What Is the Law, to Whom Does it Apply, and What Shall I Do?

Copyright © 25 October 2012 by Bob Hurt. All rights reserved.

What Is the Law?

Americans have every good reason to ponder and demand answers to this question BEFORE they get in trouble for not knowing: What IS the law?

Let us start with a simple definition of law. Wordnet says this:

LAW  
1. the collection of rules imposed by authority (Freq. 50)  
- civilization presupposes respect for the law  
- the great problem for jurisprudence to allow freedom while enforcing order  
  • Syn: ↑jurisprudence  
2. a rule or body of rules of conduct inherent in human nature and essential to or binding upon human society  
That pretty well puts it in a nutshell. "Good" law enforces freedom in balance with order. In a Republic the law equally binds the governed and those who govern. As I see it, law itself operates according to simple rules for both the governing and the governed:

1. Validity - constitutional (within the legislative authority and enacted procedurally) and soundly principled  
2. General benefit to the governed  
3. Applicability  
4. Knowability (including comprehensibility)  
5. Enforceability  
The governed (and often the governing) typically ignore or flout laws that do not comply with all of the above rules.

I now provide you with an example of unknowable law.

I have in my bookshelf an old book entitled Title 26 of United States Code (The Internal Revenue Code). The book contains 7500 pages of Bible paper that state what the law IS.
First of all, nobody can read, understand, and remember all of that. Further, salient areas of that code engender confusion in the minds of thousands of Americans. Many claim the IRS refuses to collect taxes according to it, and thousands of IRS agents claim millions of Americans disobey it. In reality, many if not most who do not obey it claim it simply does not apply to them.

That brings up a corollary question:

**To Whom Does the Law Apply?**

We needn't concern ourselves with laws that don't apply to us. But when our status changes, so might the laws that apply to us because of that new status. For example, parents control their children with family laws, but when the children become adults, society controls them with society's laws. And of course society's laws control parents so that they don't abuse their children.

I offer this example of a law of doubtful applicability to Americans in general. Many who deny applicability of the law to their lives point to the fact that the Several States' legislatures never ratified the 16th Amendment, and that some sort of skullduggery in the Legislature caused its enrollment as a constitutional amendment. The Supreme Court refuses to address the matter, denoting it as a "political" issue beyond the reach of their authority. And of course, the vast array of imbeciles and ignoramuses in the electorate makes it virtually impossible for the wiser voters to put competent, noble, informed officials in power.

Specifically, (to cite an example) those same imbeciles want to put a non-natural-born citizen into the Presidency again, a violation of the Constitution's credential requirements. So we have virtually no hope that the government will correct the terrible body of law regarding internal revenue.

And that constitutes just one of 50 Titles of United States Code. America has so many purported laws that nobody knows or can know even a reasonable portion of them or which ones apply to them. To the federal laws we must add state, county, city, and community laws. The people cannot possibly know all of them. So, the people cannot possibly obey of them. Fortunately not all laws apply to all people in all circumstances.

**The Legal Process**

In case you don't yet see the gravity of the law situation, though, consider how people
argue over the law formally: in court. Rules of procedure and evidence govern court procedure. I cannot imagine a more civilized means of bringing the truth to light and resolving controversies. A trial court will determine facts in an adversarial dispute and apply the law to those facts in order to arrive at a "just" ruling. Unfortunately, public schools do not teach the rules of procedure or evidence to school children. So, most people cannot effectively litigate a court case without the help of an attorney.

An adversary who disagrees with the ruling will ask an appeal court to settle the matter by a new review of the issues or highlighting the procedural errors through an examination of the record. Appellants may seek for a proper ruling in at least two levels of appeal at state or federal level. The Supreme Court constitutes the court of last resort, IF it agrees to hear the case.

Most appeal courts consist of tribunals or panels of an odd number of justices/judges: 3, 5, 7, or 9, depending on the type of court. Justices of these tribunals love to issue unanimous opinions, but often they do not. In the case of split decisions, the majority opinion becomes a state of what the law means that issue and how it applies to the facts. That opinion binds the parties.

Appeals court opinions also bind lower trial and appeal courts in the appellate jurisdiction. We refer to such opinions as "case law" or stare decisis. All other jurisdictions courts may consider those opinions advisory in nature. No court must abide by the opinion if the case at hand contains sufficiently different circumstances or facts. In general, an appeal court's statement of what the law means simply clarifies the legislative intent. No court has authority to rule in opposition to legislative intent. Such would constitute treason against the Constitution because it permits only the Legislature to make the laws.

Split decisions by panel courts reveal some disappointing realities:

1. Some judges do not know what the law IS (otherwise they would agree with one another).
2. Some judges do not know what the law MEANS (all could opine wrongly).
3. Some judges do not know how the law should apply to the facts.
4. Some judges do not care what the law IS or MEANS or how it applies - they opine out of political motives or ideological differences with lawmakers.

