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## **“Resurrecting St. Augustine of Hippo:**

**An Essay on the Role of Christian Lawyers and Judges Within the Secular State”©**

**By**

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The ideas expressed in this Apostolate Paper are wholly those of the author, and subject to modification as a result of on-going research into this subject matter. This paper is currently being revised and edited, but this version is submitted for the purpose of sharing Christian scholarship with clergy, the legal profession, and the general public.

## **PREFACE**

The organized Christian church of the Twenty-First Century is in crisis and at a crossroad. Christianity as a whole is in flux. And I believe that Christian lawyers and judges are on the frontlines of the conflict and changes which are today challenging both the Christian church and the Christian religion. Christian lawyers and judges have the power to influence and shape the social, economic, political, and legal landscape in a way that will allow Christianity and other faith-based institutions to evangelize the world for the betterment of all humankind. I write this essay, and a series of future essays, in an effort to persuade the American legal profession to rethink and reconsider one of its most critical and important jurisprudential foundations: the Christian religion. To this end, I hereby present the first essay in this series: “Resurrecting Saint Augustine of Hippo.”

## **INTRODUCTION**

What is the source of law? Is it to be found in human reason alone? Or must it be limited by faith in a God who cannot be totally comprehended through human reason? This is an on-going research and working paper that focuses these important questions while discussing the Catholic theology and legal philosophy of Aurelius Augustine (354-430 A.D.)<sup>1</sup>, Bishop of Hippo, canonized Saint, and Doctor of the Roman Catholic Church, and his influence on western jurisprudence.

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<sup>1</sup> Throughout this paper, I shall refer to Saint Augustine as “Augustine” and “St. Augustine,” as well as “Saint Augustine.”

Saint Augustine’s ideas have been described as “timeless and universal. That is to say, [they are] Catholic in the etymological sense of the word. It is also Catholic in the sense that St. Augustine’s view of history is the view held by the Catholic Church, and by all Catholic tradition since the Apostles.”<sup>2</sup> Importantly, Saint Augustine is also widely considered to be a founding father of Western Christianity, Catholic, Orthodox, Protestant and otherwise— for, indeed, he is not just a doctor of the Roman Catholic Church. For this reason, Saint Augustine is treated throughout this paper a founding father of worldwide Christianity. Saint Augustine remains as an authoritative and central figure not only to the Roman Catholic Church, but also for the entire Christian faith, and thus the power and spirit of Saint Augustine’s defense of the Christian faith, particularly in *The City of God*, is especially useful for today’s Christian lawyers and judges who must grapple with secular law, jurisprudence and philosophy, as Saint Augustine did during the Fifth Century, A.D.

Thus, St. Augustine’s work *The City of God* remained authoritative Christian doctrine for not only the Catholic Church, but also for most of western Christianity (including the protestant denominations). St. Augustine devised his description of the church as being a “city” of the one, true God from various books of the Psalms, as follows:

For there it is written, ‘Glorious things are spoken of thee, O city of God.’ And in another psalm we read, “Great is the Lord, and greatly to be praised in the city of our God, in the mountain of His holiness, increasing the joy of the whole earth.’ And, a little after, in the same psalm, ‘As we have heard, so have we seen in the city of the Lord of hosts, in the city of our God. God has established it for ever.’ And in another, ‘There is a river the streams whereof shall make glad the city of our God, the holy place of the tabernacles of the Most High. God is in the midst of her, she shall not be moved.’ From these and similar testimonies... we have learned that there is a city of God, and its

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<sup>2</sup> Introduction to *The City of God* (New York, NY: The Modern Library, 1950), p. ix, by Thomas Merton.

Founder has inspired us with a love which makes us covet its citizenship.<sup>3</sup>

Accordingly, the materials presented in this paper are taken primarily from Augustine's landmark work, *The City of God*. I have chosen this landmark work—a work that I have studied for more than twenty five years-- because I believe that it has much to say about the foundations of law and jurisprudence. More specifically, I believe that *The City of God* provides a blueprint for how Christian lawyers and judges should read, interpret, and administer secular laws, while simultaneously maintaining their fidelity to the Christian faith. In other words, this essay only narrowly focuses on the question of how Saint Augustine might define the ethical duties of Christian lawyers and judges in the modern secular states of the twenty-first century. In addition, I have taken a fair amount of material from the *Confessions*<sup>4</sup> in order to further explicate St. Augustine's Catholic theology and philosophy of law.

### SUMMARY

Saint Augustine believed that an eternal and immutable God created all things according to a co-eternal “word” (i.e., the Greek or Hebrew *logos*, which Augustine also believes is Jesus the Christ). God's co-eternal “word” is immutable and eternal law. Augustine believed that in practical human affairs, ministers both secular and sacred have a duty to judge wisely and righteously in order to avert human misery and disaster. Since God's word (i.e., law) is immutable and unchangeable, and any deviation from this word (i.e., law) will lead to human misery, Augustine contended that secular judges and lawyers must faithfully discharge this duty to judge wisely and righteously. In practical human affairs, Augustine believed that the problem of free will, human curiosity, and temptations away from God's word (i.e., law) is what creates the ordeal of human suffering. Augustine believed that “pure love” was the “end of [God's] commandment,”<sup>5</sup> moved by a law of a “true inner righteousness”<sup>6</sup> called “man's conscience”<sup>7</sup>; because “the law is profitable for edification if a man use it lawfully: for the end of

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<sup>3</sup>*The City of God* (New York, NY: The Modern Library, 1950), p. 345.

<sup>4</sup>*Confessions* (New York, NY: Barnes & Noble Books, 2007).

<sup>5</sup>*Ibid.*, p. 228.

<sup>6</sup>*Ibid.*, p. 34.

<sup>7</sup>*Ibid.*, p. 148.

the law ‘is love out of a pure heart, and a good conscience, and faith unfeigned.’<sup>8</sup> Thus, pious living and an inner righteousness was a major component of Augustinian Catholic theology, and the law of “conscience” became a key component of Augustinian legal philosophy. Augustine concluded that the universal moral laws which govern the health and well-being of individuals were the same universal moral laws which govern nations and empires. Thus applying Augustinian principles, it thus behooves Christian lawyers and judges, among others, to help steer both individuals and nations toward piety, righteous living and moral virtue. What follows now are Part One, “St. Augustine’s Catholic Theology” and Part Two, “St. Augustine’s Philosophy of Law.”

## **PART ONE: St. Augustine’s Catholic Theology**

### **I. Cain and Abel—Founders of Two Cities**

First, before we discuss St. Augustine’s view of law, government, and history, it is important to understand his Catholic theology and faith. Augustine was not unlike the patriarch Moses, who viewed the world and society as being fundamentally divided between Good and Evil (Life and Death). Although his masterpiece *Confessions* to an extent represents the struggle within individuals to overcome personal temptation and sins, Augustine does not appear to grapple with the personal struggles to overcome “sin,” “evil” and “temptation” within “good” persons (i.e., citizens of the city of the Saints) in *The City of God*, which deals more with the church, humankind and world government as a whole.

In *The City of God*, St. Augustine traces the origins of Christianity, or the “Church,” to the offspring of Adam and Eve: Cain, Abel, and Seth. St. Augustine observes that after the Fall of Man, that is to say, the great original sin which Adam and Eve committed, the seminal origins of the true Christian faith began. St. Augustine writes: “Of these two first parents [i.e., Adam and Eve] of the human race, then, Cain was the first-born, and he belonged to the city of men; after him was born Abel, who belonged to the city of God....*When these two cities began to run their course by a series of deaths and births, the citizen of this world was the first-born, and after him the stranger in this world, the citizen of the city of God,*

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<sup>8</sup> *ibid.*, p. 218.

*predestined by grace, elected by grace, by grace a stranger below, and by grace a citizen above ....*<sup>9</sup>

Augustine clearly describes the Christian as a “stranger” in the present world, and as a person who has grown toward perfection in God’s law; and as a person who no longer conforms to the imperfections of human-made social norms, customs, and laws. Augustine conceptualizes the Christian as a “stranger” who is actively engaged in the world and in worldly affairs, trying to improve both, but yet not conforming to their dysfunctional and sinful tendencies. The Christian “stranger” lives within the world but according to a different set of godly laws or godly rules. Augustine concluded that rebellion against God’s laws of moral behavior was naturally inborn into each of us as children. In the *Confessions*, Augustine observes that, even in infants, one can readily observe the sin of jealousy toward other infants<sup>10</sup>; that in children and adolescents, there is an inborn rebellion against adult authority<sup>11</sup>; and that the purpose of chastisement is to teach children how to behave and to obey law.<sup>12</sup> However, the truth is, according to Augustine, human adults never stop behaving as children, and need a higher moral law or law of “inner righteousness,”<sup>13</sup> in order to behave properly and morally.

For those Christians who seek to “Christianize” law and government in the present this world, St. Augustine’s theory of the two cities may seem quite anathema. However, as I shall explain throughout this paper, Saint Augustine insists that the Christian “stranger” has an essential and vital role to play within the secular order. Augustine fundamentally understood that the secular order (i.e., government and the civil society) could not long last or exist without justice—regardless of whether we label justice as secular or civil justice and as sacred or divine justice. Augustine understood that all justice originated in the one true God. And for this reason, the Christian “stranger”—and especially Christian lawyers and judges-- plays a vital role in steering the secular society towards a just and peaceful social order, which Augustine conceptualizes as a reflection of the will of God. Thus, Augustine’s Catholic theology is essentially Mosaic and African in

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<sup>9</sup> *The City of God* (New York, NY: The Modern Library, 1950), p. 479.

