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# Judaism and John Paul II: Coming to Grips With What Law Means in the Hands of God

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## JUDAISM AND JOHN PAUL II: COMING TO GRIPS WITH WHAT LAW MEANS IN THE HANDS OF GOD

RANDY LEE<sup>†</sup>

### INTRODUCTION

In 1990, a delegation of American Jewish leaders met with Pope John Paul II on their trip through Europe.<sup>1</sup> As the meeting came to a close, the Pope learned that the group's next stop was Warsaw in the Pope's native Poland.<sup>2</sup> At the news, Pope John Paul II grew, as one delegation member described it, "rhapsodic, began to sway and said, 'Ah, Friday afternoons, Sabbath candles in the windows, psalms being sung, children's voices . . .'"<sup>3</sup>

In that moment, Pope John Paul II was remembering law, but not law as it is recorded in books. He was remembering law as made flesh in the lives of his Jewish neighbors, and it was good. It was law designed in love to bring peace to a community. This was law which protected God's chosen from the business of life and from the deception and worship of self, and ultimately it was law which brought this people closer to God and to His saving grace. This law was not the arbitrary precepts of an angry bureaucrat. It was, instead, the affectionate kiss of a passionate suitor, a God seeking to be a Beloved. Pope John Paul II had seen all this in the candles and the families gathered together for the Shabbat. He had heard it in the psalms sung and in the voices of the children, and he never forgot it.

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<sup>1</sup> See A. James Rudin, *Rabbi Rudin's Reflections on Pope John Paul II: A Jewish Perspective*, THE CENTER FOR CATHOLIC-JEWISH STUD., Apr. 18, 2005, [http://www.centerforcatholicjewishstudies.org/content/news/Rudin\\_on\\_JPII.htm](http://www.centerforcatholicjewishstudies.org/content/news/Rudin_on_JPII.htm).

<sup>2</sup> See *id.*

<sup>3</sup> *Id.*

Before he was Pope John Paul II, Karol Joseph Wojtyla studied Judaism and Jewish law in the lives of his Jewish neighbors in Poland.<sup>4</sup> He had many gifted teachers. When the Pope was a boy, the Jewish community in Poland numbered three-and-a-half million people, ten percent of Poland's total population; in his hometown of Wadowice, twenty-five percent of his classmates were Jews.<sup>5</sup> At the time, Poland's Jewish community was exciting and vibrant, a source of "rich spiritual, intellectual, and cultural resources."<sup>6</sup> For Pope John Paul II, it was the best of law schools.

If Pope John Paul II grew up in Poland having seen the best of God's law, he also saw there the worst of men's. In 1939, when the future pope was nineteen, Hitler's Nazis invaded and then occupied Poland.<sup>7</sup> By the end of that occupation, over three million Polish Jews were dead.<sup>8</sup> Pope John Paul II's hometown was near the Auschwitz-Birkenau death camp.<sup>9</sup> In his first visit to Poland after becoming pope, Pope John Paul II returned to the area of his youth and went to Auschwitz, and there he knelt before the stone set in memory of the Jews, his former law teachers, murdered at the camp, and prayed.<sup>10</sup> Ultimately, the Pope would describe the Holocaust, the Shoah, as "an incredible stain on the history of the century."<sup>11</sup>

When the Nazis finally left Poland in 1945, they were replaced by new occupiers, the communist forces of Joseph Stalin.<sup>12</sup> Those forces would rule over Karol's neighbors and his

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<sup>4</sup> For an anecdotal account of the influences of Pope John Paul II's Polish heritage, see MIECZYSLAW MALINSKI, *POPE JOHN PAUL II: THE LIFE OF KAROL WOJTYLA* 144 (P.S. Falla trans., 1979) (labeling the Pope one of "the two greatest men in recent Polish history").

<sup>5</sup> Rudin, *supra* note 1.

<sup>6</sup> *Id.*

<sup>7</sup> See generally MARTIN GILBERT, *THE HOLOCAUST: A HISTORY OF THE JEWS OF EUROPE DURING THE SECOND WORLD WAR* 84 (1985) ("The German forces crossed into Poland in the early hours of Friday, 1 September 1939.").

<sup>8</sup> See, e.g., NORA LEVIN, *THE HOLOCAUST: THE DESTRUCTION OF EUROPEAN JEWRY 1933-1945* app. at 715-18, tbls. 1, 2, 3a, 3b & 4 (1968) (presenting various statistical estimates of Jewish deaths in Nazi-occupied Europe).

<sup>9</sup> Rudin, *supra* note 1.

<sup>10</sup> *Id.* ("The tragedy was indelibly etched in both his head and his heart.").

<sup>11</sup> *Id.* (internal quotation marks omitted).

<sup>12</sup> See, e.g., Gregory C. Sisk, *John Paul II: The Quintessential Religious Witness in the Public Square*, 45 J. CATH. LEGAL STUD. (2006) (current issue) (lauding John Paul's "resistance to the succeeding tyrannies of Nazism and Communism").

homeland until Pope John Paul II, himself, would catalyze the communists' departure throughout the early 1980s.<sup>13</sup>

In these two very different schools of law, that of God and that of men, Pope John Paul II learned five very profound lessons about law. First, he learned that law should be made not as men are inclined to make it, "carried away on the tumultuous wave of self-interest and instinct,"<sup>14</sup> but that law must be made as God makes it. Second, in the spirit of God, law must be motivated and activated by love.<sup>15</sup> As Pope John Paul II expressed it: "The experience of the past and of our own time demonstrates that justice alone is not enough, that it can even lead to the negation and destruction of itself, if that deeper power, which is love, is not allowed to shape human life in its various dimensions."<sup>16</sup> Third, consistent with this spirit of love, law must see those it impacts with loving eyes. It must recognize in each person it impacts "the dignity of the human being, made in the image of God,"<sup>17</sup> a dignity that entitles each person to "universal, inviolable, inalienable rights,"<sup>18</sup> and out of that recognition, law must seek to "acknowledge, respect, and promote" that dignity.<sup>19</sup>

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<sup>13</sup> See *id.* ("With respect to the downfall of communism, which had enslaved his homeland of Poland as well as the rest of [E]astern Europe, John Paul 'provided the moral firepower for the revolution.'").

<sup>14</sup> John Paul II, Address to the Participants in the 9th "World Conference on Law" (Sept. 24, 1979) [hereinafter World Conference Address].

<sup>15</sup> See Elizabeth R. Schiltz, *West, Macintyre, and Wojtyla: Pope John Paul II's Contribution to the Development of a Dependency-Based Theory of Justice*, 45 J. CATH. LEGAL STUD. (2006) (current issue) (noting "each human being's obligation to love each other human being").

<sup>16</sup> John Paul II, Address to the Members of the Alumni Association of the Academy of American and International Law (Sept. 27, 1986) [hereinafter American and International Law Address]; see also World Conference Address, *supra* note 14 (recognizing that, for the Church, the pursuit of law must be founded in the "all-embracing love" of Christ).

<sup>17</sup> Celestino Migliore, Intervention by the Permanent Observer of the Holy See at the United Nations for the Special Tribute to the Late Pope John Paul II (Apr. 6, 2005).

<sup>18</sup> World Conference Address, *supra* note 14.

<sup>19</sup> John Paul II, Address to the Participants in the Reunion of the Harvard Law School Alumni Association (June 13, 1998) [hereinafter Harvard Address]; see also Robert John Araujo, *John Paul II and the Rule of Law: Bringing Order to International Disorder*, 45 J. CATH. LEGAL STUD. (2006) (current issue) ("These universal premises can help overcome the limitations of self-interest so that the inherent dignity of each person may be respected."); Joseph Koterski, *The Use of Philosophical Principles in Catholic Social Thought: The Case of Gaudium et Spes*, 45 J. CATH. LEGAL STUD. (2006) (current issue); Gerald S. Twomey, *Pope John Paul II and the "Preferential Option for the Poor"*, 45 J. CATH. LEGAL STUD. (2006)

Fourth, Pope John Paul II learned that law must seek to be centered in truth. As he observed:

[T]he whole history of law shows that law loses its stability and its moral authority, that it is then tempted to make an increasing appeal to constraint and physical force, or on the other hand to renounce its responsibility—in favour of the unborn or the stability of marriage, or, on the international plane, in favour of entire populations abandoned to oppression—whenever it ceases to search for the truth concerning man and allows itself to be bought off with some harmful form of relativism.<sup>20</sup>

Fifth and finally, Pope John Paul II learned that this law of love, which is centered in truth and promotes the “transcendental dignity,”<sup>21</sup> necessarily hungers for community and seeks “to work for the common good. . . .”<sup>22</sup> Thus, this law cannot be a law, which is “inflated,” nor one that “seek[s] its own interests,” “brood[s] over injury,” or “rejoice[s] over wrongdoing.”<sup>23</sup> It must be a law that “rejoices with the truth”<sup>24</sup>: a law that seeks to protect and save, a law that knows that justice and mercy must work together toward salvation,<sup>25</sup> and a law that desires to serve.

When Pope John Paul II spoke of law, he grounded his teaching in Scripture,<sup>26</sup> and much of it was grounded in the Psalms<sup>27</sup> and the Hebrew prophets.<sup>28</sup> Although this was no doubt a tribute to his first teachers in the law, it also reflected how clearly these five lessons are articulated in Jewish law as it is both lived and written. Pope John Paul II called on fellow

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(current issue) (“John Paul’s legacy sharpened and refined the Catholic social teaching on the dignity of the human person.”).

<sup>20</sup> World Conference Address, *supra* note 14.

<sup>21</sup> *Id.*

<sup>22</sup> Migliore, *supra* note 17.

<sup>23</sup> See 1 *Corinthians* 13:4–6 (New American).

<sup>24</sup> *Id.* at 13:6.

<sup>25</sup> See Samuel J. Levine, *Looking Beyond the Mercy/Justice Dichotomy: Reflections on the Complementary Roles of Mercy and Justice in Jewish Law and Tradition*, 45 J. CATH. LEGAL STUD. (2006) (current issue) (recognizing that mercy and justice are seen as complimentary in both the Pope’s view and in the traditional Jewish context).

<sup>26</sup> See Twomey, *supra* note 19 (describing the Pope’s emphasis on the Gospels and the teachings of Jesus Christ).

<sup>27</sup> See, e.g., Harvard Address, *supra* note 19 (quoting *Psalms* 106:3, “Blessed are they who observe justice, who do righteousness at all times”).

<sup>28</sup> See, e.g., American and International Law Address, *supra* note 16 (quoting *Micah* 6:8, “What does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?”).

Catholics to recognize that “the faith and religious life of the Jewish People as they are professed and practiced still today, can greatly help us to understand better certain aspects of the life of the Church.”<sup>29</sup> That faith and life of the Jewish People is, of course, centered in what they understand to be God’s greatest gift to them, the Law.<sup>30</sup>

Throughout his papacy, Pope John Paul II stressed the necessity for Catholics to learn from their “elder brothers,” the Jews,<sup>31</sup> not only so Catholics would better understand their world, but also so they could better understand their own Catholic faith. The Pope noted that “[t]he Jewish religion is not ‘extrinsic’ to [Catholics], but in a certain way is ‘intrinsic’ to our own religion,”<sup>32</sup> and that “the Catholic faith is rooted in the eternal truths contained in the Hebrew Scriptures, and in the irrevocable covenant made with Abraham.”<sup>33</sup> In this latter point, the Pope echoed earlier Church teachings that “[i]n the biblical sources [Catholics] share with their Jewish brothers and sisters, they find the indispensable elements for living and deepening their own faith.”<sup>34</sup> So important did the Pope deem the teachings of Judaism to an understanding of Catholicism that, among the “many worthy enterprises” into which the Pope believed Catholics are called to “true and fraternal cooperation” with Jews, he included Bible studies.<sup>35</sup> Such a view draws support from the Gospels where Christ made the hearts of his disciples

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<sup>29</sup> Consultation of the National Council of Synagogues and the Bishop’s Committee for Ecumenical and Interreligious Affairs, *Reflections on Covenant and Mission* (Aug. 12, 2002), available at [http://www.bc.edu/research/cjl/meta-elements/texts/cjrelations/resources/documents/interreligious/ncs\\_usccb120802.htm](http://www.bc.edu/research/cjl/meta-elements/texts/cjrelations/resources/documents/interreligious/ncs_usccb120802.htm) (quoting Pope John Paul II).

