

# A SERMON ON THE LAW: THE JURISPRUDENCE OF LOVE

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## ABSTRACT

*This essay, in the form of a sermon to lawyers and lawmakers, articulates a liberating, progressive, theological jurisprudence of love. This jurisprudence seeks the empowerment of all people and advances a strong policy preference for the poor and disenfranchised. Rooted in scripture, this critical rule measures law and policy in the United States against fundamental human dignity. This is an ancient, radical message for contemporary law and policy. This theory of love is a critique of reactionary, right-wing fundamentalism. It condemns emerging Christian nationalism, affirms inclusive democracy, provides a systemic assessment for policy and politics, and marks a path toward beloved community. Drawing on doctrines that have underpinned movements for abolition, universal suffrage, peace, and civil rights, the homiletic form quickens a positive, normative jurisprudence with accessible rhetoric that avoids partisan, academic shibboleths. Relying on black and Latin American liberation theologies; feminist, indigenous, and Asian theologies; natural law jurisprudence; critical theories; and Anglican, Catholic, Evangelical, and Orthodox sources, this essay aims to reconcile antagonists with a compelling, universal commitment to restoration and justice by tracing the imperative legal and policy implications of love.*

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## I. A READING FROM THE GOSPEL OF MATTHEW

*When the Pharisees heard that he had silenced the Sadducees, they gathered together, and one of them, a lawyer, asked him a question to test him. "Teacher, which commandment in the law is the greatest?" He said to him, "You shall love the LORD your God with all your heart, and with all your soul, and with all your mind.' This is the greatest and first commandment. And a second is like it: 'You shall love your neighbor as yourself.' On these two commandments hang all the law and the prophets."<sup>1</sup>*

My colleagues at the bar, bench, and government, I am grateful for the privilege to preach today on our work as lawyers and lawmakers. Our lessons come from the prophets, gospels, and epistles, and I hope some ancient, radical gospel jurisprudence may still be useful in our own gilded age of injustice and conflict.

Today, we continue our part in the long struggle over faith and justice in the law, public spheres, and centers of power. As always, some among us aim to impose authoritarian, integralist, nationalist regimes. Some, convinced of their own righteousness, plot to dominate all comers in fundamentalist fervor. Some appropriate religious language and pathos to sway masses and gain power and wealth. Some look to erase signs of faith in favor of utilitarian efficiencies. Some retreat to their hermitage and abandon the world altogether. Some want war and profit from the chaos. Some are complicit; some have surrendered.

Many claim to be Christian and people of faith, but as we will see, if our ambitions do not spring from love, they are not true to God, Scripture, or any sense of moral law. We wrestle with the vast power of law to liberate and oppress, and almost everyone believes they are right. So we take up our mantles as advocates, counselors, judges, and representatives to continue the long walk toward a beloved community for all who come after us.

In Matthew, we meet this savvy lawyer laying a Socratic trap for the provincial teacher. Earlier in the chapter, another Pharisee had asked Jesus whether it was right for a religious person to pay taxes to Rome, and Jesus responded with his famous answer: "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's."<sup>2</sup> The gospel says they were astonished at his teaching when the lawyer asked the sharpest follow-up question, "Well then, what's the most important law?"

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1. *Matthew* 22:34–40. New Testament scripture references are to the New Revised Standard Version (NRSV).

2. *Matthew* 22:18–21 (King James Version).

Jesus teaches that there are two. First, he quotes from *Shema Yisrael*, the ancient prayer of the Israelites: “Hear, O Israel! The LORD is our God, the LORD alone. You shall love the LORD your God with all your heart and with all your might.”<sup>3</sup>

Then he quotes from Leviticus: “You shall not hate your kinfolk in your heart. Reprove your kinsman but incur no guilt because of him. You shall not take vengeance or hold a grudge against your countrymen. Love your fellow as yourself: I am the LORD.”<sup>4</sup>

Our lesson begins here because it can begin nowhere else. These commands are the bedrock foundation of the law. If we are faithful, we must subject every law or policy to this test: does it arise from love and advance love in the world?

In the Sermon on the Mount, Jesus gave his followers a critical, disruptive formula for applying love in practice: “In everything do to others as you would have them do to you; for this is the law and the prophets.”<sup>5</sup> This is the Golden Rule, the gospel’s categorical imperative. Some may ask whether it applies to the law *qua* law, instead of mere personal morality, but that is no real distinction. Jesus meant the law in the real world when he preached love. It is the indispensable heart of justice.

Paul expands the point:

If I speak in the tongues of mortals and of angels, but do not have love, I am a noisy gong or a clanging cymbal. And if I have prophetic powers, and understand all mysteries and all knowledge, and if I have all faith, so as to remove mountains, but do not have love, I am nothing. If I give away all my possessions, and if I hand over my body so that I may boast, but do not have love, I gain nothing.<sup>6</sup>

If we American lawyers have the most sophisticated jurisprudence and correct politics with shrieking moral certainty, but do not have love, we are a noisy gong. If we have skill, expertise, prestige, wealth, and influence, and do not have love, we are nothing. If we defeat our adversaries to impose our own visions, but do not have love, we gain nothing.

3. *Deuteronomy* 6:4–5. All references to the Hebrew Scriptures are from the TANAKH: THE HOLY SCRIPTURES: THE NEW JPS TRANSLATION ACCORDING TO THE TRADITIONAL HEBREW TEXT (Jewish Publ’n Society, 1985), unless otherwise noted.

4. *Leviticus* 19:17–18.

5. *Matthew* 7:12.

