

## Introduction

How does one lead a life of law, love and freedom? This inquiry has very deep roots in the Judeo-Christian tradition. Indeed, the divergent answers to this inquiry mark the transition from Judeo to Christian. This book returns to those roots to trace the routes that these ideas have taken as they move from the sacred to the secular. The life of the monk is the paradigm case of a form of life that seeks, systematically and methodically, to integrate the values of law, love and freedom. Reading the various monastic codes, one finds the recurrent themes of law, love and freedom being emphasized in the form of life that the code creates. The monks seek to realize these values in their lives, and thereby actualize them in the world. The story of the monks goes to the heart of this book, and hence, it is placed right in the middle of it. With the story of the monks in the middle, the inquiry will start before and end beyond the monks. The monks were neither the first nor the last to engage in this pursuit of law, love and freedom. The monastic ideal has pre-Christian origins and post-Christian manifestations.

Law, love and freedom occupy center stage in both the Hebrew Bible and the Christian Bible, also known as the Old Testament and the New Testament. Both testaments could be read as different attempts to realize the values of law, love and freedom in the lives of the protagonists in the respective narratives – the Israelites in the Hebrew Bible and the Christians in the Christian Bible. Just as the key event in the Christian Bible is the Resurrection of Christ, so the key event in the Hebrew Bible is the Exodus of the Israelites. The two events are so closely connected theologically that the Exodus is often treated as foreshadowing the Resurrection. Both events are connected through what theologians call typological correspondence. Both events are also connected through a continuous contestation over the values of law, love and freedom.

The Exodus narrative provides the template for the recurrent trope of liberation in Western political thought: the hope for deliverance from

oppression, and the march of history toward the Promised Land.<sup>1</sup> The Exodus narrative was the template for the Puritans as they journeyed from the Old World to the New. Law, love and freedom are all implicated in this narrative. The Israelites rid themselves of one set of laws, only to be bound by another. They rid themselves of the law of Egypt, only to be bound by the law of God. The law of God is infinitely more demanding and intrusive than the law of Egypt, regulating as it does every minute detail of life. The new Lord is a jealous God. His demands are exacting, and his punishments harsh. The Lord God demands nothing less than total love: ‘you shall love the Lord your God with all your heart, and with all your soul, and with all your might’.<sup>2</sup> This love is to be expressed through absolute submission and complete obedience to him and his laws.<sup>3</sup>

As a result of the Exodus, have the Israelites become more or less free? There is no straightforward answer to this question, though this book will attempt to inch toward an answer in the course of six chapters. Standing at the foot of Mount Sinai with Egypt behind them and the Promised Land ahead of them, the Israelites are crossing a threshold more significant than the crossing of the Red Sea. At that point, Spinoza suggests that the Israelites have returned momentarily to the natural liberty of the state of nature; however, ‘since natural liberty is in practice unendurable, the covenant – one or another covenant anyway – necessarily follows’.<sup>4</sup> The formation of the covenant on Mount Sinai is accompanied by the promulgation of laws, laws and more laws. The Israelites, understandably, ‘want laws but not too many’.<sup>5</sup> There is an old Jewish folk tale that tells the story that, on the day after the Sinai covenant, ‘the Israelites rose early and marched at double speed away from the mountain so that they would not be given any more laws’.<sup>6</sup>

Both the Exodus and the Resurrection are stories about the crossing of thresholds: the crossing from the law of Egypt to the law of the Torah in the Exodus, and the crossing from death to life in the Resurrection. Upon being convinced of the reality of the Resurrection, Paul would renew the contestation over the values of law, love and freedom. In transitioning from the law of Egypt to the law of the Torah, have the Israelites merely substituted one yoke for another yoke? Again, there is no straightforward answer to this question.

<sup>1</sup> Walzer, *Exodus and Revolution*, 134.

<sup>2</sup> Book of Deuteronomy 6:5.

<sup>3</sup> May, *Love: A History*, 26–7.

