

PEPPERDINE  
UNIVERSITY  
School of Law

Herbert and Elinor Nootbaar  
Institute on Law, Religion, and Ethics



# Love and **LAW**

What would law be like  
if we organized it around  
the value of Christian  
*agape* love?

FEBRUARY 7–8, 2014

PEPPERDINE UNIVERSITY

SCHOOL OF LAW

MALIBU, CALIFORNIA

# Dear Friends,

In a provocative essay, philosopher Jeffrie Murphy asks: “What would law be like if we organized it around the value of Christian love [agape]?”\*

*Agape* love is love that is focused on the good of the other and is distinguished from other forms of love—from friendship, romance, and sexual love. Murphy notes that *agape* love is not simply concerned with making people’s lives more pleasant—it is not “cuddly.” If *agape* is the aim, a polity might “design legal practices and institutions with a view to the moral and spiritual improvement of affected citizens.” Other theological and moral traditions also wrestle with the relationship between law and religious concepts of love, including Judaism’s *hesed* and *ahava*, Islam’s *rahman*, and Hinduism’s *kama*.

The notion of law grounded in love has a rich history. Jesus summarized the Mosaic law as love of God and neighbor. John Calvin said that all nations’ laws “must be in conformity to that perpetual rule of love.” Over the centuries groups have sought to ground law in love, to good and ill

effect. The idea that law should be a manifestation of love stands in tension with modern and postmodern notions that law should be solely concerned with individual autonomy or efficiency or that law is by nature only a matter of power.

Law might bear several sorts of relationships to love. Love might be the motivation behind the work of lawyers, judges, legislators, police, and politically active citizens. The adoption and enforcement of wise laws can be among the most loving things that someone can do. It may also be that law can teach and encourage love.

The idea of law grounded in love generates numerous big questions which will be addressed throughout this conference by people from the fields of philosophy, political science, law, economics, theology, and literature. We hope you can join us.



ROBERT F. COCHRAN, JR.

Louis D. Brandeis Professor of Law and Director, Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics  
Pepperdine University School of Law



MICHAEL HELFAND

Associate Professor of Law  
Pepperdine University School of Law  
Associate Director, Diane and Guilford Glazer Institute for Jewish Studies  
Pepperdine University

\*Jeffrie G. Murphy, “Christian love and criminal punishment,” in *Christianity and the Law: and Introduction*, eds. John Witte and Frank S. Alexander (Cambridge University Press, 2008), 219

Welcome and Conference Introduction

**Deanell Reece Tacha**, Duane and Kelly Roberts  
Dean and Professor of Law

**Robert F. Cochran, Jr.**, Louis D. Brandeis  
Professor and Director, Herbert and Elinor  
Nootbaar Institute on Law, Religion, and Ethics

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Plenary Session I

Agape: The Activity of Reframing

**James Boyd White**, L. Hart Wright Professor  
of Law Emeritus, Professor of English Emeritus,  
University of Michigan

Response

**Darryl Tippens**, Provost, Pepperdine University

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Author Conversation

**Jeffrie Murphy**, Regents' Professor of Law,  
Philosophy, and Religious Studies,  
Arizona State University

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Plenary Session II

*Love and Law: An Inter-Faith Panel*

Welcome and Moderator

**Michael A. Helfand**, Associate Professor of  
Law and Associate Director, Diane and Guilford  
Glazer Institute for Jewish Studies

Love as Law: A Hindu Approach

**Varun Soni**, Dean of Religious Life,  
University of Southern California

Law AS Love: A View from the Talmud

**Chaim Saiman**, Professor of Law,  
Villanova School of Law

Love, Justice, and Polity in Catholic Social  
Doctrine

**Patrick Brennan**, John F. Scarpa Chair  
in Catholic Legal Studies, Villanova  
University School of Law

Humanizing Legal Systems: Exploring the  
Capacity for a Humane Approach to Justice  
from a Muslim Perspective

**Najeeba Syeed-Miller**, Assistant Professor  
of Interreligious Education, Claremont School  
of Theology

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Lunch

Breakout Session I

➤ **Breakout A: *Theology and Law***

Love as the Foundation of Jewish and Natural  
Law in the Religio-Legal Philosophy of Rabbi  
Samson Raphael Hirsch

**Shlomo C. Pill**, SJD Candidate in Law and  
Religion, Emory University School of Law

Why Agape Is Not More 'Christian' than Eros  
and Philia

**Roberto Sirvent**, Associate Professor of Political  
and Social Ethics, Hope International University

Agape, Eros, Caritas, and the Law

**Kevin Lee**, Professor,  
Campbell University School of Law

An Eastern Orthodox View of Love, Law, and  
Martin Luther King, Jr.