<sup>30</sup> See Lawrence A. Hoffman, *Response to Joseph Allegretti: The Relevance of Religion to a Lawyer’s Work*, 66 *FORDHAM L. REV.* 1157, 1162 (1998) (explaining the importance of the law in Judaism).

<sup>31</sup> See Pope John Paul II, Address to the Chief Rabbis of Israel (Mar. 23, 2000) (stressing the similarities between Christianity and Judaism).

<sup>32</sup> Pope John Paul II, Allocution in the Great Roman Synagogue (Apr. 13, 1986) [hereinafter Great Roman Synagogue Address].

<sup>33</sup> Pope John Paul II, Address to the Representatives of the Jewish Community in Sydney, Australia (Nov. 26, 1986) [hereinafter Jewish Community Address].

<sup>34</sup> Pope John Paul II, Address to a General Audience (Apr. 28, 1999). See Pope Paul VI, *Nostra Aetate: Declaration on the Relation of the Church to Non-Christian Religions*, § 4 (Oct. 28, 1965), for an example of previous Church teaching.

<sup>35</sup> See Jewish Community Address, *supra* note 33 (emphasizing the study of the bible as a tool that will bring Jews and Christians together).

burn as He explained to them His own life in light of the teachings of Moses and the prophets.<sup>36</sup>

Needless to say, it was in the area of law that the Pope stressed a particular need for a collaboration with Judaism. The Pope pointed out that “Jews and Christians are the trustees and witnesses of an ethic marked by the Ten Commandments, in the observance of which man finds his truth and freedom.”<sup>37</sup> Their mutual understanding of God’s teachings offers to the world a complete picture of man, the nature of law, and man’s role in community. It is a picture, which:

[Is] in favor of man, his life from conception until natural death, his dignity, his freedom, his rights, his self-development in a society which is not hostile but friendly and favorable, where justice reigns and where, in this nation, on the various continents and throughout the world, it is peace that rules, the shalom hoped for by the lawmakers, prophets and wise men of Israel.<sup>38</sup>

Such a picture invites a collaboration between Jews and Catholics because dealing with so great a God can transcend a single perspective. As the Rabbi Lawrence Hoffman has observed, Jews are particularly well-suited to recognize that law, in God’s eyes, is a product of love.<sup>39</sup> For their part, Catholics may be particularly good at recognizing that it is God, the Beloved, and not law, that ultimately saves.<sup>40</sup>

Pope John Paul II was not only a student of the law learning from his Jewish brothers and sisters, but he was also a teacher of law. Pope John Paul II embraced Christ’s call to His Church to be “the light of the world,”<sup>41</sup> and he never hesitated to bring the light of God’s law to the world’s legal institutions, whether they

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<sup>36</sup> See *Luke* 24:13–35 (New American) (describing the appearance of Jesus to his disciples in the days after his resurrection).

<sup>37</sup> Great Roman Synagogue Address, *supra* note 32.

<sup>38</sup> *Id.*

<sup>39</sup> See Hoffman, *supra* note 30, at 1162 (“The giving of the law is God’s most loving act . . .”).

<sup>40</sup> But see Samuel J. Levine, *Teshuva: A Look at Repentance, Forgiveness and Atonement in Jewish Law and Philosophy and American Legal Thought*, 27 *FORDHAM URB. L.J.* 1677, 1679 & n.10 (2000) (recognizing that “Jewish law views it as apparent that human beings are, by their very nature, fallible and incapable of avoiding all sin,” and that atonement requires “a spiritual reawakening, a desire to strengthen the connection between oneself and the sacred”).

<sup>41</sup> See *Matthew* 5:14.

be seated in his native Poland or here in the United States.<sup>42</sup> As Professor John Carr noted of the Pope:

All the world knew where he stood on life and dignity, on war and peace. We saw him in Poland with Solidarity, in South Africa speaking against apartheid, at the Wailing Wall in Jerusalem praying for peace and calling the world's leaders to step back from the brink of war. In our country, we remember him on the Mall in Washington insisting the measure of our nation is how we protect unborn life, at Yankee Stadium pleading for the poor of the world, in St. Louis calling us to be "unconditionally pro-life" as he asked us to join him in ending the use of the death penalty. He reached out to all, met with the faithful and the controversial, challenged saints and sinners.<sup>43</sup>

One might expect that seizing upon Pope John Paul II's example, Catholics in America would seek to do likewise within the American legal system.<sup>44</sup> Too often, however, Catholics in America see themselves as cut off from the wisdom of their Jewish brothers and sisters and too conformed to the views of law fostered by American legalism to enlighten their nation in any meaningful way.

Catholics in America too often lose heart and, therefore, lose light because they see the story of God before the coming of

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<sup>42</sup> Sisk, *supra* note 12 (describing the Pope's views towards communism in Poland and his pro-life activism in the United States); *see also* Randy Lee, *When a King Speaks of God; When God Speaks to a King: Faith, Politics, Tax Exempt Status, and the Constitution in the Clinton Administration*, 63 LAW & CONTEMP. PROBS. 391, 432 (2000) (noting that at a meeting on January 26, 1999, Pope John Paul II pressed President Clinton on abortion, racial equality, and euthanasia and "pointed out a conflict between a culture that affirms, cherishes, and celebrates the gift of life, and a culture that seeks to declare entire groups of human beings—the unborn, the terminally ill, the handicapped, and others considered useless—to be outside the boundaries of legal protection . . ."); Ronald J. Rychlak, *Just War Theory, International Law, and the War in Iraq*, 2 AVE MARIA L. REV. 1, 24 n.88, 31–32 (2004) (noting that Pope John Paul II indicated to President George W. Bush his lack of support for the War in Iraq); John Witte, Jr., *Introduction—Soul Wars: The Problem and Promise of Proselytism in Russia*, 12 EMORY INT'L L. REV. 1, 27 (1998) (discussing Pope John Paul II's personal letter to then Russian President Boris Yeltsin protesting the Russian 1997 Freedom of Conscience Law, a law which actually suppressed religious freedom).

<sup>43</sup> John L. Carr, *The Consistent Life Ethic: A Look Back, a Look Around, a Look Ahead*, 2 U. ST. THOMAS L.J. 256, 270–71 (2005).

<sup>44</sup> *See* Randy Lee, *Reflections on a Rose in Its Sixth Season: A Review of H. Jefferson Powell's "The Moral Tradition of American Constitutionalism"*, 32 CREIGHTON L. REV. 1205, 1232–33 (1999) (discussing the importance of Christian influence in reducing "state violence").

Christ as the story of an angry God imposing hard and arbitrary rules on His people and then condemning those people each time they failed to meet His demands. Yet, the God seen in the story of the infancy of law and Man is not an angry God, but a patient and loving God,<sup>45</sup> a God, indeed, like the God Catholics find in the New Testament. In addition, the law found in this story is not an arbitrary expression of power, but a tool of love designed to protect Man and facilitate the friendship the Father longs to have with His children.

Such a law of loving inevitably demands to be contrasted with the manmade lawmaking of American legalism. Such a comparison, in turn, requires that one ask whether human lawmaking is always flawed unless it is exercised within a loving relationship between people, a relationship centered in truth that reflects the love that God has for Man. The answer, apparent from the dawn of Man, is that in creating and maintaining community, law makes a good instrument of love but is a poor substitute for love. In fact, from God's perspective, community gives rise to law but even the wisest of law cannot impose community.

The remainder of this paper seeks, then, to see in Jewish law what the Jewish People have recognized in it from the beginning and what Pope John Paul II experienced from it on those Friday afternoons in Wadowice when the Sabbath candles rested in the windows and the psalms rose to Heaven on the voices of children. It seeks to capture the meaning of law in the hands of God and the lessons that offers for law in the hands of men.

## I. LAW BEFORE THE FALL

To understand law as God understands it, one must recognize that for God, law exists within a relationship. Law does not exist external to relationship, nor does law create or define relationships. Instead, God begins with the relationship of love and then uses law as a tool to facilitate that love.

The significance of this becomes immediately clear in the history of Man presented in *Genesis*.<sup>46</sup> God "established [Man] in

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<sup>45</sup> See *Jonah* 4:2 (New American) ("I knew that you are a gracious and merciful God, slow to anger, rich in clemency, loathe to punish.").

<sup>46</sup> See Samuel J. Levine, *The End of Innocence*, HAMEVASER, Dec. 1989, at 8 (providing an insightful summary of Jewish accounts of the Garden of Eden narrative).

his friendship.”<sup>47</sup> “God wanted men to live as His family, united to each other and to Himself in love.”<sup>48</sup> Neither sickness, death, ignorance, nor weakness was to harm this family.<sup>49</sup>

Having set His heart upon this relationship of love, God created law to facilitate the relationship. First, God provided Adam and Eve with rules to guide their behavior.<sup>50</sup> The most famous of these rules, of course, was the restriction that Adam and Eve were not to eat from the tree of knowledge of good and bad,<sup>51</sup> but most of these rules were not negative restrictions but affirmative instructions to do certain things. God told Adam and Eve to “[b]e fertile and multiply,”<sup>52</sup> to “fill the earth and subdue it,”<sup>53</sup> and “to cultivate and care for” the garden of Eden.<sup>54</sup> In this first stage of Man’s life on Earth, Man was incapable of distinguishing good from evil, and, therefore, God proceeded by calling Man to be obedient even as Man could not appreciate the wisdom in God’s rules.

In addition to rules, God also gave Man, in this time, freedom to choose whether to obey God’s rules.<sup>55</sup> This freedom, however, or the so-called rights that one might associate with it, was not intended to be a power of Man to assert his own autonomy. Rather, cast as this freedom was in a relationship of love, its purpose was to provide Man with the opportunity to love God and one another.<sup>56</sup> Thus, God did not intend for this freedom to serve as a right for Adam to insist on his own way,<sup>57</sup> but God intended this freedom to allow Man voluntarily to give up his life for his friends.<sup>58</sup> God understood that the relationship

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<sup>47</sup> CATECHISM OF THE CATHOLIC CHURCH ¶ 396 (2d ed. 1997) [hereinafter CATECHISM].

<sup>48</sup> LAWRENCE V. LOVASIK, S.D., THE APOSTOLATE’S FAMILY CATECHISM 129 (1994).

<sup>49</sup> *Id.*

<sup>50</sup> *See, e.g., Genesis* 1:28, 2:15–17.

<sup>51</sup> *Genesis* 2:16–17 (“You are free to eat from any of the trees of the garden except the tree of knowledge of good and bad.”).

<sup>52</sup> *Id.* at 1:28.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 2:15.

<sup>55</sup> *See* CATECHISM, *supra* note 47, ¶ 387 (noting that by choosing sin, created persons abuse the freedom that God has given them).

<sup>56</sup> *See id.* (emphasizing that in order to make created persons more “capable of loving him and loving one another,” God’s plan encompassed freedom).

