

God and the State: Response to My Critics

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Let me begin by thanking Terence Cuneo, Marc O. DeGirolami, Christopher J. Eberle, Kevin Vallier, and Paul Weithman, for their thoughtful comments on what I wrote in *The Mighty and the Almighty*.¹ Their comments have forced me to think more deeply about a number of issues. The comments of Cuneo, Eberle, Vallier, and Weithman are closely related; so I will begin with them and will move back and forth among them in my response. I will then conclude by taking up the points raised by DeGirolami. In the space allotted me, I will not be able to address all of the significant points made by my critics.

In the book I observe that many if not most Christian theological accounts of the authority of the state give a great deal of weight to what St. Paul wrote in the first seven verses of chapter 13 of his letter to the Romans; I did so as well. Paul is instructing the Christians in Rome on to how they should understand the relation between God and “the governing authorities,” who in their case are Roman imperial officials, and on the stance they should take toward those authorities. His instruction on the former of these matters is that it is the God-assigned task of government “to execute wrath on the wrongdoer” (13:4). If this is the God-assigned task of government, then obviously government has the God-given right and authority to do this.

I argued that we would interpret Paul too literalistically if we interpreted him as teaching that the sole task of government is punishment. Punishment is one component within a complex system comprised, among other things, of a law code, a judicial system, and a police force, the system as a whole functioning not only to punish wrongdoing but to *curb* wrongdoing. It serves to *curb injustice*, thereby to *secure justice*.

I noted that though the situation Paul was addressing was new—how the members of the church are to relate to the empire—his teaching concerning the proper function of political authority was continuous with a prominent strand in the teaching of the Hebrew Bible/Old Testament concerning the task of the ruler. It is the task of the ruler is to secure justice.

Give the king your justice, O God. . . May he judge your people with righteousness, and your poor with justice. (Psalm 72:1-2)

If one is willing, as I am, to identify injustice with the violation of rights, one could say that Paul’s teaching is that it is the God-assigned task of government to

¹ All citations are from this book unless otherwise noted.

protect the rights of the public. I called this a *protectionist* understanding of the task of government. If it is the task of government to protect the rights of the public, then, obviously, government must not itself violate those rights. Governments are to be not only *rights-protecting* but *rights-honoring*.

I noted that governments cannot protect against all infractions of rights. They have to concentrate on protecting against the more serious types of infractions; and even with respect to those, they are to protect against them only if they can do so in such a way that they do not themselves perpetrate yet more serious infractions. (As we shall see shortly, there is a certain type of serious wrongdoing that the state should tolerate even though it could prevent or diminish it without itself perpetrating yet more serious wrongdoing.)

After discussing Paul's teaching in Romans 13 concerning the God-assigned task of government, I went on to observe that essentially the same understanding of the task of government came to expression in the Declaration of Independence of the thirteen American colonies, in the US constitution, and in such writings of the time as the Federalist Papers. The newly formed American government was to be a rights-protecting and rights-honoring government. I anticipated that some readers would feel uneasy over this claim of serendipitous convergence between St. Paul and the American founding fathers. Cuneo reports that it was astonishment that he felt rather than unease. Was St. Paul "really Locke born out of season?" he asks. As we shall see shortly, an equally surprising serendipitous convergence comes to light when we compare the civil rights to religious freedom that the church will request and those typical of liberal democracies.

I contrasted the protectionist understanding of government with the *perfectionist* understanding, which holds that a central task of government is to promote and cultivate religious and moral virtue in the public. Aristotle and other writers of antiquity espoused a perfectionist understanding, as did most Christian writers before the modern period. I quoted Aquinas and Calvin on the matter, noting that neither of them said anything about government being limited in its perfectionist activities by the rights of the public, this in spite of the fact that, by Calvin's day, the idea of rights, including natural rights, had been in the air for some three centuries.²

