

Lecture 12 – The Universal Norms of Love (Part IV)

“I am the LORD your God, who brought you out of Egypt, out of the land of slavery. ...” Exodus 20:2ff (NIV)

“Do I say this merely from a human point of view? Doesn’t the Law say the same thing? For it is written in the Law of Moses: ‘Do not muzzle an ox while it is treading out the grain.’ Is it about oxen that God is concerned? Surely he says this for us, doesn’t he? Yes, this was written for us, because when the plowman plows and the thresher threshes, they ought to do so in the hope of sharing in the harvest.” I Corinthians 9:8-10 (NIV)

Key Terms

Restraint, pedagogical (tutorial), guide, convict, covenant use

Objectives

- *Explain the history of the moral law’s secular use.
- *Identify the ground of the moral law.

The Universal Norms of Love (Part IV)

[Discussion of the Ten Commandments in secular use – see below]

I. The Law

D. Sources of moral obligation

1. The ground of the moral law (see Jones, p115ff.)
 - a. The divine command theory of moral obligation
 - b. Holy and loving God

The Secular Use of the Decalogue

Althusius, Johannes. *Politica* (1603). Edited and translated by Frederick S. Carney. Indianapolis: Liberty Fund, 1995. Abridgement of *Politics Methodically Set Forth and Illustrated with Sacred and Profane Examples*, 3rd ed., 1614.

1. “Politics is the art of associating men for the purpose of establishing, cultivating, and conserving social life among them. Whence it is called ‘symbiotics.’”
2. “The end of political ‘symbiotic’ man is holy, just, comfortable, and happy symbiosis, a life lacking nothing either necessary or useful” (17).
3. “Truly, in living this life no man is self-sufficient ... The energies and industry of many men are expended to procure and supply these things. Therefore, as long as he remains isolated and does not mingle in the society of men, he cannot live at all comfortable and well” (17-18).
4. “This mutual communication, or common enterprise, involves (1) things (goods), (2) services, and (3) common rights by which the numerous and various needs of each and every symbiote are supplied, the self-sufficiency and mutuality of life and human society are achieved, and social life is established and conserved” (19).

5. “The precepts of the Decalogue are included to the extent that they infuse a vital spirit into the association and symbiotic life that we teach, that they carry a torch before the social life that we seek, and that they prescribe and constitute a way, rule, guiding star, and boundary for human society. If anyone would take them out of politics, he would destroy it” (Preface to 3rd ed., 11).

“Universal symbiotic communion is both ecclesiastical and secular. Corresponding to the former are religion and piety, which pertain to the welfare and eternal life of the soul, the entire first table of the Decalogue. Corresponding to the latter is justice, which concerns the use of the body and of this life, and the rendering to each his due, the second table of the Decalogue. In the former, everything is to be referred immediately to the glory of God; in the latter, to the utility and welfare of the people associated in one body” (75).

Henry, Carl F. H. Henry, *The Uneasy Conscience of Modern Fundamentalism* (Grand Rapids, MI: Eerdmans, 1947), 39.

“The Ten Commandments disclose the only secure foundation for a society without the seeds of dissolution; all cultures, cut loose from these principles, have in them the vitiating leaven of decay. And no culture can hope to fulfill such high prerequisites, minus a relationship with that God, holy and redemptive, who is the precondition for their very disclosure to man” (39).

Harrelson, Walter J. *The Ten Commandments and Human Rights*. Philadelphia: Fortress, 1980.
Lehmann, Paul L. *The Decalogue and a Human Future*. Grand Rapids: Eerdmans, 1995.

The “Althusian” position is entirely understandable in light of the history of the Ten Commandments in the church by which they came to have a privileged place as societal norms. Illustration: Trip to Ladue police station.

The impulse to acknowledge their privileged position by posting them in public institutions, especially public (i.e., government controlled) schools, is likewise understandable in light of the formative influence of the biblical tradition, the common heritage of Christians and Jews. (Nor does the Ethical Society disagree with the precepts of the second table of the Decalogue.) Why not post them in public schools?

HR, June 1999, “Ten Commandments Defense Act Amendment [to juvenile crime bill].” To permit display in schools and other public bldgs. “The principles which we as a civil society need to live by to maintain order and decency, and to preserve the American family.”

Stone v. Graham, 449 U.S., 39 (1980).