<sup>57</sup> *See* 1 *Corinthians* 13:4–5 (“Love . . . does not seek its own interests . . .”).

<sup>58</sup> *See* *John* 15:13 (“No one has greater love than this, to lay down one’s life for one’s friends.”).

of friendship that God created Man to have with Him could only exist if Man could “live this friendship only in free submission to God.”<sup>59</sup>

As noted earlier, at this stage in the garden, Adam and Eve lacked knowledge of good and bad having not yet eaten the fruit of the tree of knowledge of good and bad.<sup>60</sup> As such Man could not choose good over evil because he knew it to be good, nor could Man be held accountable for consciously choosing evil over good. Yet, Man could still sin because rather than a conscious choosing of evil over good, sin is “disobedience toward God and lack of trust in his goodness.”<sup>61</sup> Thus, if Man were to obey God in this era, that obedience would have to result from Man’s love of God or from Man’s desire to please His beloved. That obedience could not result from Man’s appreciation of the transcendent wisdom in God’s law because such an appreciation was beyond Man at this time.

Regardless of any issue of moral accountability, however, Man’s sins would necessarily have tangible consequences. In particular, Man’s sins would result in a deviation from God’s plan in the garden. For example, if Adam and Eve disobeyed God’s rule to be fruitful, then they would not fill the earth.<sup>62</sup> If they disobeyed God’s rule to cultivate and care for the garden, then they would run out of “seed-bearing fruit” to eat.<sup>63</sup> In addition, the consequences of any such deviation from the plan of this God committed to friendship and the well-being of Man would necessarily be harmful to Man. *Genesis* makes this clear when it points out that the results of the fulfillment of God’s plan for the garden were “very good.”<sup>64</sup>

God created Man, then, initially to live in a state where Man would not have to bear the moral stain of having chosen evil over good even if Man disobeyed God, and God created law to protect Man from harmful consequences. In this state of affairs Man and

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<sup>59</sup> CATECHISM, *supra* note 47, ¶ 396.

<sup>60</sup> See *Genesis* 2:16–17, 3:5 (recounting that although God only told the Man, if he ate from the tree of knowledge he would die, the serpent later explained further the man and woman, if they ate from that tree they would be able to distinguish between good and evil).

<sup>61</sup> CATECHISM, *supra* note 47, ¶ 397.

<sup>62</sup> See *supra* notes 50–53 and accompanying text.

<sup>63</sup> See *Genesis* 1:29.

<sup>64</sup> See *id.* at 1:31 (noting God’s satisfaction with the fulfillment of the plan as of the fifth day).

God could have existed together for eternity.<sup>65</sup> Because Man could not choose to do evil, the moral culpability for having done so could not come between God and Man. Furthermore any bad physical consequences Man could create, the Creator of everything from nothing most certainly could have repaired. It was the relationship of the Perfect Parent and His child before she reached the age of reason: the child could not be accountable for what she broke, and every broken thing the child brought to the Father, the Father truly could make all better. It was a relationship reflecting God's gentleness, patience, and mercy.

The only threat to this eternal paradise rested in Man's ability to come to know good from evil, for then how could even God repair any brokenness that might occur in Man's soul.<sup>66</sup> In this then was the source of God's one restriction on Man's behavior: to refrain from eating the fruit of the tree of knowledge of good and bad.<sup>67</sup>

This is not to suggest that there could have been no good that could have come from Man knowing the difference between good and evil, and it is perhaps possible that God foresaw a time when Man, made in the image of God who did recognize that difference, would also know the difference. In fact, a man who knows the difference between good and evil is a man who can choose good over evil and can appreciate the goodness of God. Such a man can love and love God more fully than can the child before the age of reason. Such a man, however, also can appreciate his own failures and, therefore, can know shame. Thus, if such a man failed to appreciate the depth of God's mercy, he would be tempted to try to hide from God, to justify himself before God with excuses, or even to try to deny God's authority over him.

In this light, it is no surprise that God coupled this one restriction with a warning to Adam that if he ate from the tree of knowledge of good and bad, he would be "surely doomed to die,"<sup>68</sup>

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<sup>65</sup> See *id.* at 2:16–17, 3:22 (explaining that man was free to eat of the tree of eternal life and, in addition, was told that he would only die if he ate of the tree of knowledge of good and evil).

<sup>66</sup> But see *infra* text accompany notes 87–107 (discussing how God fixed the "brokenness" of the man and woman's souls even after they ate from the tree of knowledge by banishing them and making them mortal so as to protect them from "an eternity of living in shame in the absence of God").

<sup>67</sup> See *supra* note 51 and accompanying text.

<sup>68</sup> *Genesis* 2:17.

for what other fate can await a man whose shame drives him from the presence and wisdom of God. In fact, the effect of Man eating of this fruit was so profound that the tree of knowledge of good and bad was the only tree the fruit of which Man was not allowed to eat; even the tree of life, the fruit of which would give Man eternal life,<sup>69</sup> bore no such restriction.<sup>70</sup>

The serpent's temptation of Eve demonstrates the importance of the context of love to law. Being "the most cunning of all the animals,"<sup>71</sup> the serpent tempted Eve by convincing her to extract the rule not to eat from the tree of knowledge of good and bad from its loving context. The serpent told Eve that God had lied to her when He had said that if she ate of that fruit she would die.<sup>72</sup> The serpent also told Eve that this rule came not out of God's desire to protect Eve and Adam but out of God's desire to prevent them from becoming "like gods who know what is good and what is bad."<sup>73</sup>

In a sense the substance of what the serpent said was true. The fruit was not poisonous, eating of it would not cause one to die instantly, and eating of the fruit would make Eve and Adam more like gods.<sup>74</sup> Thus, the deception came not in the serpent's words but in the inference they invited Eve to make. The serpent wanted Eve to assume that God's law came not out of His love for Man but out of arbitrariness and a selfish lust for exclusive power. Thus, given Pope John Paul II's admonition that law in the hands of men can be inclined to self-interest,<sup>75</sup> one might even see within the serpent's temptation an invitation to Eve to remake God and His laws in the image of Man.

When Eve did question God's love, she began to question His law. When she questioned His law, she sought to rely on her own understanding of what she should do instead of God's understanding of what she should do. When Eve turned her back

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<sup>69</sup> See *id.* at 3:22.

<sup>70</sup> See *id.* at 2:16–17.

<sup>71</sup> *Id.* at 3:1. For a discussion of this cunning as a subtle and clever deceptiveness, see Samuel J. Levine, *Professionalism Without Parochialism: Julius Henry Cohen, Rabbi Nachman of Breslov, and the Stories of Two Sons*, 71 *FORDHAM L. REV.* 1339, 1344 n.26 (2003). See also *infra* text accompanying notes 74–85.

<sup>72</sup> See *Genesis* 3:2–4.

<sup>73</sup> See *id.* at 3:4–5.

<sup>74</sup> See *infra* text accompanying note 79.

<sup>75</sup> See *supra* text accompanying note 14. For support in Scripture for Pope John Paul II's position, see *infra* notes 152–53, 209–13, 235–241 and accompanying text.

on God's understanding, she looked at the tree and "saw that the tree was good for food, pleasing to the eyes, and desirable for gaining wisdom."<sup>76</sup> Eve, then, ate of the fruit and gave some of it to Adam, who ate it as well.<sup>77</sup> Thus, the two sinned: Having lost "trust in his goodness," the two chose to disobey God.<sup>78</sup>

As the serpent had said, after Adam and Eve ate the fruit, they did not die but became more like the divine, "knowing what is good and what is bad[.]"<sup>79</sup> The serpent had failed to mention, however, that eating the fruit would cause the eyes of Adam and Eve to be opened, and they now could see their own nakedness.<sup>80</sup> Suddenly Man could distinguish good from evil and could see himself for what he truly was.<sup>81</sup> Man's response to this development was to attempt to cover himself and to hide from God,<sup>82</sup> He who also knew evil from good. That effort, however, proved fruitless.

Still, as God encountered His disobedient child, now able to know right from wrong, God displayed His own goodness and hunger for love and community. God sought out His disobedient child. God gave His child an opportunity to acknowledge his disobedience and seek God's mercy. Instead, Man offered excuses and blamed others for his behavior.<sup>83</sup> Rather than ask God for forgiveness, Adam claimed that Eve was to blame for giving him the fruit and God was to blame for putting Eve in the garden with Adam.<sup>84</sup> For her part, Eve maintained that the serpent was to blame for deceiving her.<sup>85</sup>

As one might expect, then, the immediate consequence of Man's disobedience and acquisition of knowledge of good and evil was shame. This shame led to a defensive pride that led Man to attempt to justify his own weakness. Excuses followed, and Man proved himself more eager to use his new knowledge to judge God and others than to know himself. In his zeal to justify

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<sup>76</sup> *Genesis* 3:6.

<sup>77</sup> *Id.*

<sup>78</sup> CATECHISM, *supra* note 47, ¶ 397; *see also supra* text accompanying note 61.

<sup>79</sup> *See Genesis* 3:22.

<sup>80</sup> *See id.* at 3:7.

<sup>81</sup> *See id.* at 3:22.

<sup>82</sup> *See id.* at 3:8.

<sup>83</sup> *See id.* at 3:9–13.

<sup>84</sup> *See id.* at 3:12.

<sup>85</sup> *See id.* 3:13.

himself, Man failed to honor God and love his neighbor.<sup>86</sup> Man's disobedience, then, led to further sin; sin compounded sin, and the community that God intended to exist between God and Man and between men collapsed.

God responded to this fallen Man and these broken relationships again with love: God recognized that Adam and Eve were troubled that they were naked and so He provided them better clothing.<sup>87</sup> Only after doing so did God return to the issue of the consequences of their disobedience, the issue of death: The Lord said, "The man has become like one of us, knowing what is good and what is bad! Therefore, he must not be allowed to put out his hand to take fruit from the tree of life also, and thus eat of it and live forever."<sup>88</sup> Having so explained the situation, God banished Man from the garden to prevent Man from eating from the tree of life.<sup>89</sup>

Much can be learned by putting this explanation of the banishment in context, and all of it indicates that God's love for Man did not wane despite the act of banishment. If one does examine God's response in the context of God's behavior, one may note first that even after Man had disobeyed God and broken community with Him, an act that an omniscient God must have known, God returned to the garden seeking the community of Man.<sup>90</sup> When God found Man hiding and unable to stand in God's presence, God used His first words to Man to invite Man's confession and, thus, facilitate the reconciliation between God and Man.<sup>91</sup> Then, when Man, now able to distinguish good and bad, refused to acknowledge his own accountability for his actions, God's first act in response to this fallen Man was not to condemn him but to address the primary need in Man's mind: God clothed Man.<sup>92</sup>

If Man's disobedience and sin had caused God to stop caring for Man, God would not have bothered to seek out Adam and Eve, He would not have bothered to listen to them, and He most

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<sup>86</sup> *Id.* at 3:9–13; *see also Luke* 10:27–28 (identifying these as the two principle commandments).

<sup>87</sup> *See Genesis* 3:7, 21.

<sup>88</sup> *Id.* at 3:22.

<sup>89</sup> *See id.* at 3:23.

<sup>90</sup> *See id.* at 3:8–9.

<sup>91</sup> *See id.* at 3:9 ("The Lord God then called to the man and asked him, "Where are you?").