Noting the "long line of Catholic Aristotelians," Weithman speaks of "Aristo-Calvinist perfectionism" (379). The term seems to me misleading. Certainly the Catholic tradition was heavily influenced by Aristotle. But there was an important difference between the perfectionism of the ancients and that of pre-modern Christian writers. After Pope Gelasius I, almost all pre-modern Christian writers on these matters subscribed to a two-rules doctrine; none of the ancient writers held any such doctrine. According to the doctrine, church and government share jurisdiction over the lives of the members of the public, the church having jurisdiction over the "spiritual" dimension of their lives, the government having jurisdiction over the "temporal" dimension of their lives. The jurisdiction of the church placed significant

² Weithman correctly notes that someone whose thinking runs along basically perfectionist lines "can coherently take natural rights to be Nozickean side-constraints, principles which constrain what perfectionist measures the state can employ" (380).

limits on the jurisdiction of the government; it did not, however, prevent the government from torturing and executing those convicted of heresy.

Paul says that it is the God-assigned task of government to curb injustice; he does not say that governmental authority is limited to that. He is silent on the matter. An obvious question is, how we are to interpret this silence? Is it likely that Paul would have thought that government is permitted to go beyond curbing injustice to promote certain aspects of the common good, provided it does so in such a way as not to wrong members of the public? Would he have approved, for example, of the empire's far-flung system of roads? I think it very likely that he would have. His own missionary activities, after all, benefitted enormously from those roads.

The more interesting and important question is what Paul would have thought about perfectionist activities on the part of government. We can be confident that he would have been opposed to the empire attempting to inculcate the religious and moral virtues of paganism in members of the church. But can we interpret the Pauline silence as indicating opposition *in principle* to all perfectionist endeavors on the part of government? In *The Mighty and the Almighty* I did interpret the Pauline silence in that way. I wrote, "The God-given task of government is not to pressure citizens into becoming virtuous and pious; its God-given task is instead to pressure citizens into not perpetrating injustice. . . . The God-given task of government is deterring, punishing, and protecting citizens against wrong-doing" (99).

Weithman questions this interpretation of the Pauline silence. He notes that "the Davidic kingdom was supposed to be perfectionist, at least in aspiration: . . . David and his successors were to encourage worship of God and adherence to the Mosaic law" (379). And he asks, rhetorically, "Did Paul really disapprove? Did he really think that the kings of Israel had exceeded their authority when they used their power to encourage the keeping of the Covenant?" (380).

I agree that Paul would not have thought that the kings of Israel exceeded their authority when they used their power to encourage the keeping of the Covenant. But it was Paul's conviction that the church is a very different entity, with a very different God-given assignment, from non-exilic Israel. And it was my contention, in *The Mighty and the Almighty*, that Paul's understanding of the unique existence and role of the church in society has significant implications for how we understand the task of government in those societies where the church is present. So let me come back later to how we should understand the Pauline silence, and turn now to what I said about the implications for the political order of the existence and role of the church in society when those are understood along Pauline lines.

In *M & A* I noted that the *Declaration on Religious Freedom* issued by Pope Paul VI at the conclusion of the Second Vatican Council offered an argument for religious freedom based on the dignity of the human person: "the right to religious freedom is based on the very dignity of the human person" (131). I agree with this claim; and in a lecture of mine published subsequent to *M & A* titled, "Why Everyone Everywhere Has a Right to Religious Freedom," I myself laid out such an argument (2013). In *M & A* I took a different tack. Rather than basing my argument for religious freedom on the dignity of the human person, I based it on the existence and role of the church in society when those are understood along Pauline lines.

In whatever society the church finds itself, never are all members of the church members of that society, and never are all members of that society members of the church. Thus in every society in which it finds itself, the church either produces or increases religious diversity. Weithman interprets me as holding that producing or increasing religious diversity belongs to the nature of the church. I don't find myself ever quite saying that, though I acknowledge that I say nothing to counter that interpretation. Be that as it may, however, Weithman is correct in saying that it does not belong to the nature of the church. I interpret St. Paul as teaching that, in this present age, we must expect that in whatever society the church finds itself it will cause or contribute to religious diversity. But it is appropriate for members of the church to long and pray for the church to be all-embracing, even though they do not expect that it will be.

