

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

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*(Note: This paper is in development and presented for purposes of discussion. References are not finalized.)*

### **NOTES**

#### I. Introduction

- a. In Shakespeare’s play, “The Merchant of Venice” the heroine, Portia, disguises herself as a “doctor of law” to rescue the merchant Antonio who has foolishly signed a bond promising to give the Jewish lender Shylock a “pound of flesh” if Antonio defaults on a large loan. Of course, Antonio defaults and Portia disguises herself as a lawyer and approaches Shylock. Rather than go through legal technicalities, Portia presents a Christian moral about mercy.

**Portia (to Antonio):**

Do you confess the bond?

**Antonio:**

I do.

**Portia:**

Then must the Jew be merciful.

**Shylock:**

On what compulsion must I? Tell me that.

**Portia:**

The quality of mercy is not strain'd,

It droppeth as the gentle rain from heaven  
Upon the place beneath. It is twice blest:  
It blesseth him that gives and him that takes.

Shylock refuses to grant mercy and insists on the pound of Antonio's flesh.

Portia then resorts to a legal technicality, and insists that under the law of the land, which was currently experiencing the Inquisition, Shylock, as a Jew, is an "alien" and because he is attempting to take the life of a citizen (Antonio), Shylock has put his own life in jeopardy. Finally, Antonio and Portia agree to spare Shylock's life, but only if Shylock converts to Christianity among several other punishments.

- b. This is a conference about what the law would be like if we structured it around concepts of agape love, presumably Christian. My argument is that charity (caritas) and agape love are significantly different concepts, that it is impossible to force genuine Christian agape love onto a society, that attempts to do so have failed, and that the freedom provided by the separation of church and state and where liberty of conscience is celebrated provides the best opportunity for genuine agape love to flourish.
- c. Although Portia gave Shylock a sermon about how mercy was not strained (or limited), Portia supports the forced conversion of Shylock under threat of death. While Portia could speak eloquently of mercy toward Antonio, whom she felt sympathetic toward, she did not offer it to Shylock.
- d. Forced conversion to Christianity was a feature of society during the Elizabethan Era, and may not have even raised an eyebrow when the play was first performed.
- e. But as Benjamin Franklin later said, "A man convinced against his will is of the same opinion still."
- f. Roger Williams had even stronger words, calling the forced conversion of Native Americans "monstrous and most inhumane." He wrote that using "wiles and subtle devices" to compel them "to submit to that which they understood not" would be like coercing "an unwilling spouse ... to enter into a forced bed." (Roger Williams, *Christenings Make Not Christians or A Brief Discourse Concerning that Name Heathen, Commonly Given to the Indians* (London: Jane Coe, for I. H., 1645), in *The Complete Writings of Roger Williams*, 7 vols., ed. Perry Miller (New York: Russell and Russell, Inc., 1963).

## II. Christian Agape Love and Law

- a. "Love your enemies." (Matthew 5:44.)

- b. The command by Jesus to “love your enemies” is problematic – how can humans be mandated to love?
- c. Here’s Jesus’ statement in the full context of his sermon on the mount. Matthew 5:44-46: “You have heard that it was said, ‘Love your neighbor and hate your enemy.’ But I tell you, love your enemies and pray for those who persecute you, that you may be children of your Father in heaven. He causes his sun to rise on the evil and the good, and sends rain on the righteous and the unrighteous. If you love those who love you, what reward will you get? Are not even the tax collectors doing that?” (Mathew 5, NIV)
- d. God and love are unified. “[W]hoever does not love does not know God, because God is love.” 1 John 4:8.
- e. Love precedes the law. “Love does no harm to its neighbor. Therefore love is the fulfillment of the law.” Romans 13:10 (NIV)
- f. Now before I go any further, let me first acknowledge that I am striking out on dangerous territory – getting into both law and theology at the same time. So what I’m offering you is how I look at this from my perspective as a Christian and an attorney.