<sup>92</sup> *See id.* at 3:21 (describing how God clothed them with leather garments).

certainly would not have helped them with their clothing. In fact, in first dressing the two before considering their banishment, God showed that He saw a greater urgency to address the concern Adam and Eve had about their nakedness than He saw in His own concern about their new found knowledge. Thus, before administering His justice, God reaffirmed his love for man; God reaffirmed the loving context in which His law must work.<sup>93</sup> Ultimately, God would invoke His justice in this instance, but as the context requires, God would work His justice out of love for the purpose of salvation. God would move Man only because God loved Man too much to leave him where he was.

In this incredibly powerful and important series of acts, in first seeking to bring the outlaw back not to punishment but to community, in second listening to his cause, and in third answering his needs, God loved the sinner as He judged the sin. It is said that God's children are called to "love the sinner but hate the sin"<sup>94</sup> and Man can embrace the latter particularly zealously. He is very good at hating the sin. He is, however, more reticent to embrace the former: Man can be less attentive in remembering to love the sinner. Here, in the garden, however, God provides a model for justice to which the kingdoms of this world would be well served to contrast their own systems of justice. Most certainly we hope to bring those outside our laws to justice, but do we care whether they will come back into community? As much as we may guarantee them a right to be heard, do we impose upon ourselves an obligation to listen, even when we may feel that we have heard it all before? And can our duty to impose our justice yield, even momentarily, to a desire to meet their needs?

Even the act of banishment itself looks different when placed in its fuller context. This banishment occurred in the context of God's recognition that Man was becoming more like God;<sup>95</sup> yet God could not have been offended by that recognition. In fact, God had "created [M]an in [H]is [own] image"<sup>96</sup> and would later

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<sup>93</sup> See *supra* text accompanying note 15.

<sup>94</sup> See GotQuestions.org, Are We To Love the Sinner but Hate the Sin?, <http://www.gotquestions.org/love-sinner-hate-sin.html> (last visited Aug. 28, 2006) (discussing this cliché used by many Christians).

<sup>95</sup> See *supra* text accompanying note 88.

<sup>96</sup> *Genesis* 1:27.

reveal that the ultimate destiny of Man was to be like God.<sup>97</sup> In addition, this banishment was to deny Man access to the tree of eternal life; yet God could not have been troubled by Man's access to the tree of eternal life for two reasons. First, Man had been free to eat from the tree of life before he ate from the tree of knowledge of good and bad.<sup>98</sup> In fact, "[created] in a state of holiness, man [had been] destined to be fully 'divinized' by God in glory."<sup>99</sup> Second, the ultimate culmination of God's plan, even after Adam and Eve's profound deviation, would be to bring Man back to the tree of life after the last day.<sup>100</sup>

Thus, Man's banishment after his fall must have been as distressing to God as it was to Man because that banishment frustrated the great and good plans that God had for Man. Even after the fall, God still wanted Man to live forever, but the fuller context suggests that after the fall, there must have been something in Man's current circumstance that made life without death undesirable for Man. If this is so, then Man's banishment was not designed as an offense to Man to offset Man's offense to God, but was actually a benefit to Man designed to respond to the consequences Man's disobedience would have otherwise set in motion.

If one considers Man's state after eating the fruit of the tree of knowledge of good and bad, that "something" in Man's current circumstances becomes obvious. After eating the fruit, Man was ashamed, he sought to hide from God, and he was unable to humble himself to seek God's forgiveness.<sup>101</sup> Thus, had Man eaten from the tree of life at that point and lived forever without death, he would have doomed himself to an eternity of living in shame in the absence of God: Man would have doomed himself to an eternity of Hell.<sup>102</sup> God's banishment of Man from the garden and introduction of death into Man's life, therefore, must be

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<sup>97</sup> See *John* 3:2 (reminding us "that when it is revealed we shall be like him").

<sup>98</sup> See *supra* note 65.

<sup>99</sup> CATECHISM, *supra* note 47, ¶ 398.

<sup>100</sup> See *Revelation* 22:2 (illuminating how in that time, a tree of life grew on each side of a river, giving fruit once a month).

<sup>101</sup> See *Genesis* 3:7–13 (explaining how once Adam and Eve had eaten from the tree, they realized that they were naked, attempted to cover themselves with fig leaves, and hid from God when He appeared).

<sup>102</sup> See CATECHISM, *supra* note 47, ¶ 633 (describing Hell as the state where one is "deprived of the vision of God"). In this state, Man would have been like the fallen angels who cannot be redeemed: he would have the knowledge of good and bad and would not die. See *id.* ¶¶ 392–93.

understood not as an expression of anger by a hostile God but as an expression of love by a resourceful God.<sup>103</sup> Just as God sought to fix the nakedness of Adam and Eve's bodies, He also sought to fix the brokenness of their souls.<sup>104</sup>

God created Man in the garden as a creature who did not know good from bad, was not in need of salvation, and did not need to experience death. Man's disobedience left him a creature who knew good from bad, was confronted with death, and needed salvation.<sup>105</sup> Ultimately, however, God would use banishment and death as tools to accomplish that salvation and return Man to paradise and immortality, not as naïve children but as wise children. In this light, God's exercise of justice is not a reflection of His anger, but a product of His love to be used to accomplish His purpose of salvation. In this, justice becomes not the opposite of mercy but its compliment;<sup>106</sup> and both justice and mercy co-exist as tools God uses to accomplish salvation.<sup>107</sup> Justice seeks the best for those who must be brought before it, and that best is that they may attain their better selves. Justice may exact punishment but only for salvation and not for revenge. Again one might ask whether the kingdoms of men even make these same claims.

In the garden, Man lived in a place oriented toward God where God was visible. God gave Man law, explicit rules, in the garden to guide his behavior toward God's will, but Man was free to choose whether to follow these rules. Having no knowledge of good or evil, however, Man could not know shame because he could not recognize "bad" in his choices. Thus, Man could do bad but not be bad. As long as Man lived in the garden with no

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<sup>103</sup> Levine, *supra* note 46, at 10.

<sup>104</sup> See *Romans* 8:28 (explaining how "all things work for good for those who love God").

<sup>105</sup> See *supra* text accompanying note 88.

<sup>106</sup> Cf. Martin Luther King, Jr., Where Do We Go from Here?, Address at the Southern Christian Leadership Conference (Aug. 16, 1967), in *A CALL TO CONSCIENCE: THE LANDMARK SPEECHES OF DR. MARTIN LUTHER KING, JR.* 185–87 (Clayborne Carson & Kris Shepard eds., Warner Books 2001) (stressing that Americans have come to misunderstand love and power as opposites when they are, in fact, compliments).

<sup>107</sup> Had God intended death as a punishment for all people as a consequence for the actions of Adam and Eve, then one would expect that all people after Adam and Eve would have experienced death. The Bible shows, however, that Enoch, before the giving of the law, did not experience death. *Genesis* 5:24 (relating how after his entire lifetime, "Enoch walked with God, and he was no longer here, for God took him"); see also *infra* text accompanying notes 155–159.

knowledge of good and bad, Man did not need to experience death.<sup>108</sup>

After eating the fruit of the tree of knowledge of good and bad, Man's world turned completely around.<sup>109</sup> Man's banishment would take him into a world oriented not toward God, but away from God. Rather than seeing God, Man would have to seek Him. Rather than having God's explicit instructions, Man would have to rely on his own knowledge of good and bad to pursue God's will for him. Man now could bear the moral stain of having consciously chosen bad over good. He could be subject to judgment, and he would be subject to death.

In addition to Man's world changing, Man's opportunity to love God also changed. Not knowing good from bad, Adam and Eve could not recognize goodness, wisdom, righteousness, nor justice and, therefore, could not love God because He was good, wise, right, or just. Thus, in the garden Adam and Eve loved God purely because God was and because He loved them.<sup>110</sup> It was the relationship of an infant seeking out its mother. Furthermore, at this stage, when the two obeyed God, they did not obey Him because He was wise or right but exclusively because they loved God.

The nature of this relationship is captured in the song *Brother's Keeper* by Rich Mullins.<sup>111</sup> There, Mullins describes the relationship designed by God as one in which every person is to be his brother's keeper:

Not the one who judges him  
I won't despise him for his weakness  
I won't regard him for his strength  
I won't take away his freedom  
I will help him learn to stand[.]<sup>112</sup>

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<sup>108</sup> See *Genesis* 3:22 (ruling that because Man now knew the difference between good and bad, the tree of life, which would allow one to live forever, would no longer be available to Man).

<sup>109</sup> See *id.* at 3:14–24 (documenting all the different changes that would take place because they had eaten from the tree, including banishment, pain during childbirth, having to work the land, and others).

<sup>110</sup> See *Exodus* 3:14 ("God replied, 'I am who I am.' Then he added, 'This is what you shall tell the Israelites: I AM sent me to you.'").

<sup>111</sup> RICH MULLINS, *Brother's Keeper*, on BROTHER'S KEEPER (Reunion Records 1995).

<sup>112</sup> *Id.*

For His part in the garden, God gave Man rules to help Man to learn to stand, but God left Man with his freedom. As Man could not tell good from bad, God neither sought to judge Man nor to despise Man for his weakness. God sought only to love this member of His family and to be loved by him,<sup>113</sup> not to be regarded for His strength but to be loved.

Once the fruit had been eaten, the simplicity of the relationship was lost. Man could now appreciate God's wisdom and goodness and, therefore, love God because God is worthy to be loved,<sup>114</sup> but Man had lost the opportunity to be able to love God apart from God's merit or to obey Him solely because Man loved God.

One might see this new relationship as the relationship of a parent with an adult child who is returning home able to see his parent's wisdom through the child's own mistakes, much like the relationship between the father and the repentant prodigal son.<sup>115</sup> One might characterize this as a change for the better, a change for a potentially fuller and wiser relationship. Regardless, the relationship was now different, and if something had been gained, something had also been lost.<sup>116</sup>

But if Man, himself, his world, and his relationship with God had all changed, God and his plan for Man had not. God still loved Man and still longed to spend eternity with Man in the garden of the tree of life. As God would continue to use law to guide Man's behavior, He would continue to do so in the context

<sup>113</sup> See *supra* text accompanying notes 47–49.

<sup>114</sup> See, e.g., *Psalms* 8:4–5 (“When I see your heavens, the work of your fingers, the moon and stars that you set in place—What are humans that you are mindful of them, mere mortals that you care for them?”).

<sup>115</sup> After spending the inheritance from his father, a famine struck and the son: [F]ound himself in dire need. . . . Coming to his senses he thought, “How many of my father’s hired workers have more than enough food to eat, but here am I, dying from hunger. I shall get up and go to my father and I shall say to him, ‘Father, I have sinned against heaven and against you. I no longer deserve to be called your son; treat me as you would treat one of your hired workers.’”

*Luke* 15:14, 17–19.

<sup>116</sup> Cf. JONI MITCHELL, *Both Sides Now on BOTH SIDES NOW* (Reprise Records/WEA 2000). As Joni Mitchell sings:

But now old friends are acting strange  
They shake their heads, they say I’ve changed  
Well something’s lost, but something’s gained  
In living every day[.]

*Id.*

of that loving relationship. Man's disobedience and sin meant only that God's mercy alone would not be enough to accomplish God's plan. God would now need to use justice as well, but it would be a justice exercised out of love for the purpose of salvation rather than out of anger for the purpose of revenge.