Given that in no society are all members of the society members of the church, I argued that, on a Pauline understanding of the church, the church in every society will present to the state "an expansive charter for the autonomy of the church vis-à-vis the state and for the religious freedom of citizens in general" to join or not join the church (125). "What the church asks of the state is not merely that the church be given the freedom to sponsor Christian 'religious activities' and that citizens be given the freedom to participate in those activities. It asks of the state the freedom to be that peculiar kind of community that is the church" (125). I listed six fundamental sorts of freedom that the church will insist on.

In his comments Cuneo quotes the list, and then notes that I do not explicitly call these freedoms of the church "rights" of the church vis-à-vis the state. He correctly infers, however, that I do think of them as rights; and he asks what, on my view, "grounds these rights" (374). My answer is that Christ has authorized the church to live and act as the sort of community that I describe in the text (124), and that, in general, if a person or institution is authorized to act a certain way, then it has the (prima facie) right to be free to act that way. The authorization implies the freedom-right. I recognize, of course, that this argument carries no persuasive force for those who do not believe that Christ has thus authorized the church. My project in the book was Christian political theology, not political philosophy.

After arguing that the church will ask of the state an expansive set of religious freedoms for itself, I concluded my argument for religious freedom by declaring that "it would be unjust for the state to grant to the church the freedom I described while denying the counterpart freedom to others" (127). Cuneo challenges this equity argument for the religious freedom of those who are not Christian. The church insists on the freedom to do what Christ authorized it to do because the authorization implies the right to be free to act thus. But other religious groups have no such authorization. So "all else being equal," says Cuneo, "it would not be a breach of justice to grant members of the church religious liberties and not to grant such liberties to the members of other religious groups." Where, he asks, "does this argument go wrong?" (375).

It does not go wrong. Cuneo's question has led me to see that my equity argument was mistaken. Non-Christian religious communities are different from the church in exactly the way that Cuneo points to; accordingly, the church cannot move from arguing that Christ's authorization gives it the right to a broad range of religious

freedoms to arguing that equity implies that other religious communities have a right to similar freedoms. I now see that to reach that conclusion, one has to appeal to the dignity argument that Vatican II offered and that I laid out in “Why Everyone Everywhere Has a Right to Religious Freedom.”

I can now address a cluster of closely related questions that Cuneo, Eberle, Vallier, and Weithman put to me. Vallier asks, “Why not do good through political means by coercively pressuring people to accept the Gospel if they’re otherwise unwilling?” “Why not give Christian rulers the authority to impose the Gospel on whomever they are able?” (388). My answer is, coercion cannot achieve that end. And as to coercing people into going through the motions of accepting the Gospel, what would be the point?

What the state can do is institute practices that encourage a Christian way of life and discourage other ways of life. It can, for example, do what England has long done, teach an elementary form of Christianity in its public schools. Both Vallier and Weithman ask what argument I have in my arsenal against such practices. Weithman correctly notes that it would be implausible for me to claim that such “encouragement and pressure” are incompatible with the right to religious freedom that I argued for (380). He describes some of the ways in which all of us are encouraged and pressured to do certain things while yet being free not to do them. For example, “Government advertising which glamorizes, and thereby encourages young people to join, the military is not thought to compromise the freedom of someone’s choice to enlist” (381).

Cuneo and Eberle both take note of my view that God can be wronged. The state is powerless to do anything about some ways of wronging God; it cannot, for example, coerce someone who hates God to cease doing so. But there are some ways of wronging God that it can act against coercively; Eberle cites blasphemy as an example. So suppose some government passes an anti-blasphemy law on the ground that to blaspheme is to wrong God. Let us agree that such a law violates the free speech rights of those who want to blaspheme God. But surely, says Eberle, wronging God by blaspheming is a far more serious wronging than the state’s wronging someone by depriving them of their free speech rights. “Wronging God is among the worst kind that a human being can commit” (393). So what argument do I have in my arsenal against anti-blasphemy laws? My argument for religious freedom doesn’t do the trick. “Curbing public sacrilege doesn’t pressure anyone into joining the Church” (393).