### III. The Greek Philosophy of Divine Love

- a. Plato defined the “divine love of god” as the natural affinity of the soul for the divine home from where it came, and that this was a mutual attraction. Man for god, god for man. (He called this “heavenly eros.”)
- b. Hellenic gods were distanced from humanity because the gods were perfect and even knowledge of human beings could corrupt the gods.
- c. So the Greeks believed that the primary god (the *a priori* divine origin of the soul) to remain perfect, set the universe in motion and forgot about it. There could be no knowledge of evil.
- d. But the Greeks believed humans were basically good by nature since the soul had its origin in god. By doing good works, one could advance to more of a god-like state. Failure would lead to reincarnation to go through it again. (Note: reincarnation was a feature of Greek philosophy but not necessarily Greek religion.)
- e. So the desire to escape earth, avoid the reincarnation circle, and gain eternal bliss was considered love and longing for god or ‘heavenly eros.’

- f. This could be accomplished through good works, sacrifices, and religious devotion.
- g. Plato said that ‘Heavenly Eros’ was where all motivation was free of the hindrances of the material world so that the soul could be perfected through intellectual contemplation.
- h. The ultimate form of love for the Greek philosophers was sacrificing one’s life for his or her friends. (This is a well-known concept, and even Jesus referenced it in describing human relationships when He says in John 15:13, "Greater love has no one than this, that one lay down his life for his friends.")
- i. The fable of the good King Admetus and his wife Alcectis was considered the epitome of Greek love. In the story, Admetus was told that he would die and the only way he could live was if a virtuous man or woman took his place. So he went to his elderly parents who said that “although we love you with all our hearts, we love our lives more. We cannot die for you. “ His brothers and sisters all declined to die for him, and a person on death’s door refused. Finally, Alcestis, his wife, agreed to die for him crying out to the god Apollo that the people needed such a good king. So she sacrificed herself for her husband. In pity, the gods gave her a new life. (See Thomas Bulfinch (1796–1867). *Age of Fable: Vols. I & II: Stories of Gods and Heroes*. 1913.)
- j. The Greeks thought “This is the greatest form of love that there is – that a man should lay down his life for friends.”
- k. The Christian concept turned this idea on its head – Christians believe that Jesus set aside divine power and died at the hand of his human enemies for His human enemies. The idea that God descended from heaven to be made a human being to live among corrupt humans and succumb to be killed by human beings was the ultimate foolish notion to the Greeks and was offensive to Jewish people. (See 1 Cor. 1:21-23).
- l. The concept of a pure God having knowledge of humanity and experiencing the full effect of sin (“God made him who had no sin to be sin for us, so that in him we might become the righteousness of God.” 2 Cor. 5:21 NIV) was the foundation of the New Testament notion of agape love.

(The church would periodically have agape meals to commemorate the eucharist or self-sacrificing descent of God to humanity and subsequent resurrection and ascension. )

- m. This agape love of Christ is not only directed toward his friends, but is expressed in the statement of Jesus as He was being nailed to the cross, “Father forgive them for they know not what they do” and laying down His life, not only for His

friends, but also for His enemies. Where Christians believe that Jesus had the capability of escaping death on the cross, Christians believe that it was not the nails, but the agape love of Divinity that held Him on the cross.