## II. LAW FROM FALL TO FLOOD

Despite his banishment, Man continued to enjoy a relationship with God. Shortly after leaving the garden, Adam and Eve conceived and bore a son.<sup>117</sup> The couple marveled and rejoiced saying, "I have produced a man with the help of the Lord."<sup>118</sup> Blessed by God,<sup>119</sup> the couple then bore a second son.<sup>120</sup> They named the first son Cain and the second son Abel.<sup>121</sup>

Cain grew up to be a "tiller of the soil" while Abel grew up to be a "keeper of flocks."<sup>122</sup> Although there is no indication God demanded an offering from the brothers, each eventually thought to bring one to Him.<sup>123</sup> Abel offered "one of the best firstlings of his flock," while Cain brought an offering "from the fruit of the soil."<sup>124</sup> "The Lord looked with favor on Abel and his offering" but not on Cain's.<sup>125</sup> When God saw that "Cain greatly resented this," He explained to Cain, "Why are you so resentful and crestfallen? If you do well, you can hold up your head; but if not, sin is a demon lurking at the door: his urge is toward you, yet you can be his master."<sup>126</sup> In God's plan, Man had been created to "love the Lord, your God, with all your heart, and with all your soul, and with all your strength."<sup>127</sup> Although God had not yet articulated this law to Man, Man could still be held accountable to it because Man had knowledge of good and bad. By offering the best he had to God, Abel obeyed this law, but Cain disobeyed it by offering not the best of his harvest but merely some "fruit of

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<sup>117</sup> See *Genesis* 4:1.

<sup>118</sup> *Id.*

<sup>119</sup> See *id.* at 4:25 (describing how Eve acknowledged God's role in the good gift of children).

<sup>120</sup> *Id.* at 4:2.

<sup>121</sup> *Id.* at 4:1-2.

<sup>122</sup> *Id.* at 4:2.

<sup>123</sup> See *id.* at 4:3-4.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.* at 4:4-5.

<sup>126</sup> *Id.* at 4:5-7.

<sup>127</sup> *Deuteronomy* 6:5.

the soil.”<sup>128</sup> God looked favorably on the offering presented consistent with His law but not on the offering in violation of it. It tells us much about God and His feelings toward Cain that God bothered to explain to Cain his response to the offerings. Certainly, He would not feel the need to be so patient or explicit with his friend Job<sup>129</sup> later on in the salvation story.<sup>130</sup>

In His explanation, God sought to help Cain understand how to respond to the recently acquired knowledge of good and bad. God told Cain that in knowing himself, Cain could only be pleased with his actions when he did what he knew to be good.<sup>131</sup> Thus, when Man ate the fruit from the tree of knowledge of good and evil, Man became accountable for doing good even when he had not been given explicit rules from God. For example, Abel had opted, by offering his best to God, to obey the commandment to love God with his whole heart<sup>132</sup> even though the commandment had never been expressed to him. Furthermore, Man became accountable for knowing himself.

God also warned Cain in this explanation that once a man showed a propensity toward sin, sin would stalk him.<sup>133</sup> Even so, God encouraged Cain to remember that he could master his temptations and resist them.<sup>134</sup>

Cain did not heed God’s warning but, instead, deceived and then killed his brother Abel.<sup>135</sup> Reminiscent of his response to sin in the garden, when God heard the blood of Abel cry “out to [Him] from the soil,”<sup>136</sup> God did not spurn Cain but sought him out. God did not accuse Cain;<sup>137</sup> instead, as He had done with Adam and Eve, God gave Cain the opportunity to reveal himself to God and seek God’s forgiveness. As God had warned Cain, however, sin, in this case the murder of Abel, would lead Cain to additional

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<sup>128</sup> *Genesis* 4:3; see also *infra* text accompanying notes 140–141 (explaining what the punishment would be for Cain’s crime).

<sup>129</sup> *Job* 1:8 (God describing Job as “blameless and upright, fearing God and avoiding evil” and having “no one on earth like him”).

<sup>130</sup> See *id.* at 38:1–21 (explaining that the Creator of the universe did not need to explain Himself to Job).

<sup>131</sup> See *Genesis* 4:7 (“If you do well, you can hold up your head.”).

<sup>132</sup> See *Deuteronomy* 6:5.

<sup>133</sup> *Genesis* 4:7.

<sup>134</sup> See *id.*

<sup>135</sup> *Id.* at 4:8.

<sup>136</sup> *Id.* at 4:10.

<sup>137</sup> Cf. *id.* at 4:9 (God simply asking Cain “Where is your brother Abel?”).

sins. Like his parents before him,<sup>138</sup> Cain responded to God by trying to hide the truth from God rather than seeking forgiveness.<sup>139</sup>

Although in subsequent expressions of His law, God would invoke the death penalty for the crime of Cain,<sup>140</sup> God limited the punishment of Cain to a banishment from tilling the earth and a life of restless wandering.<sup>141</sup> In this, one can see both God's justice and mercy at work. The punishment is one Cain considered "too great to bear;"<sup>142</sup> yet, it offered Cain time to turn his heart to redemption. In fact, God guaranteed Cain that time by creating His first expressed rule of this era of Man's knowing good and bad: God decreed that "[i]f anyone kills Cain, Cain shall be avenged sevenfold," and God "put a mark on Cain" so that all would be on notice of the rule.<sup>143</sup>

The Bible does not say how Cain's heart responded to this opportunity. It does indicate, however, that the remainder of his days were not spent alone as a "restless wanderer" as Cain had anticipated.<sup>144</sup> Cain married,<sup>145</sup> the fate God had planned for Man,<sup>146</sup> and Cain and his wife "produced a man with the help of the Lord."<sup>147</sup> Cain also founded the first city mentioned in the Bible,<sup>148</sup> and among his descendants were counted "all who play the lyre and the pipe,"<sup>149</sup> "all who forge instruments of bronze and iron,"<sup>150</sup> and, perhaps in memory of the brother Cain slew, all who keep livestock.<sup>151</sup>

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<sup>138</sup> See *supra* text accompanying notes 98–100 (describing Adam and Eve's deviation from God's plan).

<sup>139</sup> See *Genesis* 4:9 (Cain responding to God "I do not know. Am I my brother's keeper?").

<sup>140</sup> See, e.g., *Leviticus* 24:17. For a discussion of what Jewish teachings can contribute to the death penalty debate in America, see Samuel J. Levine, *Playing God: An Essay on Law, Philosophy, and American Capital Punishment*, 31 N.M. L. REV. 277, 286–90, 295–96 (2001).

<sup>141</sup> *Genesis* 4:11–12.

<sup>142</sup> *Id.* at 4:13.

<sup>143</sup> *Id.* at 4:15.

<sup>144</sup> *Id.* at 4:14.

<sup>145</sup> See *id.* at 4:17.

<sup>146</sup> See *id.* at 2:18 ("It is not good for man to be alone, I will make a suitable partner for him."); *id.* at 2:24 ("That is why a man leaves his father and mother and clings to his wife, and the two of them become one body.").

<sup>147</sup> *Id.* at 4:1, 4:17.

<sup>148</sup> *Id.* at 4:17 (referring to the city of Enoch).

<sup>149</sup> *Id.* at 4:21.

<sup>150</sup> *Id.* at 4:22.

<sup>151</sup> See *id.* at 4:20 (noting that Jabel, a descendant of Cain, is the ancestor of "all

This era of the knowledge of good and bad was marked by additional notable human successes and failures. Lamech, from the line of Cain, produced the first human law, a rule that, one might argue, foreshadowed future generations of failed human attempts to imitate God's law.<sup>152</sup> Inspired by God's rule that "Cain [shall be] avenged sevenfold," Lamech devised the rule that Lamech was entitled to be avenged "seventy-sevenfold" for an offense and subsequently "killed a man for wounding [him] and a boy for bruising [him]."<sup>153</sup>

Everything about Lamech's attempt at making law ran counter to God's attempt. While God's rule about Cain had been designed to protect Cain and offer him the opportunity for salvation, Lamech's rule was designed to justify condemnation for and harm to Lamech's enemies. While God's rule had postponed an ultimate judgment of Cain by God, Lamech's rule had invited an ultimate judgment of other people by Lamech. Finally, while God's rule arose out of an undeterrable love for Cain, Lamech rule arose out of Lamech's thirst for vengeance and his selfish longing for laws that would serve Lamech to the detriment of others.

Unlike God, Lamech created his rule outside the context of a relationship of love. As a result, the consequences of Lamech's rulemaking proved the opposite of God's. Although in the life of Cain, we see new life, creativity, and a return to God's plan emerging from obedience to God's rule, the consequence of obedience to Lamech's rule is the death of a man and a child.<sup>154</sup>

Lamech's failure may be contrasted to the life of Enoch. Enoch was a descendent of Seth,<sup>155</sup> the child God granted to Adam and Eve because Cain had slain Abel,<sup>156</sup> and an ancestor of Abraham and Jesus.<sup>157</sup> Among those who knew good and evil but did not hear the law expressed, Enoch did not die.<sup>158</sup> Enoch, thus, proves that death was not an inevitable punishment that

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who . . . keep cattle").

<sup>152</sup> See e.g., *infra* notes 164–166 and accompanying text.

<sup>153</sup> *Id.* at 4:23–24.

<sup>154</sup> See *id.* at 4:23 ("I have killed a man for wounding me, a boy for bruising me.").

<sup>155</sup> See *id.* at 5:6–18 (explaining the lineage of Seth).

<sup>156</sup> *Id.* at 4:25.

<sup>157</sup> See *Luke* 3:23–38 (explaining the genealogy of Jesus).

<sup>158</sup> See *Genesis* 5:24 ("Then Enoch walked with God, and he was no longer here, for God took him.").

God invoked on all the children of Adam and Eve for the sin of their parents. Rather, it was a tool of salvation that proved unnecessary in the case of Enoch, whom God took without death and who then walked with God.<sup>159</sup>

Even more importantly, the fate of Enoch demonstrates that God could and did save during this initial period after Eden. Thus, God could have met His desire for relationship with Man and populated Heaven without speaking to Man in a voice clearer than the knowledge of good and bad that now rested in the hearts of men. Yet, God refused to so content Himself. Instead, God would insist over the subsequent millennia on speaking His love and wisdom to men persistently, with increasing clarity, and with a tenacity and endurance explainable only by love.<sup>160</sup> He would do so through the patriarchs and the covenant, through the law and the prophets, and ultimately through the Word made Flesh.

The obvious explanation for this insistence is that God was not content to speak in a way that only some men would hear and understand and would lead only to the salvation of some men. Instead, so great is God's love for each person that God humbled himself, not insisting that man understand God on God's terms,<sup>161</sup> but seeking ways to call His children so that all those He had created would ultimately find their way home to Him. Law, then, in the hands of love does not simply express itself in some inaccessible legal volume and hold all people responsible for knowing its content regardless of whether they have ever heard it. Law relentlessly calls out its light to the children whose lives it longs to save,<sup>162</sup> and it does so speaking to each in his own language.<sup>163</sup>

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<sup>159</sup> *Id.*; see also *Hebrews* 11:5 ("By faith Enoch was taken up so that he should not see death . . .").

<sup>160</sup> See *1 Corinthians* 13: 4-7 ("Love . . . bears all things, believes all things, hopes all things, endures all things.").

<sup>161</sup> See, e.g., *Acts* 2:7 (explaining that one does not have to understand all "times or seasons" that God has created).

<sup>162</sup> For a contrast between the zeal with which secular law pursues justice and the way Divine Law pursues its ends, see, for example, Jim Chen, *With All Deliberate Speed: Brown II and Desegregation's Children*, 24 *LAW & INEQ.* 1, 1-5 (2006) (stating that the commitment of the American society to the upbringing of children has held fast, and noting the Supreme Court's direct response in its numerous post-Brown decisions).

<sup>163</sup> See, e.g., *Acts* 2:7-11 (noting that at Pentecost, people of a multitude of languages each heard the apostles speaking in the listener's own language).