The foregoing realities apply to judges at every level in every branch of government. Some do not know or agree with what the law is or means, or how it applies to the facts. In the end judges are just people trying to figure out civilizational ideals and make society work according to related established laws.

Bottom line, split opinions mean the law is either inscrutable to those subject to it or just plain wrong. Citizens could conclude that they do should have to obey it as
written, that it has an advisory nature, and that they may flout it at will. Common sense dictates that either the Legislature MUST revise it to clarify its meaning or eliminate because of its unworthiness, or the judges who don't get it must leave the job of judging to someone else.

All of this discussion might seem interesting to some, but law enforcers actually arrest, and District/State/US Attorneys actually prosecute some people who flout the laws. The rubber of law ideals hits the road of hard reality right there, at the point of government persecution of lawbreakers, even for laws that make no sense under the circumstances. For example, what does it matter if you break the speed limit on an otherwise empty highway in the desert in broad daylight?

This discussion might seem way too hypothetical and ethereal till you boil it down to some essential effects in your life. Let's boil it.

US Supreme Court Justice Roberts recently opined for his majority that the Obamacare insurance shirker penalty constitutes a tax, not an unconstitutional effort of Congress to force people to buy insurance policies they don't need or want. Many wondered at the majority's cowardice. Some considered it wisdom because now some Citizen or group must sue for a determination of whether that tax violates restrictions the Constitution imposes on the manner in which Congress may impose direct and indirect taxes. Then the Supremes might well rule that the Insurance Avoider Tax exceeds the authority of Congress because it directly imposes the tax without apportionment among the states. And the justices will have saved face.

Meanwhile many, like you, might worry about having to pay an abusive tax disguised as health insurance premiums. For the rest of your life. Does that boil it down enough?

You see, the Supremes should have said the "General Welfare clause" of the US Constitution does not justify any legislation. The clause does not bind Government. It simply guides the motivation of all Government employees in all branches. Why? Because it does not exist in the main body of the Constitution. It exists only in the preamble.

If the Roberts court had said that, they would have thrown at least the Obamacare insurance avoidance penalty out as blatantly unconstitutionally - Government has no constitutional authority to force people to buy insurance or penalize them for not buying it.

In fact, Congress and the Courts use the General Welfare clause to justify all kinds of socialism, including the kind that caused 16 trillion dollars in national debt. They rob from the rich what the rich does not have, but must ultimately pay for throughout
hundreds of years in the future, in order to give largess to the inept, feckless, and undeserving poor, both in the USA and foreign lands. And let us not forget billions squandered to keep failing corporations afloat, without a shred of constitutional justification.

In other words, Government uses the "General Welfare" clause to rob you. Why do I say "you?" Because you with the sense to read this probably do not fit into the category of people who depend on Government's legalized plunder (welfare) for your subsistence. I imagine no welfare recipient would have read past the headline. So you must be one from whom the welfare money flows through government and into the hands of the recipient. Poor you.

Back to the issue of the law and its application, I have concluded that judges usually try to do their best to render fair and just opinions. But, being human and political, they have a hard time eliminating their political ideology and bias out of those opinions. That remains particularly true for sticky issues like the right right to life and freedom from discrimination for gender, race, nationality, and religion.

The Supreme Court had to rule on the right of pregnant mothers to abort fetuses. They had to determine whether a fetus is a human and whether Government must protect the lives of such humans while still part of and dependent upon the mother's body for subsistence.

The Supreme Court and Congress had to determine whether a Negro slave constituted a human being, whether as human the slave had the right to liberty and to suffrage and later whether Negroes had the same right as other Americans to bus seating, public toilets, public drinking fountains, and private restaurant seating, marriage outside the race, quality public school education, and access to the polls.

Government still has not finished with those sticky issues.

The Gene Pool and Suffrage

Now, looming on the horizon, we have the elephant-in-the-room issue of universal suffrage, characterized by two serious civilizational problems:

1. Excessive defective people in the gene pool
2. Voting rights for people of low productivity value and low responsibility

I hinted above at the tendency of people to flout laws they consider inapplicable or unwise. I heard in the news today a story about a letter sent to an array of people in Florida suggesting that they could not vote.
Only an ignoramus would believe such a letter, but that reality makes the point. Ignoramuses and the not-so-bright probably wouldn't vote anyway unless a Democrat campaigner rounded them up and bused them to the polls. But because they have the right to vote, and because they make notoriously wrong choices in life, they will reliably make wrong choices in political candidates. Therefore people with common sense typically agree that such folks should not vote at all.

People of sense want to know what they must do to have the voice of sanity restored to the election processes, through honesty and fairness in campaigning, balloting, and voting rights. Voting by the uninformed, unintelligent, irrational, irresponsible, criminal, and mentally incompetent effectively cancels out votes by more high-quality electors. So, it shouldn't happen. But the law permits it anyway, unwisely some think.