#### IV. The Development of Charity (Caritas) - St. Augustine Merges Hellenic with Christian Thought

- a. Over three centuries later, Augustine of Hippo comes up with a hybrid of Christian and Greek thought. He buys into the Hellenic concept that in order for the soul to be purified, the person must do good works so the person can ultimately be reunited with God.
- b. This concept was egocentric – humans would do good things because humans would benefit by gaining an eternal reward.
- c. Augustine merged the Hellenic concept of heavenly eros and the Christian concept of agape into a synthesis called “caritas.” (Lutheran theologian Anders Nygren wrote extensively on this subject in his book *Eros and Agape* (published in 1930 and 1936))
- d. Caritas is latin for loving-kindness, or charity. Nygren describes eros as needs-based and desire-based, egocentric and acquisitive love; and is drawn from Greek Platonic Thought – self-interest in order to acquire and possess. In contrast, Nygren describes agape as spontaneous, unconditional, theocentric, self-giving, self-sacrificial; surrender to the other and love them purely for themselves. (See Alan Vincelette, ‘Introduction’, in Pierre Rousselot, *The Problem of Love in the Middle Ages: A Historical Contribution*, translated and with an introduction by Alan Vincelette (Marquette University Press, 1998), p11.)
- e. Augustine believed that humans could work their way back to God, and that God gives humans the will to do good in order to accomplish this task.
- f. But this human-centric concept of God, and the idea that humans could ascend to divinity through works is in contrast to multiple references in the New Testament that it was impossible to be perfect, yet was possible to be saved. (For instance, the thief on the cross who never performed good works was granted salvation. Luke 23:32-43) Even Paul, who made an early career of persecuting Christians before his conversion, admitted that he was the chief of sinners yet claimed assurance of salvation. “This is a faithful saying, and worthy of all acceptance, that Christ Jesus came into the world to save sinners; of whom I am chief.” 1 Timothy 1:15.

#### V. Rediscovering the Love of God and the Intellectual Birth of Separation of Church and State

- a. Under the concept of caritas, humans would ascend toward God through their works. This contrasted with the concept that under agape, God descended to humanity and gave His all for individual humans.
- b. The influence of Augustine on the church was such that salvation was seen as being based on an economy of works, with pilgrimages to see relics, indulgences sold, participation in the Crusades as a path to salvation, etc., (man ascending toward God) in lieu of the concept of the concept that “all that believeth” may have eternal life. John 3:16. (God descending to man).
- c. It was in this context of works-based religion that the German monk named Martin Luther, who was frustrated after many unsuccessful attempts to cleanse himself of sin, was climbing the Scala Sancta (or Holy Stairs) in Rome on his knees in 1511. He was struck with the realization that “The just shall live by faith.” (Hebrews 10:30)
- d. Luther soon began to preach that justification is entirely the work of God, and that righteousness is entirely outside of human effort– it is the righteousness of Christ which is imputed to humans, rather than infused, through faith. Luther reasoned that the only love humans could generate was selfish, or acquisitive love. The love revealed in Christ, Luther believed, was the love that gives.
- e. Luther dispensed with the need for intermediaries between God and humans (including the combined efforts of church and state in the Holy Roman Empire). Humans did not need a Pope or an Emperor to declare them saved – they were saved through faith alone.
- f. Nygren wrote, “The very same thing which made him [Luther] a reformer in the matter of justification, made him also the reformer of the Christian idea of love.” (Nygren, 683)
- g. "That is why faith alone makes someone just and fulfills the law," said Luther. "Faith is that which brings the Holy Spirit through the merits of Christ." (Martin Luther's Definition of Faith)
- h. G. Meilaender and W. Werpehowski in *The Oxford Handbook of Theological Ethics* (2007, p. 456) state that “Luther’s rediscovery of the primacy of agape was the linchpin of the Reformation and the rediscovery of genuine Christian ethics.”
- i. “In Augustine, the issue between Eros and Agape is decided in favour of synthesis; in Luther, in favor of reformation. Augustine unites two motifs in the Caritas-synthesis; Luther shatters that synthesis.” (Nygren, 692. See also Werner G. Jeanrod, *A Theology of Love* (2010, p. 117-118).

- j. D. Bloesch in his book *God the Almighty: Power, Wisdom, Holiness and Love* (2006, p. 147) points out some key differences between eros (which could include heavenly eros) and agape. “Eros is attracted to that which has the greatest value; agape goes out to the least worthy. Eros discovers value whereas agape creates value. Agape is a gift love whereas eros is a need love. Eros springs from a deficiency that must be satisfied. Agape is the overflowing abundance of divine grace.”
- k. According to Nygren, we either love other and God in the manner of eros – purely for self-interest – which is not really love at all; or we love them in the manner of agape – for themselves and act against our own self-interest and happiness. (For more on Nygren see Charles W Kegley, ed, *The Philosophy and Theology of Anders Nygren*, (Carbondale, IL: Southern Illinois University Press, 1970)

