

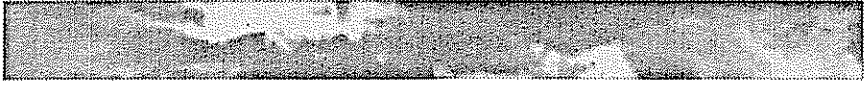


The Lawgiver

A Study of Biblical Jurisprudence

by Gerald R. Thompson

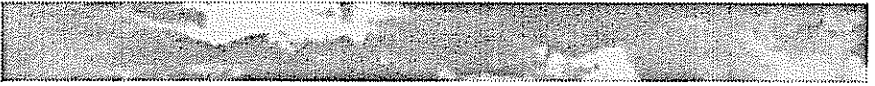
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The Lawgiver
A Study of
Biblical Jurisprudence

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*I will put my laws in their hearts,
and I will write them on their minds.*
—Jeremiah 31:34—



Foreword

With *The Lawgiver: A Study of Biblical Jurisprudence*, Christian Legal Society begins its Bible study series designed to equip law students to explore the meaning of their law school experience in the context of Christian jurisprudence and to examine ways their faith can inspire their practice of law. This series is funded by the Mark Chapin Johnson Foundation.

Despite the Judeo-Christian roots of our legal system, most law schools do not teach about the impact that religion has on law, especially in the area of jurisprudence. *The Lawgiver*, along with its companion studies on ethics and leadership, offers law students a basis for a Christian jurisprudence and a guide for integrating Christian faith with their future careers.

Christian Legal Society values your critiques and insights about these studies. Please direct your comments to the Student Ministries department at Christian Legal Society, P. O. Box 637, Annandale, VA 22003; ph: 703/642-1070; fax: 703/642-1075; e-mail: cls@interramp.com

Study One: The Origin of the Law

INTRODUCTION

Does the Bible speak to legal matters? Is there such a thing as a truly distinctive Christian jurisprudence? Is a legal philosophy based on the Bible a matter of subjective opinion or objective truth? And, if an objective Christian jurisprudence exists, is it relevant to modern nations?

Any answers to such questions that are intellectually, spiritually and professionally satisfying are likely to be reached only after much time, effort, study, prayer and discussion. For those who have “an ear to hear,” so to speak, there is no better place to begin than by examining the scriptures. The purpose of this Bible study is to examine some of the key passages of scripture that shed light on the foundational principles of a biblical view of law.

The prerequisites to a successful investigation are an inquiring mind and a willing heart. So become immersed in the Word, think about it carefully and ask God to confirm in your heart what is true. If you do, you will find what you seek.

IN SEARCH OF JURISPRUDENCE

Initially, every legal system must investigate, or at least presume answers for, these questions: Does law originate with God, nature or people? Are there any pre-existing laws that constrain us, or are we free to recognize any laws we wish? If there were no statute books or court opinions, would there still be law?

In the search for absolute ethical standards and fundamental legal rights, there is no hope unless there is a “higher law” of divine, not human, origin. Consider the following: If no transcendent God exists, is law unavoidably arbitrary? Can anyone then declare what is absolutely right or wrong? Also, if God is not immanent in human affairs, how can law be relevant? Would there be any reason to obey laws? Finally, unless God has revealed His law authoritatively, how can we know any law, moral or civil, is valid?

As long as people still believe in the perfectibility of man, they will cling to the hope that humanity can eventually solve its own problems. But, many have already seen the futility of this position and recognize that perfection from within the species will never come. Humanity has repeatedly demonstrated that it cannot adequately govern itself apart from God’s law.

DISCUSSION QUESTIONS

Can any legal system be morally neutral? Is it possible for a legal system to avoid, at a fundamental level, declaring the rules of right and wrong behavior?

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Read 1 Timothy 1:5-8. To what extent can a legal system be grounded in the reality of God's existence and His revelation of law? Does one legal system conform to reality better than all others? How do you know?

Read John 19:10-11; Romans 13:1-5; and 1 Corinthians 15:24-28. Does the right to rule people ultimately come from God, ourselves or from somewhere else? Is anyone above the law of God? What are the limitations on the right of one person to rule over another?

