

# **Christianity and the Legal System**

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## **Abstract**

The goal of a legal system is to create a good society. That can be done in two primary directions: limit the bad and promote the good. All legal systems attempt to do this in one way or another with varying degrees of success. A Christian legal system takes as its starting point our equality before God and our duty to serve God by serving each other. Ideally, such a legal system nurtures our effort to use our God-given life and talents to fulfill that duty of service and co-creatorship.

## **Tempering Abuse through Humility and Compassion**

The crucifixion is one of the pivotal events of Christianity. A great societal injustice was perpetrated through the most advanced legal system of the time -- one that underlies most of our law to this day. An innocent man was cruelly punished. Honest people who understood Christ's innocence were probably a minority, although had they even been a majority, they would probably have been helpless to prevent it. Other people, to give them the benefit of the doubt, may have been deluded, some acting out of self-interest and others out of a sincere, if mistaken, belief. They abused the power entrusted to them and perpetrate an injustice.

How did mankind become so blind and depraved that the majority and those in power were unable to judge rightly even the most innocent and saintly man ever to live on earth? The first lesson of Christian law is that human fallibility and the possibility of error call for humility in the exercise of power. A Christian legal system must safeguard against such abuses by imposing legal restrictions on the power we exercise over each other.

This archetypal event has special significance for Armenian Christians. It is a pattern of societal relations and societal injustice that we have lived with for many centuries while under foreign and soviet rule. Of course, in human relations, we do not deal with the absolutely innocent like Christ, but only the relatively innocent. Nevertheless, the good and honest are often impotent before the powers-that-be when that power is abused to hurt the relatively innocent. Recognizing our fallibility, a Christian state should aim in the first instance to do no harm, or at least to keep harm to the minimum justified by the greater good. In all likelihood, the majority favored Christ's crucifixion, and it was justified by Roman and Jewish law. For this purpose, as Christ's crucifixion shows, majoritarian law-making, or even a well-organized code of law, is not enough.

Codes of law are finite and static; life is comparatively infinite and dynamic. Christ taught not to make an idol of the law and constantly railed at the blindness of the "holier than thou" legalism of the Pharisees. No lawmaker can create a complete set of rules for the evolving circumstances of real life. No society can be sure that its judges will always decide correctly and fairly. Thus, laws are prone to misapplication. Recognizing our fallen state, one of the fundamental goals of Christian law is to create a system of rules and values that will prevent us individually and collectively from perpetrating such abuses. Imperfect rules applied by imperfect people give imperfect results. These imperfect results are enshrined in law as well as our history, our sense of worldly justice, and institutionalized power. Thus, mankind enslaves itself to the mistakes of its past and to its imperfection, a tragic self-inflicted wound.

Christianity tempers this accretion of imperfection with two countervailing virtues: compassion and forgiveness. Actually, two sides of the same Christian love, compassion for victims and forgiveness for wrong-doers, both derive from our sense that "but for the grace of God, there go I." This is the negative or restrictive side of law. The easiest

formulation of that restriction is that our laws should conform to the commandment that we do unto others as we would be done to.

The core value of Christianity is love: love of God and neighbor. This is not a self-regarding act, but a relationship. The ability to feel compassion for the unjustly condemned God-man, Christ on the cross, the ability to feel compassion for God the father in this sacrifice of son and self for mankind, and the ability to forgive contrite wrong-doers given the realization that but for the grace of God, there go I -- all these are key premises of a Christian view of societal relations and societal justice, out of which law and its institutions must arise. The Gospel formulation for this concept is "judge not, that ye not be judged." The alternative to judgment and retribution is compassion, forgiveness, and rehabilitation, or at least forbearance from doing harm.

### **Christian State as Trustee**

Law protects us from each other directly in our private relations through the police power of the state and indirectly in public relations by protecting us from the state. Given the possibility of mistake and abuse, the law should empower the state no more than necessary to assure our protection from each other and should effectively limit ways the state can be manipulated for personal ends. Jesus' trial is a paradigm of abuse of power. The Pharisees used the legal system for their personal interest and masked personal gain as national interest (*raison d'état*), the most elusive of justifications for policy. Here we face a question of balance: which is greater, the threat of mistreatment directly by our neighbors (which ultimately devolves into the law of nature or might makes right), or the threat of mistreatment by the state (when the power we entrust it is abused, through which might is masked in right)?

In a sense, the state acts as the trustee or steward of the society. But if the trustee is imperfect, which it inevitably is, then the beneficiary's interests are endangered. For this reason, that government is best which governs least. If a system cannot govern well, a first step toward improving it may be to govern less. At a minimum, the trustee should understand that public office is a temporary role for an eternal estate, and that the trustee is accountable to the Creator of that estate as well as responsible for the well-being of its beneficiaries. To some extent, each of us is a trustee of a small part of that estate, but those who hold public office have a special duty and the power to do more good and to avoid harm. They are accountable not only for their acts of commission, good and bad, but also for their acts of omission, the missed opportunities to create a better, fairer system and to achieve better results. In paternalistic systems, like those of the former soviet republics, where state regulation is pervasive and substitutes its judgments for the freedom of the individual, the society becomes like a large dysfunctional family with an abusive father. A Christian legal system would have a check on this, since that system would be based on service and humility and guided by the principle that we should serve each other as Christ serves us, with self-sacrifice and fairness. It would demand excellence of service, since that service is actually service to God, and the Christian is commanded to strive for perfection and to act so as to bring glory to God.