## VI. The Reformation and Church-State Separation

- a. As illustrated almost as an aside in “The Merchant of Venice,” the history of Europe is replete with instances where the church used the power of the state to arrest and even execute dissidents, and where the state would use the church to perpetuate concepts of the divine right of kings and secure power to itself and the king.
- b. Even the key players in the Protestant Reformation did not understand the relationship between church and state and had a hard time incorporating concepts of freedom of conscience into the law. Even though John Calvin who said, that all nations' laws "must be in conformity to that perpetual rule of love, his attempt to develop Geneva, Switzerland into a religious utopia failed to play out principles of agape love.
- c. When he was 26 years old, John Calvin published his *Institutes of the Christian Religion*, and he thought that he reached the final word on morals. From 1546 to 1564, he ruled Geneva, Switzerland with an iron hand. He imposed severe penalties on those who went back to Catholicism or did not attend his sermons. He was particularly vicious toward those who spoke against him. (I know that some will argue that it was not Calvin himself who instituted this degree of persecution, but the religious intolerance was perpetuated under his watch.)
- d. “For years people were obliged to report in minute detail every word spoken against him and the doctrine of predestination, with which he identified himself to such a degree that to speak against the dogma became as dangerous as to speak against him. The poor were dragged to prisons, scourged, reviled, obliged to walk in the streets barefoot wearing a penitential habit and carrying a torch to expiate for what Calvin arbitrarily called blasphemies.” (See J.B. Galiffe, *Notices genealogiques sur les familles genevoises*, (Genève: 1836), vol. 3, p. 545.

- e. J.B. Galiffe also described multiple death sentences carried out in Calvin's Geneva including 30 executions of men, 28 of women – 13 were hanged, 10 beheaded, 55 quartered, and 35 burned alive after being tortured. Those who managed to avoid the death sentence had to abide Calvin's other multiple rules intended to prevent sin – for instance, Calvin forbade sweets to be served at wedding banquets, gambling, singing, dancing, and punished people who said they had been healed by water from a mountain spring.  
[http://www.traditioninaction.org/religious/e034rpCalvin\\_Franca05.htm](http://www.traditioninaction.org/religious/e034rpCalvin_Franca05.htm)
- f. Yet, despite Calvin's attempts to create a sin-free environment, Galiffe concludes that “never before did immorality take hold and spread as it did in the period of Calvin's government.”
- g. And Calvin's Geneva arose in the shadow of the Inquisition throughout Europe led by the Catholics against the Protestants where there were executions. But Protestants, fired up with religious zealotry executed people routinely in Protestant England where religious dissidents were hung, drawn and quartered, in Scotland where people were tied to posts in the oceans and left to drown in the tide, and throughout Europe where people were burned at the stake.
- h. Even Luther's beliefs about justification by faith did not prevent his diatribes against the Jews and his support of a brutal suppression of the peasants who revolted against the princes.
- i. Christian government cannot truly express agape love, and in my review of history those that attempted to impose religious belief in order to purify a society have met with frustration and ultimately engaged in persecution.
- j. Absolute power corrupts absolutely, and that includes religious power. There are many more examples.

## VII. Non-Religious Attempts At Creating Loving Societies

- a. We might consider the contrast – where a society decided to jettison religion and pursue a secular sense of justice. In fact, some would argue that this was a separation of church and state, but it still lacks the mutual respect between church and state that allows both to flourish.
- b. Often pursued by agnostics or atheists who were concerned about injustice, inequality, exploitation of the underprivileged, human suffering. Communism would bring idealism, power, and self-interest together – a secular alternative to religion.
- c. In the Soviet Union, the ideology of Marxism and Leninism made atheism the official doctrine. And the state committed itself to the destruction of religion – churches, mosques, and temples were destroyed with impunity. It is estimated



that between 12 to 20 million people were executed because of their religious beliefs, and this does not include imprisonment or hospitalization in mental facilities.

- d. Even without a concept of divine agape, caritas (or charity) enforced from the top down doesn't work in a secular environment for long, and it is certainly devoid of the self-sacrificing agape love because people forced to act are by definition not "self-sacrificing" and self-interest takes over.