**Brandon Paradise**, Associate Professor of Law,  
Rutgers Law School—Newark

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➤ **Breakout B: *Love and Legislation:  
What Might It Look Like? Would It  
Be a Good Thing?***

Agape, the Golden Rule, the Rule of Law, and  
Wealth Maximization: All the Same Idea?

**Eric Rasmusen**, Dan R. and Catherine  
M. Dalton Professor of Business Economics and  
Public Policy, Indiana University's Kelley  
School of Business

Legislating Love: Love of Neighbor as the  
Essence of the Israeli Legal System

**Mark Goldfeder**, Senior Lecturer and Director  
of the Law and Religion Student Program,  
Center for the Study of Law and Religion,  
Emory Law School

The Law of Love

**Perry Dane**, Professor of Law at the  
Rutgers School of Law, Camden

The Impossibility of Imposed Love: Separation  
of Church and State and the Formation of a  
Truly Loving Society

**Michael D. Peabody**, Partner,  
Bradford & Barthel, LLP

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Plenary Session III

Calvin, Law, and Love

**Richard Mouw**, Professor of Faith and Public  
Life, Fuller Theological Seminary

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**Plenary Session IV**

Is Agape the Last, Best Hope for the Legal Profession?

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**Robert Vischer**, Dean and Professor of Law, University of St. Thomas School of Law

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**Breakout Session II**

➤ **Breakout A: *Law School and Law Practice***

Calvin on Love and Litigation

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**Eric G. Enlow**, Dean, Handong International Law School

Love and Law in the Real World of Law Practice

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**Mark Hiepler**, Partner, Hiepler & Hiepler.

Agape and Legal Education

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**Jerry Organ**, Professor of Law and Associate Director of the Holloran Center for Ethical Leadership in the Professions, University of St. Thomas School of Law

Teaching Agape to Law Students

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**L.O. Natt Gantt, II**, Professor and Director of Academic Success and Advising; and Codirector, Center for Ethical Formation and Legal Education Reform; Regent University School of Law

➤ **Breakout B: *Liberalism, Post-Liberalism, and Law***

Render Unto Rawls: Law, Gospel and the Evangelical Fallacy

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**Wayne Barnes**, Professor of Law, Texas A&M University School of Law

Agape and a Post-Secular Pluralistic Conception of Law

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**Mark C. Modak-Truran**, J. Will Young Professor of Law, Mississippi College School of Law

Sacralizing Law? Political Forgiveness and Liberal Justice

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**Zachary Calo**, Associate Professor, Valparaiso University Law School

Disordered Love, Disordered Law: Why Christian Love Necessitates Christian Culture

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**Jeffrey J. Ventrella**, Senior Counsel and Senior Vice President of Student Training and Development, Blackstone Alliance Defense Fund

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**Speakers' Dinner and Reception**

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**Plenary Session V**

"Be Instructed, All You Who Judge the Earth": The Dialectic of Love During the World, According to Augustine

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**Charles Mathewes**, Carolyn M. Barbour Professor of Religious Studies, University of Virginia

Response

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**Alberto R. Coll**, Professor of International Law, Director, European and Latin American Legal Studies, De Paul University College of Law

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**Plenary Session VI: *Agape and Law***

Can Law Accept Its Limits?: The Challenge and Risk of Allowing Agape a Role in the Law

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**Linda Ross Meyer**, Professor of Law at Quinnipiac University School of Law

Why Christian Love Is an Improper Category to Apply to Civil Law: A Contrarian Perspective

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**David VanDrunen**, Robert B. Strimple Professor of Systematic Theology and Christian Ethics, Westminster Seminary California

Love and Justice in the Law: Catholic Reflections on Nicholas Wolterstorff

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**Michael P. Moreland**, Vice Dean and Professor of Law, Villanova University

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**Breakout Session III**

➤ **Breakout A: *Law, Love, and Politics***

Less than Embrace, More than Restraint: Bundles of Loves, Periodic Catastrophes, and the Realist Case for Political Forgiveness"

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**Christopher J. Dowdy**, PhD Candidate, Religious Studies, Southern Methodist University

Is the Current Social Justice Movement Committing Societal Malpractice

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**Marlene McMillian**, Tyndale Theological Seminary

The When and the Where of Love: The Complexity of Subsidiarity as a Framework for Law

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**Lucia Silecchia**, Professor of Law, The Catholic University of America

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## ➤ Breakout B: *Criminal Law*

Restorative Justice

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**Barbara Armacost**, Professor of Law,  
University of Virginia School of Law

What's Love Got to Do with It?  
Incarceration in the United States and Conditions  
of Confinement

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**Lynn Branham**, Visiting Professor of Law,  
Saint Louis University School of Law

Dignity and Rehabilitation

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**Meghan J. Ryan**, Assistant Professor of Law  
Southern Methodist University,  
Dedman School of Law

Divine Love, Humanity's Law, and the 'Crime  
Against Humanity' in Transitional Justice