<sup>4</sup> Walzer, *Exodus and Revolution*, 75; Spinoza, *Theologico-Political Treatise*, 1:218–19.

<sup>5</sup> Walzer, *Exodus and Revolution*, 73.

<sup>6</sup> Ginzberg, *The Legends of the Jews*, 3: 242, as quoted in Walzer, ‘The Legal Codes of Ancient Israel’, 335.

Paul's view on this matter is equivocal. Paul struggled mightily with this question, which haunted him throughout his entire missionary career. He kept returning to this question in his letters. Paul is convinced that Jesus is the long-awaited Messiah, who has finally arrived with the good news to set the captive people free. That much is clear. Less certain is what the people are held captive by, and correspondingly, what they have to be freed from. One possible answer is law: Law is that which holds them captive and from which they have to be freed.<sup>7</sup> On this reading of his letters, the gospel that Paul preaches is a gospel of freedom from the law, founded on love alone. Even if this reading is right, one should bear in mind that Paul did not get to this conclusion at one go. Paul got there with stops and starts. He equivocated at every step of the way. Paul renewed the inquiry into law, love and freedom without solving it once and for all. Just as Paul renewed the contestation over the values of law, love and freedom as he carved Christianity out of Judaism, so Luther would do the same many centuries later as he carved Protestantism out of Catholicism. During the Reformation, the same values became the subject of controversy, but this time, the target of attack had shifted from the Pharisee to the Pope, and the yoke of the law had shifted from the law of the Torah to canon law.

The contestation over the values of law, love and freedom is as much a political question as it is a religious question. Moving from religion to politics, there is a similar tension being played out. We could ask of a political community what Paul asks of his religious community: What would it take to create a people? On the religious side of the coin, the ancient Israelite answer is the covenant. The covenant creates the people of Israel as a people of God. Freedom is achieved through membership in the covenantal community; and membership in the covenantal community is achieved through the observance of the law. In contrast to the ancient Israelites, Paul proposes a different answer: not law, but love. Instead of law, love would unite the new Christian community. On the political side of the coin, one could give an analogous response. On the one hand, one could say that the constitution creates a people. The constitution founds a political community, invests it with authority, and creates its trans-temporality. On the other hand, like Paul, one could retort: not law, but love. That which ultimately sustains the nation and links the person to the nation is a love for the nation. A citizen needs to

<sup>7</sup> Letter to the Galatians 5:1–4: 'For freedom Christ has set us free; stand fast therefore, and do not submit again to a yoke of slavery. Now I, Paul, say to you that if you receive circumcision, Christ will be of no advantage to you. I testify again to every man who receives circumcision that he is bound to keep the whole law. You are severed from Christ, you who would be justified by the law; you have fallen away from grace'.

become one with the nation in the deep and affective way that only love can sustain.

The contestation over the values of law, love and freedom returns and recurs in legal theory debates in different guises every now and then. In the ‘ethic of right versus ethic of care’ debate and the ‘liberalism versus communitarianism’ debate, there is a truly felt and deeply held concern that the language of rights, which is the quintessential language of law, is an alienating and imprisoning form of discourse. The language of rights places us in a combative and antagonistic posture in relation to one another. It builds walls instead of bridges. This dissatisfaction and discontentment with the language of rights then triggers the search for an alternative paradigm, which will provide an alternative mode of relating to one another. The ethic of care presents itself as an alternative to the ethic of right, and communitarianism as an alternative to liberalism.<sup>8</sup> With the Black Eyed Peas, they are asking: ‘Where is the love?’

This book will make a renewed attempt to address this question. For such an ancient question, to aim for a definitive solution is sheer hubris. Instead, this book aims to shed some light on the puzzle, by arranging ideas and events differently, with the hope that one could see them in a new light. The goal is not so much to effectuate a paradigm shift as to introduce a gentle reorientation of perspective. Its unique contribution is its unremitting interdisciplinarity. This book deploys a whole range of disciplinary tools. The book draws on analytic jurisprudence in its analysis of law; ethics and aesthetics in its analysis of love; political philosophy in its analysis of freedom; biblical scholarship in its interpretation of Paul; the history of ideas in its study of the formation and transformation of these ideas; and moral philosophy in concluding how one could lead a life of law, love and freedom.