6. *1 Corinthians* 13:1–4 (using *agape* for universal, divine love for all); see, e.g., WILLIAM F. ARNDT & F. WILBUR GINGRICH, A GREEK-ENGLISH LEXICON OF THE NEW TESTAMENT AND OTHER EARLY CHRISTIAN LITERATURE 4 (2d ed. 1979); AGAPE, JUSTICE, AND LAW: HOW MIGHT CHRISTIAN LOVE SHAPE LAW? (Robert F. Cochran, Jr & Zachary R. Calo eds., 2017); TIMOTHY P. JACKSON, THE PRIORITY OF LOVE: CHRISTIAN CHARITY AND SOCIAL JUSTICE, 1–3, 10 (2003).

This call for love is absolute and radical, an unflinching dare for us to liberate, embrace, and empower. We hold to these truths, yet our national failures have been manifest and brutal, even as we congratulate ourselves as exceptional through self-justifying distortions of faith and patriotism to uphold supremacist hierarchies and profitable systems of oppression.<sup>7</sup> When our vaunted Rule of Law lacks love, it is worse than nothing, yielding the fruits of fear, greed, and hatred. But if the law sounds in love, we might just secure the blessings of liberty for everyone, not just a few.<sup>8</sup>

Because we lawyers are cynical skeptics by trade, hope and faith come hard as we tread close to the darkest recesses of fallen humanity, but let us keep reasoning together with a word from the prophets.<sup>9</sup>

## II. A READING FROM THE PROPHET ISAIAH

*Is such the fast I desire,  
A day for men to starve their bodies?  
Is it bowing your head like a bulrush  
And lying in sackcloth and ashes?*

*No, this is the fast I desire:  
To unlock the fetters of wickedness,  
And untie the cords of the yoke*

*To let the oppressed go free;  
To break off every yoke.*

*It is to share your bread with the hungry,  
And to take the wretched poor in your home;  
When you see the naked, to clothe him,  
And not to ignore your own kin.*

*Then shall your light burst through like the dawn  
And your healing spring up quickly;  
Your Vindicator shall march before you,  
The Presence of the LORD shall be your rear guard.<sup>10</sup>*

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7. JAMES H. CONE, *THE CROSS AND THE LYNCHING TREE* (2011). See also RICHARD T. HUGHES, ROBERT N. BELLAH & MOLEFI KETE ASANTE, *MYTHS AMERICA LIVES BY: WHITE SUPREMACY AND THE STORIES THAT GIVE US MEANING* (2d ed. 2018).

8. See, e.g., Betty Hung, *Movement Lawyering as Rebellious Lawyering: Advocating with Humility, Love and Courage*, 23 *CLINICAL L. REV.* 663 (2016).

9. *Isaiah* 1:18.

10. *Isaiah* 58:5–8.

Isaiah is not writing self-help advice to folks searching for meaning. He is writing to the nation, the body politic living together under law.<sup>11</sup> To love God means to free the oppressed, feed the hungry, clothe the naked, and house the poor. As Cornel West says, “Justice is what love looks like in public, just like tenderness is what love feels like in private.”<sup>12</sup>

Love at the foundation of the law is not a feeling. It is practical and exacting. A note from Abraham Lincoln illustrates the policy implications of the Golden Rule; he wrote, “As I would not be a *slave*, so I would not be a *master*. This expresses my idea of democracy. Whatever differs from this, to the extent of the difference, is no democracy.”<sup>13</sup>

This is love writ large in politics and law in a republican democracy, an imperative logic that challenges our policies and priorities. In this republic, the law should reflect the will of a people committed to the way of love:

As I would be free of domination, so I would not seek dominion.

As I would speak in the public square, so I would not silence others.

As I would not die for want of medicine, food, or money, so I would not watch another suffer for lack of care and sustenance.

As I would not be incarcerated because of my race, trauma, or poverty, so I would not imprison others because of theirs.

As I would seek sanctuary for my family, so I would welcome those who walk across a desert for theirs.

As I would enjoy access in keeping with all my abilities, so I would advance universal access for all.

As I would live in a safe home, so I would not leave anyone on the street.

As I would labor in peace and liberty, so I would not ignore another’s pain and bondage.

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11. John Ponet, *A Short Treatise of Political Power, and of the True Obedience Which Subjects Owe to Kings and Other Civil Governors, with an Exhortation to All True Natural Englishmen*, in FROM IRENEUS TO GROTIUS: A SOURCEBOOK IN CHRISTIAN POLITICAL THOUGHT 695, 696–97 (Oliver O’Donovan & Joan Lockwood O’Donovan eds., 1999).

12. Cornel West, “Justice is What Love Looks Like in Public” (sermon preached at Howard University on April 17, 2011), [https://www.youtube.com/watch?v=nGqP7S\\_WO6o](https://www.youtube.com/watch?v=nGqP7S_WO6o).

13. Christian McWhirter, *Lincoln Draws the Line on Slavery*, ABRAHAM LINCOLN PRESIDENTIAL LIBR. AND MUSEUM (Feb. 23, 2021), <https://presidentlincoln.illinois.gov/Blog/Posts/108/Abraham-Lincoln/2021/2/Lincoln-Draws-the-Line-on-Slavery/blog-post/> [https://perma.cc/X93R-65CB].

As I would educate my children, so I would invest in schools in every community.

As I would vote, so I would not deny other's franchise.

As I would not be enslaved, lynched, robbed, disenfranchised, boarded into a ghetto, driven from my native land, or ripped from my family, so I would disavow, denounce, renounce, condemn, and root out racism that has driven all these sins.

Whatever differs from this is not democracy and does not sound in love. We will debate the means and jurisdictions to achieve them, but if we care for righteous laws, we will commit ourselves to progressing toward these ends for everyone as we seek them for ourselves: liberty, peace, prosperity, and full measures of dignity.