<sup>10</sup> *Confessions*, p. 8 (“I have myself observed a baby to be jealous, though it could not speak; it was livid as it watched another infant at the breast.”).

<sup>11</sup> *Ibid.* at 3-18.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.* at 34.

conception, because it ties secular and civil justice to a divine mandate which Augustine calls the will of God. I believe that the “will of God,” at least in theory, is at the foundation of European and American secular jurisprudence, in the form “the Social Contract” [i.e., constitutional law]; ideas of “natural justice” and “equity”; and in ideas about “substantive due process of law,” “fundamental rights” and “human rights.” However, the collapse of the religious pillar of secular jurisprudence could very well lead to the corrosion of “the Social Contract.” For this reason, at least according to Augustine’s interpretations of sacred Scripture, Christian “strangers” (and particularly Christian lawyers and judges) have a fundamental role within the secular state to ensure that secular or civil justice reflects the true justice that is the universal will of God. I do not here contend that Augustine advocated for the codification of Christian fundamentalism within secular laws, but instead Augustine’s primary concern was with natural justice (a concept that is perhaps best explained as “equity,” “due process of law,” “equal protection or equal rights under law,” and “fundamental human rights.”)

## **II. The Earthly City**

In keeping with the narrow focus of this essay, Christian lawyers and judges should thus conceptualize the “Earthly City,” that is described in *The City of God*, as an organized conspiracy and rebellion against natural justice (again, “equity,” “due process of law,” “equal protection or equal rights under law,” and “fundamental human rights.”) All lawyers and judges—not just Christians—ought to be concerned here, because there is an overlap between what the “Earthly City” needs to survive and thrive, and in what Christians desire: peace and justice. In a strange sense, Christian lawyers and judges play a dual role of serving both City of God (i.e., the Church) and the Earthly City to achieve both, that is to say, peace and justice.

In *The City of God*, St. Augustine divides the entire human race into two broad categories of citizens: those who belong to the “earthly city” and those who belong to the “city of the saints.” According to St. Augustine, Cain, who slew his brother Abel, founded the “earthly city.” Whereas Abel was of the “city of the saints” or “city of God.” St. Augustine writes: “[t]hus the founder of the earthly

city was a fratricide. Overcome with envy, [Cain] slew his own brother [Abel], a citizen of the eternal city, and a sojourner on earth.”<sup>14</sup>

Thus, Cain, who personified the “Earthly City,” slew his brother Abel, who personified the “City of God.” As Augustine explains the sequence of historical events, Adam’s third son Seth replaced Abel; and Seth likewise personified the “City of God.” Seth’s son Enos next personified the “City of God” on earth. As St. Augustine writes: “‘And to Seth,’ It is said, ‘there was born a son, and he called his name Enos: *he hoped to call on the name of the Lord God.*’ Here we have a loud testimony to the truth. Man, then, the son of the resurrection, lives in hope: he lives in hope as long as the city of God, which is begotten by faith in the resurrection, sojourns in this world. For in these two men, Abel, signifying ‘grief,’ and his brother Seth, signifying ‘resurrection,’ the death of Christ and His life from the dead are prefigured.”<sup>15</sup>

Importantly, St. Augustine predicts that citizens of the City of God on earth will often suffer persecution, because of their beliefs, styles of living, etc. As an example, Augustine points out that Abel personified the heavenly city or the City of God, and that Abel’s life symbolized the persecution of righteous persons who live within the Earthly City. St. Augustine writes: “Abel, whom the elder brother slew, and who was the first to show, by a kind of foreshadowing of the sojourning city of God, *what iniquitous persecutions that city would suffer at the hands of wicked and, as it were, earth-born men, who love their earthly origin, and delight in the earthly happiness of the earthly city.*”<sup>16</sup>

Augustine points out that citizens of the City of God and the Earthly City will coexist in a position of opposition and tension until such time as God sees fit to separate them from each other. “[T]he mortal course of the two cities,” Augustine writes, “the heavenly and the earthly, which are mingled together from the beginning down to the end. Of these, the earthly one has made to herself of whom she would, either from any other quarter, or even from among men, false gods whom she might serve by sacrifice; but she which is heavenly, and is a pilgrim on the earth, does not make false gods, but is herself made by the true God,

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<sup>14</sup> *The City of God*, p. 482.

<sup>15</sup> *Ibid.* at 504.

<sup>16</sup> *Ibid.* at 498.



of whom she herself must be the true sacrifice. Yet both alike either enjoy temporal good things, or are afflicted with temporal evils, but with diverse faith, diverse hope, and diverse love, until they must be separated by the last judgment, and each must receive her own end, of which there is no end.”<sup>17</sup>

### III. Worldviews of Two Cities

Christian lawyers and judges should accept the fundamental opposition between the City of God (i.e., the Church) and the Earthly City, as they co-exist. In other words, those persons who seek justice and live righteously (e.g., Abel) will be opposed by those persons who detest justice and righteousness (e.g., Cain); and this fundamental conflict, at least according to Augustine, cannot be abated until the end of time when God separates the wicked from the just. “Now these brothers, Cain and Abel,” Augustine argues, “were not both animated by the same earthly desires, nor did the murderer envy the other because he feared that, by both ruling, his own dominion would be curtailed—for Abel was not solicitous to rule in that city which his brother built—he was moved by that diabolical, envious hatred with which the evil regard the good, *for no other reason than because they are good while themselves are evil.*”<sup>18</sup>

Here, St. Augustine points out that evil persons (such as Cain, who founded the Earthly City) detest good persons (such as Abel, a member of the city of the saints) for no other reason than because good persons are good. And yet, as we shall see below, conflict does not end with the opposition between Good and Evil. For, according to Augustine, there is also opposition between Evil and Evil; that is to say, evil persons also detest other evil persons, with whom they compete for power, prestige, and position. To this point, St. Augustine concludes: “The wicked war with the wicked; the good also war with the wicked.”<sup>19</sup>

According to St. Augustine, the Earthly City is characterized by “pride.” The City of God is characterized by “humility.” St. Augustine explains: “But **pride**, being a defect of nature, by the very act of refusing subjection and revolting from Him who is supreme, falls to a low condition; and then comes to pass what is written: ‘Thou castedst them down when they lifted up themselves.’ For he does

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<sup>17</sup> Ibid. at 668.

<sup>18</sup> Ibid. at 482.

<sup>19</sup> Ibid. at 483.

not say, ‘when they had been lifted up themselves’ even when they were cast down—that is to say, the very lifting up was already a fall. And therefore it is that **humility** is specially recommended to the city of God as it sojourns in this world, and is specially exhibited in the city of God, and in the person of Christ its King; while the contrary vice of pride, according to the testimony of the sacred writings, specially rules his adversary the devil. And certainly this is the great difference which distinguishes the two cities of which we speak, the one being the society of godly men, the other of the ungodly, each associated with the angels that adhere to their party, and the one guided and fashioned by **love of self**, the other by **love of God**.<sup>20</sup>

Again, Augustine defines all humanity as having a bi-furcated nature. And in *Confessions*, he admitted to having this bi-furcated duality within himself, before he converted to Christianity, stating: “While I was deliberating whether I would serve the lord my god now, as I had long purposed to do, it was I who willed and it was also I who was unwilling. In either case, it was I. I neither willed with my whole will nor was I wholly unwilling. And so I was at war with myself and torn apart by myself. And this strife was against my will; yet it did not show the presence of another mind, but the punishment of my own. Thus it was no more I who did it, but the sin that dwelt in me—the punishment of a sin freely committed by Adam, and I was a son of Adam.”<sup>21</sup> “And you, lord, pressed upon me in my inmost heart with a severe mercy, redoubling the lashes of fear and shame; lest I should again give way and that same slender remaining tie not be broken off, but recover strength and enchain me yet more securely... Yet I still did not quite reach or touch or grasp the goal, because I hesitated to die to death and to live to life. And the worse way, to which I was habituated, was stronger in me than the better, which I had not tried.”<sup>22</sup> And, “[t]his struggle raging in my heart was nothing but the contest of self against self.”<sup>23</sup>

In *The City of God*, Augustine applies this struggle to the whole of humanity, stating: “[a]ccordingly, two cities have been formed by two loves: the earthly by the love of self, even to the contempt of God; the heavenly by the love

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<sup>20</sup> Ibid. at 461.

<sup>21</sup> *Confessions*, p. 122.

<sup>22</sup> Ibid. at 125.

<sup>23</sup> Ibid. at 125.

of God, even to the contempt of self. The former, in a word, glories in itself, the latter in Lord. For the one seeks glory from men; but the greatest glory of the other is God, the witness of conscience. The one lifts up its head in its own glory; the other says to its God, ‘Thou art my glory, and the lifter up of mine head.’ In the one, the princes and the nations it subdues are ruled by the love of ruling; in the other, the princes and the subjects are ruled by the love of ruling; in the other, the princes and the subjects serve one another in love, the latter obeying, while the former take thought for all. The one delights in its own strength, represented in the persons of its rulers; the other says to its God, ‘I will love Thee, O Lord, my strength.’ And therefore the wise men of the one city, living according to man, have sought for profit to their own bodies or souls, or both, and those who have known God ‘glorified Him not as God, neither were thankful, but became vain in their imaginations, and their foolish heart was darkened; professing themselves to be wise’—that is, glorying in their own wisdom, and being possessed by pride—‘they became fools, and changed the glory of the incorruptible God into an image made like to corruptible man....’ For they were either leaders or followers of the people in adoring images, ‘and worshipped and served the creature more than the Creator, who is blessed forever.’ But in the other city there is no human wisdom, but only godliness, which offers due worship to the true God, and looks for its reward in the society of the saints, of holy angels as well as holy men, ‘that God may be all in all.’<sup>24</sup>

According to Augustine, Christians await for an ultimate justice during their brief existence in the present world. “For the city of the saints is above, although here below it begets citizens, in whom it sojourns till the time of its reign arrives, when it shall gather together all in the day of the resurrection; and then shall the promised kingdom be given to them, in which they shall reign with their Prince, the King of the ages, time without end.”<sup>25</sup>

“It is this which has been said by another prophet, and which the apostle interprets of the people who belong to the grace of God: ‘And it shall be that whosoever shall call upon the name of the Lord shall be saved.’ For these two expressions, ‘And he called his name Enos, which means man,’ and ‘He hoped to call on the name of the Lord God,’ are sufficient proof that man ought not to rest

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<sup>24</sup> *The City of God*, p. 477.