Read Deuteronomy 30:15-18. God gave ancient Israel the choice of whether to accept His law and receive its blessings or to reject His law and receive its curses. To what extent has God made this same choice available to nations today?

GOD'S WORK: THE LAW OF NATURE

Early legal commentators, such as Cicero, Grotius, Montesquieu, Blackstone and Kent, believed that when God created the heavens and the earth, He imposed His will and laws upon the entire earth and its inhabitants. Such laws were believed to be applicable to all people and easily discovered through a well-reasoned observation of human behavior and experience, as confirmed or tested by the Bible.

These "laws of nature," as they were called, were not limited to the realm of the physical sciences. Rather, they included laws of right and wrong human behavior. Furthermore, these laws were held to be absolute and eternal, unable to be rescinded or changed.

This legal belief system was most popular, as can be expected, in pre-Darwinian times. It is obviously not the prevalent or accepted basis for legal philosophy today. However, what we are to determine is if it is in truth the most solid basis for our legal philosophy, regardless of the current "modern" thought.

DISCUSSION QUESTIONS

Read Psalm 19. Does the revelation of God in creation include a revelation of His will? Of His law? How does one relate to the other?

Read Romans 1:18-32. To what extent is the revelation of God in creation sufficient to inform people of His nature as well as His existence? Does this revelation have a moral quality to it, being something to which people can be

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held accountable?

What is the connection between rejecting the knowledge of God from nature and the likelihood of engaging in unnatural behavior? Is unnatural behavior also unlawful?

THE LAW WRITTEN ON OUR HEARTS

Many philosophers, including Aristotle, took the position that much of the knowledge people have is innate. Among Christians, this has generally been regarded as a question of *conscience* or the imprint of God on the human heart and mind. According to this view, all people carry within their hearts a knowledge of certain rules of right and wrong behavior. This is believed to be one way in which people are made in the image of God.

This view has found expression not only in theological circles, but in legal thinking as well. The legal logic goes something like this: Because the law of the Creator is written on our hearts, every person is presumed to have knowledge of it, and no one can be excused from obedience to it.

DISCUSSION QUESTIONS

Read Romans 2:14-15 and Jeremiah 31:33-34. See also, Hebrews 8:8-12. To what extent does every person have a conscience, that is, a part of the law of God written on their heart?

Read Genesis 4:1-11. Cain was punished for killing his brother Abel, even though no express rule prohibited such action. Did God's creation laws include a prohibition against murder? To what law was Cain held accountable for his actions? Does God hold people accountable for breaking laws He has not revealed?

Read Exodus 18:16. Moses claimed to have been able to make known the laws of God with enough specificity to resolve individual disputes before the Ten Commandments or the rest of Israel's laws were verbalized by God. Upon what legal rules could Moses have based his judgments? Are those same legal rules applicable to us today? Why or why not?

GOD'S WORD - THE DIVINE LAW

In addition to the revelation of law in the created order and the human conscience, early legal commentators generally recognized the Bible as the

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revelation of God's law in written form. Thus, in the past, it would have been professionally acceptable to look to the Bible for the rules of right and wrong behavior by which we may know what conduct is lawful and unlawful.

Historically, the biblical revelation of law was variously referred to as the divine law, the revealed law or the law of nature's God. However, the divine law and the law of nature are not identical. The law of nature has applied to everyone from the beginning of time, but the divine law was given at various times throughout history and in some cases applies to specific groups of people.

Further, the law of nature is evident to all people and can be known by a reasoned observation of the world, but the divine law is discovered exclusively in the Bible. Thus, the Bible contains provisions of God's law which cannot be known simply by a reasoned observation of the creation or self-reflection, but which are uniquely made known in the written word.

DISCUSSION QUESTIONS

Refer to Psalm 19 and Romans 1:18-32. Does the Bible support the view that all of God's law must come from the Bible to the exclusion of nature?

Does God expect us to investigate nature as a means of learning His ways and His laws? What is God's response to people who refuse to acknowledge what nature teaches?