Jesus taught it this way, making it clear that pleasing God demands specific care for the vulnerable, ostracized, and poor:

Then the king will say to those at his right hand, 'Come, you that are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world; for I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited me.' Then the righteous will answer him, 'LORD, when was it that we saw you hungry and gave you food, or thirsty and gave you something to drink? And when was it that we saw you a stranger and welcomed you, or naked and gave you clothing? And when was it that we saw you sick or in prison and visited you?' And the king will answer them, 'Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me.' Then he will say to those at his left hand, 'You that are accursed, depart from me into the eternal fire prepared for the devil and his angels; for I was hungry and you gave me no food, I was thirsty and you gave me nothing to drink, I was a stranger and you did not welcome me, naked and you did not give me clothing, sick and in prison and you did not visit me.' Then they also will answer, 'LORD, when was it that we saw you hungry or thirsty or a stranger or naked or sick or in prison, and did not take care of you?' Then he will answer them, 'Truly I tell you, just as you did not do it to one of the least of these, you did not do it to me.'<sup>14</sup>

The imprisoned, hungry, and homeless must be our priority—not in pity but in honor of the divine imprint on every soul. To love them is to love God.

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14. *Matthew* 25:34–46.

As Lilla Watson extolled the world: “If you have come here to help me, you are wasting your time. But if you have come because your liberation is bound up with mine, then let us work together.”<sup>15</sup>

In *Letter from Birmingham Jail*, Martin Luther King, Jr. taught this principle while imprisoned, that we all depend on everyone else and that our own liberty and flourishing emerge from community and a common good.<sup>16</sup> We either perpetuate injustice or advance justice with our neighbors; neutrality is not possible. White clergy criticized him for leaving Atlanta to demonstrate in Birmingham, telling him to mind his own business.<sup>17</sup> He replied:

Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly. Never again can we afford to live with the narrow, provincial “outside agitator” idea. Anyone who lives inside the United States can never be considered an outsider.<sup>18</sup>

To seek justice with and for our clients, neighbors, adversaries, and communities is our professional calling in the law, so let us consider its deepest roots.

### III. A READING FROM GENESIS

*And God said, “Let us make man in our image, after our likeness. They shall rule the fish of the sea, the birds of the sky, the cattle, the whole earth, and all the creeping things that creep on the earth.” And God created man in His image, in the image of God He created them; male and female He created them.*<sup>19</sup>

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15. Often attributed to Lilla Watson at the 1985 United Nations Decade for Women Conference in Nairobi, she credited earlier Aboriginal collective creation years earlier. *See also, e.g.,* Dr. Lilla Watson, Keynote Address: A Contribution to Change: Cooperation Out of Conflict Conference: Celebrating Difference, Embracing Equality (Sept. 21–24, 2004), <https://uniting.church/lilla-watson-let-us-work-together> [<https://perma.cc/N4TZ-ZJPS>] (cited by Monica Cosby, & Annalise But, *Restorative Revelations*, 17 U. ST. THOMAS L.J. 81 (2020)).

16. Martin Luther King, Jr., *Letter from a Birmingham Jail* [King, Jr.], UNIV. PA. CENTER AFR. STUD. (Apr. 16, 1963), [https://www.africa.upenn.edu/Articles\\_Gen/Letter\\_Birmingham.html](https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html) [<https://perma.cc/H7S3-8Z6F>].

17. C.C.J. Carpenter, D.D., L.L.D., Bishop of Alabama, et al., *Statement by Alabama Clergymen*, STAN. UNIV. MARTIN LUTHER KING, JR. RSCH. & EDUC. INST. (Apr. 12, 1963), <https://kinginstitute.stanford.edu/sites/mlk/files/lesson-activities/clergybirmingham1963.pdf> [<https://perma.cc/7QWA-UZ4R>].

18. King, *supra* note 16.

19. *Genesis* 1:26–27.

Scripture's command to love springs from this creation truth, that every human being bears the divine image of God, the *imago dei*.<sup>20</sup> The incalculable value of every person is the rule by which love measures our democratic laws.<sup>21</sup> To exclude, ignore, exploit, coerce, and subjugate offends the spark of God in every single person.<sup>22</sup>

God's desire for reconciliation accelerates the grand arc of liberation.<sup>23</sup> The story begins with Adam and Eve banished from paradise but continues through a narrative of ever-expanding redemption and restoration. From Abraham's small clan to the Hebrew nation escaping slavery, from vibrant kingdoms to expanding diasporas, from the incarnation and resurrection of Jesus to the Apostles spreading throughout the world, the circle of love expands ever wider to embrace humanity. Paul recognizes this in Galatians: "There is no longer Jew or Greek, there is no longer slave or free, there is no longer male and female; for all of you are one in Christ Jesus."<sup>24</sup> This is the story set out in scripture, the ultimate reconciliation of all people everywhere in peace.

Does our American circle of reconciliation continue to expand? Did it stop in 1789 when we ratified the Constitution, 1868 when we ratified the Fourteenth Amendment, 1965 when we passed the Civil Rights Act, or 2023 as we continue to labor? May we ever be satisfied to abandon anyone? The answer is clear. If there are any fully dignified humans lost in our midst, silenced in our discourse, excluded from the commonwealth, threatened by danger, marked as subservient, then we must pull alongside, embrace, and empower them, not as cases or projects, but as friends.<sup>25</sup>

The *imago dei* lies at the root of American laws.<sup>26</sup> The Declaration of Independence proposes an Enlightenment variation as the basis for revolution and government:

We hold these truths to be self-evident, that all men are created equal,  
that they are endowed by their Creator with certain unalienable

20. See, e.g., Chung Hyun Kyung, *STRUGGLE TO BE THE SUN AGAIN* (1990), excerpted as *To Be Human is to Be Created in God's Image*, in *FEMINIST THEOLOGY FROM THE THIRD WORLD* 251 (Ursula King, ed. 1994).

21. See Matthew Levering, *BIBLICAL NATURAL LAW: A THEOCENTRIC AND TELEOLOGICAL APPROACH* 13 (2008) (quoting Vigen Guroorian, *INCARNATE LOVE: ESSAYS IN ORTHODOX ETHICS*, at 21 (1987)).