#### VIII. The American Model – A Historical Anomaly

- a. In contrast. The American form of government is based on two basic assumptions that allows church and state to respect each other, and their own separate spheres of influence.
- b. First, is the concept of Protestantism – that one can approach God on his or her own terms and does not need the state or church to act as a mediator. The state is not put in a position of evangelizing or compelling worship.
- c. Secondly, the rule of law – not the rule of powerful people; there is no "divine right of kings." Instead our laws are based on an agreement where people can participate in government in a meaningful way – the U.S. Constitution. There is no state church that sets the tone for the law, or hierarchies based on familial heritage.
- d. "Democracy can be understood as having at least two dimensions: 1) self-government, that is to say, meaningful participation of individual citizens in the establishment of the polity in which they live and in its subsequent governance; 2) pluralism, that is to say, the right of every individual to develop for him or herself a way of life and a set of beliefs and opinions appropriate to it, consistent with agreed upon common norms, and to live accordingly, with minimum interference on the part of others, including and especially, on the part of government."

"Both of these dimensions combine issues of liberty and equality, the twin pillars of democracy. Neither self-government nor pluralism, nor for that matter, liberty and equality, are absolute. Living in society requires the tempering of all in the face of the realities of the human condition but, for those who believe in them, they remain not only basic aspirations but basic requirements for the of society." (Daniel J. Elazar – Jerusalem Center for Public Affairs, retrieved from <http://www.jcpa.org/dje/articles2/jud-democ.htm>)

- e. In the U.S., church and state are two separate, mutually respectful concepts. And in America, those who go to church recognize that it is a separate sphere of influence from their civil obligations. They hold their moral values in common,

but recognize that there is freedom of religious belief and practice.

- f. This development was influenced significantly by a preacher named Roger Williams whose beliefs in liberty of conscience led to the formation of Rhode Island - one of the first places in the world where the government promoted freedom of conscience to believe or not to believe.
- g. Whereas Calvin, Luther, and others failed to bring about religious freedom in Europe, a preacher who was driven out of Massachusetts because of his religious beliefs and ultimately founded Rhode Island laid the groundwork for the American form of religious freedom.
- h. Roger Williams believed that “that any effort by the state to dictate religion or promote any particular religious idea or practice was forced worship.” He colorfully declared that, "Forced worship stinks in the nostrils of God." He would write that he saw no warrant in the New Testament to use the sword to promote religious belief. Indeed, he said that Constantine had been a worse enemy to true Christianity than Nero, because Constantine's support corrupted Christianity and led to the death of the Christian church. In the strongest language, he described the attempt to compel belief as rape of the soul, and spoke of the "oceans of blood" shed as a result of trying to “command conformity.”
- i. “True it is, the sword may make, as once the Lord complained (Isa. 10), a whole nation of hypocrites; but to recover a soul from Satan by repentance, and to bring them from anti-Christian doctrine or worship to the doctrine or whoship Christian in the least true internal or external submission, that only works the all-powerful God, by the sword of his Spirit in the hand of his spiritual officers.”
  - The Bloody Tenent of Persecution, for Cause of Conscience discussed in a conference between Truth and Peace, p. 80
- j. Unlike those who had sought religious freedom only for themselves, Williams defended religious freedom for Native Americans, Protestants, Catholics, Jews, Muslims, unbelievers, and pagans.
- k. Later, Thomas Jefferson, like Williams, used the metaphor of a wall separating church and state. Jefferson believed that the federal government should stay out of the business of the church and vice versa.
- l. The First Amendment encapsulates this concept:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