<sup>25</sup> *Ibid.* at 479.

his hopes in himself; as it is elsewhere written, ‘Cursed is the man that trusteth in man.’ Consequently no one ought to trust in himself that he shall become a citizen of that other city which is not dedicated in the name of Cain’s son in this present time, that is to say, in the fleeting course of this mortal world, but in the immortality of perpetual blessedness.”<sup>26</sup>

The church, which Augustine has also called the City of God, is a society of humans and angels. As St. Augustine has observed: “This is the most glorious city of God; this is the city which knows and worships one God: she is celebrated by the holy angels, who invite us to their society, and desire us to become fellow-citizens with them in this city; for they do not wish us to worship them as our gods, but to join them in worshipping their God and ours; not to sacrifice to them, but, together with them, to become a sacrifice to God.”<sup>27</sup>

According to Augustine, Christians are pilgrims in the present world. “Whence it already appears in some sort what manner of persons the citizens of the city of God must be in this their pilgrimage, who live after the spirit, not after the flesh—that is to say, according to God, not according to man—and what manner of persons they shall be also in that immortality whither they are journeying. And the city or society of the wicked, who live not according to God, but according to man, and who accept the doctrines of men or devils in the worship of a false and contempt of the true divinity, is shaken with those wicked emotions as by diseases and disturbances. And if there be some of its citizens who seem to restrain and, as it were, temper those passions, they are so elated with ungodly pride, that their disease is as much greater as their pain is less. And if some, with a vanity monstrous in proportion to its rarity, have become enamored of themselves because they can be stimulated and excited by no emotions, moved or bent by no affection, such persons rather lose all humanity than obtain true tranquility. For a thing is not necessarily right because it is inflexible, nor healthy because it is insensible.”<sup>28</sup>

Finally, Saint Augustine describes the church as universal and catholic, as comprising of citizens all over the world, and who must similarly contend against

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<sup>26</sup> Ibid. at 504-505.

<sup>27</sup> Ibid. at 331.

<sup>28</sup> Ibid. at 456.

evil in the present world. According to Augustine, all Christians worldwide comprise the heavenly city and must strive in contention against the Earthly City. To that end, Augustine writes: “[T]hat one God only was to be worshipped, and that to Him alone was due that service... which can be given only to a god, it has come to pass that the two cities could not have common laws of religion, and that the heavenly city has been compelled in this matter to dissent, and to become obnoxious to those who think differently, and to stand the brunt of their anger and hatred and persecutions, except in so far as the minds of their enemies have been alarmed by the multitude of the Christians and quelled by the manifest protection of God accorded to them. This heavenly city, then, while it sojourns on earth, calls citizens out of all nations, and gathers together a society of pilgrims of all languages, not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained, but recognizing that, however various these are, they all tend to one and the same end of earthly peace. It therefore is so far from rescinding and abolishing these diversities, that it even preserves and adapts them, so long only as no hindrance to the worship of the one supreme and true God is thus introduced.”<sup>29</sup>

#### **IV. Divisions Within The Earthly City**

I believe that Christian lawyers and judges should thus conceptualize the conflict that is within the civil society as Saint Augustine described conflict in general: “[t]he wicked war with the wicked; the good also war with the wicked.”<sup>30</sup>

In fact, in *The City of God*, St. Augustine describes the earthly city as being “divided against itself by litigations, wars, quarrels, and such victories as are either life-destroying or short-lived. For each part of it that arms against another part of it seeks to triumph over the nations though itself in bondage to vice. If, when it has conquered, it is inflated with pride, its victory is life-destroying; but if it turns its thoughts upon the common casualties of our mortal condition, and is rather anxious concerning the disasters that may befall it than elated with the successes already achieved, this victory, though of a higher kind, is still only short-lived; for it cannot abidingly rule over those whom it has victoriously subjugated.”<sup>31</sup>

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<sup>29</sup> Ibid. at 696.

<sup>30</sup> Ibid. at 483.

<sup>31</sup> Ibid. at 481-482.

Through all of this conflict, according to Augustine, the existence of peace is a major common denominator which both the City of God and the Earthly City seeks. Thus, Augustine admonishes the Christian community to cooperate with the Earthly City in finding just and peaceful terms of coexistence. Here, I strongly contend, Christian lawyers and judges can make a lasting impact upon the secular civil society.

## V. Peace: the Common Goal of the Two Cities

In *The City of God*, St. Augustine points out that the “earthly city” is not entirely evil and that its goals are not entirely corrupt or evil. “But the things which this city desires cannot justly be said to be evil,” writes St. Augustine. “for it is itself, in its own kind, better than all other human good. For it desires earthy peace for the sake of enjoying earthly goods, and it makes war in order to attain this peace; since, if it has conquered, and there remains no one to resist it, it enjoys a peace which it had not while there were opposing parties who contested for the enjoyment of those things which were too small to satisfy both. “This peace is purchased by toilsome wars; it is obtained by what they style a glorious victory. Now, when victory remains with the party which had the juster cause, who hesitates to congratulate the victor, and style it a desirable peace? These things then, are good things, and without doubt the gifts of God. But if they neglect the better things of the heavenly city, which are secured by eternal victory and peace never-ending, and so inordinately covet these present good things that they believe them to be the only desirable things, or love them better than those things which are believed to be better—if this be so, then it is necessary that misery follow and ever increase.”<sup>32</sup> Thus, peace in the Earthly City is fleeting and temporary, since in many instances it is a peace that neglects “the better things of the heavenly city.”

In *The City of God*, St. Augustine points out that even though both the Earthly City and the City of God seek peace, they do so for very different reasons. St. Augustine writes: “[t]he earthly city, which does not live by faith, seeks an earthly peace, and the end it proposes, in the well-ordered concord of civic obedience and rule, is the combination of men’s wills to attain the things which are helpful to this life. “The heavenly city, or rather the part of it which sojourns on

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<sup>32</sup> Ibid. at 481-482.

earth and lives by faith, makes use of this peace only because it must, until this mortal condition which necessitates it shall pass away.”<sup>33</sup>

In *The City of God*, St. Augustine also points out that the Earthly City and the City of God use peace for different reasons and in different ways. “Even the heavenly city, therefore, while in its state of pilgrimage, avails itself of the peace of earth, and, so far as it can without injuring faith and godliness, desires and maintains a common agreement among men regarding the acquisition of the necessities of life, and makes this earthly peace bear upon the peace of heaven; for this alone can be truly called and esteemed the peace of the reasonable creatures, consisting as it does in the perfectly ordered and harmonious enjoyment of God and of one another in God.... In its pilgrim state the heavenly city possesses this peace by faith; and by this faith it lives righteously when it refers to the attainment of that peace every good action towards God and man; for the life of the city is a social life.”<sup>34</sup>

“In this world, therefore, the dominion of good men is profitable, not so much for themselves as for human affairs. But the dominion of bad men is hurtful chiefly to themselves who rule, for they destroy their own souls by greater license in wickedness; while those who are put under them in service are not hurt except by their own iniquity. For to the just all the evils imposed on them by unjust rulers are not the punishment of crime, but the test of virtue.”<sup>35</sup>

## **VI. The Church within the Earthly City**

Christian lawyers and judges have a most unique position among Christians within the secular state; for perhaps they more than most must contend directly with competing interests which are in direct opposition to the Christian faith. For not only must they promote justice (i.e., “equity,” “due process,” “equal protection of law,” “human rights,” etc.) but they must also protect the right of the Christian faith to exist unimpeded. But Augustine assures us that this Christian duty cannot exist without a seriously vicious struggle.

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<sup>33</sup> Ibid. at 695.

<sup>34</sup> Ibid. at 696-697.

<sup>35</sup> Ibid. at 112.

In *The City of God*, Augustine borrows heavily from the *Book of Revelation*, and uses the imagery of “the Beast,” to describe the social, political, and economic order of the Earthly City, which is inherently unjust and full of pride. If we imagine a typical “beast” in a jungle or forest, we likely envision a wild animal that is unruly, lawless and governed only by its appetite. Similarly, “the Beast” in the *Book of Revelation* comprise of the unruly and lawless nations throughout the world. Augustine writes, “[a]s to the words following, ‘And if any have not worshipped the beast nor his image, nor have received his inscription on their forehead, or on their hand,’ we must take them of both the living and the dead. And what this beast is, though it requires a more careful investigation, yet it is not inconsistent with the true faith to understand it of the ungodly city itself, and the community of unbelievers set in opposition to the faithful people and city of God. ‘His image’ seems to me to mean his simulation, to wit, in those men who profess to believe, but live as unbelievers. For they pretend to be what they are not, and are called Christians, not from a true likeness, but from a deceitful image. For this beast belong not only the avowed enemies of the name of Christ and His most glorious city, but also the tares which are to be gathered out of His kingdom, the Church, in the end of the world. And who are they who do not worship the beast and his image, if not those who do what the apostle says, ‘Be not yoked with unbelievers?’ For such do not worship, i.e., do not consent, are not subjected; neither do they receive the inscription, the brand of crime, on their forehead by their profession, on their hand by their practice. They, then, who are free from these pollutions, whether they still live in this mortal flesh, or are dead, reign with Christ even now, through this whole interval which is indicated by the thousand years, in a fashion suited to this time.”<sup>36</sup>

Finally, Augustine adopts the view of the Apostle John in the *Book of Revelations*, namely, that “Gog and MaGog,” represent the opposition of the nations of the world against Christ and his church. (Perhaps this is one of Augustine’s most controversial and difficult analyses of the Christian faith; for Augustine clearly finds no ultimate hope in any secular or civil government and concludes that *all nations* of the world are in opposition to Christ and his church!). In defending this position in *The City of God*, Augustine thus writes:

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<sup>36</sup> Id at. 727.