In this light, the Bible is not the story of God's redemption. It is not the story of an angered God exhausting His wrath in the Old Testament so He could be merciful in the New Testament. Nor is it the story of a God trying different paths to salvation till He found one that worked. Enoch proves that from God's first plan for salvation, every plan God had for salvation worked. Yet, God would not content himself with a way for salvation that merely worked. So great is God's love for Man that God would not rest until He had died offering means for salvation that would open the gates of Heaven wide for everyone.

The Bible, then, is not the story of the redemption or perfection of God and His way as some Christians might think. It is, however, the story of how God has sought to express uniquely and perfectly His love for men and His desire for all for their salvation. And it is a love story whose final chapter each person has been left to write for himself. Man today has been not forced but invited to love God in a way that mirrors the call received by Adam and Eve. While Adam and Eve were invited to love a God they could see but not fully appreciate, Man today has been invited to love a God he may more fully appreciate even though he cannot see Him. In the context of this invitation, God has given Man a law whose wisdom and benefit Man can appreciate even though the source of that law Man must embrace through faith.

Despite the success of Enoch, in the final time before the flood, in this period in which Man knew good and evil but had not heard God express His law in words, Man had failed almost completely. In fact, "all mortals led depraved lives on earth,"<sup>164</sup> except for Noah, who was "a good man and blameless in that age for he walked with God."<sup>165</sup> In this state where both the love from Man to God and the love from man to man had completely broken down, there existed no community in which God's rules could serve as a tool for the salvation of all men. Yet, where love still existed, between God and Noah, God provided detailed and explicit directions for the salvation of Noah and his family, directions which Noah embraced and which became tools for the salvation of the world.<sup>166</sup>

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<sup>164</sup> *Genesis* 6:12.

<sup>165</sup> *Id.* at 6:9–10.

<sup>166</sup> *Id.* at 6:8 (describing how "Noah found favor with the Lord").

One might see in the story of the flood an invitation to see God as vengeful and wrath-filled, but such a view would be as mistaken here as it was in the story of Cain. In the story of the flood, God chose for his mechanism for destruction a path that was long and visible, and, yet, for all the time it took Noah to build his massive ark and load his animals, Scripture acknowledges no one else as setting out to build a boat.<sup>167</sup> Noah the prophet testified to the people of his age of God's reality and disappointment not merely with words but with a massive commitment of his life and family. His actions pled with the people of his age to return to God, and it was only after Noah's actions were completed and could speak to the people no more clearly that the rains came. Noah's works were a clearer cry than the call of Jonah, but the people of Noah's age would not do as would the people of Ninevah in the age to come: they would not "call loudly to God"; each would not "turn from his evil way and from the violence he has in hand."<sup>168</sup> Thus, God found Himself in much the same position as He had found Himself after the fall. This God, who is "a gracious and merciful God, slow to anger, rich in clemency, loathe to punish,"<sup>169</sup> could not guide His people to salvation through life but had to seek a new path.

In this era from fall to flood, there was no Chosen People; God sought community with all His people in the same way. Thus, in the scientific terms of our day, there was no control group: no people in the midst of the nations to show to all other peoples what happens when a people follow God, a people who could serve as God's light to the world and to whom all other peoples could contrast themselves and recognize the goodness and reality of God. The result of the absence of such a group had been an era in which only one family could be saved. Thus, the God, who hungers for the salvation of all and not just some, created a new era and a new way to use community and law for His purpose of salvation. God now would build a new manner of community, and God would not content himself with Man having knowledge of good and bad in his heart but would write the

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<sup>167</sup> See *id.* at 6:11–20 (God explained to Noah that God "decided to put an end to all mortals on earth" and describing how Noah carried out God's commands to build an ark in order to be saved from the floods.).

<sup>168</sup> *Jonah* 3:8.

<sup>169</sup> *Id.* at 4:2.

wisdom of the universe in His own Hand and give these words to Man.

### III. LAW FROM COVENANT THROUGH WORD

The period of law from the flood through law articulated in word looks in many ways like the period from fall to flood. God begins by building community with Man. After building community, God shares His wisdom with Man, but Man succumbs to “the tumultuous wave of self-interest and instinct,”<sup>170</sup> and rejects God and makes law in the spirit of Lamech rather than in the spirit of God.<sup>171</sup> Yet, God relentlessly uses his justice and mercy to call Man back to His love. This era, however, offers differences as well as the Divine Lawmaker insisted on finding a relationship with His people that would save more of them. In this era God separated out from His children a chosen people by whom God anticipated all “the nations shall know that I am the Lord . . . when in their sight I prove my holiness” for your sake before their eyes.<sup>172</sup> In addition, God spoke His wisdom explicitly to Men and recorded His law for Man in words, thus, making it easier for men to “[t]rust in the Lord” rather than relying on their own understanding of good and bad, an understanding that men might well try to temper in their own self-interest.<sup>173</sup>

As one would expect given the ways of God and law, this next era does not begin with God giving the law to Moses. Rather, it begins with God building a community for His Chosen People through Abraham.<sup>174</sup> This was a process of unexplainable blessing as this Chosen People grew from Abraham<sup>175</sup> to a people so numerous and strong that they threatened to dominate Egypt, the most powerful nation on Earth.<sup>176</sup> During this time of building community, Man learned the virtue of praying and interceding for his neighbor<sup>177</sup> and forgiving his brothers.<sup>178</sup> Yet,

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<sup>170</sup> World Conference Address, *supra* note 14; *see also supra* text accompanying note 14.

<sup>171</sup> *See supra* text accompanying notes 122–153.

<sup>172</sup> *Ezekiel* 36:23.

<sup>173</sup> *Proverbs* 3:5.

<sup>174</sup> *Genesis* 15:1–6 (God forming His covenant with Abraham).

<sup>175</sup> *Id.* at 15:5 (God saying to Abraham, “shall your decedents be”).

<sup>176</sup> *See Exodus* 1:7 (describing how the Israelites were “fruitful and prolific” and “so numerous and strong that the land was filled with them”).

<sup>177</sup> *See Genesis* 18:16–30 (explaining how Abraham interceded with God on

for all the blessings, this was a process that had to be completed in the crucible of adversity: slavery,<sup>179</sup> the call out of Egypt,<sup>180</sup> and the journey through the desert.<sup>181</sup> This period of community-building culminated as God gathered this Chosen People together around Mount Sinai just before He gave them His law,<sup>182</sup> and promised them that they would be His people.<sup>183</sup> The community that God so built is a community, which has survived for millennia, despite genocide, exile, oppression, occupation, and frequently the lack of a place to call home.

The Jewish People have long understood that God gave them the Law at Mount Sinai not to crush them beneath the weight of the stone tablets but to make their steps easier to God.<sup>184</sup> In fact, the Jewish People were so sensitive to God's gracious purpose in the Law that Scripture tells us the Jewish People were apt to weep at the recognition of God's love in the Law.<sup>185</sup>

God's laws were given to serve many purposes in the lives of men. Some of these laws God gave to the Jewish People so they could order their community justly and "dwell[] in enduring peace."<sup>186</sup> Among these were prohibitions against killing, stealing, bearing false witness, and committing adultery.<sup>187</sup> Others laws were designed to bring peace to the lives and hearts

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behalf of Sodom and Gomorrah).

<sup>178</sup> See *id.* 45:1–15 (Joseph forgiving his brothers for selling him into slavery).

<sup>179</sup> *Id.* at 15:13 (God foretelling to Abraham of the enslavement of His people in Egypt).

<sup>180</sup> *Id.* at 15:14–15 (God foretelling to Abraham of the plagues on Egypt and of God calling His people out of Egypt); see also *infra* note 195.

<sup>181</sup> *Deuteronomy* 8:2 ("Remember how for forty years now the Lord, your God, has directed all your journeying in the desert."). The process of building community in the desert even extended beyond the giving of the Law as the Jewish People continued to wander in the desert for all forty years. See *Exodus* 15:22–*Joshua* 3:13.

<sup>182</sup> See *Exodus* 19:1–3 (describing how the Israelites came to the desert of Sinai on the third month after their departure).

<sup>183</sup> See *id.* at 19:5 ("[I]f you hearken to my voice and keep my covenant, you shall be my special possession, dearer to me than all other people, though all the earth is mine.").

<sup>184</sup> See Hoffman, *supra* note 30, at 1162 (describing the "difference of perspective between Judaism and Christianity," the author explains that "[t]he Jewish covenant was said to be pure law, as opposed to the Christian covenant in Christ which was a covenant of love").

<sup>185</sup> See *Nehemiah*, 8:9 (describing how "the people were weeping as they heard the words of the law").

<sup>186</sup> *Baruch* 3:13.

<sup>187</sup> See, e.g., *Exodus* 20:13–16 (God giving basic laws to be followed by the Israelites).

of men.<sup>188</sup> Among these were laws such as the command to keep the Sabbath holy,<sup>189</sup> the law which led to those peaceful evenings that first led Pope John Paul II to his love of the Jewish People,<sup>190</sup> and the command to “love the Lord, [their] God, with all [their] heart, and with all [their] soul, and with all [their] strength.”<sup>191</sup>

Still other laws, by articulating what “pleases God,”<sup>192</sup> served as an opportunity for the Jewish People to express their love to God. The commands of God on the construction of the Ark of the Covenant and the Dwelling Tent are examples of these laws: In *Exodus*, God instructed the Jewish People to construct the ark and the tent and all their furnishings “exactly according to the pattern” that God would show His people.<sup>193</sup> These instructions require seven chapters in *Exodus* and cover everything from size to materials, from shape to quantity, and from location to personnel.<sup>194</sup> These instructions, in fact, require more pages in *Exodus* than does the story of the plagues on Egypt.<sup>195</sup> These seven chapters are followed by five chapters that describe how the Jewish People constructed the tent and ark exactly as they had been instructed,<sup>196</sup> after which comes a portion of a chapter devoted to the people showing Moses that they “had carried out all the work just as the Lord had commanded Moses.”<sup>197</sup> Finally, this story ends with a chapter demonstrating that Moses made sure that the Dwelling Tent was erected just as God had described.<sup>198</sup>

One might wonder where the love is to be found in this repetitive story of seemingly obsessive detail; yet, one might equally wonder why acacia wood, an extra cubit, purple yarn, or the participation of someone named Bezalel in the construction project would matter to the Creator of oceans, mountains, and all

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<sup>188</sup> See, e.g., *Sirach* 51:13–21 (gaining wisdom and delight in following the Lord).

<sup>189</sup> See *Exodus* 20:8–10.

<sup>190</sup> See *supra* text accompanying note 3.

<sup>191</sup> *Deuteronomy* 6:5.

<sup>192</sup> *Baruch* 4:4 (“Blessed are we, O Israel; for what pleases God is known to us!”).

<sup>193</sup> *Exodus* 25:9.

<sup>194</sup> See *id.* at 25:1–31:11 (detailing the instructions for the construction of the ark and the tent).

<sup>195</sup> See *id.* at 7:14–12:30 (describing the ten plagues brought upon Egypt).

<sup>196</sup> See *id.* at 35:4–39:31 (describing the building of the ark).

<sup>197</sup> *Id.* at 39:42; see also *id.* at 39:32–43.

<sup>198</sup> See *id.* at 40:1–33.

living things.<sup>199</sup> Under the circumstances, one might be well served to understand this story in light of a child coloring a picture for a parent. The child wishing to please the parent will ask the parent what color each figure in the picture should be, and the parent will respond with a color not because it matters at that moment to the parent but because the parent appreciates the child's desire to please.<sup>200</sup> Ultimately, that picture will end up on the refrigerator door because it is a picture of the child's love rather than because it is an accurate accumulation of colors. In this light, one sees in the story of the construction of the Ark of the Covenant and the Dwelling Tent a story about a people who loved their God down to the cubit and about a God patient and loving enough to give them laws that would allow them to express that love.