Cuneo invites us suppose “that in failing to follow Christ, many. . . religious groups wrong God” (375). He then asks, what is my case against the state preventing them from doing that? My answer is that there is nothing the state can do to prevent people from “failing to follow Christ,” or as Cuneo puts it a bit later, from “failing to recognize Christ” (375).

My guess is that Cuneo intended to ask a slightly different question. Let me put that question in my own words. Suppose that certain of the religious practices present in some society are such that to engage in those practices is to wrong God. What argument do I have in my arsenal against the state forbidding those practices? Let us grant that the state would *prima facie* wrong those people if it prosecuted and punished them; it would *prima facie* violate their right to religious freedom. But isn’t

their wronging God far weightier than the state's wronging them? "Suppose that it would be *prima facie* wrong to not grant and protect the religious civil liberties of these [people]. Why does this *prima facie* wrong trump the wrong that these groups commit against God?" (Cuneo, 375).

To answer these questions I must now take note of, and appeal to, an important aspect of the existence and role of the church in society, when those are understood along New Testament Pauline lines, that I overlooked in *M&A*. The Gospel of Matthew concludes with Jesus saying to his disciples, "Go and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, and teaching them to obey everything that I have commanded you" (28:19-20). It is *the church*, not the state, that Christ enjoins, and hence authorizes, to teach what he commanded; and he authorizes the church to *teach* obedience, not to coerce, or support the coercion, of obedience. An implication is that the church advocates toleration of a great deal of wronging of God that the state could, in principle, prevent or diminish. A passage from Luther that I quoted in *M & A* (146) makes the point in typically vivid fashion:

[Opposition to heresy is something] the bishops should do; it is a function entrusted to them and not to the princes. Heresy can never be restrained by force. One will have to tackle the problem in some other way, for heresy must be opposed and dealt with otherwise than with the sword. Here God's word must do the fighting. . . . Heresy is a spiritual matter, which you cannot hack to pieces with iron, consume with fire, or drown in water.

The church goes into all nations teaching that God is wronged by blasphemy; but it will not support the state coercing people, on that ground, to refrain from blasphemy. Members of the church may, however, support anti-blasphemy laws on other grounds, on the ground, for example, that blasphemy is a serious wronging of believers, as serious as libel, or worse. Eberle writes, "a properly *liberal* understanding of the right to religious freedom includes the claim that the state ought not to prevent citizens from blaspheming God or from otherwise wronging God (in respects that do not also involve wronging other human beings)" (392; emphasis in original). That claim seems to me not true. Anti-blasphemy laws are not an infringement on any one's religious freedom. (I assume that no one's religion includes the obligation to blaspheme!) And a society whose legal structure includes anti-blasphemy laws does not seem to me to be, simply on that account, not a "properly liberal" society. Anti-blasphemy laws would infringe on freedom of speech as that freedom is articulated in the American polity. But liberal democracies articulate the right to free speech in a variety of quite different ways. The libel laws in Britain are significantly different from those in the US. And in the US one is free both to praise and to deny the Holocaust whereas in Germany, one is not.

The church will oppose the state undertaking to teach in its public schools what Christ commanded; that task has been entrusted to the church and to the church alone. The church will oppose the state doing "what it can to ensure that children will

learn true doctrine" (Vallier, 388). It will oppose "the use of public school curricula to encourage [the Christian] way of life" (Weithman, 379).

It's another question whether members of the church, along with citizens in general, should oppose all forms of preferential treatment—all forms of "establishment." Weithman argues that they should, on the ground that the state "should be understood as an artifact equally contrived by *all* of its citizens" and that, "when it acts, it must be thought of as acting on the authority of all its citizens equally" (383). I regret that, in the space allotted me, I am unable to engage this argument.³

I return to the unfinished business. I wrote, "The God-given task of government is not to pressure citizens into becoming virtuous and pious; its God-given task is instead to pressure citizens into not perpetrating injustice" (99). I think it was a mistake to include "virtuous" in that sentence. Certain virtues must be generally present in the citizenry if the state is to perform its task of securing justice; the state may find itself in a situation where the other institutions in society are failing to teach those virtues and where it must, accordingly, so do itself. And we should not overlook the fact that laws themselves have an educative effect even when that is not their purpose.