22. See Anthony B. Bradley, *Black Liberation Theology, Personalism, and Black Economic Freedom in Critical Race Perspective*, in *CRITICAL RACE THEORY IN THE ACADEMY* (Vernon Lee Farmer & Evelyn Shepherd W. Farmer, eds.) (2020).

23. Desmond Tutu, *Liberation as Biblical Theme*, in *HOPE AND SUFFERING: SERMONS AND SPEECHES*, 48–69 (1985).

24. *Galatians* 3:28.

25. MIROSLAV VOLF, *EXCLUSION AND EMBRACE: A THEOLOGICAL EXPLORATION OF IDENTITY, OTHERNESS, AND RECONCILIATION* (1996); see also THOMAS L. SHAFFER & ROBERT F. COCHRAN, JR., *LAWYERS, CLIENTS, AND MORAL RESPONSIBILITY* (1994).

26. See John Locke, *Philanthropy, or the Christian Philosophers*, in *POLITICAL WRITINGS OF JOHN LOCKE*, 233–34.

Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.<sup>27</sup>

The United States holds this principle to be inviolate even as we have violated it constantly in each generation, but it draws us with gravitational force toward our better angels, a grinding struggle to make it real for all people.

The United Nations later enshrined a secular iteration in the Universal Declaration of Human Rights. Shaken from our capacity for global brutality, the nations hailed “the inherent dignity and . . . the equal and inalienable rights of all members of the human family” as “the foundation of freedom, justice and peace in the world.”<sup>28</sup>

Declaring these truths is essential, but if we are allegiant to our pledges, we will make love operational in the law. Desmond Tutu teaches how love must work in public life:

God calls us to be his partners to work for a new kind of society where people count; where people matter more than things, more than possessions; where human life is not just respected but positively revered; where people will be secure and not suffer from the fear of hunger, from ignorance, from disease; where there will be more gentleness, more caring, more sharing, more compassion, more laughter; where there is peace not war.<sup>29</sup>

The sphere of liberation should not stop expanding, and lawyers have the means to expand it. We may not rest while injustice festers. We cannot abide racism and its legacies. We cannot ignore sneering patriarchy that exploits the labor, bodies, and spirits of women. We cannot rest with starving families on our borders and folks sleeping on our streets. We cannot assume that violence and inequity are immutable national characteristics. Those are intolerable violations of the Golden Rule, and we must not shirk our work for justice.

Kermit Hall wrote that the law is a magic mirror reflecting the people, a rock in the river of culture, both diverting the flow of society and being shaped by it.<sup>30</sup> Inasmuch as we have the power to make laws, our laws will reflect whom we value and why. We must exert that power for love.<sup>31</sup>

27. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

28. G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

29. DESMOND TUTU WITH DOUGLAS ABRAMS, *GOD HAS A DREAM: A VISION OF HOPE FOR OUR TIME* 62–63 (2004).

30. KERMIT L. HALL, *THE MAGIC MIRROR: LAW IN AMERICAN HISTORY* (1992).

31. I have attempted to work out these precepts in multiple areas of law and policy in these articles and chapters: Jeffrey R. Baker, *Whom Would Jesus Cover? A Biblical, Ethical Lens on the*

## IV. A READING FROM THE LETTER TO THE ROMANS

*Let every person be subject to the governing authorities; for there is no authority except from God, and those authorities that exist have been instituted by God. Therefore whoever resists authority resists what God has appointed, and those who resist will incur judgment. For rulers are not a terror to good conduct, but to bad. Do you wish to have no fear of the authority? Then do what is good, and you will receive its approval; for it is God's servant for your good. But if you do what is wrong, you should be afraid, for the authority does not bear the sword in vain! It is the servant of God to execute wrath on the wrongdoer. Therefore one must be subject, not only because of wrath but also because of conscience. For the same reason you also pay taxes, for the authorities are God's servants, busy with this very thing. Pay to all what is due them—taxes to whom taxes are due, revenue to whom revenue is due, respect to whom respect is due, honor to whom honor is due.<sup>32</sup>*

Paul is writing to the church in Rome at the height of its colonizing empire. The republic was long gone, yet he recognized the roles of magistrate, government and governed. I have some hard questions for Paul here. He deploys a problematic argument that only the guilty have anything to fear from the law, which can only be true if the law is just, because unjust laws certainly threaten the innocent. He also suggests that God establishes all governments, which is a horrific proposition considering much of our bloody histories. But let us take seriously the ideas that God ordains government for justice, that law must exist to order society, and that some must rule while others will be subject to that rule.<sup>33</sup>

If so, Paul notes the distinction between sovereign and subject, state and citizen, but he does not contemplate the revolutions that would blur those lines. In our constitutional, republican democracy, we are all the roles at once. In theory, the United States is of, by, and for the people. We, the

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*Contemporary American Health Care Debate*, 23 J. L. & HEALTH 1 (2010); Jeffrey R. Baker *Trifling Violence: The U.S. Supreme Court, Domestic Violence and a Theory of Love*, 42 CUMBERLAND L. REV. 65 (2012); Jeffrey R. Baker & Allyson McKinney Timm, *Zero-Tolerance: The Trump Administration's Human Rights Violations Against Migrants on the Southern Border*, 13 DREXEL L. REV. 581 (2021); Jeffrey R. Baker, *Legal Foundations for the Business of Incarceration*, in THE BUSINESS OF INCARCERATION: THEOLOGICAL AND ETHICAL REFLECTIONS ON THE PRISON-INDUSTRIAL COMPLEX (Justin Bronson Barringer, Sarah Farmer, James McCarty, eds.) (Cascade forthcoming 2023).

32. *Romans* 13:1–7.

33. See also PLATO, THE REPUBLIC (Benjamin Jowett trans., 2021).

people, are the source of sovereignty, both governed and governors simultaneously. We speak, assemble, seek redress of grievances, and vote to shape our government and policy. With such privilege comes the burden of making and enforcing laws justly, even as we abide by them.

