's history, the institutions of family, church, and community have steadily unraveled, as the ideal of self-rule has remained steady if not stronger. More than 100 million people in the United States don't attend any form of church, synagogue, or other religious gathering. Close-knit communities are a thing of the past, and few people know their neighbors. Families are rapidly disintegrating. The most recent statistic regarding divorce in the United States is that 53% of all marriages that occur now end in divorce. Mary Ann Glendon writes,

Young people have only learned half of America's story. Consistent with the priority that they place on personal happiness, young people reveal notions of America's unique character that emphasize freedom and license almost to the complete exclusion of service or participation. Although they clearly appreciate the democratic freedoms that, in their view, make theirs the best country in the world to live in, they fail to perceive a need to reciprocate by exercising the duties and responsibilities of good citizenship (120).

Overall, individualism loses its value and integrity without deep-rooted morality, as well as a sense of civic duty.

Through examination of the philosophy of Aristotle to the intent of America's Founders, it is clear that shared morality is vital to the integrity of a nation. However, upon agreeing that it is legitimate for a government to legislate morality, it is necessary to "unpack" this idea. After all, several questions remain regarding how government legislated morality would work.

A primary question that arises in consideration of allowing governments to legislate morality is, "Is a society in which the government legislates morality a theocracy?" Certainly not. The term theocracy was first used by Josephus to denote that the Jewish people were under a government subject to the will of God. A theocracy is characterized by a political regime that claims to represent the Divine. For example, in ancient Egypt, the political regime went beyond simply claiming that Pharaoh



represented God, but that he was God himself. In the latter part of the 20<sup>th</sup> century, numerous Muslim groups have attempted to establish Islamic theocracies, claiming that certain men are the mouthpiece of God. Morals laws are not theocratic for several reasons. First, morality is not necessarily religious. To be moral simply means to be concerned with the judgment of goodness or badness of human actions and character. To be forthright, the moral actions of many people are based in their religion. For example, a Christian may abstain from sex before marriage not only because of the lessened likelihood of receiving a STD, and the opportunity for a more successful marriage, but also because the Bible specifically commands humans not to engage in sex before marriage. However, one could also argue that the immoral actions of many have been based in religion. One need only look to the Branch Davidians, led by David Koresh who not only molested many children within the cult he led, but also took many people to their death by barricading them inside the compound during an FBI siege. A second reason morals legislation is not theocratic is due to the changeable nature of these laws. Divine law is not typically thought to change, whereas morals laws have the capacity to change frequently by consent of the people. This leads to a third reason for which morals legislation is not theocratic. Theocracies are not governed by the consent of the people. Those governed by theocracies have no voice. Within morals legislation, the people are the ones who decide what those laws should be. The laws would not exist without the consent and support of the people.

A society in which government has the right to legislate morality is characterized by three main components. The first and most vital component is that each citizen has

not only a right, but a duty to participate in the political process. The United States, as described by Hector St. John de Crevecoeur, bestows upon every man the title of citizen.

Here they become men: in Europe they were as so many useless plants, wanting vegetative mould, and refreshing showers; they withered, and were mowed down by want, hunger, and war; but now by the power of transplantation, like all other plants they have taken root and flourished! Formerly they were not numbered in any civil lists of their country, except in those of the poor; here they rank as citizens (Political Thought in America 46).

One of the best-known political quotations in the world was delivered by John F.

Kennedy in his inaugural address. “And so, my fellow Americans: ask not what your country can do for you - ask what you can do for your country.” It is curious that in a country where “rights talk” has pervaded the nation’s vocabulary; an oft-quoted phrase is one which exhorts us to civic republicanism. It is a quotation which asks us to lay aside our own self-interest, and look to the good of the whole. “People for the American Way expressed surprise when their research revealed that our nation’s young people are well aware of their rights, but ‘fail to grasp the other half of the democratic equation,’ which the researchers defined as ‘meeting personal responsibilities, serving the community, and participating in the nation’s political life’ (Glendon 76). In order for morals legislation to succeed within a nation, its people must be awakened to a sense of public discourse and duty. John Stuart Mill, in his essay “On Liberty” asserts that citizens need to be willing to discuss problems, even moral problems openly in the public forum. When all people participate, many sides of an issue, and many possible solutions are bound to exist. It is then, in this public forum, that people can muddle through toward good decisions together. Yes, it is an imperfect solution, but in a society in which so many problems are complicated and there isn’t an easy answer, it is one of the best solutions that can be

offered. The benefits of a society in which everyone participates, is that everyone has a sense of being part of the process, and understanding how the decision was reached, regardless of whether their personal solution was chosen. If a citizen participates, he may not always love the law, but he respects the way in which the decision was reached, and knows there is potential for change. For those who choose not to participate in such a nation, they deny their right to voice any opinion regarding those laws that are passed.