A Kentucky statute requiring the posting of a copy of the Ten Commandments, purchased with private contributions, on the wall of each public school classroom in the State has no secular legislative purpose, and therefore is unconstitutional as violating the Establishment Clause of the First Amendment. While the state legislature required the notation in small print at the bottom of each display that “[t]he secular application of the Ten Commandments is clearly seen in its adoption as the fundamental legal code of Western Civilization and the Common Law of the United States,” such an “avowed” secular purpose is not sufficient to avoid conflict with the First Amendment. The pre-eminent purpose of posting the Ten Commandments, which do not confine themselves to arguably secular matters, is plainly religious in nature, and the posting serves no constitutional educational function. Cf. *Abington School District v. Schempp*, 374 U.S. 203. That the posted copies are financed by voluntary private contributions is immaterial, for the mere posting under the auspices of the legislature

provides the official support of the state government that the Establishment Clause prohibits. Nor is it significant that the Ten Commandments are merely posted rather than read aloud, for it is no defense to urge that the religious practices may be relatively minor encroachments on the First Amendment.

Kentucky courts reversed without plenary consideration, Rehnquist, Blackmun, and Stewart dissenting (though Stewart thought criteria were correct).

Decision.

The pre-eminent purpose for posting the Ten Commandments on schoolroom walls is plainly religious in nature. The Ten Commandments are undeniably a sacred text in the Jewish and Christian faiths...The Commandments do not confine themselves to arguably secular matters, such as honoring one's parents, killing or murder, [449 U.S. 39, 42] adultery, stealing, false witness, and covetousness...Rather, the first part of the Commandments concerns the religious duties of believers: worshipping the Lord God alone, avoiding idolatry, not using the Lord's name in vain, and observing the Sabbath Day.

This is not a case in which the Ten Commandments are integrated into the school curriculum, where the Bible may constitutionally be used in an appropriate study of history, civilization, ethics, comparative religion, or the like...Posting of religious texts on the wall serves no such educational function. If the posted copies of the Ten Commandments are to have any effect at all, it will be to induce the schoolchildren to read, meditate upon, perhaps to venerate and obey, the Commandments. However desirable this might be as a matter of private devotion, it is not a permissible state objective under the Establishment Clause.

Dissent.

The Court rejects the secular purpose articulated by the State because the Decalogue is "undeniably a sacred text ...It is equally undeniable, however, as the elected representatives of Kentucky determined, that the Ten Commandments have had a significant impact on the development of secular legal codes of the Western World...Certainly the State was permitted to conclude that a document with such secular significance should be placed before its students, with an appropriate statement of the document's secular import.

The Establishment Clause does not require that the public sector be insulated from all things which may have a religious...significance or origin. This Court has recognized that "religion has been closely identified with our history and government," ... and that "[t]he history of man is inseparable from the history of religion"...Kentucky has decided to make students aware of this fact by demonstrating the secular impact of the Ten Commandments.

You be the judge: Is the posting of the Ten Commandments in public schools an appropriate use of civil authority? Does religious pluralism trump historical development?

Even though the commandments embody universal moral norms, the context is particular: they were promulgated as the covenant way of life for people in covenant with the God of Abraham, Isaac, and Jacob, the God and Father of our Lord Jesus Christ.

I think we should distinguish between the civil use of the moral law and the political use of the Decalogue. The moral law is known by general revelation that is accessible to all. Posting the Decalogue

imposes special revelation on some who do not recognize its authority and establishes the “divine command” theory of morality.

Common morality (general revelation and common grace) exists without a common ethical theory to back it up. The common core of ethical beliefs form an overlapping consensus, so there is pre-theoretical agreement on basic moral principles such as reciprocity, consistency, non-malificence, and beneficence.

The precepts of the natural law (*jus naturale*) are “live honorably, injure no one, and render to each his due.” *Digest* (of Roman Law) I, 1, 10, 1 (Althusius, 122).

Polybius says that the desirable and stable condition of a commonwealth is one in which holy and blameless life is lived in private, and justice and clemency flourish in public. *Histories*, VI, 47 (Althusius 74).

Killing human beings is wrong. What about capital punishment? involuntary euthanasia? voluntary euthanasia? physician-assisted suicide? abortion? infanticide? Taking what belongs to someone else is wrong. What about taxes? the graduated income tax?

“Travelers going from country to country can reasonably assume, without consulting lawbooks, that most forms of theft and physical assault will be forbidden wherever they go” (Robert Merrihew Adams, “Religious Ethics in a Pluralistic Society”).