

The question we should be asking or looking into regarding all the oppressive and what appears to be unconstitutional law is, what is the authority behind this law? The answer to this primarily depends upon the source of the law and our relationship to that source.

The Source of a Law

We generally understand that all laws which regulate human conduct are either human or divine according to whether they have man or God for their author or source. Under Anglo-Saxon jurisprudence, the law of God has always stood in pre-eminence in relation to human law.

Man's laws are strengthless before God's laws, consequently a human law, directly contrary to the law of God, would be an absolute nullity.³

While this proposition is quite true and important, it also acknowledges that man is a source of law. Actually, God has in many instances recognized that this ability or power for human law does exist, as with kings, patriarchs or heads of a house.

For something to be regarded as a law, it must come from a source which has authority to enact the law. If a person is required to follow a law of another person or entity, then that person must in some manner or degree be subject to the law making entity. Thus the authority for a law depends on the source of the law, and the relationship between that source and the one obligated to follow the law. Let us look at some examples of this concept.

The prime example of a law making authority is God. We readily acknowledge that God can enact laws which we are obligated to follow. But what is His authority to do so? Why are we required to follow laws of God? Is it because God is all powerful, or all knowing or because He is eternal? No it is not. God's authority to place law over us lies not in the

fact that He is omnipotent or a Supreme Being, but rather in our relationship to God. That relationship lies in the fact that God is our Creator and provider. Sir William Blackstone expressed this relationship in his discussion on "the nature of laws," as follows:

Man, considered as a creature, must necessarily be subject to the laws of his Creator, for he is entirely a dependent being. A being, independent of any other, has no rule [law] to pursue, but such as he prescribes to himself; but a state of dependence will inevitably oblige the inferior to take the will of him, on whom he depends, as the rule of his conduct. . . . And consequently, as man depends absolutely upon his Maker for everything, it is necessary that he should in all points conform to his Maker's will.⁴

God has the authority to make law we are subject to because we are His creatures and because of our dependence upon Him for necessities of life. These things establish a relationship between us and God, making us legally obligated to Him. Thus, because of these relationships God has authority to make laws we must follow.

Similar to this is the authority of a parent to make laws which a child must follow. A parent is a law making authority over a child not because the parent is stronger or bigger or even more intelligent than the child, but because of the relationship between parent and child. The child was produced by the parent and is dependent upon the parent, thus when laws come from that source, the child's parent, the child is bound to obey. The parent has authority over the child because of the relationship that exists between them. But that same parent does not have authority to prescribe rules of conduct for another child as no legal relationship exists between them. The superior strength and knowledge of that parent does not give him the right to make law for any child he thinks needs correction but his own

3 *Borden vs. State*, 11 Ark. 519, 526 (1851).

4 1 *Blackstone's Commentaries*, § 38, p. 39.