I anticipate two objections here. First, the specter of fundamentalist theocracy arises whenever anyone talks about fusing religion and law. The very notion of a state-established, politically dominant religion is offensive to our revolution and constitution, yet in our age, we can see the stirrings of creeping fascism in Christian Nationalism. That is a real problem, and we must be vigilant. But this is not of love, and it is not Christian. Infusing the law with love that acknowledges the dignity of every human being is a self-policing guard against theocratic dominion. People of love who would be free in their own faith will ensure that others are free in theirs.

The second objection is that government itself is a corrupt and unworthy means of this high calling. We may compromise our principles in party politics and corrupt the faith by aligning with the state; we may think that government is always the problem. These are real dangers, and the pursuit of power is fraught with temptation, even to necessary evil. David Lipscomb, a preacher in the Restoration Movement, taught that Christians should not participate in civil government after the traumas of the Civil War.<sup>34</sup> These ideas might find more traction in a nation where the people had no power at all, but in a democracy, we do not have the luxury of neglecting our roles as self-governors.

As lawyers and lawmakers, we bear specific responsibility as officers and gatekeepers of the legal system. The American Bar Association names us “public citizens” with distinct obligations to improve the law and expand inclusion.<sup>35</sup> Lawyers “should cultivate knowledge of the law beyond its use for clients, [and] employ that knowledge in reform of the law,” being “mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance,” working to “use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.”<sup>36</sup>

With the privileges of citizenship and the power of lawyers, judges, and lawmakers, we bear concurrent obligations of engaged love. Whether we are police, prosecutor, defender, or judge; representative, executive, or administrator; advocate, activist, or lobbyist; counsel, voter, or citizen, we must measure our work against the profoundly demanding Golden Rule.

34. DAVID LIPSCOMB, CIVIL GOVERNMENT. ITS ORIGIN, MISSION, AND DESTINY, AND THE CHRISTIAN'S RELATION TO IT (1889).

35. MODEL RULES OF PROF'L CONDUCT, preamble, para. 6 (AM. BAR ASS'N 2021).

36. *Id.*

Lest we take this as a license to exclude those who oppose us, even those with reactionary, hypocritical politics, remember Jesus said we should love even our enemies.<sup>37</sup> When yet another lawyer asked Jesus to clarify with specificity the neighbors to whom we owe these duties of love, he told the story of the Good Samaritan, who was not good only because of his charity but because he extended it to his enemies and oppressors.<sup>38</sup>

We will fall short. We will be complicit in flawed systems. Bad guys will sometimes win. Yet as we debate, wrestle, and confront allies, opponents, and ourselves, the test must always be whether we are advancing love and the *imago dei* or something less worthy.

American theologian and ethicist Paul Ramsey took up the problem of translating love into social policy.<sup>39</sup> He does not argue for specific outcomes but describes a process by which we square the law with the Golden Rule. First, we take into honest account the complex realities of our communities and neighbors.<sup>40</sup> To know our neighbors well, we must draw near to them. Bryan Stevenson teaches that proximity to those in need makes each person's humanity more urgent and meaningful.<sup>41</sup> John Perkins centers relocation and nearness as necessary elements of true community development; we cannot understand each other fully until we are together.<sup>42</sup>

Then, we consider the options and subject everything to these tests: What do our neighbors need? Who are our neighbors most in need? And how may we transform our laws and policies to manifest justice in life? This may confirm our existing customs and standing law if they are doing the work of justice, but where they fail, we must have the honesty, will, and courage to criticize and change them. We must always aim to make the world better than it is and do the work in our power to make it so.<sup>43</sup>

We should not devote ourselves to a political theory, economic system, or legal position until we have subjected it to the test of love. Love comes before democracy or authoritarianism. Love comes before a constitution. Love comes before capitalism or socialism, liberalism or communism. Love comes before any jurisprudence, philosophy, or theology. If our loyalties, traditions, or parties do not align with love, we must repent. If our government does not dignify our neighbors, we must change it or find a new

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37. *Matthew* 5:43–48.

38. *Luke* 10: 25–37.

39. PAUL RAMSEY, *BASIC CHRISTIAN ETHICS* 326–51 (Charles Scribner's Sons, 1951).

40. *Id.*

41. BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* 12–14 (1st ed. 2014).

42. BOB LUPTON ET AL., *RESTORING AT-RISK COMMUNITIES: DOING IT TOGETHER & DOING IT RIGHT* 75 *et seq.* (John Perkins ed. 2001).

43. See RAMSEY, *supra* note 39, at 326–51; see also Roscoe Pound, *THE IDEAL ELEMENT IN LAW* 96 (1958).

one. If our laws harm the poor and vulnerable, we have an affirmative duty to amend or replace them.

Dom Helder Camara made this point with his famous rebuke of those who sought to discredit him: “When I give food to the poor they call me a saint. When I ask why the poor have no food, they call me a Communist.”<sup>44</sup> He was not a Communist, but that is beside the point. The deep calling is to assess and critique our systems with the measure of the Golden Rule.<sup>45</sup> If we are not pulling our laws in the direction of neighbor-love, then we are pulling the wrong way.<sup>46</sup> Paul did not end his discourse on the law with the passage we read earlier. He continues:

Owe no one anything, except to love one another; for the one who loves another has fulfilled the law. The commandments, “You shall not commit adultery; You shall not murder; You shall not steal; You shall not covet”; and any other commandment, are summed up in this word, “Love your neighbor as yourself.” Love does no wrong to a neighbor; therefore, love is the fulfilling of the law.<sup>47</sup>

Yet love is not always tender and warm. Often, love invokes righteous anger against oppression and exploitation. Love demands that we confront the forces of hatred, fear, greed, and supremacy.

