Editorial: Imposing Values, Legislating Morality

Most of us want others to believe and behave as we do. When others do, our beliefs and behaviors are affirmed; when others do not, they are challenged. Actors at various levels of social life are frequently accused by those who disagree with them of foisting their beliefs and behaviors onto others. At the individual micro level, a spouse may be charged with being controlling. At the organizational meso level, a church may be reproached for becoming cult-like. At the national macro level, a government may be condemned for enacting its "ideology."

Unpacking such allegations requires differentiating between values, norms, and laws, as explicated in every introduction to sociology course and textbook. Cultural values are wide-ranging principles that people use to decide what is desirable, good, and beautiful, and that serve as broad guidelines for social living. They are all-encompassing principles that support more specific convictions, those beliefs that people hold to be true. The Sermon on the Mount outlines the values of the Kingdom of God as expounded by Jesus, contrasting them with the prevailing cultural values. Nevertheless, despite their allegiance to what they claim are biblical values, most Christians fail to comprehend how thoroughly enculturated their operative values remain.

Social norms are the informal expectations and unwritten rules by which a society controls the behavior of its members. They are justified by broader values, and are more specific than values. Prescriptive norms assert what should be done, whereas proscriptive norms assert what should not be done. Some depend on the situation. Applause is expected after a musical performance, is acceptable but not expected after an academic lecture, and is considered inappropriate after a religious sermon. Jesus frequently defied the social norms of his society, implicitly challenging his audiences to ascertain whether his violations were moral or amoral.

Indeed, as William Graham Sumner ([1906] 1959) elaborated a century ago, norms can be dissected further into folkways and mores. Folkways are culture-bound social conventions that guide routine, customary interaction, but remain amoral. Violations of folkways are considered odd or eccentric, but otherwise bear no serious consequences. Mores, in contrast, are norms with serious moral significance. Violations of mores are considered immoral, and as such cause offense, hurt, anger, and even indignation, leading to severe negative social sanctions. In short, folkways determine right and rude, whereas mores determine right and wrong. For a man not to wear a tie to a formal event may contravene a folkway, but to wear only a tie breaches a more. When Jesus talked to women in public and in private, when he touched them and even befriended them, he violated a Jewish more, not just a folkway.

Social policy and law is simply throwing the additional weight of the state behind mores, using the formal, legitimized authority of the state to enforce them. Violations then become not just immoral, but criminal. Some wrongs are deemed so grievous that they demand an official, robust, and punitive response by the judicial system. If it is immorally wrong to torture other human beings, then we are not content with mere tax incentives to encourage citizens to refrain from doing so. The case against Jesus in his trial before the Sanhedrin was that he had transgressed Jewish mores by blasphemously claiming divinity, but the case against him before Pilate was that he had violated Roman law by inciting civil unrest, which was punishable by death.

The greatest point of tension, of course, is between what is legislated as (il)legal and what is judged as (im)moral. Not all that is legal is deemed morally virtuous, or even morally neutral, such as greed, of which adultery is just one kind. Indeed, few of the approximately 125 sins listed in the Bible are actually covered in Western criminal codes. Nor is all that is deemed morally virtuous also legal, such as social activism that can at times become principled civil disobedience. As Peter and the apostles insisted, there are times when "we must obey God rather than any human authority" (Acts 5:29).

Add to the mix the complication of supposed difference between private and public morality. Is there a category of personal conduct that does not affect others, that is therefore not a societal concern, and that therefore should be free from legal intrusion? Conversely, should all conduct that affects others be governed by externally imposed laws concerning any affected relationships? Is it true, or even a meaningful distinction, to say that what is done by private citizens in bedrooms affects no one else, but what is done by corporate executives in boardrooms affects us all? Or does even private behavior eventually alter culture, and thereby become a public issue?

Furthermore, what about social scientific findings that someone who is more politically or theologically conservative will base moral judgments on the values of respect for authority, loyalty, and sanctity, whereas someone who is more politically or theologically progressive will prioritize the values of care, liberty, and fairness, as posited by Jonathan Haidt's (2012) moral foundation theory? Do values precede morality, or vice versa? Whatever one's position or understanding, all law clearly has inherent in it some idea of the good that it seeks to preserve or promote. There is no rationale for a law or social policy apart from a moral purpose. Advocates on both sides of a legal issue, such as the taking of human life in a mother's womb, in conflict with military enemies, in capital punishment, or in medical assistance in dying, all support their positions with moral arguments, including those extrapolated from the biblical text.

We are left then not with civic amorality or deadlock, but with a plurality of moralities that compete for legitimacy, each with their own moral entrepreneurs and moral crusaders, self-appointed moral watch-dogs and moral police. What usually ensues is a perpetual war of

conflicting moralities fueled by inflammatory rhetoric about worst case scenarios, by appeals to authority that not all recognize and accept as authoritative, and by suspect reasoning and selective applications. And in the absence of complete social consensus about morality, all law is simply the reflection of some prevailing social power, contested and resisted as it may be.

Yet adherents of any robust moral code should be able to rise above the law and live according to their own "higher calling," even when they fail to sway the law. As the great sociologist of morality Emile Durkheim put it a century ago, "ideals cannot be legislated into existence; they must be understood, loved, and striven for by the body whose duty it is to realize them" ([1938] 1977:38). The onus rests ultimately on morality, not the law. As much as some set of values and collective moral code drives every law, none can be expressed fully or even adequately within law. Yet all codes invariably try. All religion, as Durkheim also taught us, imposes its values, and functions as a mechanism of social control. Hence it is simplistic, one-sided, and disingenuous to single out selected actors or agents with whom we disagree and accuse them of doing something we cannot avoid doing ourselves.

Just as we cannot not communicate, because everything said or unsaid, done or undone, sends a message, so too we cannot not impose our values. The only open questions are what those values are, what mechanisms of influence we have available, how effective our imposition will be, and what effects will accrue. But we cannot not legislate morality.

References

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