IX. The Opposite of the First Amendment of the U.S. Constitution

- a. Last month, on January 14, 2014 the Pew Research Center released an in-depth study as part of its Religion and Life Project and found that 29% of the 198 recognized countries and territories had a high or very high level of government restrictions on religion (Government Restrictions Index-GRI). Pew Research found that Egypt, Indonesia, Russia, Pakistan, and Burma had the most restrictions in 2012.
- b. But how is this measured? Pew's Government Restrictions Index measures "government laws, policies and actions that restrict religious beliefs and practices, including efforts to ban particular faiths, prohibit conversions, limit preaching, or give preferential treatment to religious groups."
- c. Let me break that down a bit – restrictions on religious beliefs and practices and prevent conversions (i.e. violations of free exercise of religion), banning particular faiths (right to assemble), limit preaching (free speech), or give preferential treatment to religious groups (establishment clause).
- d. When these core concepts are broken down, religion is restricted, and the countries lack a sense of agape love between people.
- e. It stands to reason, then, that if a society is to become a more loving society, with more loving laws, then you reduce restrictions on religion and foster an environment of separation of church and state where people can freely choose to believe or not to believe.

X. The State Is Not Equipped to Handle Agape Love

- a. No matter how hard people try to incorporate Christian concepts of the law of God into the law of the land, the state is simply not equipped to carry these principles forward.
- b. A quick example is the idea that the Ten Commandments need to be displayed in courtrooms. Imagine that you're arrested and charged with the crime of murder. As you look at the judge, you realize that there is the Seal of the State of California and the Ten Commandments are displayed next to it. Every law must have a remedy, and so you decide to argue that you're under the jurisdiction of God and that you want the judge to apply principles of God's agape love to your case. So you tell the judge, "Your honor, I seek the jurisdiction of the law of God." The judge looks at you like you're crazy, and you point to the Ten Commandments. The judge asks, "Okay, how do you plead." You say, "Well, the Commandments do say, 'Thou Shalt not kill,' and the Bible says that 'the soul that sinneth shall die.' That's true, but the Bible also says that if we confess our sins He is faithful and just to forgive us our sins and cleanse us from all unrighteousness, (1 John

1:9) so I have no choice but to plead guilty!”

- c. So what happens now? You’re guilty under the law of California and the Ten Commandments, but you’re going away in handcuffs. The state is not capable of fulfilling the agape love remedy of Scripture, which is forgiveness. Instead, if the Ten Commandments are displayed, the state can only use them to condemn you, and this condemnation is what St. Paul refers to as “the law of sin and death.” By posting the Ten Commandments on the wall, not only is church and state merged, but the reality of the agape, self-sacrificing, unconditional, unmerited, unlimited love of God is misrepresented – the mercy is removed and divine condemnation is all that is left. *(Note: I give credit to Dr. Nicholas Miller who described this illustration more eloquently in a lecture a few years back.)*
- d. The Bible says “love is the fulfillment of the law” but the incorporation of a symbol of God’s law into the courtroom takes the “love” out of the equation. I would argue that posting the commandments on the wall is highly offensive to Post-Reformation Christianity because it misrepresents the agape character of God. The law must be fulfilled in love.
- e. The principle of agape love and humanity: “And we have known and believed the love that God has for us. God is love, and he who abides in love abides in God, and God in him.” 1 John 4:16 (NKJV).

## XI. Back to Mercy

- a. Without herself having agape love, Portia’s to Shylock about mercy flowing unstrained from heaven prove to be empty when she realizes that Shylock’s contract can be dispensed with and Shylock himself executed for threatening Antonio and Portia quickly seeks his death. She only backs off when he is forced to convert to Christianity.
- b. In law, you have a definition of what is wrong (law) and the remedy. Until the law is able to provide the divine remedy of eternal forgiveness of sin and salvation, while recognizing that the debt for the crime must be paid and that those imposing the law offer to sacrifice themselves for the criminals so that their debt is covered, the state is unable to incorporate the concept of agape love into society.
- c. The best the legal system can do is to recognize the right to accept this love, or not to accept it, and make a clear decision not to interfere in the relationship between the believer and God.
- d. *“Love, in order to be love, must be voluntary and unconditional. Imposed love simply becomes duty. That, in turn, is a form of law, and totally unfulfilling. John wrote,*

*“There is no fear in love; but perfect love casts out fear; because fear has torment. He who fears has not made perfect in love.” (1 John 4:18)*

Ashley Day, “Exploring Galatians: A Devotional Commentary.” AuthorHouse, 34 (2006).

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