Unfortunately, not all communications by the Jewish People to their God in this era were loving expressions for the refrigerator door. Frequently, there were periods of complaining, doubt, grumbling, and disobedience, and ultimately, one such period of dissatisfaction led God to send poisonous saraph serpents among the people.<sup>201</sup> One may be tempted to see here the act of a Lamech-like lawgiver, an offended bureaucrat striking out in violence in defense of his own self-interest, or of a fiery, vengeful, godlike figure pounding with his sword and his staff as he proclaims, "You shall not be spared!"<sup>202</sup>

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<sup>199</sup> See *id.* at 25:10, 26:1–2, 31:2.

<sup>200</sup> In this regard, the Trappist monk Thomas Merton recognized in prayer that despite his uncertainty about the wisdom of his own actions, he knew that his desire to please God was that which was particularly to pleasing God:

Dear God:

I have no idea where I am going. I do not see the road ahead of me. I cannot know for certain where it will end. Nor do I really know myself, and the fact that I think that I am following your will does not mean that I am actually doing so. But I believe this: I believe that the desire to please you does in fact please you. I hope I have that desire in everything I do. I hope I never do anything apart from that desire. And I know that if I do this you will lead me by the right road though I may know nothing about it at the time. Therefore I will trust you always for though I may seem to be lost, and in the shadow of death, I will not be afraid because I know you will never leave me to face my troubles all alone.

Thomas Merton, *MARY'S PEOPLE*, June 23, 1991, at M17, *quoted in* Randy Lee, *A Look at God, Feminism, and Tort Law*, 75 *MARQ. L. REV.* 369, 398 n.170.

<sup>201</sup> *Numbers* 21:6–7.

<sup>202</sup> *Jeremiah* 25:29.

Yet, even a casual reading of the *Psalms* shows that the Jewish People never understood this act of legal enforcement in such a light. In fact, the Sunday readings of the Catholic Church pair this story with *Psalms* 78:

But God is merciful and forgave their sin;  
he did not utterly destroy them.  
Time and again he turned back his anger,  
unwilling to unleash all his rage.  
He was mindful that they were flesh,  
a breath that passes and does not return.<sup>203</sup>

The understanding of this story handed down to Catholics by our elder brothers and sisters is once more a story of law in a concededly firm though still loving Hand, a story of a God whose law is always a tool of salvation. After God had delivered His people from slavery,<sup>204</sup> given them miraculous food in the desert,<sup>205</sup> brought forth water for them from the rocks,<sup>206</sup> and shared with them His law which was the wisdom of the Creator of the entire universe,<sup>207</sup> after all that, this people rebelled against God and would not seek Him again until He sent the serpents. To understand this story one must consider what would have been the fate of the Children of Israel if God had washed His hands of those people, if He had left them estranged from Him and had not sent those serpents. They might well have wandered in the desert for eternity, returned to Egypt to slavery, or worse. Whatever would have been their fate, one may feel certain that it would not have been a good one.

God did demand justice, but when God invoked His justice, He had only one purpose: to save His children. When the adversity of the serpents caused the Children of Israel to seek God again, the advice He gave them was that any who turned to the Lord, any who believed in Him, would be saved, not just now, not just once, but through their entire journey.<sup>208</sup> There was from God no further destruction, no condemnation, no

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<sup>203</sup> *Psalms* 78:38–39.

<sup>204</sup> See *Exodus* 14:15–31 (describing crossing of the Red Sea and destruction of the Egyptian army).

<sup>205</sup> *Id.* at 16:4–36 (God providing manna in the desert).

<sup>206</sup> See *Numbers* 20:2–11 (God providing water from the rock at Meribah in the desert).

<sup>207</sup> See, e.g., *Exodus* 20:1–17 (God providing the ten commandments).

<sup>208</sup> See *Numbers* 21:8 (God instructing Moses to “[m]ake a saraph and mound it on a pole, and if anyone who has been bitten and looks at it, he will recover”).

retribution, nor even any lingering animosity. There was only a fresh start, a new beginning, because like His justice, God uses His mercy to save.

While in this era, more formal law-giving did not diminish God's commitment to community, human dignity, and salvation, formalization of the nature of law also did little to improve the quality of human law-making. When the people of Israel became tired of being led by judges, they demanded a king.<sup>209</sup> It was a demand that God would grant,<sup>210</sup> but only after providing the following warning about the inclinations of human government, a warning that echoed the self-interested and oppressive law-making of Lamech:

[Your king] will take your sons and assign them to his chariots and horses, and they will run before his chariot. He will also appoint from among them his commanders of groups of a thousand and of a hundred soldiers. He will set them to do his plowing and his harvesting, and to make his implements of war and the equipment of his chariots. He will use your daughters as ointment-makers, as cooks, and as bakers. He will take the best of your fields, vineyards, and olive groves, and give them to his officials. He will tithe your crops and your vineyards, and give the revenue to his eunuchs and his slaves. He will take your male and female servants, as well as your best oxen and your asses, and use them to do his work. He will tithe your flocks and you yourselves will become his slaves. When this takes place, you will complain against the king whom you have chosen, but on that day the Lord will not answer you.<sup>211</sup>

God's warnings about men's inclinations in the process of law-making proved true, and the fruits of this era were little different from the fruits of Lamech's law. Within the reign of the first king, the Nation of Israel was engaged in a sort of civil war.<sup>212</sup> By the reign of the fourth king, the nation had discovered the concepts of revolution and secession.<sup>213</sup>

Finally, in this era, God showed that His written law was capable of saving just as He had shown that His approach in the previous era could save. This time it was Elijah, the prophet who

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<sup>209</sup> See 1 *Samuel* 8:4–5.

<sup>210</sup> *Id.* at 8:22.

<sup>211</sup> *Id.* at 8:11–18.

<sup>212</sup> See *id.* at 8:21–31 (recounting how Saul and his army pursued David and his army).

<sup>213</sup> See 1 *Kings* 12:1–25 (describing the separation of Israel from Judah).

opposed the evils of the manmade laws of his time,<sup>214</sup> who, like Enoch before him, was called to Heaven, and Elijah was taken to Heaven in no less than a chariot of fire.<sup>215</sup> Thus, through Elijah, one who zealously sought to prevent the laws of men from leading people astray, God's Law proved again its saving power.

Consistently and insistently the Hebrew Scriptures proclaim a God of love.<sup>216</sup> Though His law is perfect and is worthy of being studied, this God humbles Himself to find ever clearer ways to communicate His wisdom to Man. He is not content with an approach to law that can save some. Instead, this God seeks to find a way through His love, through His wisdom and law, to save all because all are precious to Him. There is no one whom He could ever forget, and the name of each God has written "upon the palms of [His] hands."<sup>217</sup> It is the God Christians have come to know in the Word made Flesh,<sup>218</sup> the God so precious to Pope John Paul II.

#### IV. LAW AND THE WORD MADE FLESH

Not surprisingly, Pope John Paul II encountered in the Gospels the same themes concerning law as are found in the Hebrew Scriptures. Thus, the story of law in the hands of God continues into the Gospels in the same spirit of love, community, and salvation.

Much as God had sent His love and wisdom to the Jewish People as the Word written by His Hand, when the time came for God to send His only Son to the world, God sent Him as the "Word [made] flesh."<sup>219</sup> God sent this new Word to the world "not to abolish [the Law] but to fulfill [it],"<sup>220</sup> and just as God had built

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<sup>214</sup> See, e.g., *id.* at 18:16–19 (retelling how Elijah chastised King Ahab for his policies).

<sup>215</sup> See *2 Kings* at 2:11 ("As [Elijah and Elisha] walked on conversing, a flaming chariot and flaming horses came between them, and Elijah went up to heaven in a whirlwind.").

<sup>216</sup> See, e.g., NORBERT M. SAMUELSON, *REVELATION AND THE GOD OF ISRAEL* 12 (Cambridge Univ. Press) (2002), available at <http://www.cambridge.org> (search "052181202X") (describing the God in the Hebrew Scriptures as "a deity knowable primarily as a God of Love").

<sup>217</sup> *Isaiah* 49:16.

<sup>218</sup> See *infra* text accompanying notes 2199–28.

<sup>219</sup> *John* 1:14 ("And the Word became flesh and made his dwelling among us . . .").

<sup>220</sup> See *Matthew* 5:17 ("Do not think that I have come to abolish the law or the prophets. I have come not to abolish but to fulfill.").

community before sending the Word written by His Hand, God built community for the Word made Flesh. Thus, even before God's Son could speak a word, God had already extended to both the great and the humble a promise of salvation through His infant Son and built a community of both the humble and wise around the Child in a manger.<sup>221</sup>

Intending this Word made Flesh to fulfill the law, God chose for Him a name that would capture the essence of every word God had ever spoken to the patriarchs and through the law and through the prophets. That name was Jesus, and God considered it so important that "Jesus" be His Son's name that He sent an angel with that name not only to Mary,<sup>222</sup> but also to Joseph.<sup>223</sup>

There are many things that the name God chose for His Son could have meant, that name designed to communicate the heart of the love and wisdom of God, that name Paul tells us is above every name, that name before which every knee shall bend.<sup>224</sup> It could have meant "King of kings,"<sup>225</sup> "Lord of lords,"<sup>226</sup> "exalted,"<sup>227</sup> "Most High,"<sup>228</sup> or "the Alpha and the Omega."<sup>229</sup> These are all things the Christ has been called, things that could have been the essence of the Christ, but "Jesus" does not mean any of those things. Jesus, the one name that God thought capable of containing all the words, wisdom, and love of God, means "God saves."<sup>230</sup>

When the Word "dwell[t] among us,"<sup>231</sup> the Word forgave, the Word healed, the Word educated, the Word transformed, the Word challenged, and the Word inspired, but the Word never condemned. God in His wisdom used His justice and His mercy for just one purpose, to save:

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<sup>221</sup> *Luke* 2:8–20 (recounting the birth of Jesus); see also *Matthew* 2:1–12 (recounting the visit of the Magi).

<sup>222</sup> See *Luke* 1:32 (describing angel Gabriel telling Mary, "[Y]ou shall name him Jesus").

<sup>223</sup> See *Matthew* 1:21 (describing angel Gabriel telling Joseph, "You are to name him Jesus").

<sup>224</sup> See *Romans* 14:11.

<sup>225</sup> *1 Timothy* 6:15.

<sup>226</sup> *Id.*

<sup>227</sup> *Isaiah* 57:15.

<sup>228</sup> *Acts* 7:48.

<sup>229</sup> *Revelation* 1:8.

<sup>230</sup> See THE NEW TESTAMENT, in THE JERUSALEM BIBLE 17 n.h (Alexander Jones, ed., 1966) ("Jesus (Hebr. Yehoshua) means 'Yahweh saves'").

<sup>231</sup> *John* 1:14.

For God so loved the world that [H]e gave [H]is only [S]on, so that everyone who believes in [H]im might not perish but might have eternal life. For God did not send [H]is [S]on into the world to condemn the world, but that the world might be saved through [H]im.<sup>232</sup>

This is the God and the way to which Pope John Paul II gave his life. In this Word, God affirmed once again that God's law, judgment, justice, and mercy are all designed to serve one purpose: the salvation of His children. Furthermore, God's total commitment to that salvation testifies to the essential dignity of all people, a dignity which, of course, was central to Pope John Paul II's witness to the nature of law in its perfect sense. Motivated by love, God gave us His law, God gave us His wisdom, gave us His word, and gave us His Son, to save us, and we are called to "be like [H]im,"<sup>233</sup> even in our creation and use of law.