#### V. A READING FROM THE GOSPEL OF MARK

*Then they came to Jerusalem. And he entered the temple and began to drive out those who were selling and those who were buying in the temple, and he overturned the tables of the money changers and the seats of those who sold doves; and he would not allow anyone to carry anything through the temple. He was teaching and saying, “Is it not written,*

*‘My house shall be called a house of prayer for all the nations’?*

*But you have made it a den of robbers.”*

*And when the chief priests and the scribes heard it, they kept looking for a way to kill him; for they were afraid of*

44. Francis McDonagh ed., DOM HELDER CÂMARA: ESSENTIAL WRITINGS, 11, 43–47 (Orbis Books, 2009).

45. DOM HELDER CAMARA, THE DESERT IS FERTILE (Dinah Livingstone trans., 1974).

46. See ADA MARIA ISASI-DIAZ, *Solidarity: Love of Neighbor in the Twenty-First Century*, in MUJERISTA THEOLOGY 86–104 (Orbis Books, 1996).

47. *Romans* 13:8–10.

*him, because the whole crowd was spellbound by his teaching.*<sup>48</sup>

Jesus was furious, and if we assume he is acting in love, we must reckon with this anger and its object. For whom is he fighting? The money-changers and the sellers combined to exploit the poor who came to worship, standing astride their way to the Temple, extracting profit from their devotion, blocking their access to liberation. The objects of Jesus' love are the poor people coming to worship and suffering in a market that bled their meager wealth. He is outraged at the game and the players who denied them their full dignity before God.

He is not personally offended; he endured insults to himself beyond imagination. Rather, he rises to fight when he sees insiders erecting checkpoints to block outsiders and coerce profit from their poverty. A competitive market wheedled its way between people coming to fulfill the law and their full inclusion in the community. Jesus' anger is for those who coerce, exploit and exclude. His love is for the abused, exploited, and excluded. He rallies for them, and his subversive disruption provokes violent reaction from the powers he threatens.

Jesus advocates for the lowly and calls to judgment those who take advantage of them. So sang his mother Mary, striking this prophetic note in her Magnificat:

He has shown strength with his arm;  
he has scattered the proud in the thoughts of their hearts.

He has brought down the powerful from their thrones,  
and lifted up the lowly;  
he has filled the hungry with good things,  
and sent the rich away empty.<sup>49</sup>

Love frightens entrenched powers. As Bishop Oscar Romero preached, "A church that doesn't provoke any crises, a gospel that doesn't unsettle, a word of God that doesn't get under anyone's skin, a word of God that doesn't touch the real sin of the society in which it is proclaimed – what gospel is that?"<sup>50</sup>

48. *Mark* 11:15–18.

49. *Luke* 1:51–55.

50. Bishop Oscar A. Romero, *Baptism as the Epiphany of the Messianic Reality*, THE ARCHBISHOP ROMERO TRUST (Jan. 14, 1979), <http://www.romerotrue.org.uk/homilies-and-writings/homilies/baptism-epiphany-messianic-reality>[<https://perma.cc/ZB72-4PTY>]; OSCAR ROMERO, *THE VIOLENCE OF LOVE* (James R. Brockman, S.J. trans., 1988).

We like to imagine ourselves as the heroes of the story, the scrappy underdogs, mythical Atticus Finch on the right side of history. But if we are the educated, licensed professionals with stewardship of the justice system in the richest, most powerful nation on Earth, we may find more in common with the bankers and retailers inside the marketplace. We must ask ourselves if we are sitting at tables that Jesus would have overturned. We should be mindful of the folks working for justice without elite privilege, learn from them, follow their lead, and be brave enough to confront the systems that sustain our prestige.

If we aspire to power and wealth, we should guard our hearts so that we do nothing out of vain conceit and selfishness. Our electoral, economic, and legal systems demand competition, and disagreement is endemic in our free-market democracy. So we enter these cases and controversies with love, however counterintuitive. Because if we end up incorporating and defending schemes of exploitative profit, exclusionary gatekeeping, and extractive regimes, we may find ourselves on the wrong side of an angry prophet driving us out of the public square.

Acts tells another story of disruption. Paul, Silas, and their band came into Thessalonica and started preaching and engaging with the people. Some Jewish people joined them, “as did a great many of the devout Greeks and not a few of the leading women.”<sup>51</sup> This was a threat to the established order. The local religious and political leaders organized a mob “with the help of some ruffians in the marketplaces” to drive them out.<sup>52</sup> When they could not find them, the leaders arrested their friend and haled him into court: “These people who have been turning the world upside down have come here also, and Jason has entertained them as guests. They are all acting contrary to the decrees of the emperor, saying that there is another king named Jesus.”<sup>53</sup>

This was not a mere religious dispute; framing it as a legal challenge to the emperor was a strategic pretext to prop up the status quo. The radical inclusion of all people in their communities subverted the prevailing powers and profit centers. These young Christian communities were outcasts who embraced everyone, especially other outcasts. They leveled hierarchies among the enslaved and the free, men and women of all races, the influential and the disenfranchised. They turned the world upside down. We would do well to reflect whether we have a reputation as inclusive troublemakers or as agents of a calcified, domineering order.

This is a matter of both personal piety and public policy. If we have the power to change our laws—and we do—then the way of love compels us to

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51. *Acts* 17:4 (NRSV).

52. *Acts* 17:5 (NRSV).

53. *Acts* 17:6–7 (NRSV).

side with the vulnerable, to bring them into the courts and marketplaces with equal shares of power and dignity. When our nation oppresses its own people, we must challenge it. When outcasts suffer in the shadows, they must take their rightful places in the republic. When desperate folks long for peace, we should be instruments of safety. When our empire and its collaborators exploit people as commodities and sift human resources for the rich, we must adopt policies that honor the majestic *imago dei* in all people.

