

# Ethical Influences on Crime and Laws

## Lesson 4



***"The more laws and mandates which are enacted, the more there will be thieves and robbers."***

**(Lao-Tze 600 B.C.)**

***A lecture series on ethics by Professor Bonnie Black***

# Power of Laws

- **Adherence depends on moral force behind laws**
- **Without compliance, laws serve no purpose**



# MODELS

## •Consensus View

**Everyone agrees  
what is harmful  
behavior**



## •Conflict View

**Laws serve the  
interest of the  
powerful**



# Creating Laws: Factors

- Protect citizen property

- Morality

  - Who's is it?

- Quality of Life

- Promote individual rights

- Personal safety

- Protect citizen from self

- Equality

- Control power of government

# Who Creates Laws?

- **Politicians?**
- **Public?**
- **Special Interest Groups?**
- **Lobbyists?**

**ALL influence law  
development!**



# What is the Definition of Laws?

Legislate behavior and set rules for society





# Should laws protect people from their own behavior?



# Legal Paternalism



- **Against:** Person makes own decisions as long as it doesn't negatively impact others.
- **For:** Person is a valued member of society and society is compelled to protect.



# Can Laws Make You Moral?



**Do lawmakers have a responsibility to create laws that promote social morality?**

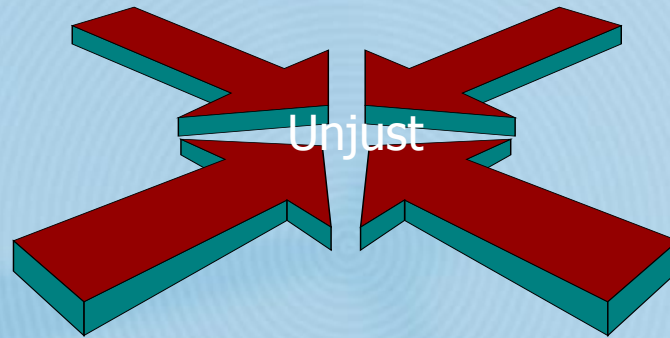
**“Sexual activity belongs to the marital relationship between one man and one woman.. as a basis of family and society. Anything that reduces respect for the purpose of sexuality and for the family is to be deplored.”**

Bishop Wilton Gregory,  
President of US conference  
of Catholic Bishops after U.S.  
Supreme Court threw out a  
Texas law on sodomy-Tribune 7-5-03

# **Legal Moralism**

- **Laws act as moral agents**
  - Sexual behavior between consenting adults harms who?
  - Pornography harms who?
  - Homosexual marriages harm who?
- **Interesting conflicts**
  - Hate speech OK but crimes with hate are not
  - Gambling OK in casino but not done privately

# Can laws be immoral?



“An unjust law is any that degrades human personality or compels a minority to obey something the majority does not adhere to or is a law the minority had no part in making.”



# Example

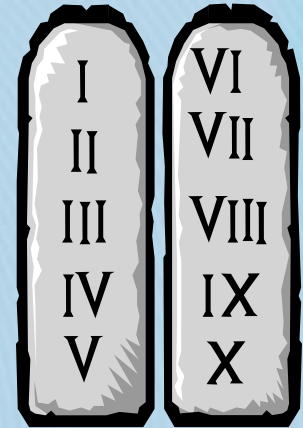
- **What are Sundown laws?**

Blacks must be inside before the sun went down. Not allowed out after dark.



# Reasons for Laws

- **Harm Principle**
  - **Prevent harm to others**
- **Offense Principle**
  - **Prevent crimes**
- **Legal Paternalism**
  - **Prevent people from harming self**
- **Legal Moralism**
  - **Prohibit immorality/standards**
- **Benefit to Others**
  - **Deterrence**



# **New Law: “Foolish Motorists Liable”**

- **New Legislation 2006**

- **Insurers may refuse to reimburse policyholders if:**

- **Keys left in vehicle**
    - **Items stolen in unlocked car**

1 in 5 stolen vehicles was unlocked at the time of theft!

Source: Arizona Republic 2006



# News Story

- **“He’s 22, She’s 14. Should they be allowed to marry?”**
  - **Legally wed in Kansas, Matthew and Crystal had a baby. They call it love. Nebraska, their home state, calls it rape.**
  - **Matthew charged in Nebraska with first degree sexual assault and faces 50 years in prison.**

Source: People, 9-12-05

# Proposition 200

- Establishes a one million lottery for voters who vote in the primary.
- Encourages civic responsibility.

