

## Parallel Thinking Part 37: The Emergence of Ethics I

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Since the dawn of civilised society, some of the world's greatest thinkers have grappled with the relationship between societal laws and the concept of individual morality. While the rule of

law is designed (at the very least) to prevent anarchy, should private acts deemed to be immoral be punished even when there is no obvious harm to others? Or does our personal freedom come first?

Furthermore, many actions may fall within the permitted parameters of secular law, but still seem morally wrong, such as the scandals in the UK involving corporate tax avoidance. While the actions of some multinational companies technically fell within the law, the public outcry was that these operations were immoral.

In a secular Western democracy, if such immoral acts are to be punished, can subjective humans ever genuinely decide for themselves what is moral or immoral? Without God's objective perspective on human morality, are we limited to a society based upon moral relativism?

This debate has raged for generations. For example, the Wolfenden report of 1957, reviewed the illegality of homosexuality and prostitution in the UK. At the time, British judge and Law Lord Patrick Devlin vociferously argued that the law should uphold public morality by continuing to outlaw homosexual acts. Opposing him was British legal philosopher and professor of Jurisprudence at Oxford University, Herbert Lionel Adolphus Hart, who argued that the function of law is to "preserve public order and prevent the exploitation of others". From Hart's viewpoint, even if one could argue that an act is immoral, provided it did not harm others, the law should not intervene, especially where societal attitudes to particular acts change.

Nevertheless, from a Jewish perspective the questions are more complex. If Divine law is

definitively and objectively ethical, how do we explain concepts in the Torah which jar against accepted contemporary morality? How do we view the Torah's sanctioning of capital punishment (in certain cases) or the command to annihilate the entire nation of Amalek? Must we discount contemporary moral sensitivities in the face of Divine law or could Jewish law accommodate the idea of an evolving morality?

The former chancellor of Yeshiva University in New York, Rabbi Dr. Norman Lamm notes that: "Separating Halacha from morality does violence to both, turning Halacha into a codex of rigid and sometimes heartless rules, and morality into a kind of unstructured and emotionally driven method, as imprecise as it is subjective, of deciding upon one's conduct" (*Faith and Doubt*, 2006).

Indeed, Rabbinic law did not separate Halacha from morality and therefore instituted decrees to protect the rights of servants, proscribed polygamy, and emphasised that the commandment to annihilate Amalek does not apply if they pledge to keep the seven Noachide laws of basic societal morality.

Rabbi Lamm concludes that, while we are not free to invent new moral doctrines that are contrary to Torah, we are not only permitted, but obliged to "use our creative moral and halachic reasoning to reveal the latent moral judgments of the Torah that may contradict what we have previously accepted as the only doctrine in Torah".



Rabbi Dr. Norman Lamm

Answer: spices, balsam and lotus