‘And when the thousand years are finished, Satan shall be loosed from his prison, and shall go out to seduce the nations which are in the four corners of the earth, Gog and Magog, and shall draw them to battle, whose number is as the sand of the sea.’ This, then, is his purpose in seducing them, to draw them to this battle. For even before this he was wont to use as many and various seductions as he could contrive. And the words, ‘he shall go out’ mean, he shall burst forth from lurking hatred into open persecution. For this persecution, occurring while the final judgment is imminent, shall be the last which shall be endured by the holy Church throughout the world, the whole city of Christ being assailed by the whole city of the devil, as each exists on earth. For these nations which he names Gog and Magog are not to be understood of some barbarous nations in some part of the world, whether the Getae and Massagetae, as some conclude from the initial letters, or some other foreign nations naot under the Roman government. For John marks that they are spread over the whole earth, when he says ‘The nations which are in the four corners of the earth,’ and he added that these are Gog and Magog. The meaning of these names we find to be, Gog, ‘a roof,’ Magog, ‘from a roof’—a house, as it were, and he who comes out of the house. They are therefore the nations in which we found that the devil was shut up as in an abyss, and the devil himself coming out from them and going forth, so that they are the roof, he from the roof. Or if we refer both words to the nations, not one to them and one to the devil, then they are both the roof, because in them the old enemy is at present shut up, and s it were roofed in; and they shall be from the roof when they break froth from concealed to open hatred. The words, ‘And they went up on the breadth of the earth, and encompassed the camp of the saints and the beloved city,’ do not mean that they have come, or shall come, to one place, as if the camp of the saints and the beloved city should be in some one place; for this camp is nothing else than the Church of Christ extending over the whole world. And consequently

wherever the Church shall be—and it shall be in all nations, as is signified by ‘the breadth of the earth’—there also shall be the camp of the saints and the beloved city, and there it shall be encompassed by the savage persecution of all its enemies; for they too shall exist along with it in all nations—that is, it shall be straitened, and hard pressed, and shut up in the straits of tribulation, but shall not desert its military duty, which is signified by the word ‘camp.’<sup>37</sup>

In conclusion, I believe that St. Augustine’s catholic theology is instructive for Christian lawyers and judges. First, Augustine reminds us that all nations of the world are tainted with vice; second, there are just and righteous persons in every race and nation throughout the entire world; third, the human condition is saturated with conflict, some of this conflict is a contest between good and evil, but much of this conflict is also a struggle of evil against evil; and fourth, the church (which is the city of God on earth) exists in opposition and tension against the Earthly City, but the two cities share much in common, particularly their desire for peace; and, as I explain below in Part Two, the Christian must continuously engage the Earthly City in order to administer, mediate, and negotiate just and peaceful terms of coexistence. For these reasons, I believe that the Christian mandate for Christian lawyers and judges is multiracial, international, and interdisciplinary in objective and scope.

## **PART TWO: St. Augustine’s Philosophy of Law**

### **I. The Human Condition: the Problem of Morals**

We now turn to Saint Augustine’s philosophy of law. My objective in Part Two is to show, in part, that Christianity—at least as St. Augustine, St. Thomas Aquinas, and the Catholic Church conceived it-- is not simply multinational but it is also interdisciplinary as well. This is because one of the great tasks of the early northern African and Latin Churches were to distinguish Christianity from other religions and to defend Christianity against worldly philosophies and malicious accusations. The Latin Church particularly needed to reconcile Christianity with

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<sup>37</sup> Ibid. at 729-730.

Greco-Roman law and philosophy (which, of course, included mathematics, the sciences, astrology, religion, etc.). Importantly, Saint Augustine received a fairly thorough secular education, including classical Latin and rhetoric, which was the training for government administrators and lawyers during the Fourth and Fifth Century, A.D. He had become a distinguished professor of rhetoric in various cities in North Africa, Rome and Milan. (In fact, Augustine himself thus described his education as “[t]hose studies I was then pursuing, generally accounted as respectable, were aimed at distinction in the courts of law—to excel in which, the more crafty I was, the more I should be praised.”<sup>38</sup>) That is to say, St. Augustine had a secular “legal and philosophical vocabulary” and a “legal mind,” which he utilized in formulating both his theology and philosophy of law. For instance, in the *Confessions*, Augustine explains how he came to recognize the truth of the Christian religion through education, professional training, membership and familiarity with various philosophical sects, such as the Manicheans, the Academics (i.e., “philosophers”), and, later, Catholic Christians (i.e., his mother (St. Monica) and Bishop Ambrose of Milan). In the *Confessions*, Augustine states clearly that he combined the teachings of St. Paul with that of Plato (i.e., the Platonists) in order to clarify and defend the Christian faith.<sup>39</sup> The Platonic theory of the *logos* was one which Augustine readily embraced. But the great Jewish theologian Philo (20 BC – 50 AD) had previously incorporated this theory into Judaism, and so, too, did the *Gospel of John* and the writings of St. Paul. Thus, even before the time of Saint Augustine, Greek theory had already permeated Judaism, even during the time of Jesus of Nazareth! Consequently, centuries later, the idea of the *logos* came to be associated with Jesus the Christ, as the embodiment of God’s “word” (i.e., law). Perhaps beginning with the Jewish theologian Philo and the early Christians, the theory of the *logos* thus became the key connection between Greco-Roman philosophy, Judaism, and Christianity.

Philo (20 BC – 50 AD), a Hellenized Jew, used the term *Logos* to mean an intermediary divine being, or demiurge. Philo followed the Platonic distinction between imperfect matter and perfect Form, and therefore intermediary beings were necessary to bridge the enormous gap between God and the material world. The *Logos* was the highest of these intermediary beings, and was called by Philo “the first-born of God.” Philo also wrote that “the *Logos* of the living God is the

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<sup>38</sup> *Confessions*, p. 30.

<sup>39</sup> *Ibid.*, pp. 98-99; p. 107.

bond of everything, holding all things together and binding all the parts, and prevents them from being dissolved and separated."

Plato's Theory of Forms was located within the Logos, but the Logos also acted on behalf of God in the physical world. In particular, the Angel of the Lord in the Hebrew Bible (Old Testament) was identified with the Logos by Philo, who also said that the Logos was God's instrument in the creation of the universe.<sup>40</sup>

To this point, Augustine wrote, "you [God] procured for me, through one inflated with the most monstrous pride, certain books of the Platonists, translated from Greek into Latin. And there I found, not indeed in the same words, but to the very same effect, enforced by many and various reasons that 'In the beginning was *the word*, and *the word* was with god, and the word was god. The same was in the beginning with god. All things were made by him; and without him was not anything made that was made.'<sup>41</sup> "Thus you spoke and they were made, and by your word you made them all."<sup>42</sup> "You call us, then, to understand the word—the god who is god with you—which is spoken eternally and by which all things are spoken eternally."<sup>43</sup> And with Augustine's recognition of "the word" (i.e., Jesus of Nazareth) as being co-eternal with God, he incorporated elements of Platonism with certain New Testament writings such as the Gospel of John, in order to lay the foundation for his legal theory and philosophy.

Another Platonic theory which Augustine adopted was the "Theory of Forms," which held that the present physical and sensual world contained only imperfect representations of perfect forms which are not a part of this intelligible world. It was perhaps from this Theory of Forms that Augustine conceptualized God as "the unchangeable and true eternity of truth above my changeable mind."<sup>44</sup> "For where I found truth, there found I my god, who is truth."<sup>45</sup> Importantly, Augustine did not shy away from analyzing the physical sciences, the biological sciences, mathematics, etc., in trying to explicate and understand the eternal will of

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<sup>40</sup> <https://en.wikipedia.org/wiki/Logos>.

<sup>41</sup> *Confessions*, p. 98.

<sup>42</sup> *Ibid.*, p. 188.

<sup>43</sup> *Ibid.*, p. 189.

<sup>44</sup> *Ibid.*, p. 104.

<sup>45</sup> *Ibid.*, p. 166.

God. Augustine conceptualized God as immutable and unchangeable. “Thus, he does not will one thing now,” Augustine explained “and another thing later, but he wills once and for all everything that he wills—not again and again; and not now this and now that. Nor does he will afterward what he did not will before, nor does he cease to will what he had willed before. Such a will would be mutable and no mutable thing is eternal. But our god is eternal.”<sup>46</sup> Thus, for Saint Augustine, God’s law is immutable and eternal law. In practical human affairs, Augustine believed that the problem of “free will,”<sup>47</sup> “curiosity,”<sup>48</sup> and “temptations”<sup>49</sup> away from God’s law is what fundamentally dogged humankind. Augustine believed that “pure love” was the “end of [God’s] commandment,”<sup>50</sup> moved by a law of a “true inner righteousness”<sup>51</sup> called “man’s conscience”<sup>52</sup>; because “the law is profitable for edification if a man use it lawfully: for the end of the law ‘is love out of a pure heart, and a good conscience, and faith unfeigned.”<sup>53</sup> Thus, the law of “conscience” is key component of Augustinian legal philosophy.