The second aspect which gives legitimacy to morals legislation is the opportunity for laws to change. Just as in the course of history, the United States went from condemning abortion to condoning it, so laws can be changed by the people who constitute a republic. Another example of such a change is the Prohibition. The period of Prohibition of alcohol was largely considered a failure for several reasons. First, many people, although somewhat opposed to alcoholism, failed to see the “inherent” evil of alcohol. Even the Bible does not oppose the drinking of it. Second, the prohibition of the sale of liquor enabled an already widespread black market trade to grow exponentially. Third, prohibiting alcohol was extremely difficult to enforce. Speak-easies existed in virtually every town across the nation, and provided easy access to this forbidden fruit. And finally, the law against Prohibition was rescinded due to the fact that a majority of people didn’t truly support this bill, and through political participation, were able to change the law. Therefore, in a society in which the people participate, there should not be a fear of creating laws to keep citizens from vice, as long as there is a safety net that enables them to change those laws. In a more theoretical context, Nietzsche described the ability for morals laws to change in a broader sense. In his novel, Zarathustra, Nietzsche describes three stages in which man must undergo to reach a stage of

enlightenment. As a camel, man simply accepts the morals imposed on him, and obeys them without thought. As a lion, man rejects societal morals, but is still somewhat consumed by them, considering that his actions are now a complete reaction to those morals. And finally, man because the child, and rethinks morality, coming up with an entirely new system. I am by no means advocating the rejection of all morals which exist in society today, nor that all morals must all be rethought, but I would like to point out, that Nietzsche, when viewed conservatively, makes a valid point. Society must constantly be checking its actions, whether they are just or unjust, moral or immoral, in order to benefit the community.

A final question that occurs when considering morals legislation is complicated, but important to answer. “To what extent can a society legislate morality?” Multiple political and ethical thinkers have addressed this question. Perhaps one of the earliest to address this issue was St. Thomas Aquinas.

Now human law is framed for the multitude of human beings, the majority of whom are not perfect in virtue. Therefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are injurious to others, without the prohibition of which human society could not be maintained. Thus the law prohibits murder, theft and the like (De Regno St. Thomas Aquinas on Kingship translation by Gerald B. Phelan Toronto: the Pontifical Institute of Medaeval Studies 1949, p. 115).

Therefore, the effect of morals legislation is to help community members to abstain from more detrimental vices. Robert P. George takes this concept a step further.

Critics of morals legislation often point out that law is a ‘blunt instrument’. There is truth in this claim: law really is poorly suited to dealing with the complexities and details of individuals’ moral lives. *Laws can forbid the grosser forms of vice, but certainly cannot prescribe the finer points of virtue* (George 46, emphasis mine).

Therefore, the first response to the question regarding the extent of morals legislation is that its aim is to primarily prevent the forms of vice which are more detrimental to society rather than prescribe finer points of virtue. In fact, if a government were to legislate laws toward virtue, many of these laws would be counterintuitive. For example, requiring someone to express gratitude, recognize someone for an achievement, or give gifts would rob these acts of their meaning and value in social life. Gifts are given not because they are required, but because those who are virtuous wish to express their love. Therefore, it is clear that morals legislation intends to prevent vice, rather than prescribe virtue.

However, in considering the effect of laws prohibiting vice in society, one must not assume that these laws simply tame men, but can serve to change hearts and attitudes on issues. For example, one need only look to the decision by the Supreme Court of the United States in *Brown v. Topeka Board of Education* in 1954, which legislated the desegregation of the nation's schools, or the Federal Civil Rights Act of 1964, in helping to shape more virtuous perceptions regarding race in the United States.

Keeping men from vice, rather than forcing virtue stands in contrast to Aristotle who took the concept of morals legislation so far as to say that men should be told what to pursue as a career, where to live, and how to raise a family. I do not find this extent of morals legislation healthy or just. Like Locke, I feel that men should be allowed to pursue their own course of action, and

“without adopting the relativistic view that sees the good as so radically diverse that whatever people happen to want is good, we can and should recognize a multiplicity of basic human goods and a multiplicity of ways that different people (and communities can pursue and organize instantiations of those goods in living valuable and morally upright lives (George 39).

This concept of good is known as a pluralistic good. Instead of Aristotle's view that there is only one "good" decision in every choice that man may make, it takes into account that there may be multiple courses of good. For example, it could be a good decision on a Saturday afternoon to walk the dog, or mow the lawn. Neither of these choices may be deemed "evil". However, at the same time, if a decision on a Saturday afternoon is between walking the dog or viewing pornography on the Internet, in light of the detrimental effect pornography has proven to have on families, I would heartily state that walking the dog is the moral choice, while viewing pornography would be immoral. So, as a second response to the original question, the extent to which morals laws may legislate is one which still allows for pluralistic goods, and does not dictate every breath taken by men and women.

A final response on the subject of the extent of morals legislation is that a law becomes immoral when it goes directly against what humans know to be "natural law". To put it in the terms of St. Thomas Aquinas: "An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust" (King 455). For example, according to natural law, murder is wrong because it does not promote the proliferation of the species. Which is why, the government-legislated Rwandan genocides which occurred in 1994 were inherently immoral. Similarly, Jim Crow laws are immoral because segregation "distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority" (King 455). Therefore, morals laws must uplift and edify human personhood according to natural law.

In summary, the response to the complicated issue of the extent of government legislation is compromised of three components. Morals laws must first prevent vice, rather than promote virtue (although a virtuous result sometimes occurs as a result of such laws), morals laws must allow for pluralistic good, and finally, morals laws must coincide with natural law.

As we conclude, I'd like to paint a picture of a society in which morals legislation occurs. First, this is a society where each citizen has an equal voice, and an equal right to participate in the political process. Second, not only does each citizen have a right to participate, but each possesses a sense of civic duty, in order to better the community. This is a society in which open and productive discussion is frequent, and while dissent occurs, even heated dissent, each participant is able to respect the process by which the decision was reached. This is a society which confronts moral issues instead of ignoring them with apathy, or ignoring them. And as a result, this is a society which is moving towards virtue. Yes, there still will be vice, there still will be immorality, but as a whole, the society is concerned about what is beneficial to its constituents, and therefore works to improve its moral ecology.

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