

Legislating Morality

By Prof. Randy David

Can we legislate morality in a pluralistic society? My quick answer is “yes”. In fact, we do it all the time. Many of our laws are embodiments of our most cherished moral values.

But, on second thought, my answer is ‘no’. Where conceptions of morality vary widely, no group, sector, community or institution can simply legislate morality without going through the complex processes of the political system, no matter how big a moral majority it may constitute.

Legislation is a political act, and politics in a democracy means that, to the extent possible, politicians must seek conciliation among differing conceptions of what is right.

We know, of course, that this harmonization of moral conceptions is never easy, and is not always possible. Many laws are passed that contradict our deeply held notions of what is morally correct. Thus, there is always room for a moral critique of existing laws or of proposed legislation. One example is the law that prescribes the death penalty for so-called heinous crimes. To many Christians, this law is not morally acceptable. The State, to them, has no right to take away the life of any person, no matter how heinous his or her crime might be. A good example of a proposed bill that is perceived as morally objectionable by many Catholics is the Reproductive Health bill. The current debate on the bills pending in Congress shows the wide variation in belief on many fundamental questions, such as, when does human life begin?

The crafting of laws is a political process that follows a well-defined procedure and is governed by the code of “the common good.” We all know that only a few laws enjoy the backing of a full public consensus. In most instances, laws are finally passed only as a result of several rounds of debate and voting. In these debates, reasons are given for supporting or objecting to a proposed piece of legislation. Some of these reasons may be moral, economic, philosophical, ideological, religious, ecological, and so on. What brings these various reasons together into one common platform is the idea of “the common good” – which is unique to politics.

A proposed bill may of course be killed or shelved before it could become a law. But once it is passed, a law applies to everyone in a given society, including those who may personally disagree with it. In a democracy, the political system is expected to legislate not for the sake of any single religious group or sector but for all citizens.

This editorial is taken from Prof. Randy David's original article entitled "The Church in the Public Square" presented during the ISACC Fellows' Gathering on August 26, 2011.