For this reason, the Catholic Christianity’s commitment to natural law and natural justice has been an interdisciplinary commitment, which, I believe, today’s Christian lawyers and judges of all Christian denominations can learn from. That is to say, in order for Christianity’s “Love-Truth” belief structures to be applied in practical and daily affairs, an interdisciplinary input and contribution from the physical and biological sciences, mathematics, engineering, philosophy, history, psychology, psychiatry, and so forth, are necessary. In the natural sciences, St. Thomas Aquinas, who built much of his theology upon Augustinian and Aristotelian foundations, looked to the “purpose” of all created things as the source his understanding of scientific laws, which he concluded were God-given moral laws of nature. Thus, I presume that this “interdisciplinary” approach to Christianity is essentially what originally constituted Catholicism, but the development of Protestant Europe and America certainly stretched the scientific and secular academy far beyond the boundaries of Christian natural law and

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<sup>46</sup> Ibid., p. 214.

<sup>47</sup> Ibid., p. 92.

<sup>48</sup> Ibid., p. 176.

<sup>49</sup> Ibid., pp. 173-181.

<sup>50</sup> Ibid., p. 228.

<sup>51</sup> Ibid., p. 34.

<sup>52</sup> Ibid., p. 148.

<sup>53</sup> Ibid., p. 218.

natural justice. And European and American law schools and jurisprudence have been caught up in this net. But my objective here is to show that if the Church of the Twenty-First Century is to thrive free from persecution, then Christian lawyers and judges must continue vindicate the Christian foundations of secular jurisprudence with sound reasoning, natural law and natural justice. It is my objective here to show that, at least according to Saint Augustine, and as exemplified in *The City of God*, Christianity is not, as some would hold, an enemy of secular knowledge and scientific inquiry.

The fundamental question that Christianity poses to the science and secular world is this: What are you going to do with advanced learning and advanced knowledge? Will it be for the good or for the hurt of humanity? In order to answer these questions, Christianity requires government administrators, lawyers and judges to comprehend the human condition, which is another way of conceptualizing natural justice. Thus, the starting and ending point is the human condition. The human condition has long occupied the minds of great philosophers, theologians, and lawyers. And Saint Augustine was one of the most profound thinkers to grapple with this subject. I believe that Saint Augustine of Hippo, during the Fourth Century A.D., in his masterpiece, *The City of God*, accurately described the universal state of the human condition as it currently exists in the United States. For Augustine, at least as I have interpreted him, there is without question, a sort of *universal moral virtue* that breathes life and prosperity into human affairs, irrespective of race, creed, religion, or culture; for, indeed, his critique of ancient Rome, in *The City of God* certainly displayed his understanding that the presence of moral virtue had led to the rise of the Roman empire and, subsequently, the collapse of this same moral virtue had led to its ruin and utter calamity. For, when analyzing the history of ancient Rome, Augustine observes: “[h]ere, then, is this Roman republic, ‘which has changed little by little from the fair and virtuous city it was, and has become utterly wicked and dissolute.’ It is not I whom am the first to say this, but their own authors. . . .”<sup>54</sup> Augustine quotes the preeminent Roman citizen Tully, who said, “‘Rome’s severe morality and her citizens are her safeguard.’”<sup>55</sup> And he quotes the preeminent Cicero as saying, “For neither would the citizens have availed without the morality of the community, nor

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<sup>54</sup> *The City of God*, p. 58.

<sup>55</sup> *Ibid.* at 62.

would the morality of the commons without outstanding men have availed either to establish or so long to maintain in vigour so grand a republic with so wide and just an empire.”<sup>56</sup> Further, Augustine relies upon and quotes Cicero’s analysis for causes of fall of the Roman Empire, stating: “For what survives of that primitive morality which the poet called Rome’s safeguard? It is so obsolete and forgotten, that, far from practicing it, one does not even know it.... Morality has perished through poverty of great men; a poverty for which we must not only assign a reason, but for the guilt of which we must answer as criminals charged with a capital crime. For it is through our vices, and not by any mishap, that we retain only the name of a republic, and have long since lost the reality.”<sup>57</sup> Augustine points out that the Roman gods ought to have given its citizens “precepts of morals” and a “rule of life” in order to avert the disasters which befell the Roman empire. “But in all this,” Augustine writes, “the demons [i.e. the Roman gods] only looked after their own interest, and cared not at all how their worshippers lived, or rather were at pains to induce them to lead an abandoned life....”<sup>58</sup> Saint Augustine thus acknowledged in *The City of God* the presence of a universal “morality” and “virtue” in pagan cultures (such as ancient Rome) which could lead to the blessings of prosperity. Simultaneously, Augustine held firm that “[r]eal and secure felicity is the peculiar possession of those who worship that God by whom alone it can be conferred.”<sup>59</sup> Regardless of whether we are referring to a “universal” morality or a “Christian” morality, the fundamental problem for Saint Augustine is precisely the same; that is to say, some people will adhere to and some people would reject morals and virtue, thus leading to social conflict. “[T]his man listens, and that man scoffs,” said Saint Augustine, “and most are enamoured of the *blandishments of vice* rather than the *wholesome severity of virtue*.”<sup>60</sup> Under these social conditions, according to Saint Augustine, the City of God, must exist and endure. He pointed out that the “people of Christ” consisted of “kings, princes, judges, soldiers, or provincials, rich or poor, bond or free, male or female” and that they would have “endure this earthly republic, wicked and dissolute as it is,” in order to ultimate gain citizenship in the “republic of heaven, in which the

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<sup>56</sup> Ibid. at 62.

<sup>57</sup> Ibid. at 62.

<sup>58</sup> Ibid. at 63.

<sup>59</sup> Ibid. at 65.

<sup>60</sup> Ibid. at 59.

will of God is the law.”<sup>61</sup> Thus, for Saint Augustine the essence of the human condition—whether as kings, princes, judges, soldiers, or provincials, rich or poor, bond or free, male or female-- is submission to God’s will or law, often through suffering and endurance.

## II. The Human Condition: Fundamental Problem of Nature

For St. Augustine, God is the supreme entity and the supreme good, from which all natures or entities (animate and inanimate) are derived. Augustine understood that these entities have “natures” or laws which govern their disposition and purpose. These “natures” were, according to Augustine, designed by the Supreme Nature, or God. “Consequently, to that nature which supremely is, and which created all else that exists,” Augustine observed, “no nature is contrary save that which does not exist. For nonentity is the contrary of that which is. And thus there is no being contrary to God, the Supreme Being, and Author of all beings whatsoever.”<sup>62</sup> Thus, we are to understand that God is Nature; that Nature is Law; and that all “natures” reflect the glory of God, “to which the Creator’s law has made them subservient; and thus they tend in the divine providence to that end which is embraced in the general scheme of the government of the universe.”<sup>63</sup>

Thus, for Augustine, Justice is God; God is Nature; Nature is Law; a breach of Nature is *defection*,<sup>64</sup> or a turning away from Justice, God, Nature and Law. Augustine believed that “all things harmonize, not only in their places but also in their seasons.”<sup>65</sup> According to Augustine, a defection from Nature’s harmony *could inevitably* lead to misery and death. Significantly, the fundamental problem for St. Augustine was the mutability of “nature.” He understood that the “nature” of subordinate beings (i.e., human beings, animals, plants, etc.) was “good and mutable.”<sup>66</sup> He also understood that the mutability of “nature” is a result of a number of factors, primarily the original sin of Adam and Eve. But I believe that Saint Augustine also believed that the true test of whether the mutable, changed

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<sup>61</sup> Ibid.

<sup>62</sup> Ibid. at 382.

<sup>63</sup> Ibid. at 384.

<sup>64</sup> Ibid. at 387 (“Let no one, therefore, look for an efficient cause of the evil will; for it is not efficient, but deficient, as the will itself is not an effecting of something, but a defect. For defection from that which supremely is, to that which has less of being—this is to begin to have an evil will.”)

<sup>65</sup> *Confessions*, p. 103.