**Defeated**

2006 Arizona Election

# **Problem With Laws:** **Double Standards Exist**

- **Can't hit mother but can financially abandon her**
- **Can't neglect/abuse child but don't have to nurture**
- **Can't beat partner but can emotional abuse**





# **Problem With Laws: Comply With Law But Not Spirit**

## **Attorney Story**

# Attorney Story.....

**"A very wealthy man is dying. He asks his three best friends –a priest, an accountant and an attorney to come visit. On his death bed, he says to his friends, 'I've spent my entire life making money and accumulating wealth. I've decided I want to take some of my wealth with me and I want you to help me. I'm going to give each of you an envelope with \$20,000 dollars in it and I want you to put the envelope in my coffin, at the viewing, so I can be buried with my money.' Well, the three men think it's an unusual request, but they agree to do it.**

**The wealthy man passes away and at the viewing, the priest, accountant and lawyer each drop an envelope in the coffin. As they are walking out of the funeral home, the priest says, 'I've got a confession to make. I took \$5,000 out of my envelope to give to the poor. There are so many hungry people in my parish, I just couldn't see burying \$20,000 when the money could be used to feed and clothe the poor.' The accountant said, 'I'm glad to hear you say that because I took \$10,000 out of my envelope. I did a lot of accounting work for our friend before he died. He hasn't paid me and I figured he owes me \$10,000 for my services.' The attorney looks at the two men and says, 'I'm appalled! How could you do that? We each make a solemn promise to put \$20,000 in his coffin. I just want you to know that I wrote him a check for the full \$20,000!'"**

# Arizona – Comply but not with Spirit

**Example: 9 month pregnant women drives HOV lane and gets ticket.**

*"Whether my son is in a car seat versus in my stomach, I don't get it."*

**2006 Ruling: Judge requires woman to pay fine**

**Source: Tribune**



# Spirit of Law is Tainted Due to Wordage

EX. Under Michigan Law adultery means life term

– 1<sup>st</sup> degree sexual assault



Source: AZ Republic 1-18-07

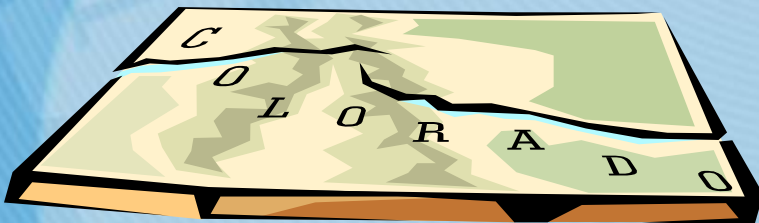
# **Problem With Laws: Few Dictate Good Behavior**

- Don't have to report crime.
- Don't have to assist others.
- Don't have to pay bills  
(Exception: child support).
- Don't have to volunteer or  
give to charity.



# **Problem With Laws: Criminal Vs. Moral Culpability**

- Mitigate crime/punishment based on intent.
- Excuse crimes based on mental state (juveniles and mentally ill).
- Excuse crime based on influence (abuse).
- Not guilty of crime but morally culpable.



**Colorado Case**  
Two 16 year olds



# **Example: Colorado Case**

**Joe and Ashley, both 16 years old leave a friend's house late at night. It is a rural area and no alcohol consumption is involved. Ashley is driving the vehicle, turns too sharp on a curve and rolls the truck. Joe, the passenger, gets out of the truck, walks home and goes to bed. (He does not call the police or attempt to help Ashley.) Ashley, seriously injured lays unconscious for six hours. She is found the next day after her parent's call police and report her missing. She was hospitalized for three weeks before she died from her injuries.**

**\*Result: There was no crime to charge Joe with. His behavior was not illegal, but was it morally wrong?**

# **Problem With Laws: Consequence Based**



- **Assumes deterrence works**
- **Citizens disregard consequences**
- **Few actually face consequences**
  - **50% crime goes unreported**

# Summary of Laws Purpose

- **Formalism**

- **Actions always wrong if illegal**
- **Enforce all laws---eliminate discretion**

- **Utilitarianism**

- **Punishment greater than benefit of crime**
- **Consequences must generate results (deterrence)**

- **Virtue Ethics**

- **Judge based on motives/intent and situation**



# Laws NOT Only Solution

- Are we “law happy?”

- How many laws were created in 2006?

**375**

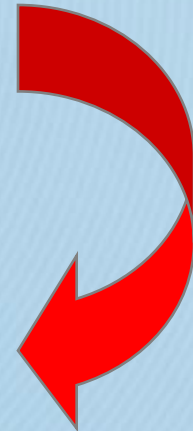
- How many bills were proposed?

**1,453**

Source: AZ Republic 6-25-06

# **Controlling Behavior: Code Of Ethics**

- **Definition:** Professional rules which encourage members to perform under ideal behaviors; motivator
- **Problems:**
  - **Won't eliminate wrongdoing**
  - **Focus on behavior not values**
  - **Rules replace ethical standards**



# Ethical Explanation of Crime

## Theory

**Classical**

**Positivist**

**Structural**

**Ethical**

## Crime Cause

**Freewill-driven by  
maximizing pleasure**

**Internal and external  
Factor---Symptom**

**Individual gain more  
important than society**

**Freewill-driven by  
ethical principles**

## Solution

**Deterrence**

**Rehabilitation or  
change environment**

**Equal distribution  
of power and wealth**

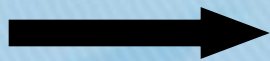
**Educate and  
reinforce ethical  
decision making**

**Don't know why people commit  
crime!!!**



# Conclusion

- Why do citizens continue to violate laws?
- Are there other solutions to controlling behavior than just creating more laws? What about education and prevention?



## ***Lesson 4 Tool Box***

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