Let me conclude by taking up some of the points raised by DeGirolami, beginning with how we should understand what St. Paul is saying in verse 4 of Romans 13. DeGirolami quotes the translation in the King James Version: "But if thou do that which is evil be afraid; for he [the ruler] beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil." DeGirolami notes that "wrath is an emotion," and he asks, whose wrath is the ruler to execute? He considers various possibilities and dismisses each of them as implausible.

Let me preface my answer by commenting on two points of translation. The Greek term that KJV translates as "revenger" is *ekdikos*. My Greek-English lexicon of the New Testament gives as the meaning of *ekdikos*, "an avenger or one who punishes." For reasons that I laid out in Chapter 8 of *M & A* and that I won't rehearse here,⁴ I hold that we should prefer the second of the two options, "one who punishes," that is, one who is authorized to punish, one who holds the office of 'punisher.' The Greek term that KJV translates as "wrath" is *orgê*. My Greek-English lexicon gives as the meaning of *orgê* "wrath, anger, retribution, punishment, revenge." I think we should prefer "punishment." What Paul is saying, translating very literally, is that the ruler is a servant of God, a punisher who imposes punishment on wrongdoers. The English is more awkward than the Greek because the English terms "punisher" and "punishment" are grammatical variants on the same term whereas the Greek has two distinct terms, *ekdikos* and *orgê*,

Whose wrath is the ruler to execute? No one's. Paul does not have the emotion of wrath in mind, nor any other emotion. What he is saying is that it is the task of rulers, servants of God authorized to punish, to impose punishment on wrongdoers.

I interpret Jesus and Paul as rejecting retribution understood as vengeance, pay-back. Leave vengeance and pay-back to God, says Paul in Romans 12:19.

³ I discuss some of the issues raised by Weithman's argument in the two chapters of Part Two of my (2012c).

⁴ In Chapter 26 of my (2012b) I give what I regard as a somewhat better formulation of my argument.

(DeGirolami notes that some writers do not use the term “retribution” as a synonym of “vengeance” and “pay-back” (396).) Though Paul in Romans 13 describes the rulers as servants and deacons of God, he does not say that they are authorized to execute vengeance or pay-back on behalf of God. The Greek terms translated as “vengeance” and “repay” in 12:19 do not appear in Paul’s description of the task of the ruler in Romans 13.

When working out an interpretation of Romans 13, I was struck by the similarity between what Paul says there and what Joel Feinberg, in an influential article, called the “expressive” theory of punishment (1970). DeGirolami notes that the expressive theory was around for a good many years before Feinberg published his article. I don’t recall that Feinberg cited any prior writers; but I accept that the expressive theory was not original with him.

Though I substantially agree with Feinberg’s theory of punishment, I prefer not calling it the “expressive” theory. I see a just system of criminal law as aimed primarily at restraining wrongdoing (the first of the two options that DeGirolami outlines at the end of his contribution), and I see the core aim of punishment within such a system as reproving the wrongdoer, one effect of this being to uphold the moral (and legal) order. I introduced the neologism “reprobative,” and called this understanding of punishment the reprobative understanding.

To make clear to the reader that punishment does not have to be understood as retribution construed as pay-back, I called attention to a parent’s punishment of a child for his or her wrongdoing. Unless there is something seriously disordered in the relation of the parent to the child, the parent does not understand what he or she is doing as paying-back; the parent is reproving the child by imposing “hard treatment.” Of course, reproving one’s child is just only if the child did in fact do something wrong—only if the reproof is “deserved”—and then only if the hard treatment is proportioned to the offence. In citing parental punishment as an example of reprobative punishment, I certainly did not mean to suggest that the state acts *in loco parentis*. It does not.

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