<sup>66</sup> *The City of God*, p. 385.



nature was still good or evil was whether it caused injury. In this instance, I am thinking of the splitting of the atom, the creation of nuclear weapons, deforestation, human-made contributions to global warming, etc. In each of these examples, judicious determinations must be made as to the extent to whether human-made changes of nature are good or evil. And, to speak truthfully, the same sorts of deliberations may be needed for determining whether same-sex marriages have an neutral, negative, or positive impact upon the state. As I understand Augustine's description of the duty of Christians, wise and just judgments must be made with respect to such practical human affairs. "For if it did no injury, it was no vice," Augustine observed in *The City of God*, "and consequently the will in which it was, could not be called evil. But if it did injury, it did it by taking away or diminishing good."<sup>67</sup>

In *The City of God*, Saint Augustine certainly left open the question of whether "mutual, changed" nature was still good, and he concluded that they could still be good if and only if they "did no injury...and consequently... could not be called evil."<sup>68</sup> St. Augustine seems to be saying that "sin" could be proven or shown by its evil consequences; in other words, if an act or deed could not be considered as "sin" if it "did no injury," because if it "did no injury," then it "could not be called evil," and would not be called "sin." In the *Confessions*, Augustine touches upon the relationship between natural law and secular jurisprudence, where he states:

Is justice, then, variable and changeable? No, but the times over which she presides are not all alike because they are different times. But human beings, whose days upon the earth are few, cannot by their own perception harmonize the causes of former ages and other nations, of which they had no experience, and compare them with these of which they do have experience; although in one and the same body, or day, or family, they can readily see that what is suitable for each member, season, part, and person may differ. To the one they take exception; to the other they submit.... [A]ll those things that god had commanded were gathered in a far more excellent and sublime way, into one moral order; and it did not vary in any essential respect,

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<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

though it did not in varying times prescribe all things at once but, rather, distributed and prescribed what was proper for each.<sup>69</sup>

The Christian approach to the Mosaic Law in general certainly reflects Augustinian theology. For instance, certain Old Testament proscriptions against eating certain foods, such as pork, may have very well been “sinful” at the time when Moses promulgated those proscriptions, but over time, as advances in science and technology have removed the “unhealthy” components to those foods, and made them safe for human consumption, the consumption of these foods no longer could be considered “sinful” for consumption. Here, I think, is the point at which the Church and Christian lawyers or judges find themselves in the United States and the world, with respect to the challenges being posed and presented from within the Earthly City—challenges such as the same-sex marriage and the role of women within family and the priesthood. Nevertheless, I would grossly misrepresent the Catholic theology and legal philosophy of Saint Augustine, and be both spiritually and intellectually dishonest, if I did not point out here, in clear and unmistakable language, that Augustine did not consider homosexuality to be a permissible “customary practice” in any society. Instead, Augustine considered homosexuality to be a sin against God and an offense against nature. For instance, in the *Confessions*, he observed:

Can it ever, at any time or place, be unrighteous for a man to love god with all his heart, with all his soul, and with all his mind; and his neighbor as himself? Similarly, offenses against nature are everywhere and at all times to be held in detestation and should be punished. Such offenses, for example, were those of the Sodomites; and, *even if all nations should commit them, they would all be judged guilty of the same crime by the divine law*, which has not made men so that they should ever abuse one another in that way. For the fellowship that should be between god and us is violated whenever that nature of which he is the author is polluted by perverted lust. But these offenses against customary morality are to be avoided according to the variety of such customs.<sup>70</sup>

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<sup>69</sup> *Confessions*, p 35.

<sup>70</sup> *Ibid.* at 36.

Saint Augustine thus interprets the “divine law,” and presumably God’s immutable eternal or natural law, as being prohibitive of homosexuality. In the United States, and in nations around the world, churches which hold the same view as Saint Augustine’s view *may* face sanctions from the secular world, and even from other churches and faith-based communities, unless they can show that their religious beliefs and practices are not invidiously discriminatory against homosexuals (e.g., “same-sex marriages) and are rationally related (or narrowly tailored) to their legitimate religious goals and objectives. (Here, I think that it is important to point out that St. Augustine’s and St. Thomas Aquinas’ views of nature and natural law are still the official views of the Roman Catholic Church and many other Christian denominations). As previously mentioned, I believe that the Church of the twenty-first century cannot simply reply, “because it is church doctrine” or “because the Bible said such and such.” Instead, the Church must rely on natural law as it is revealed through reason (e.g., the interdisciplinary sciences, biology, physics, mathematics, psychiatry, etc., etc.), in order to reveal the logic, force and power of God’s will and law. (I again stress that St. Augustine’s and St. Thomas Aquinas’ view of nature and natural law are still the official views of the Roman Catholic Church and many other Christian denominations). Christianity in the twenty-first century simply cannot sustain itself without the force of reasoned argument, and I believe the Christian lawyers and judges have a duty to argue—as Augustine and Aquinas argued-- in support of the Christian faith.

### **III. The Human Condition: The Problem of Judging (or discerning between Good and Evil)**

Saint Augustine believed that determining whether a thing (that is, a person, an animal, an idea, an inanimate object, etc.) is good or evil was a fundamental obligation of both the secular state and the Christian church. For Saint Augustine, such judging is, in some cases, a necessary evil. For instance, in *The City of God*, Saint Augustine speaks of the “error of human judgments when the truth is hidden,”<sup>71</sup> in which he writes: “What shall I say of these judgments which men pronounce on men, and which are necessary in communities, whatever outward peace they enjoy? Melancholy and lamentable judgments they are, since the judges are men who cannot discern the consciences of those at their bar.... If such

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<sup>71</sup> *The City of God*, pp. 681-682.

darkness shrouds social life, will a wise judge take his seat on the bench or no? Beyond question he will. For human society, which he thinks it a wickedness to abandon, constrains him and compels him to this duty.”<sup>72</sup> Here, Saint Augustine opines that human society “compels” Christian lawyers and judges to the “duty” of judging and determining just, moral and righteous judgments in practical human affairs. This, I think, is the modern-day Christian perspective of the role which the Church and Christian lawyers and judges must play within secular nation-states and principalities throughout the world: they have a duty to ensure that righteous judgment and justice<sup>73</sup> are established within secular legal systems.

What do Christian lawyers and judges bring to the table? I believe that they should feel compelled to bring a very high commitment to ensuring that judicial, administrative, executive, business and individual decisions and determinations are fully and fairly supported by a thorough compilation of relevant facts and a comprehensive understanding of the law and equity. I anticipate the Christian lawyers and judges will go the extra mile in this regard, and to do more than the norm or the average, because they are committed to a higher ethical standard and calling. To do this, Christian lawyers and judges must not only thoroughly know the Sacred Scripture, but they should also take an interdisciplinary approach to the practice of law and the administration of justice—they should seek to know the biological sciences, the physical sciences, mathematics, engineering, history, sociology, philosophy, the world’s major religions, literature, etc., etc. In other words, they should seek to utilize the arts and sciences to explicate the facts that are before the bar and bench in order to achieve justice. I believe that Christian lawyers and judges must remind their constituencies of the authority, power and logic of the Sacred Scriptures, while at the same time they must also precisely and intelligently *demonstrate* that natural law (i.e., God’s law) as being the very same laws of the physical sciences, biological sciences, mathematics, technology, psychology, and so forth, which modern societies must utilize to ascertain the “cause and effects” of human behavior, law, and public policies. It goes, without saying, that, as St. Augustine and St. Thomas Aquinas opined centuries ago, the “laws of nature” (i.e., science, mathematics, technology, the biological sciences, psychology, and so forth) are known through human reason. Since, at least to

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<sup>72</sup> Ibid. at 682.

<sup>73</sup> See, e.g., Genesis 18:19.

Christians, all “natures” reflect the glory of God, and are reflected in these laws of various aforementioned sciences, it is the duty of Christian lawyers and judges to ensure that the law is perfectly aligned with science, as well as faith. I do not intend to imply that there can ever be a contradiction between faith and science. For science, as a reflection of God’s law, is also a reflection of faith. Thus, by this definition, the Christian faith cannot be odds with science, because, at least as St. Augustine understood “nature,” science is really the law of nature, which is derived from God. Within courts of law, then, the mission of Christian lawyers and judges is plain and simple: they must utilize every platform of science to ensure that the truth and just judgments are properly established. For example, the DNA testing which has recently been utilized to exonerate many wrongfully-convicted felons is only one example of how Christian lawyers and judges can utilize advanced science and technology in order to establish justice. The same is true of all sorts of evidence—scientific or otherwise—which aids in the search for truth and the establishment of just and righteous judgments.

#### **IV. Government, Law and Natural Justice**

According to Saint Augustine, God has the same conception of universal, natural justice or equity as does the secular legal system—or at least in theory, this is so. There simply is no difference—at least in theory. Thus, Christian lawyers and judges may very well discharge their duties both to the secular state and to God through administering justice and equity within the secular legal system—again, in theory this is the case. Christian lawyers and judges have a duty to help to nurture and preserve the secular state through promoting justice, that is, to steer human society toward virtue, morality, and nature justice (equity).

Importantly, Christianity in its original context-- and particularly when one considers its Egyptian, North African, and Middle Eastern roots-- has long embraced the “will of God” as a reflection of the “laws of nature,” and that these natural laws are reflected in what we today call mathematics, the biological sciences, the physical sciences, and engineering laws, etc. It is thus quite unfortunate that, in this post-modern world, the idea of natural law is often viewed as ancient Christian mysticism,-- as antiquated and outdated. The Christian lawyer and judge of the twenty-first century has a solemn obligation to set the record straight and to vindicate the idea of Natural Law as mathematics, the biological

sciences, the physical sciences, and engineering laws, to be utilized in the various rules of evidence and legal reasoning throughout the secular legal systems of the world.