Read Mat. 5:17-19. To what extent, if any, is the Gospel of Jesus Christ opposed to law? Did anything in the life or ministry of Jesus fulfill or modify the law of nature (*i.e.*, the laws of creation)?

Read John 13:34. Is this commandment of Christ a part of God's law? If so, is it a part of the laws of creation or the later revealed divine law?

Read Numbers 35:29-34. Is the law of murder a part of the law of nature or is it based solely on the divine law? Is capital punishment prescribed in the law of nature or is it based solely on the divine law?

Must the two prior questions be answered the same? How can you tell if a law of God is part of the law of nature or not?

Study Two: What is Law

INTRODUCTION

The purpose of this study is to investigate whether laws, particularly God's laws, have certain characteristics or attributes in common. This will help to answer the question, *What is law?* Indeed, a conclusion reached by some modern legal scholars is that *law*, in a truly objective sense, does not really exist.

Other modern scholars hold that *law* is whatever is commanded by a sovereign. But suppose that not everything said by God (the Supreme Sovereign of the world) is law. Would it make sense to hold that everything said by public officials is law? Thus, we will want to discover whether sovereigns, particularly God, ever command things that are not law.

There are many definitions of law which merit study. But for present purposes, let us choose a definition which at least purports to be consistent with the Bible and use it as a starting point for discussion. This is the definition of law offered by Blackstone, whose view greatly influenced America's legal foundations: *Law, in its most general and comprehensive sense, signifies a rule of action...which is prescribed by some superior, and which the inferior is bound to obey.*

IS LAW CREATED OR EVOLVED?

If law is something *prescribed* by a superior, then it must be *initiated* by that superior. Thus, law is implicitly created, not the product of evolution. It would be inconsistent to say that anything was "prescribed," yet the existence of which evolved by the operation of impersonal energy and random chance over time.

Blackstone, as did legal scholars before him, also believed that human laws, following the divine pattern, were created by people, not merely having evolved into existence. This belief gave rise to the ancient doctrine that all human laws must be promulgated (*i.e.*, prescribed) before they could be enforced. This idea undergirds the doctrine of vagueness in modern constitutional jurisprudence.

DISCUSSION QUESTIONS

Read Genesis 1; Psalm 24:1; and Psalm 103:19. According to the biblical record, how well does the concept of law as a product of creation correlate with the nature of God as the non-created Creator of everything that exists?

Read Psalm 136:2,5,7-9 and Job 38:1,4,33. In creating the universe, did God

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prescribe the rules by which everything would be governed?

Read Colossians 1:16. What evidence is there for the idea that when God created the universe, He also created the laws which govern human conduct and the various authorities which govern mankind?

Is civil lawmaking a result of creation by known persons at a certain time or the culmination of impersonal forces acting since the indefinite past? Can one promulgate a civil law which has never been created or announce the enforcement of a law which has gradually evolved into being? To what extent is the formal recognition of an "evolving" law by public officials itself a creative act?

IS LAW OBJECTIVE OR SUBJECTIVE?

If law is *prescribed* by a superior, then it must also be objectively real. When a superior prescribes a law, the existence of that law is not hypothetical nor merely subjective in the mind of the inferior. Thus, it would be helpful to determine to what extent, if any, do laws, particularly God's laws, exist as objective reality.

Our conclusions on this matter have important consequences. If law is truly objective, it will obligate people whether they choose to recognize it or not. Thus, people who disobey God's law of behavior cannot avoid its inevitable enforcement. Much the same thing can be said about our civil laws.

DISCUSSION QUESTIONS

Read Psalm 19:1,7-9 and Romans 1:18-20. Is God's nature objectively real? Are His laws plainly revealed in nature? Are His laws objectively real?

Read Ex. 20:22; 21:1. How did God take care to reveal His laws to ancient Israel? To what extent were those laws objectively real?

Read Ex. 32:15-16. To what extent can civil laws be viewed as having an objective quality, not being merely subjective in our minds? Is writing a law on stone or paper what makes it objectively real?

Read Hebrews 1:1-2; 8:10-11. How does God continue to reveal His Word and/or His law to people today, if at all? Is it objectively real?