## **Promoting the Good: Tending the Garden**

To create a good society, however, it is not sufficient merely to forbear from doing harm. Law must do more than restrict abuse. It also must promote the good. This is the constructive side of law. It should facilitate our effort to keep God's first commandment – tend the garden. That garden can be understood as our own life and talents, our family, our community, our church, our city, our country, our world. Here again we do not inherit a perfect world. No one since Adam and the fall has had a clean slate to work on or a perfectly ordered world in which to live. We all inherit this accumulated history of imperfection; we all misuse or under-use the personal talents and potential we are given. This is a tragedy especially when viewed from God's perspective who created a good world, the Garden of Eden, and good souls.

Conscious Christians, such as St. Gregory of Narek, understand the fallen state we are in and seek to awaken our compassion for God and each other. How great indeed must the Creator's love be for creation to tolerate so much destruction and wrong-doing with forbearance, forgiveness and self-sacrifice? In the midst of this, Christians seek to be instruments of God in this world, by restoring that which is fallen and creating that which is good. Thus, society and law should be so organized as to facilitate that mission of reconstruction and perfection of our selves, society and our world. A Christian Legal System would foster our efforts as individuals and as a society to create an exemplary state that is like a light upon the hill and that encourages each individual to let his light so shine before men that they may see his good works and glorify his Father in heaven.

## **Creating and Designing a Christian Legal System**

How can such a legal system be created? What would it look like? These are the crucial questions. Can such a system be created at all? After all we do not start with a clean slate. Laws create vested rights and interests, the dead hand of the past, that constrain future freedom by earlier decisions, be they right or wrong. The opportunity to create such a new system after the fall of the Soviet Union in Armenia and the rest of the CIS was missed; indeed, for most people, this opportunity was not even comprehended as such. There was a head-long rush to keep the ship of state afloat by cobbling together spare parts from all over the world, creating a system that malfunctions and does not fit the society or its institutional and financial capacities. It is a system that falls short of the Christian standards of striving for perfection and curbing abuse with self-restraint and compassion.

Starting from here, what can one do to create a Christian legal system? Actually, the task in the abstract is the same everywhere. One must bring the legal system into conformity with the societal goals that system seeks to achieve, given the resources available to achieve them. The system should first do no avoidable harm and should contain an effective self-correction mechanism, since circumstances change and no law-maker is omniscient. In addition, when the system malfunctions, the system needs to

have a check on unjust and undesirable results. Currently, in Armenia, this check is often performed through some form of corruption, sometimes paid for, sometimes granted through deft interpretation of the law. In common law systems, it is handled by the concept of equity and the individually crafted applications of law to unique situations by the courts and administrative proceedings.

## **Conclusion**

Christian law starts with the premise that we are all equal children of God and that we serve God by serving each other, that we are called to freedom in order to serve each other in love and to give ungrudgingly the best we have to offer. We have a duty to act in such a way as to bring glory to our Creator and to preserve and perfect His creation. Thus, all of our duties are owed to our Creator who freely gave us life and talents, which we abuse and which He restored through self-sacrifice in the Crucifixion. Thus, such a legal system would,

- (1) **Be As Simple as Possible.** Given that human knowledge and human beings are fallible and the rules we design are imperfect and create power that is prone to abuse, a Christian legal system should be the simplest system consistent with achieving the societal good defined above.
- (2) **Prevent and Remedy Abuse, Foster Continual Improvement.** To the extent possible, a Christian legal system should prevent injustices and protect the relatively innocent by curbing abuse of power and providing effective remedies for such abuses, including improving defective laws through a self-correction mechanism.
- (3) **Be Created and Embraced as a Source of Justice.** A Christian legal system should be understood, created by and embraced by the governed and governing as an expression of their common sense of justice and fairness, tempered by compassion and forgiveness.
- (4) **Fairly and Efficiency Allocate Freedom and Resources to Promote the Common Good.** Given that law, like economics, deals with trade offs and efficient allocation of resources, a Christian legal system should facilitate the creation of a good and prosperous society through economically justified rules that promote the actualization of the potential of each of God's children equally, allocating freedom and resources fairly so that we can make ourselves, our families, our communities, countries and world flourish for God's glory.

Through successive correction and improvement, our man-made law would tend to converge with God's law expressed in natural law and revealed in the Gospels, refining and restoring us and our societal relations to the level required to live under that more perfect law.