Here, I think it is fair to call attention to the fact that Natural Law still sits at the heart and foundation of the United States Constitution. I think that it is fair to assume that when Thomas Jefferson wrote in the Declaration of Independence, “[w]hen in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them...,” that Mr. Jefferson was referring to “God” as an idea of universal justice, as an expression of universal morality. Mr. Jefferson was borrowing from an ancient idea of law and justice that was deeply rooted in ancient Egypt and transmitted to western civilization through Greco-Roman culture.<sup>74</sup> Mr. Jefferson’s idea of the “Laws of Nature” as universal common law of all nations is perhaps best reflected in the ancient legal doctrine of “equity.” As equity was originally developed and conceptualized in ancient England, it was equivalent to the common law and served as a sort of unwritten, de facto constitution. “In jurisdictions following the English common law, equity is the set of maxims that ‘reign over all the law’ and ‘from which flow all civil laws’ (Bacon). The Chancery, the office of equity, was the ‘office that issued the writs that were the foundation of the common law system.’ (Id.; Spence, supra, at 224). Equity is wholly ‘unaffected by any state laws’ (Pomeroy) and is ‘everything, even without law’ (John Bouvier).”<sup>75</sup> Hence, I find it quite significant that, at least according to one scholar, “equity” “is ‘everything, even without law,’”<sup>76</sup> meaning that “equity” reflects “the will of God,” or “the Laws of Nature,” “natural justice,” and “natural law.” An old edition of *Encyclopedia Britannica* (1911) has described Roman equity and its administration as follows:

The part played by equity in the development of law is admirably illustrated in the work of Sir Henry Maine on Ancient Law. Positive law, at least in progressive societies, is constantly tending to fall behind public opinion, and the expedients adopted for bringing it into

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<sup>74</sup> Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL: Xlibris Pub., 2015), pp. 361-365; pp. 424-436.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

harmony therewith are three, viz, legal fictions, equity and statutory legislation. Equity here is defined to mean “any body of rules existing by the side of the original civil law, founded on distinct principles, and claiming incidentally to supersede the civil law in virtue of a superior sanctity inherent in those principles.” It is thus different from legal fiction, by which a new rule is introduced surreptitiously, and under the pretense that no change has been made in the law, and from statutory legislation, in which the obligatory force of the rule: is not supposed to depend upon its intrinsic fitness. ***The source of Roman equity was the fertile theory of natural law, or the law common to all nations.*** Even in the Institutes of Justinian the distinction is carefully drawn in the laws of a country between those which are peculiar to itself and those which natural reason appoints for all mankind. The connection in Roman law between the ideas of equity, nature, natural law and the law common to all nations, and the influence of the Stoical philosophy on their development, are fully discussed in the third chapter of Maine's work. The agency by which these principles were introduced was the edicts of the [Roman] praetor, an annual proclamation setting forth the manner in which the magistrate intended to administer the law during his year of office. Each successive praetor adopted the edict of his predecessor, and added new equitable rules of his own, until the further growth of the irregular code was stopped by the praetor Salvius Julianus in the reign of Hadrian.<sup>77</sup>

Hence, the Roman ideal of natural justice served as the basis for Roman equity, which functioned to guide positive Roman law towards fair and just outcomes.<sup>78</sup> Accordingly, I believe that most Christian lawyers and judges are mindful of this legal heritage of equity and natural law; and they tend to believe, with traditional legal scholars, that equity is wholly ‘unaffected by any state laws’ (Pomeroy) and is ‘everything, even without law’ (John Bouvier).<sup>79</sup> Christian

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<sup>77</sup> <http://faculty.cua.edu/pennington/Canon%20Law/EquityBritannica.htm> (Emphasis added).

<sup>78</sup> “When the law speaks universally, and something happens which is not according to the common course of events, it is right that the law should be modified in its application to that particular case, as the lawgiver himself would have done, if the case had been present to his mind. Accordingly the equitable man is he who does not push the law to its extreme, but, having legal justice on his side, is disposed to make allowances. Equity as thus described would correspond rather to the judicial discretion which modifies the administration of the law than to the antagonistic system which claims to supersede the law.” Ibid.

<sup>79</sup> Ibid.

lawyers and judges are mindful of the existence of human societies relied upon equity and natural justice as their constitution and law, even before there were any statutory civil or criminal laws in existence. These societies, like the young, revolutionary Thomas Jefferson, looked to Natural Law or natural justice as the foundation of their constitutional and legal systems. In such human societies, there were, to be sure, superstitious belief systems which guided their understanding of philosophy and law—but these superstitious beliefs were allegorical expressions of natural law and natural justice. Christian lawyers and judges tend thus to view secular laws and statutes through the prism equity, natural justice and natural law. They tend to view civil laws and statutes as being subservient to the idea of universal natural justice, which, as I have previously mentioned, is a concept that many legal scholars, lawyers and judges refer to as “equity.”

Thus, for Augustine, God is Nature; Nature is Law; a breach of Nature is *defection*,<sup>80</sup> or a turning away from Nature; and this defection inevitably leads to misery and death. Here, then, is a central doctrine of the Judea-Christian-Islamic legal and belief system, viz., that any action—whether legislative act or human volition—which defects from Nature, that is to say, God’s Law, will ultimately lead to misery and death. I submit here that, perhaps, each Christian lawyer and judge take very careful and precautionary measures, before they determine that a secular law does not square with God’s Law of Nature, and before they determine how they should approach such a secular law. For it is, I think, ultimately the duty of the Christian lawyer or judge, to walk in the footsteps of the great saints such as Augustine of Hippo, Thomas Aquinas, and many others, to *demonstrate* precisely and intelligently—through the “laws of nature” (i.e., science, mathematics, technology, the biological sciences, psychology, and so forth)-- how a secular law, or the application of the secular law, may eventually lead to social misery and ruin. It goes, without saying, these the “laws of nature” (i.e., science, mathematics, technology, the biological sciences, psychology, and so forth) are known through human reason. Since all “natures” reflect the glory of God, and are reflected in these laws of various aforementioned sciences, it is the duty of the Christian lawyer or judge to vindicate the Christian faith through the key facts of court cases,

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<sup>80</sup> *The City of God*, p. 387 (“Let no one, therefore, look for an efficient cause of the evil will; for it is not efficient, but deficient, as the will itself is not an effecting of something, but a defect. For defection from that which supremely is, to that which has less of being—this is to begin to have an evil will.”)



or legislations, which undergird the secular law. The Christian lawyer or judge has a stern duty to utilize every platform available to ensure that the truth is known and properly understood within a court of law—the conviction of criminal defendants who have served many years in state and federal prisons in the United States, only to be released years later after newly-discovered evidence made available through advanced science, such as DNA testing, is a primary example of exemplification of this Christian duty.

Thus sin, misery, and death came into being through choice (i.e., “vice”<sup>81</sup> or an *intentional defection* from Nature). As St. Augustine viewed things, “every vice is an injury of the nature.”<sup>82</sup> “Now every fault injures the nature, and is consequently contrary to the nature,” Augustine observed. “The creature, therefore, which cleaves to God, differs from those who do not, not by nature, but by fault; and yet by this very fault the nature itself is proved to be very noble and admirable. For that nature is certainly praised, the fault of which is justly blamed. For we justly blame the fault because it mars the praiseworthy nature. As, then, when we say that blindness is a defect of the eyes, we prove that sight belongs to the nature of the eyes; and when we say that deafness is a defect of the ears, hearing is thereby proved to belong to their nature;-- so, when we say that it is a fault of the angelic creature that it does not cleave to God, we hereby most plainly declare that it pertained to its nature to cleave to God.”<sup>83</sup>

For St. Augustine, the Will of God is an eternal and unchangeable law which will eventually culminate in ultimate justice. “It is true that wicked men do many things contrary to God’s will;” writes St. Augustine, “but so great is His wisdom and power, that all things which seem adverse to His purpose do still tend towards those just and good ends and issues which He Himself has foreknown.”<sup>84</sup> For St. Augustine, God’s law is a “law of the human heart.” “That also is called the will of God which He does in the hearts of those who obey His commandments; and of this the apostle says, ‘For it is God that worketh in you both to will.’ As God’s ‘righteousness’ is used not only of the righteous wherewith He Himself is righteous, but also of that which He produces in the man whom He justifies, so

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<sup>81</sup> Ibid. at 381.

<sup>82</sup> Ibid. at 381.

<sup>83</sup> Ibid. at 381.

<sup>84</sup> Ibid. at 811.

also that is called His law, which, though given by God, is rather the law of men. For certainly they were men to whom Jesus said, ‘It is written in your law,’ though in another place we read, ‘The law of his God is in his heart.’”<sup>85</sup>

In fact, in *The City of God*, Saint Augustine argues quite forcefully, and at great length, that the Roman empire would not have fallen if it had adhered to its native and primitive morals. He also argues in defense of Christianity, that the Roman empire would not have fallen if, during later years, it had adhered to Christian teachings on virtue and morals. And, in defense of the Christian religion against detractors who had blamed the collapse of the Roman empire on Christianity, Saint Augustine opined, after his readings of Roman authors, that “the primitive manners” of Rome had been characterized by “chastity” and “modesty,” and, consequently, contributed significantly to Rome’s rise and strength; and that Rome’s “primitive manners” were quite similar to “our commandments in the Prophets, Gospels, Acts of the Apostles, or Epistles.”<sup>86</sup>

I believe that all lawyers and judges must honestly ask themselves whether the rise and fall of societies, nations, and empires follow a definite pattern or moral law, as Saint Augustine poses in *The City of God*. They must honestly ask the fundamental question, even when that question is a difficult one ask, in the face of popular opposition: where does the secular law(s) (i.e., legislation, court decisions, etc.) lead the human society? Should modern societies pay attention to, and “test,” the Sacred Scriptures of any religion, such as Christianity, Judaism, or Islam, to ascertain whether they are socially and scientifically valid? For example, Saint Augustine forcefully argues in *The City of God*, the slow decay and ruin of the Roman empire began even “before the coming of Christ, and after the destruction of Carthage,” because “the primitive manners, instead of undergoing insensible alteration, as hitherto they had done, were swept away as by a torrent; and how depraved by luxury and avarice the youth were.”<sup>87</sup>

Furthermore, Saint Augustine argued that Rome then became “silent on the subjects of chastity and modesty” and saturated with “luxury and avarice.” Rome began to demand “from people indecent and shameful practices.”<sup>88</sup> As a

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<sup>85</sup> Ibid. at 811-812.

<sup>86</sup> Ibid. at 58.

<sup>87</sup> Ibid. at 58.

