

Cambridge University Press
978-1-107-17528-0 — Agape, Justice, and Law
Edited by Robert F. Cochran, Jr., Zachary R. Calo
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This volume refracts the light of *agape* through the prism of scholarship, enriching with color an understanding of law that is often all too grey. It will provoke lawyers to pursue their true vocation of building a relational society where our knowledge of love and justice is central to what it means to be human.

—Jonathan Burnside, Professor of Biblical Law, Law School, University of Bristol, UK, and author of *God, Justice and Society: Aspects of Law and Legality in the Bible* (Oxford University Press)

An excellent collection of essays on an issue at least as ancient as the Bible and, perhaps surprisingly to some, as important as any humanity is facing today.

—Miroslav Volf, Professor of Theology at Yale Divinity School and author of *Flourishing: Why We Need Religion in a Globalized World* (Yale University Press)

This magnificent collection of essays arrives precisely when it is most needed – at a time when a nation held together primarily by law is severely fractured along economic, racial, gender, and cultural lines, at a time when empathy and hospitality of neighbor toward neighbor are profoundly lacking. In asking whether law can be reimagined as a manifestation of *agape* – love of neighbor – the book offers the richness of the Protestant and Catholic intellectual traditions, to provide the reader with a thoughtful and lively exploration of the question. The biblical and ethical tradition has long wrestled with the relationships among law, love, and justice. The essays draw deeply upon this wisdom to grapple with the question in all its complexity and in a wide variety of contexts: criminal and tort law, immigration and elder law, corporate and intellectual property law, international law. This bold project is by no means naively undertaken: *agape* is not a sentimental feeling but rather a moral imperative that generates a framework for law reform. Indeed, while the essays cohere organically around the *agape* theme, they speak universally to all reformers committed to the task of making law more humane, more fair, more just – to promote the dignity of the human person and to bind us more closely together.

—Angela Carmella, Professor of Law, Seton Hall University School of Law and co-editor of *Christian Perspectives on Legal Thought* (Yale University Press)

The tension between law and justice is an ancient problem, but it takes new institutional forms in societies structured by modern law. *Agape, Justice, and Law* explores the relevance of Christian love to unresolved problems of

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punishment, property, immigration, international order, and other questions of justice. The contributors are some of the best thinkers in contemporary law, theology, and philosophy, and their essays will inspire new approaches in readers across a range of disciplines.

—Robin W. Lovin, Cary Maguire University Professor of Ethics
Emeritus, Southern Methodist University and author of
Christian Realism and the New Realities
(Cambridge University Press)

Agape, Justice, and Law is an important and exciting advance in the ongoing project; its authors share with many others – the critical and constructive analysis of law in the United States from a Christian theological perspective. The genuine theological disagreements that run through American Christianity are reflected in the essays, but as a whole this collection demonstrates both the profound commonalities that its authors share and the power of Christian thought to illuminate and challenge our understanding of the law, its limits, and its potential. The essays are all sophisticated and challenging, and many are startling in their depth and novelty: to mention only two, Lucia Silecchia on subsidiarity as the lens through which we can think about a major social issue (care for the elderly), and Thomas Berg on rethinking intellectual “property” in the light of God’s universal gift. This is a book for everyone, whether Christian or not, who understands the inescapable role, for good and ill, that American law plays in the present and the future.

—H. Jefferson Powell, Professor of Law, Duke University
and author of *The Moral Tradition of American
Constitutionalism: A Theological Interpretation*
(Duke University Press)

AGAPE, JUSTICE, AND LAW

How Might Christian Love Shape Law?

In a provocative essay, philosopher Jeffrie Murphy asks: “What would law be like if we organized it around the value of Christian love, and if we thought about and criticized law in terms of that value?” This book brings together leading scholars from a variety of disciplines to address that question. Scholars have given surprisingly little attention to assessing how the central Christian ethical category of love – agape – might impact the way we understand law. This book aims to fill that gap by investigating the relationship between agape, justice, and law in scripture, theology, and jurisprudence, as well as applying these insights to contemporary legal debates in criminal punishment, judging, torts, elder care, immigration, corporations, intellectual property, and international relations. At a time when the discourse between Christian and other world views is more likely to be filled with hate than love, the implications of agape for law are crucial.

Robert F. Cochran, Jr. is Louis D. Brandeis Professor of Law at Pepperdine University and Director of the Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics.

Zachary R. Calo is Professor of Law at Hamad bin Khalifa University in Doha, Qatar, and Research Scholar in Law and Religion at Valparaiso University.

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The Law and Christianity series publishes cutting-edge work on Catholic, Protestant, and Orthodox Christian contributions to public, private, penal, and procedural law and legal theory. The series aims to promote deep Christian reflection by leading scholars on the fundamentals of law and politics, to build further ecumenical legal understanding across Christian denominations, and to link and amplify the diverse and sometimes isolated Christian legal voices and visions at work in the academy. Works collected by the series include groundbreaking monographs, historical and thematic anthologies, and translations by leading scholars around the globe.