All of this is borne out not only in the name and life of Jesus but in His public ministry as well. During that public ministry, Jesus gave to His Church a new law, a law to love one another as He loved us,<sup>234</sup> but before He did so, He did as God always does before giving law: He began His public ministry by creating community, by calling twelve friends to Himself and dedicating the last three years of His earthly life to preparing those friends to bring others to Him for eternity in Heaven. Thus, here again, the story of law in the hands of God is a story of love creating community and law arising out of that community to save and to preserve the community of love for eternity.

Human efforts at law, meanwhile, fared much the same in the New Testament as they had in the Old Testament. The lawyers one meets in the Gospels are not, in fact, very nice people. They are people, in fact, who seek to make and use law in the image of Lamech.<sup>235</sup> They are people who seek power, people who seek wealth and status, people who press the burdens of the law on others without accepting those burdens themselves, people who judge and condemn, and people who try to use their cleverness to escape the commands of God. Readers of any of the Gospels are unavoidably familiar with them and their agendas:

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<sup>232</sup> *Id.* at 3:16–17.

<sup>233</sup> THE JERUSALEM BIBLE, *supra* note 230, at 414.

<sup>234</sup> See *John* 15:12 (recounting God telling Jesus, "This is my commandment: love one another as I love you").

<sup>235</sup> See *supra* text accompanying notes 153–155.

Look, Jesus, he didn't wash his hands;<sup>236</sup> look, Jesus, he picked grain on the Sabbath;<sup>237</sup> look, Jesus, we caught her in the very act of adultery;<sup>238</sup> but Jesus, who would my neighbor be?;<sup>239</sup> get him, Jesus; punish him, Jesus; kill her, Jesus. These are people who tempt us to think that even in God's realm, the only way to use law is the way they used it, as Lamech did—as a power to be used arbitrarily for force, for condemnation, and for their own advantage.

Ultimately the hearts of the lawyers in the Gospels drew down the just judgment of God. As His ministry on Earth was nearing its end, Jesus said to them:

Woe also to you scholars of the law! You impose on people burdens hard to carry, but you yourselves do not lift one finger to touch them. Woe to you! You build the memorials of the prophets whom your ancestors killed. Consequently, you bear witness and give consent to the deeds of your ancestors, for they killed them and you do the building. . . . Woe to you scholars of the law! You have taken away the key of knowledge. You yourselves did not enter and you stopped those trying to enter.<sup>240</sup>

And, of course, these lawmakers hated Him for His wisdom and for His honesty, and they sought to ensnare him and to destroy Him.<sup>241</sup>

As one can see with the naming of Jesus,<sup>242</sup> names matter, and, therefore, one may wonder if it is appropriate to even call these New Testament figures, "lawyers." They certainly were not lawyers as Pope John Paul II used that term. From a Catholic perspective, in the eyes of God, a lawyer is one who, motivated by love, uses the law and the wisdom of God to save. Lawyers are

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<sup>236</sup> *Matthew* 15:1–2 ("Then Pharisees and scribes came to Jesus from Jerusalem and said, "Why do your disciples break the tradition of the elders? They do not wash [their] hands when they eat a meal."); *see also Luke* 11:38 ("The Pharisee was amazed to see that he did not observe the prescribed washing before the meal.").

<sup>237</sup> *See Matthew* 12:1–2.

<sup>238</sup> *See John* 8:4.

<sup>239</sup> *See Luke* 10:29 ("But because he wished to justify himself, he said to Jesus, "And who is my neighbor?").

<sup>240</sup> *Luke* 11:46–52.

<sup>241</sup> *Id.* at 11:53–54 ("When he left, the scribes and Pharisees began to act with hostility toward him and to interrogate him about many things, for they were plotting to catch him at something he might say."); *see also Matthew* 22:15 ("[T]he Pharisees went off and plotted how they might entrap him in speech.").

<sup>242</sup> *See supra* text accompanying notes 222–230.

those who recognize that their “neighbors” are all those whom they encounter who need their help, and lawyers seek to love these people as themselves.<sup>243</sup> Such lawyers save in our world today.

I have a friend named Roger Stuart who is a judge in juvenile court in Oklahoma. Judge Stuart appreciates the inviolable human dignity of each person he encounters in his courtroom. He knows himself to be in community with the families he serves. He recognizes them as his neighbors.

Judge Stuart works for legal reform in his writings and in his teachings, but he also must apply the law as it is now. As he does so, he agonizes over every child who comes through his court. He agonizes over how he can save these children: what they need; what he can do; what he should say; who he can involve; what services and resources he should access; what punishments he should administer. He struggles so much, and he feels hurt so much because he loves so much and wants to use the law to save those kids so much. And sometimes he does save one.

We are called on to do likewise.

#### CONCLUSION

The legal legacy of Pope John Paul II is profound. On a political level, he taught us that law must work in a community of love. Law must recognize the dignity of each person in every phase of life. Justice and mercy work not as opposites but as complementary tools of love for the purpose of salvation. Pope John Paul II taught us that destruction results when law is a tool of power and self-interest rather than of love.

This legacy also teaches much about God. Law is an expression of God’s love and provides a vehicle through which Man can show his love for God. God persistently seeks community with Man. When Man fails to respond to God’s love, God seeks to speak His love in ever clearer terms. God does not abandon Man; nor does God judge Man outside of the context of

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<sup>243</sup> See *Luke* 10:25–37 (telling the story of a lawyer who responded to a question Jesus asked him by replying that the law tells him to love his neighbor as himself, and after which Jesus told him the parable of *The Good Samaritan*).

His love. God can turn all things for good;<sup>244</sup> yet, sin still has consequences. God seeks to save.

It is hard to believe that young Karol Joseph Wojtyla could have derived so much wisdom from candles in the windows of his neighbors and the voices of children in song.<sup>245</sup> We should all see and hear so well. As America seeks to chart its course in an increasingly chaotic world, we as Catholics must help America to see and hear as did Pope John Paul II, and we must be for our country what Pope John Paul II was for the world: a light.

Today, America finds itself an increasingly diverse nation; yet, the most profound diversity facing America is not one of race or ethnicity. It is one of vision. Pope John Paul II had a vision for America as he had a vision for all nations. It is a vision derived from the legal understanding of our Jewish brothers and sisters—an understanding that can be traced back to the earliest moments of *Genesis*. Those who share that vision understand that if America insists on charting a course where Americans are increasingly polarized along political and ideological lines, where a celebration of difference attempts to mask a lack of common commitment and mutual respect and understanding, and where law is understood as a tool of force to impose community where none exists, then the fruit of the American enterprise will be the fruits of Lamech.<sup>246</sup> If, on the other hand, law in America is to be a tool that saves and yields the good fruits of salvation, the good fruits even Cain could have yielded in the right soil,<sup>247</sup> then America must rebuild its sense of community. It must rekindle a love of countrymen out of which a love of country may grow.<sup>248</sup> As Pope John Paul II expressed in *Crossing the Threshold of*

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<sup>244</sup> See *Romans* 8:28 (“We know that all things work for good for those who love God, who are called according to his purpose.”).

<sup>245</sup> See *supra* text accompanying note 3.

<sup>246</sup> See *supra* text accompanying notes 153–154.

<sup>247</sup> See *supra* text accompanying notes 144–151.

<sup>248</sup> For one view of a Christian love of country, see RICH MULLINS, *Land of My Sojourn, on A LITURGY, A LEGACY, AND A RAGAMUFFIN BAND* (Reunion Records 1993), as follows:

Nobody tells you when you get born here  
How much you'll come to love it  
And how you'll never belong here  
So I call you my country  
And I'll be lonely for my home  
And I wish that I could take you there with me[.]

*Hope*, our current century must “be the century of religion or it [will] not be at all.”<sup>249</sup>

In 2000, Pope John Paul II designated Saint Thomas More the patron saint of lawmakers, at least on the political side.<sup>250</sup> In his own age, More had called for lawyers to seek to improve the quality of secular law,<sup>251</sup> a body of law that ultimately took More’s life even as he sought to preserve its integrity.<sup>252</sup> Today the Church continues to echo this call More made,<sup>253</sup> yet, as we seek to improve the quality of secular law, we must remember that even if we could perfect that law and somehow bring all Americans into obedience with it, that alone would not achieve God’s plan for men. We are called on not only to be a light to the substance of law, but even more, we are called on to be a light to the nature of law. God has called on lawyers not only to emulate His law but also to emulate His heart. To attain those victories God has called on us to win, Catholic lawyers must win not only the battle for America’s mind or for America’s behavior; it must win the battles for the hearts of America’s people. These are battles that must be won in the image of a pontiff of peace, who found the “Word [made] flesh”<sup>254</sup> in the voices of children and the image of Shabbat candles in the windows of a beloved people. It is a battle that that Pope proved can be won in love and gentleness.

Perhaps the images we have of the final days of Pope John Paul II are the greatest measure of the triumph of his life and

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<sup>249</sup> JOHN PAUL II, *CROSSING THE THRESHOLD OF HOPE* 229 (1994) (quoting André Malraux).

<sup>250</sup> JOHN PAUL II, *APOSTOLIC LETTER PROCLAIMING SAINT THOMAS MORE PATRON OF STATESMEN AND POLITICIANS* (2000) [hereinafter *PROCLAIMING SAINT THOMAS*], available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/motu\\_proprio/documents/hf\\_jp-ii\\_motu-proprio\\_20001031\\_thomas-more\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/motu_proprio/documents/hf_jp-ii_motu-proprio_20001031_thomas-more_en.html) (declaring Saint Thomas More the patron saint of statesmen and politicians).

<sup>251</sup> THOMAS MORE, *UTOPIA* 36 (George M. Logan & Robert M. Adams eds., 1989) (“You must strive to influence policy indirectly . . . and thus what you cannot turn to good, you may at least make as little bad as possible.”).

<sup>252</sup> *PROCLAIMING SAINT THOMAS*, *supra* note 250 (“[Saint Thomas] bore, even at the price of his life, to the primacy of truth over power . . .”).

<sup>253</sup> For example, Pope John Paul II said on January 28, 2002, in a statement to “the Roman Rota, the church tribunal that hears marriage annulment cases,” that lawyers “must always decline to use their professional skills for ends that are contrary to justice” (spoken in the context of Catholic lawyers participating in divorce actions). Melinda Henneberger, *John Paul Says Catholic Bar Must Refuse Divorce Cases*, N.Y. TIMES, Jan. 29, 2002, at A4.

<sup>254</sup> *John* 1:14 (New American).

law. As Pope John Paul II struggled to extend those final days to the Feast of Divine Mercy, a cause he himself had championed, more than 60,000 people flowed into Saint Peter's Square to struggle with him at his bedside. At his death, less than three hours before the day of Divine Mercy was to begin, Rome itself overflowed with the Pope's beloved, and millions more watched the funeral of Pope John Paul II in their homes or on massive closed circuit television screens set up throughout the world. In fact, the funeral of Pope John Paul II may well have been the most watched, or, perhaps better said, the most shared, event in history. Pope John Paul II was mourned not only by Catholics but by Protestant and Greek Orthodox Christians, by the people of Islam, and by the Pope's elder brothers and sisters, the Jews.

Pope John Paul II was always a light of truth; he never compromised the truth of the law that was entrusted to him as pope. Yet, in him the light of truth always shined with the brightness of love. The crowds in Saint Peter's Square and around the world testified that Pope John Paul II had won hearts even as he had sought to win minds. In this, he was like the God who won back the heart of Cain, even as he was like the vine from which he, himself, drew life.<sup>255</sup>

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<sup>255</sup> See *id.* at 15:5.