VI. A READING FROM THE PROPHET ISAIAH

*The LORD of Hosts will make on this mount  
For all the peoples  
A banquet of rich viands,  
A banquet of choice wines -  
Of rich viands seasoned with marrow,  
Of choice wines well refined.*

*And He will destroy on this mount the shroud  
That is drawn over the faces of all the peoples  
And the covering that is spread  
Over all the nations.  
He will destroy death forever.  
My LORD God will wipe the tears away  
From all faces  
And will put an end to the reproach of His people  
Over all the earth -  
For it is the LORD who has spoken.<sup>54</sup>*

This is a prophetic vision of the beloved community. Isaiah means it when he writes that it will be all peoples and all nations in joyful union. This is God's will to resolve conflict among the people. On the mountain, no one is hungry or alone. No one is subservient; God waits on the people.

Some may argue this is only a vision of heaven, not our work to do as lawyers or lawmakers, but we should not use the promise of spiritual salvation as an excuse for present squalor and divisions. William F. Buckley mocked progressives for seeking to "immanentize the eschaton," scoffing at notions of social justice as utopian.<sup>55</sup> But he was wrong.

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54. *Isaiah 25:6-9.*

55. Popularizing the phrase coined ERIC VOEGELIN, *THE NEW SCIENCE OF POLITICS: AN INTRODUCTION* (Univ. of Chi. Press 1952).

Jesus taught the disciples to pray, “Your kingdom come. Your will be done, on earth as it is in heaven.”<sup>56</sup> For Jesus, the distinction is without a real difference. Loving our neighbors is loving God; what we do to others, we do to God.<sup>57</sup> In II Corinthians, Paul teaches that we are not to see others from “a human point of view” but as a “new creation.”<sup>58</sup> God is reconciling the world, to God and to each other, appointing us “ambassadors” with the “ministry of reconciliation.”<sup>59</sup> God engages us to advocate for those who bear the *imago dei*.

To be clear, our ultimate hope does not lie with law or electoral politics, but if we walk the road of salvation, then our lives, work, and relationships ought to amplify love. Our salvation ought to leaven the governments we influence, the laws we make, and the cases we take with justice and mercy. The story of the early church carries forward the implications of reconciliation in equality and equity:

Now the whole group of those who believed were of one heart and soul, and no one claimed private ownership of any possessions, but everything they owned was held in common. With great power the apostles gave their testimony to the resurrection of the LORD Jesus, and great grace was upon them all. There was not a needy person among them, for as many as owned lands or houses sold them and brought the proceeds of what was sold. They laid it at the apostles’ feet, and it was distributed to each as any had need.<sup>60</sup>

This is the logic of the inviolable dignity of every person. Inequity becomes incoherent and intolerable. A just society depends on law and culture grounded in neighbor-love, measuring policy decisions through the Golden Rule, and adapting shortcomings accordingly. Dr. King preached, “The arc of the moral universe is long, but it bends toward justice.”<sup>61</sup> It does not bend by itself; justice is not inevitable. People working for true human dignity bend it through the practical application of love.

When we find someone alone and suffering outside our walls, we open doors and invite them in to ensure their prosperity as empowered citizens. When people trespass and cause injury, we practice to restore, repair, rehabilitate, and punish with mercy, discovering why they trampled another's life, then addressing those causes.

56. *Matthew* 6:10.

57. *Matthew* 25.

58. II Corinthians 5:16–17.

59. *Id.* at 5:18–20.

60. *Acts* 4:32–35.

61. Martin Luther King, Jr., *Our God Is Marching On* (Mar. 25, 1965).

When a person creates danger or threatens harm, we enjoin them out of love for our neighbors, not out of hate or revenge. When the strong exploit and coerce, we defend and empower the weak.

When our laws privilege a few and debase the rest; shelter abusers and blame victims; crush humans and decimate communities; silence the disfavored; divide people and enflame violence; cause trauma and instill distrust, we amend or replace them.

Yet how much more could love fire our imaginations beyond fighting injustice? Our laws and vocations might advance joy and hope, life and liberty, and mutual development.<sup>62</sup> With imagination, our policies can cultivate creativity and discovery. If we thrive in prosperity, so must we propound laws to generate the common wealth. If we would live in beauty and learning, then we must make laws that conserve them. If we would be free, so all must be free. If we would dream, create, hope, embrace, and cultivate, so we must look to the hopes, dreams, and visions of everyone in our neighborhood.

We build the common good when we look to the interests of others and regard them as better than ourselves.<sup>63</sup> Selfish ambition and vain competition destroy communities through exploitation and inequality. A vibrant common good rests on interdependence, a virtuous cycle of serving our neighbors with confidence that they are looking out for us. So let us mourn with those who mourn and rejoice with those who rejoice.<sup>64</sup> This is our work to do as lawyers, as ambassadors of reconciliation, seeking the beloved community on earth as it is in heaven.

#### VII. A READING FROM ECCLESIASTES:

*I further observed all the oppression that goes on under the sun: the tears of the oppressed, with none to comfort them; and the power of their oppressors - with none to comfort them. Then I accounted those who died long since more fortunate than those who are still living; and happier than either are those who have not yet come to being and have never witnessed the miseries that go on under the sun.<sup>65</sup>*

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62. See Dean Spade, *Solidarity Not Charity: Mutual Aid for Mobilization and Society*, 38 SOCIAL TEXT 131 (2020).

63. See *Philippians* 2:1–4.

64. *Romans* 12:15.

65. *Ecclesiastes* 4:1–3.