Many recognize the decline of the quality of the American gene pool through procreation and immigration of masses of people of low intelligence, and the attendant social and economic problems. Upwards of 80 million Americans haven't the cognitive ability to graduate from high school. Responsible Suffrage activists want government to acknowledge the right of the American civilization to future citizens of high average quality. They want government to acknowledge the essential wrong to individuals and the society of knowingly procreating a physically or mentally defective child and expecting society to suffer the brunt of care for and protection from such defectives. They want government to sponsor benign programs that elevate the quality of the gene pool.

Gerps - Perpetrators of Crime in Government

Many recognize the terrible consequences that happen when increasing numbers of mentally incompetent and irresponsible people vote. They realize such voting will result in the elevation of crooks to positions of power in government. They know from history what such crooks will do - destroy the honest, constitutional functions of Government by corrupting its ideals in the minds of those who govern. In other words, they morph the USA into a third-world country.

Crooks in Government naturally pervert the functions of government, making them become elements of a criminal enterprise. Some crooks do it out of misguided idealism, such as the Communist/Socialist altruists who want Government to steal from the rich and bestow the stolen money upon the poor. Apparently they don't realize that such theft simply converts the poor into crooks too.

Other crooks in government may serve ulterior, conspiratorial purposes to destroy the United States of America as a republic and convert it to a Communist dictatorship, or a
judicial oligarchy. Yet others simply do the bidding of monstrously wealthy corporations like the Federal Reserve, with its secret owners, and banks, insurance companies, oil and other energy companies, or even foreign governments like China, Israel, or Saudi Arabia.

Such crooks manage to manipulate Congress and the courts to the extent needed to get onerous laws passed to suppress the rights of Citizens, like outlawing full-automatic military rifles in the hands of private citizens, requiring concealed carry permits, requiring gun registration, ignoring petitions for redress, suspending habeas corpus for frivolous reasons, invading cyberspace to destroy all semblance of privacy, putting people on no-fly lists or other government watch-lists, requiring reporting of money taken abroad, and so on.

1. The first bone of contention about such laws arises when one tries to find justification in the US Constitution for them. Typically, it does not exist.

2. The second arises with respect to the manner of enacting the law. Congress enacts some of the more egregious in violation of established procedures.

3. The third arises with respect to the manner of applying the law in courts. Political pressure causes many judges to flout law and procedure and rush issues to wrongful judgments that benefit the power structure, not the nation.

Apparently we suffer no shortage of Gerps. Just as apparently, most Gerps don't recognize their true nature as Gerps. Or do they?

What Shall I Do?

Obviously ALL Americans have a serious duty, possibly a divine duty, to make Government conform to ideals, specifically, and at a minimum, those which the US Constitution articulates. Secondarily, Citizens must reform the Constitution in areas where crooks or misguided idealists have warped it into something the founders never intended. I have somehow managed to distill these issues to their essence in terms of my duty to myself and others:

1. Educate yourself about the ideals of good government and the facts of law, rules of court and of evidence, administrative and political processes, and obligations of citizenship.

2. Accept responsibility for the federal and state Republics, with all their warts. You must make each republic conform to ideals by whatever means you deem expedient, even if that means you have to gut it and start over.

3. Read the statutes and case law, then interpret the Constitution and laws as you see fit. If judges and Obama can do it, so can you. In fact, you have the duty to do just that.
4. Obey whatever laws make sense and seem constitutional to you, and encourage others to do the same. Ignore the other laws at your peril. Government agents might arrest you, and courts might convict you and turn you into hamburger, but so what? You have immortality within you.

5. Become a hard-core, steely-eyed, dyed-in-the-wool, high-octane administrative, legal, and political ACTIVIST OF UNBENDING INTENT. Campaign hard for honest, constitutional, honorable, knowledgeable, intelligent, competent statesmen, and become one yourself. Urge repeal of bad laws and passage of good laws that hold government employees accountable for disobedience of their loyalty oaths.

6. NEVER tolerate crime in government. NEVER. NOT EVER. NOT IN ANY FORM. Identify and illuminate the crime, the law broken, and crime's Government Pepetrators (Gerps). Expose them broadly by blog, news media, PR campaigns, banners, picketing, street demonstrations, letters, and demands on ethics/oversight groups. Excise Gerps one by one using administrative process, law, politics, ingenuity, common sense, and any means you deem expedient. Replace Gerps with men and women of honor, integrity, and ability.

7. Life is but a day's work. Do it well.

---

**Bob Hurt**  
P.O. Box 14712  
Clearwater, FL 33766-4712  
(727) 669-5511  
Visit My Home Page · Email Me · Visit My Blog

Learn to Litigate with Jurisdictionary (Buy Now)  
Stay informed with Lawmen E-letter (Subscribe Free Now)

Donate to my Law Scholarship Fund.

Phone App reads tag