

NEW YORK WEIGHS NIXING ADULTERY LAW

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“Thou Shalt Not Commit Adultery.” The Sixth Commandment has been encoded in civil law throughout the world, and though it has proven to be unenforceable in most instances, it has nonetheless functioned as an example of the law as a teacher: what it taught is the importance of the marriage contract.

Charles Lavine is an Assemblyman from New York, and he wants to rid the law of prohibitions against adultery. Adultery has been a misdemeanor in the state for nearly 120 years, but he thinks it's time to move on. “It's a celebration of someone's concept of their own morality.”

That's a poorly constructed sentence. It is also sociologically illiterate.

Laws against adultery are a recognition of our Christian heritage, and that's not exactly the same as “someone's own concept of their own morality.” It's a cultural statement writ large. But with characteristic arrogance, Lavine thinks we are mature enough now to free ourselves of this ancient taboo.

It would be instructive to learn from Lavine why he thinks laws against adultery have been ubiquitous throughout history.

The late Harry Jaffa, a brilliant Jewish scholar, understood the natural law as well as anyone. He maintained that the institution of marriage was so vital to social wellbeing that acts such as homosexuality, rape, incest and adultery must be rejected. They are wrong because “they are inconsistent with the harmony and good order of the family, which is the foundation of all social harmony and social order, and thereby of all human happiness.”

Feminists such as Boston University law professor Katherine B. Silbaugh are fond of saying that adultery laws were punitive measures aimed at discouraging married women from having extramarital affairs. "Let's just say this: patriarchy."

She is partially right, but her sweeping statement is historically inaccurate.

To be sure, in many parts of the world what she said is true. Among primitive peoples, women were regarded as the property of males, hence the focus of adultery laws on women. In Babylonia civilizations, women who engaged in adultery were put to death, but adulterous men simply paid a fine.

In ancient Greece and Rome, the notion that the wife was the property of the husband was still operative. In Mosaic Law, adultery meant a wife who had sex with a man who was not her husband, but if a married man had sex with a single woman, that was considered fornication, not adultery.

Matters changed under Christianity. Jesus taught that adultery was wrong, independent of the sex of the offender. Therefore, adultery laws that discriminated against the wife were nixed—the immunity enjoyed by the husband came to a screeching halt (Matthew 19: 3-13).

According to one student of this subject, "The church's courts saw no difference in gender and equalized the punishment for a commission of illicit sexual relations outside of a marriage."

Also, it was Christianity that put an end to the loose sexual norms that were countenanced by the Romans. Those strictures privileged men, leaving women in a precarious state. Christian norms placed a premium on monogamy and heterosexual relations, a strong departure from past practices.

Much has changed since as laws against adultery have almost vanished in the western world. It must be conceded that if adultery laws are stricken in New York, no one thinks there

will be an increase in marital cheating. But there is more at stake than this.

Sociologically, it is the vector of change that should concern us. What does the relaxation of laws against adultery portend? And why should we go there?

For example, laws were written against prostitution to protect the institution of marriage: the wife was, and still is, the primary victim; the welfare of children is also jeopardized. But to those like Assemblyman Lavine, laws against prostitution are merely “a celebration of someone’s concept of their own morality.”

There is a reason why an ethic of sexual reticence best serves society—it guards against the promiscuous abuse of the faculty of sex. Sometimes it is best to let sleeping dogs lie.

We are sending this to New York lawmakers and New York bishops.

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