

Disgust and the Law: Not a Good Combination

In her book “Not for Profit”, M. Nussbaum quotes Lord Devlin’s claim that a society needs to base its laws on "the disgust of the average members of society". In line with Nussbaum's opinion, I believe that disgust is not a sound reason on which to ground our legal system.

Taking into account the current social situation in Argentina, there are some practices which are being considered in Congress as projects for new laws: for example, abortion and the right of 16 and 17-year-olds to vote. Strangely, these same practices are the ones that people in our country may want to make illegal because of disgust.

Although the need to legalise abortion for special cases is widely recognized nowadays, there are many people who are still against this idea. These are people who have what we might call traditional values, who are appalled and disgusted at what they consider to be the murder of a child by means of abortion. These beliefs lead them to act instinctively and violently, for example insulting a woman who is about to have an abortion or invading her privacy by camping outside the hospital, as happened recently in Buenos Aires. This is one reason why the law cannot be based on disgust: a right which is crucial in the historical moment we are living might be jeopardised because of the instinctive reaction of a group of people.

As regards the vote of 16 and 17-year-olds, the issue is more complicated. People who oppose it are not disgusted by the fact of the vote itself, but rather by the idea that the government might be manipulating young people in order to hold on to the power they have. This is what causes the very violent arguments we see in the comments to news stories about this issue, where a debate which is political or ideological soon turns into a series of insults on a personal level. Instead of basing this law on disgust, we should consider more stable and rational grounds –as Nussbaum suggests-, such as the importance of this project for the participation of young people in their country’s decision-making.

These examples show the particularly difficult situation our society is in. On the one hand, citizens are being granted more and more rights, but at the same time there is strong opposition to these new rights by a more traditional section of the population. This is where the law must come in to settle the disputes.

We need laws to regulate our behaviour, but we cannot base these laws on individual and irrational beliefs such as disgust. The Argentine society is clearly

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evolving and has new needs that must be taken into account by a rational and stable legal system, which prioritises the welfare of many over the disgust and violence of a few. Once we understand this, we will be able to become a society that sets individuality aside: in a word, a more humane society.