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Agape, Justice, and Law

HOW MIGHT CHRISTIAN LOVE SHAPE LAW?

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RFC: To Dallas Willard, who got me thinking seriously about the place of the Kingdom of God in this world.

ZRC: To Cathleen.

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Foreword

When I first read the English translation of Anders Nygren's now classic study of the concepts of agape and eros, shortly after it appeared in 1969, it forced me to clarify thoughts I had previously expressed on the relationship of love to issues of public life. Agapic love, Nygren argued, is extended to others without taking into account their desirability, as opposed to erotic love, which we extend to those whom we find desirable in specific ways. God's love for fallen human beings, Nygren insisted, is clearly of the agapic variety. And because believers experience that kind of love because God extends it to them in spite of their sinfulness, they are graciously given the capacity to show this same kind of love to others.¹

Since my own views on Christian social–political thought had been influenced considerably by the writings of John Calvin, I decided to read him again in the light of Nygren's discussion. While Calvin obviously did not have the benefit of Nygren's extensive treatment of agapic love, his account of the love Jesus was commanding when he set forth the "Love your neighbor as yourself" mandate of the Gospel accounts (see Matt. 22:37–40), closely follows the pattern of agapic love set forth by Nygren. Because we are by nature, Calvin says, "all too much inclined to self-love," we need to concentrate on loving God in a way that places the love of self in the background, thereby cultivating in our relationships with other humans a pattern that "transfers to others the emotion of love that we naturally feel toward ourselves." Furthermore, as Calvin said, the "neighbor" we are commanded to love "includes even the most remote person," extending beyond "the ties of kinship, or acquaintanceship, or of neighborhood." It is a love that should "embrace the whole human race without exception in a single feeling of love," with "no distinction

¹ Anders Nygren, *Agape and Eros*, trans. Philip S. Watson (Chicago: Chicago University Press, 1982).

between barbarian and Greek, worthy and unworthy, friend and enemy, since all should be contemplated in God, not in themselves.”²

The civic arena for Calvin, then, offers a network of relationships in which agapic love should abound. This still leaves the significant question, however, whether that divinely mandated unselfish love is to be embodied in societal laws. Is agapic love to be manifested primarily, even exclusively, in the personal dispositions of Christians in their social relationships, or should civil laws themselves be seen as instruments for actively *promoting* agapic love?

For Calvin, the Law – and he has in mind here specifically the Sinai Decalogue – does have a civic function. It serves as a guide to our collective life beyond the church, informing us of what norms for societal life must be enforced in order to maintain a civic order. Protection of property, regard for life, concern for the elderly, the rhythms of labor and rest – these are important for the basic patterns of societal interaction. Here the Law serves “by fear of punishment to restrain certain men who are untouched by any care for what is just and right unless compelled by hearing the dire threats in the law.”³

But Calvin also insisted upon a more positive function of Law in public life. He refused to accept any “Law versus love” conception. He argued that Law should serve “to shape our manners in accordance with civil justice, to create concord among us, to maintain and preserve a common peace and tranquility.”⁴ Calvin’s verbs point to something beyond a mere negative policing. God wants civil government “to *shape* our manners,” “to *create* concord,” and “to *maintain and preserve* a common peace and tranquility.” In simple terms, love is what the Law is all about, and Law is what gives substance to the life of love. To make use of a Kantian-type formulation: Law without love is blind, and love without Law is empty. Any claim to be living a life of love while engaging in adultery, murder, covetousness, dishonoring of parents, stealing, and the like, is spurious.

This is not the place for me to offer more detail about Calvin’s conception of the relationship between Law and love. Suffice it to say that the issues he pursued, along with many others in the Christian tradition, are still being much discussed in the present-day academy. And the wonderful thing – as

² John Calvin, *Institutes of the Christian Religion*, John T. McNeill, ed., Ford Lewis Battles, trans. (Philadelphia: Westminster, 1960), 2:54–5, 8:417–19.

³ *Ibid.*, 2:10, 7:358.

⁴ *Ibid.*, 4.20.2; quoted by Sheldon S. Wolin, *Politics and Vision: Continuity and Innovation in Western Political Thought* (Boston: Little, Brown and Co., 1960), 182; Wolin is using here the 1813 translation by John Allen.

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evidenced in this fine book of essays – is that scholars from a variety of disciplines are addressing the issues with care and depth.

The ancient psalmist expressed the hope that the policies of a just and loving government “would be like rain that falls on the mown grass, like showers that water the earth.”⁵ The stimulating discussions that take place in these pages offer us the reassurance that the psalmist’s hope is still very much alive.

Richard J. Mouw

⁵ Ps. 72:8, New Revised Standard Version (NRSV).

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Both of us have been inspired over the decades to think Christianly about the world by teachers and pastors. Among them are Jim Houston, Tom Shaffer,

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