<sup>88</sup> Ibid. at 58.

consequence of this indecency and shame, according to Saint Augustine, the Roman empire fell into decay and ruin. But Saint Augustine admonished that if the Roman empire “were all together to hearken to and observe the precepts of the Christian religion regarding a *just* and *virtuous life*, then should the republic adorn the whole earth with its own felicity, and attain in life everlasting to the pinnacle of kingly glory.”<sup>89</sup> Should modern societies pay attention to Saint Augustine’s analysis and prescription?

It thus seems clear that Saint Augustine believed that a “just and virtuous life” had been attained before Christianity; that true Christianity was a most perfect reflection of the “just and virtuous life”; and that the Roman empire fell into decay and ruin as a result of its relinquishment of that “just and virtuous life,” even before the coming of Christ. Significantly, Saint Augustine also believed that the one true God had given the pagan Romans their vast empire! He also believed that the ancient Romans lost their empire because they failed to administer equity, judgment and justice.<sup>90</sup> Furthermore, Augustine pointed out that this failure to administer equity, judgment and justice was caused by “many evils introduced into their manners by the hurtful deceits of the demons whom they worshipped as gods.”<sup>91</sup> I think the critical lesson here, for modern-day Christian lawyers and judges, is this: *do our modern social norms prevent or hinder justice from being done?* They should frankly ask, e.g., whether the “vices” in the ancient world which led to the ruin of societies still afflict societies in the modern world. This leads me to the fundamental question or problem of justice.

## **V. Justice as an Essential Component of the Human Condition**

Saint Augustine believed that justice was the presence of God’s will or law on earth, and that no society or individual could properly exist without it. “Justice being taken away,” Augustine observes, “then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds

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<sup>89</sup> Ibid. at 59.

<sup>90</sup> Ibid. at 111-112.

<sup>91</sup> Ibid. at 111.

places, fixes abodes, takes possession of cities, and subdues peoples, it assumed the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to Alexander the Great by a pirate who had been seized. For when the king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, ‘What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet art styled emperor.’”<sup>92</sup>

Hence, Saint Augustine concluded that the Romans lost their Roman empire because they had abandoned equity and justice, and administered the Roman provinces like great robber barons. “But to make war on your neighbours,” wrote Augustine, “and thence to proceed to others, and through mere lust of dominion to crush and subdue people who do you no harm, what else is this to be called but great robbery?”<sup>93</sup>

Significantly, Augustine also observed that once subdued, people who are “weak and unlearned” often encounter great difficulties with escaping “the deceits of both the princes of the state and the demons.”<sup>94</sup> Saint Augustine thus described this technique of deception: “[f]or just as the demons cannot possess any but those whom they have deceived with guile, so also men in princely office, not indeed being just, but like demons, have persuaded the people in the name of religion to receive as true those things which they themselves knew to be false; in this way, as it were, binding them up more firmly in civil society, so that they might in like manner possess them as subjects.”<sup>95</sup> Under such circumstances, where there is no justice, Augustine concluded that nations and empires must inevitably decline. Augustine compared the decline of the ancient Roman empire to disobedient ancient Israel, and concluded that disobedience to the one true God was the ultimate cause of their calamity.<sup>96</sup> Saint Augustine compares kingdoms and nations to individuals; he concludes that the laws which govern a peaceful, well-

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<sup>92</sup> Ibid. at 113.

<sup>93</sup> Ibid. at 114.

<sup>94</sup> Ibid. at 140.

<sup>95</sup> Ibid. at 140.

<sup>96</sup> Ibid. at 140-141.

ordered life of individuals, are the same laws which govern nations and empires. Saint Augustine writes:

But let us suppose a case of two men; for each individual man, like one letter in a language, is as it were the element of a city or kingdom, however far-spreading in its occupation of the earth. Of these two men let us suppose that one is poor, or rather of middling circumstances; the other very rich. But the rich man is anxious with fears, pining with discontent, burning with covetousness, never secure, always uneasy, panting from the perpetual strife of his enemies, adding to his patrimony indeed by these miseries to an immense degree, and by these additions also heaping up most bitter cares. But the other man of moderate wealth is contented with a small and compact estate, most dear to his own family, enjoying the sweetest peace with his kindred neighbours and friends, in piety religious, benignant in mind, healthy in body, in life frugal, in manners chaste, in conscience secure. I know not whether any one can be such a fool, that he dare hesitate which to prefer. As, therefore, in the case of these two men, so in two families, in two nations, in two kingdoms, this test of tranquility holds good; and if we apply it vigilantly and without prejudice, we shall quite easily see where the mere show of happiness dwells, and where real felicity. Wherefore if the true God is worshipped, and if He is served with genuine rites and true virtue, it is advantageous so much to themselves, as to those over whom they reign. For, so far as concerns themselves, their piety and probity, which are great gifts of God, suffice to give them true felicity, enabling them to live well the life that now is, and afterwards to receive that which is eternal.<sup>97</sup>

Thus, according to Saint Augustine, the problem begins when rulers and governors “are nowise concerned that the republic be less depraved and licentious.”<sup>98</sup>

Augustine thus described the irresponsible attitude of governors and rulers, which lead to social misery and ruin:

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<sup>97</sup> Ibid. at 111-112.

<sup>98</sup> Ibid. at 59.

Only let it remain undefeated, they say, only let it flourish and abound in resources; let it be glorious by its victories, or still better, secure in peace; and what matters it to us? This is our concern, that every man be able to increase his wealth so as to supply his daily prodigalities, and so that the powerful may subject the weak for their own purposes. Let the poor court the rich for a living, and that under their protection they may enjoy a sluggish tranquility; and let the rich abuse the poor as their dependants, to minister to their pride. Let the people applaud not those who protect their interests, but those who provide them with pleasure. Let no severe duty be commanded, no impurity forbidden. Let kings estimate their prosperity, not by the righteousness, but by the servility of their subjects. Let the provinces stand loyal to the kings, not as moral guides, but as lords of their possessions and purveyors of their pleasures; not with a hearty reverence, but a crooked and servile fear. Let the laws take cognizance rather of the injury done to another man's property, than of that done to one's own person. If a man be a nuisance to his neighbor, or injure his property, family, or person, let him be actionable; but in his own affairs let every one with impunity do what he will in company with his own family, and with those who willingly join him. Let there be a plentiful supply of public prostitutes for every one who wishes to use them, but specially for those who are too poor to keep one for their private use. Let there be erected houses of the largest and most ornate description: in these let there be provided the most sumptuous banquets, where every one who pleases may, by day or night, play, drink, vomit, dissipate. Let there be everywhere heard the rustling of dancers, the loud, immodest laughter of the theatre; let a succession of the most cruel and the most voluptuous pleasures maintain a perpetual excitement. If such happiness be distasteful to any, let him be branded as a public enemy; and if any attempt to modify or put an end to it, let him be silenced, banished, put an end to. Let these be reckoned the true gods, who procure for the people the condition of things, and preserve it when once possessed. Let these be worshipped as the wish; let them demand whatever games they please, from or with their own

worshippers; only let them secure that such felicity be not imperiled by foe, plague, or disaster of any kind.<sup>99</sup>

As reflected in Saint Augustine's analysis of the fall of the Roman empire, when determining whether public policies or laws should be curtailed or regulated--whether through moral persuasion or legal mandate, for the general welfare of the society—Christian lawyers and judges ought to fairly assess whether the policy or law in question has an overall *evil consequence* upon the society. Christian lawyers and judges have a duty to rely upon natural law (i.e., science, mathematics, the physical sciences, biological sciences, psychiatry, psychology, history, sociology, etc.) in order to alert the body politic of pending disaster and social ruin, and not simply to quietly acquiesce to the Earthly City. Indeed, the Christian mind is scientific, since it believes that the laws of science are God's natural laws; and it seeks evidence of the causes and effects of nature and phenomena. In Saint Augustine's genius we find an example of disciplined scholarship and Christian devotion which, when conjoined, result in a far superior civilization. As Professor Mark Vessey has observed:

Augustine was renowned in the Latin-speaking world as a founding father of Christian theology, but his influence proceeds far beyond that. In the *Confessions*, Augustine broke ground by exploring his chosen topic—faith in God—using a tool that had little precedent in prior scholarship: his own life. Equally important, Augustine found room in the young Christian religion for the highly evolved thought of the so-called pagan philosophers, particularly Plato. This may seem simple enough on its face, but, without exaggeration, Augustine was centuries ahead of his time. The personal nature of the *Confessions* gave everyday relevance to the more abstract elements of Platonic thought and Christian theology, bringing the rival philosophies into harmony and delivering them to millions of readers. Weaving together introspection, classical learning, and faith, Augustine outlined the underpinnings of the Renaissance in Europe, two centuries that followed the Middle Ages and were marked by a 'rebirth' of classical values and humanism, the belief in the dignity of each member of the

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<sup>99</sup> Ibid. at 59-60.

human race. The Renaissance, according to many scholars, began on the spring day in 1336 when a young poet named Petrarch opened a copy of the *Confessions* and found in it a justification for scanning his own consciousness rather than searching the world for answers to the great questions of life. In some ways, the Renaissance never ended, as the innovations made during that period in art, science, commerce, and politics laid the basis for the world as recognize today. In many fundamental ways, in the *Confessions* Augustine articulated the soul of modern man.<sup>100</sup>

Thus using his talents and erudite learning, Saint Augustine felt compelled to defend the Church against accusations that Christianity caused the collapse of the Roman empire, and so should the Christian bar and bench feel similarly compelled to defend the Church against accusations of religious mysticism and religious superstition that suppresses women, minorities, homosexuals, and others. Thus, the duty of the Christian lawyer and judge is, among other things, to seek evidence of causes and effects of human behavior, and to help the secular civil society to establish justice and just judgments. ©

THE END.

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<sup>100</sup> *Confessions*, p. at 293.



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