A perfected, beloved community is impossible on this side of Jordan because we are prone to corruption and conquest. There is nothing new under the sun, so our efforts to infuse the law with love may feel like Sisyphus pushing that rock uphill. This harsh reality may discourage forces of love and embolden forces of greed and fear, so we heed Jesus' advice to his disciples, "See, I am sending you out like sheep into the midst of wolves; so be wise as serpents and innocent as doves."<sup>66</sup>

We do not aim to immanentize the eschaton through the law, but we must seek justice, love mercy, and walk humbly with God, to keep darkness at bay and to shine like stars in the heavens. As Gustavo Gutierrez wrote, "Conflictive social realities cannot make us forget the requirements of a universal love that does not recognize the boundaries of social class, race, or gender . . . . Indeed, the gift of God 'who loved us first' frames and gives rise to human action as a free response to that love."<sup>67</sup>

In Matthew, a woman anointed Jesus with an alabaster jar of perfume. The disciples scolded, "Why this waste? For this ointment could have been sold for a large sum, and the money given to the poor."<sup>68</sup> That was not a bad idea, but Jesus corrected them, "Why do you trouble the woman? She has performed a good service for me. For you always have the poor with you, but you will not always have me."<sup>69</sup> Sometimes people trot out this passage to relieve themselves of care for the poor, saying that we should focus on spiritual matters, not temporal questions of poverty.

But that is not what Jesus was saying. He was quoting a familiar passage with a very different lesson: "For there will never cease to be needy ones in your land, which is why I command you: open your hand to the poor and needy kinsman in your land."<sup>70</sup> Scripture commands, as Jesus taught, that since the poor will always be with us, we must always care for them. This was the ancient law of scripture, and it ought to be the law of the United States.

The answer to our broken systems is not nihilistic despair. The response of love is to work relentlessly for the good of our neighbors. We have a spiritual and professional duty to use legal power and political influence to make real progress toward the full dignity of all people. This is the prophets' message to kings, principalities, and officials in all times.<sup>71</sup>

Even if we do not wield sovereign authority to make laws, we still bear the burden of a generous and compassionate work. Jesus uses rich

66. *Matthew* 10:16.

67. GUSTAVO GUTIERREZ & CARDINAL GERHARD LUDWIG MULLER, ON THE SIDE OF THE POOR: THE THEOLOGY OF LIBERATION (Robert A. Krieg & James B. Nickoloff trans., 2014).

68. *Matthew* 26:8–9.

69. *Id.* at 26:10–11.

70. *Deuteronomy* 15:11.

71. See, e.g., *Ecclesiastes* 8; *Jeremiah* 21–22; *Amos* 4–5; *Mark* 10:17–27; *Luke* 3, 19:1–10.

metaphors to illuminate the daily practice of reconciliation: “You are the salt of the earth . . . You are the light of the world . . . A city built on a hill.”<sup>72</sup>

Our governments will be imperfect, but we must never cease the work of measuring our laws and politics against the rule of love. The law of love will evolve in countless iterations to fit context, culture, resources, diversities, faiths, customs, and ideas. Love does not impose a prevailing model or universal government. Laws rooted in love honor the people in all our brilliant, audacious, creative forms of being. We should make careful laws with humility, generosity, empathy, benevolent assumptions, accountability and honesty, forgiveness and charity, mercy and hope.

We will fail. Many of our predecessors used religion to justify slavery, genocide, and the subjugation of women and most men. They were wrong, even when they were fully convinced of their righteousness, so we must guard our conscience when we are fully convinced of ours. In this exponentially complex world of perpetual balancing and competing interests, we will make gut-wrenching compromises and do harm. When we do, we should confess, repent, and repair.

Some will use the rhetoric of love to gain power and excessive wealth. Some will twist it to justify condescending, colonial domination over others with paternalistic self-justification, “for their own good.” These corruptions mock the Golden Rule, and they may call for us to tump over temple tables and drive them from the courts and marketplaces.

The beloved community may be too pure to be realized in the law, but we have to try. Reinhold Niebuhr explains how this ideal might find rigorous expression in the law, even when the vision collides with human impulses:

Real religion transmutes the limits set them by nature (family, race, group, etc.) and includes the whole human community . . . . It would, to emphasize the obvious once more, not abolish the social struggle, because it would not approximate perfection in sufficient numerous instances. The fight for justice in society will always be a fight. But wherever the spirit of justice grows imaginative and is transmuted into love, a love in which the interests of the other are espoused, the struggle is transcended by just that much.<sup>73</sup>

We navigate vastly complicated systems requiring constant calibration across multitudes of intersections. The fight for justice will always be a

72. *Matthew* 5:13–14.

73. REINHOLD NIEBUHR, *The Ethic of Jesus and the Social Problem*, in *LOVE & JUSTICE: SELECTIONS FROM THE SHORTER WRITINGS OF REINHOLD NIEBUHR* 38 (D.B. Robertson, ed. 1957) (originally published in *RELIGION IN LIFE*, 1932); *see also* JAMES H. CONE, *THE CROSS AND THE LYNCHING TREE* 30–64 (Orbis Books 2011) (noting and criticizing Niebuhr’s failure to fully use this theological ethic condemn violent white supremacy).

fight, usually among ourselves, but the luminous mechanism of rigorous, intentional, practical love gives us the means of making laws that empower and reconcile.

In closing, let us hear a final word from Rev. King who gave his life for this jurisprudence of love:

And I say to you, I have also decided to stick with love, for I know that love is ultimately the only answer to mankind's problems. And I'm going to talk about it everywhere I go. I know it isn't popular to talk about it in some circles today. And I'm not talking about emotional bosh when I talk about love; I'm talking about a strong, demanding love. For I have seen too much hate . . . I have decided to love. If you are seeking the highest good, I think you can find it through love . . . He who hates does not know God, but he who loves has the key that unlocks the door to the meaning of ultimate reality .

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Amen.

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74. Martin Luther King, Jr., *Where Do We Go From Here?*, in *A CALL TO CONSCIENCE: THE LANDMARK SPEECHES OF DR. MARTIN LUTHER KING, JR. 191-92* (Clayborne Carson and Kris Shephard, eds. 2001) (originally delivered in 1967).