#### THE ARGUMENT

The argument of this book is threefold. First, it argues that the concepts of law, love and freedom are each internally polarized. Each concept contains, within itself, conflicting values. Paul’s equivocation in his letters is a striking manifestation of this internal polarization. Second, it argues that while values are many, my life is one. Hence, one needs to combine the plurality of values within a singular life. Values find their coherence within a form of life. There are, at least, two ways of leading a life of law, love and freedom: monastic versus antinomian. Third, it argues that the Reformation transformed these religious ideals into political ideologies. The monastic ideal is politically

<sup>8</sup> See Taylor, ‘Cross-Purposes: The Liberal-Communitarian Debate’.

manifested as constitutionalism, and the antinomian ideal is politically manifested as anarchism. There are, at least, two ways of creating a polity of law, love and freedom: constitutional versus anarchic.

## CHAPTER OUTLINE

The threefold argument will be elaborated and defended in six chapters.

Chapter 1 will begin by considering two views of human nature. It will do that through an extended meditation on the creation myth in the Book of Genesis. The two views of human nature emerge chronologically in the myth, before and after the Fall: prelapsarian and fallen. Chapter 1 will then map those two views of human nature onto the two dominant accounts of the state of nature provided by Rousseau and Hobbes, respectively. Paul struggles to mediate between these two opposing views of human nature in his letters. Paul seesaws between these two views. The seesaw is most evident in his equivocal treatment of the values of law, love and freedom.

In contrast to Chapter 1, which is a show-and-tell, Chapter 2 is more cut and dried. Chapter 2 will tackle the concepts of law, love and freedom directly, that is, analytically. Chapter 2 will argue that law, love and freedom are bipolar concepts. Each concept is structured by two opposing values. Law is polarized between authority and resistance. Love is polarized between union and attention. Freedom is polarized between identification and independence. Chapter 2 will leave us in a conceptual quandary. The subsequent chapters will try to get us out of this quagmire.

Chapter 3 is both the midpoint and the pivot point for the book. Chapter 3 suggests a methodological change of direction. Chapter 3 will be the explicitly methodological chapter. It will argue that the way forward, to get out of the maze, is not through further abstract conceptual analysis, but through a narrative and historical turn. It will explore the merits of a historical narrative approach to understanding the nature of values.

Chapters 4 and 5 will apply the historical narrative method to make sense of the multiplicity of values embedded in the concepts of law, love and freedom. Chapters 4 and 5 will provide two historical narratives: a prior narrative and a counter narrative. Paul will be the starting point and the Reformation the turning point for both narratives. The prior narrative charts the story from Paul, through monasticism, to the Reformation, ending in constitutionalism. The prior narrative will unite the values of law as authority, love as union and freedom as identification. The counter narrative charts the story from Paul, through antinomianism, to the Reformation, ending in anarchism. The counter narrative will unite the values of law as resistance, love as

attention and freedom as independence. Schematically, the two narratives could be represented as follows:

**Prior Narrative:** Paul → Monasticism → Reformation → Constitutionalism  
**Counter Narrative:** Paul → Antinomianism → Reformation → Anarchism

PRIOR NARRATIVE	COUNTER NARRATIVE
Law as Authority	Law as Resistance
Love as Union	Love as Attention
Freedom as Identification	Freedom as Independence

Chapter 6 will be the explicitly theoretical chapter. I have not begun the book with a theoretical framework. My reason for postponing the theory till the end is to allow the theory to emerge over time, or more specifically, over the course of the preceding five chapters. Chapters 1 and 2 unpack the values of law, love and freedom. Chapter 3 supplies the methodological apparatus to repack these values. Chapters 4 and 5 repack these values in two narratives. Finally, Chapter 6 will wrap them up into a theoretical package. The book will end on the high note of value pluralism. Chapter 6 concludes with an endorsement of value pluralism, but with a twist. Although values are plural, my life is singular. There are many values, but there is only one life. Hence, there is a search for coherence amidst a pluralism of values. The coherence of values is to be found within a form of life.

