

Legislating Immorality?

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Robert George (Princeton)

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The 'Moral Ecology' thesis

“Laws can compel **outward** behaviour, not **internal** acts of the will; therefore they cannot compel people to realize moral goods.

They cannot, in any *direct* sense, ‘make men moral’.

Their contribution to making men moral must be *indirect*.

“People become morally bad by yielding to vice...

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 . . . laws can protect people from strong temptations and inducements to vice.

“...it is a mistake to suppose that laws **by themselves** are **sufficient** to establish and maintain a healthy **moral ecology**.

It is equally a mistake to suppose, however, that laws have **nothing** to contribute to that goal...

They can **powerfully reinforce**, **or fail to reinforce**, the teachings of parents and families, teachers and schools, religious leaders and communities...”

Robert George, *Making Men Moral: Civil Liberties and Public Morality* (1993)

Whose ecology?

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Prostitution Reform Act 2003, s
3:

“The purpose of this Act is
to decriminalise
prostitution (while not
endorsing or morally
sanctioning prostitution
or its use) ...”

Radio Sport and brothel advertisements

Femme Fatale radio adverts 2009

Complaint 09/419

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Working Girls radio adverts 2009

Complaint 09/422

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Advertising Code of Ethics

(Feb 2009)

Adverts should not contain anything

“..which **clearly offend[s]** against
generally prevailing community
standards..”

Rule 4

“..[that] in light of generally
prevailing community standards is
likely to cause **serious or
widespread offence..”**

Rule 5

The verdicts?

- Advertising Standards Authority
Chairman

Written Rulings, 8 July 2009

NO BREACH

See: <http://www.asa.co.nz/decisions>

- Advertising Standards Complaints
Board

Written Rulings, 16 October 2009

Solutions?

- Realize that 'bracketing' (excluding) moral/ religious considerations is plain foolish
- Maximize incentives to 'virtue' and minimize incentives to 'vice'
- Make the 'polluters' pay for the moral degradation (levy the vice industries)
- Strengthen the institutions of civil society