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**James W. McCarty III**, PhD Candidate in Religion,  
Ethics, and Society, Emory University

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## Lunch

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## Plenary Session VII: *Finding Love in Law Where You Might Not Expect It*

The Relevance of Agape to Fiduciary Duties, If Any

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**Stephen Bainbridge**, William D. Warren  
Distinguished Professor of Law,  
UCLA School of Law

Love and Corporate Theory

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**Lyman Johnson**, Robert O. Bentley Professor of  
Law, Washington and Lee University School of Law  
and LeJeune Distinguished Chair in Law University  
of St. Thomas School of Law

Law and Love in International Politics: Possibilities  
and Limits

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**Alberto R. Coll**, Professor of International Law,  
Director, European and Latin American Legal  
Studies, DePaul University College of Law

Love and Intellectual Property

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**Thomas C. Berg**, James L. Oberstar Professor of  
Law and Public Policy, University of St. Thomas  
School of Law

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## Breakout Session IV

### ➤ Breakout A: *Love and Law, Immigration and Race*

Love, Law, and the Immigrant

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**Michael Scaperlanda**, Gene and Elaine Edwards  
Family Chair in Law, University of Oklahoma  
College of Law

Whiteness, Inequality, and Love

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**Brant Lee**, Professor of Law, University of Akron

Love, Grace, and the Immigration Laws

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**Jennifer Lee Koh**, Associate Professor of Law,  
Western State College of Law

The Prodigal Illegal: Christian Love and the Legal  
Status of Unauthorized Migrants

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**Victor C. Romero**, Maureen B. Cavanaugh  
Distinguished Faculty Scholar and Professor  
of Law, Penn State

### ➤ Breakout B: *Love and Law, Family and Education*

Love, Indeterminacy, and Family Law

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**Joel A. Nichols**, Associate Dean for Academic  
Affairs and Professor of Law, University of  
St. Thomas School of Law

Trifling Violence: The U.S. Supreme Court,  
Domestic Violence and a Theory of Love

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**Jeff Baker**, Associate Clinical Professor of Law  
and the Director of Clinical Education,  
Pepperdine University School of Law

Turning Juvenile Detention Hearings into  
Community Healing: Why Settle for the Minimum  
of American Law When We Are Called to Fulfill  
God's Justice?

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**David Dominguez**, Professor of Law,  
Brigham Young University

Philanthropy and E(ta)xactions:  
Can the Twain Meet?

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**Mildred Robinson**, Henry L. & Grace Doherty  
Charitable Foundation Professor of Law,  
University of Virginia School of Law

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## Conference Conclusion and Reception





REGISTER TODAY

Registration, complete conference schedule, lodging, and travel information can be found at:

[law.pepperdine.edu/nootbaar/annual-conference](http://law.pepperdine.edu/nootbaar/annual-conference)

*Registration Closes February 1, 2014.*

*Herbert & Elinor Nootbaar*



Wonderful friends of Pepperdine, Herb and Elinor Nootbaar generously endowed the Institute on Law, Religion, and Ethics in 2007. Residents of Laguna Beach, California, they have fascinating life stories of hard work, perseverance, continuing success in the feed and grain industry, strong religious faith, and devotion to the community. Herb and Elinor's extraordinary gift enables law students to work with human rights and religious freedom organizations around the world, as well as to study the relationship between law, religion and ethics. In March of 2011, we mourned the death of our beloved Elinor; in November of 2013, we celebrated Herb's 105th birthday.

# *Love* and **LAW** *Sponsors*

## The Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics

The Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics was created to explore the nexus between these three disciplines, with particular emphasis on the intersection of faith and law. The purpose of the Institute is to bring the redemptive capacity of religious faith and moral insight to law, and to bring persons trained in the law to serve “the least of these” throughout the world. The Institute encourages the examination of law and religion from the broad range of Christian, Jewish, and other religious perspectives represented in the law school’s students, staff, and faculty. We seek to do so at a theoretical level through seminars, conferences, and scholarship. We also put theory into action, working with governments and human rights organizations to bring peace, justice, and the rule of law around the globe.

[LAW.PEPPERDINE.EDU/NOOTBAAR](http://LAW.PEPPERDINE.EDU/NOOTBAAR)

## The Diane and Guilford Glazer Institute for Jewish Studies

The Diane and Guilford Glazer Institute for Jewish Studies was established based on the understanding that as a Christian University, Pepperdine’s students are especially open to discussions of faith and identity, but are often unacquainted with Christianity’s ongoing relationship with Judaism. The Glazer Institute is designed to increase a majority-Christian academic community’s exposure to, discussion of, and awareness of Judaism, Jewish Studies, and Israel. The Glazer Institute seeks to provide new avenues for students to explore and connect Jewish and Christian identities through various opportunities—curricular and cocurricular.

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