TARGET AUDIENCE

Ideally, a reader would read the book from cover to cover, in the order and sequence in which it is presented. However, time is precious and life is short. Some readers may wish to take the shortcut and go straight to the chapters that interest them. For readers who are so inclined, the following remarks will help them to cut to the chase. This book has three target audiences in mind.

First, it targets scholars who are interested in the intersection of law and religion, especially legal theory and theology, specifically Anglo-American legal theory and Judeo–Christian theology. Chapters 1, 4 and 5 would be of particular interest to this audience. Chapter 1 maps the prelapsarian and the fallen views of human nature in the Book of Genesis onto the Rousseauian and Hobbesian views of human nature, and links these opposing views of human nature to the Pauline equivocation on the values of law, love and freedom in human life. Chapter 4 continues where Chapter 1 left off and tells the story of the history of ideas from Paul to the emergence of monasticism to the Reformation, and finally, to the growth of constitutionalism. Chapter 5 takes

up the counter narrative and tells the story of the history of ideas from Paul to the emergence of antinomianism to the Reformation, and finally, to the growth of anarchism.

Second, it targets analytic jurists, philosophers of law and legal theorists. These three groups of scholars constitute three expanding concentric circles. The catchment area gets larger as we move from the former to the latter. Chapters 2 and 6 would be of particular interest to this audience. Chapter 2 presents a conceptual analysis of the ideas of law, love and freedom. It argues that law, love and freedom are bipolar concepts, each of which is structured by two opposing values. Law is polarized between authority and resistance, a division that draws on debates in analytic jurisprudence. Love is polarized between union and attention, a division that draws on debates in ethics and aesthetics. Freedom is polarized between identification and independence, a division that draws on debates in political philosophy. Chapter 6 concludes with a qualified endorsement of value pluralism, which draws on debates in moral philosophy.

Third, it targets legal theorists with a lively interest in history, especially the history of ideas. History can teach us something about theory. History can substantiate theory: It can add substance to abstract theory. This approach to history and theory is expounded and defended in Chapter 3, which is the methodological chapter. Chapters 4 and 5 apply the method to tell two historical narratives: the prior narrative in Chapter 4 and the counter narrative in Chapter 5. The two narratives tell the story of the transition of ideas from Judeo to Christian, from ancient to medieval, from medieval to modern, and finally, from the sacred to the secular.

#### A NOTE ABOUT TIME AND TENSE

The subject matter of this book – law, love and freedom – is, at once, timeless and time bound, which makes the choice of tense a difficult one. With the exception of quotes, which I have kept as they are, this book adopts the following rule of thumb. It uses the present tense when making a philosophical or theological point, or when narrating a literary plot, and the past tense when making an historical point, or when narrating an historical event, or when there is otherwise a need to indicate the passage of time. This distinction is not easy to draw and it is often artificial to make such a distinction, but the grammar of the English language requires it. The choice of tense is even more contentious in the case of the Bible, which contains a mix of historical fact and

fiction. The fictional elements are best read as literature, while the factual elements could, with the appropriate caveat and caution, be read as history. Sometimes, it might be necessary to switch tense in midsentence. In general, I have tried to adhere to the rule of thumb as far as possible, while striking a balance between sense and tense.



## 1

## Cosmological Beginning, Eschatological End

In the moral domain, the problem is not scarcity but surplus. There is a surplus of moral goods – more than could be realized in a single life. Hence, the challenge of moral reasoning is to reconcile the one and the many: the one life and the many moral goods. Moral reasoning is the process of coming to grips with how moral goods fit together in a whole and wholesome life. The ‘diversity of goods’ needs to be fitted within the ‘unity of life’.<sup>1</sup> The diversity of goods creates a conflict of values, which may be partially reconcilable in my subjective life, but the conflict remains in its full force in the objective realm of values. In this chapter, I shall introduce three moral goods: law, love and freedom. The next chapter will provide an analytic account of these goods and show what is good about them. The question that will occupy the rest of the book is how one could lead a life of law, love and freedom. Note the word *lead*: a life well lived is a life well led. Ordinary language is especially illuminating here. One does not just live a life. One leads a life. The former could be done willy-nilly, while the latter requires a conscious effort. Leading a life requires giving it a certain direction and not just drifting hither and thither where the wind blows in the sea of values. To be sure, one may choose to lead a life that embraces the vagaries of fate, along the path of what Nietzsche calls *amor fati*, but even then, it is a choice. When Nietzsche posits *amor fati* as the ‘formula for greatness’, he is presenting it as a conscious and considered choice.<sup>2</sup> It is a choice to lead one’s life in a particular way. Leading a life is simply the ordinary-language way of expressing the Socratic insight that an unexamined life is not worth living.

<sup>1</sup> Taylor, ‘Leading a Life’, 183.

<sup>2</sup> Nietzsche, ‘Why I Am So Clever’, §10.

Law, love and freedom are what Taylor calls ‘life goods’: they make life good.<sup>3</sup> To comprehend these ‘life goods’, we need to connect them to a higher level of analysis, ‘where we try to clarify what it is about human beings’ that makes those ‘life goods’ good for us: it requires us to paint ‘a certain kind of picture of the universe, our capacities, and the possible stances toward this universe they make possible for us’.<sup>4</sup> The life goods only make sense within a certain picture of the universe, and that picture is sustained and passed on in a whole range of media: ‘stories, legends, portraits of exemplary figures and their actions and passions, as well as in artistic works, music, dance, ritual, modes of worship, and so on’.<sup>5</sup> I will introduce the three ‘life goods’ of law, love and freedom by recounting a story. The story that I will recall is as old as the hills, or rather, as old as the world. It is a story of the beginning of the world.

Let’s start from the beginning, from the very beginning. Let’s begin with Eden. Eden is our cultural field site for the study of the state of nature. Geertz, the famous proponent of symbolic anthropology, defines culture as ‘a system of inherited conceptions expressed in symbolic forms by means of which men [and women] communicate, perpetuate, and develop their knowledge about and their attitudes toward life’.<sup>6</sup> The story of Eden in the Book of Genesis is symbol laden. For centuries, thinkers in the West ‘saw their own situations, their sufferings and their hopes mirrored in the story of the creation and the fall’; they ‘read the story of Adam and Eve, and often projected themselves into it’.<sup>7</sup> Their ‘conceptions of perfection and experiences of imperfection’ were ‘explicated in terms of the Genesis story’.<sup>8</sup> As a creation myth, the Edenic story provides neither a scientific account of the origin of the species nor a historical account of actual events; rather, it provides an imaginary and a highly imaginative account of human nature. As Rousseau says at the start of his Second Discourse: ‘Let us begin by dispensing with the facts, for they are not relevant to the question. We must not take the investigations which one could enter into concerning this subject for historical truths, but only for hypothetical and conditional reasons, more suitable for illuminating the nature of things than for showing the true origin’.<sup>9</sup>

The Edenic narrative is a ‘scenic imagination’: it presents the scene of the origin of humanity. *Skene*, from which the word *scene* is derived, refers to the

<sup>3</sup> Taylor, ‘Leading a Life’, 173.

<sup>4</sup> Taylor, ‘Leading a Life’, 173.

<sup>5</sup> Taylor, ‘Leading a Life’, 179.

<sup>6</sup> Geertz, ‘Religion as a Cultural System’, 87, 89.

<sup>7</sup> Pagels, *Adam, Eve and the Serpent*, xx–xxi.

<sup>8</sup> Morris, ‘A Walk in the Garden: Images of Eden’, 21.

<sup>9</sup> Rousseau, *Discourse on Inequality*, [6].