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IS LAW MANDATORY OR VOLUNTARY?

If law is *prescribed* by a superior, it would also seem to be mandatory upon the inferior. Otherwise, the so-called inferior is not actually inferior. Thus, a prescribed law is one which is *imposed*. Consider God's law, for example. Does the divine law require human adoption or consent for it to be obligatory or binding?

The same question can be posed regarding the enforcement of God's law. We do have the ability to choose to disobey the law. But, do we have a choice whether to suffer the consequences of that disobedience? Not everyone suffers the same consequences for violating the law, of course. Yet presumably, the imposition of any punishment is left to God's discretion, not ours.

Blackstone, John Locke and others believed the law of nature to be mandatorily binding on all people, including all lawmakers and other public officials. Thus, all of our civil laws, to be valid, must conform to God's laws. Historically, the duty to obey any civil law was viewed similarly, that is, the enactment and enforcement of civil laws does not require the consent of every individual. Once a civil government is lawfully established, it has the power to *impose* laws.

DISCUSSION QUESTIONS

Read Romans 9:20-21. Consider the connection between the nature of God and His right to rule over the creation. Does God's right to rule originate in the fact that He is all powerful? Because He is good? Or, something else? Does the law of nature apply to every person? Why or why not?

If a person refuses to serve God, can they avoid the operation and enforcement of the law of sin and death [*Cf.* Romans 8:1-2]? Can anyone declare himself or herself to be a "neutral party" in the war between God's law and Satan's lawlessness?

Is every individual person bound to obey the laws enacted by public officials even though he or she does not ask for those legal obligations nor individually consent to them? Does "government by consent" mean that every person must agree with every law before he or she are bound by it [*Cf.* Romans 13:1]?

LAW AS A RULE OF ACTION

Recall Blackstone's definition of law as "a rule of action." Historically, this meant that law, including any civil law, must be permanent, uniform and

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universal. A permanent law is one which neither changes in what is commanded or prohibited over time nor operates at some times but not at others. A uniform law is one which applies to all people the same and is not relative as to circumstance. A universal law is one which is not relative as to place.

Here, analogies between God's law and His nature abound. For example, God is an eternal being, without beginning or end, whose nature does not change. The question then, is whether we could expect God's law to be anything other than permanent. Similarly, God does not show anyone favoritism or partiality. Hence, might we expect that God's laws would apply to everyone uniformly? Or again, if God is the Creator of the entire universe, might we expect His laws to govern things the same everywhere?

DISCUSSION QUESTIONS

Read Numbers 23:19; Matthew 24:35; and Luke 16:17. Consider the permanence of God's law. Is the Word of God and God's law eternal and unchanging?

What is the relationship between God's Word and God's Law? Are they equivalent? Is one a subset of the other?

Read Romans 1:18-20, 3:19,23,29. Examine the uniformity of God's law. Can anyone escape being a creature of God?

Read Lev. 18:3-28 and Numbers 15:16. Did God's law apply in the case of Egypt and the nations of Canaan? Had these nations received the covenant law of Israel or any other verbal revelation of God's law? Did God's covenant law apply to persons within ancient Israel's jurisdiction? Was it uniform?

Read Psalms 19:1-4 and 139:7-10. Discuss the universality of God's law. What are the limits, if any, to God's territorial jurisdiction?

Read Acts 17:24-28 and Isaiah 14:26-27. Is there any nation—or any place in the universe—where God's law does not govern?

SOURCE OF LAW vs. IMPLEMENTATION

Although God's law is an aspect of His revealed word, not all expressions of God's will, even those in verbal form, are permanent, uniform and universal rules. For example, God has often directed individuals to perform a specific

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task, directions that were not applicable to everyone. *See*, Joshua 6:2-5 and Acts 10:19-23. Such directions were in the nature of a personal order rather than a general law.

Similarly, God has often pronounced judgment on people as a result of some particular sin. *See*, 1 Kings 21:17-26 and Acts 5:1-11. Although these sins violated general laws, the judgments themselves seem to be limited to the persons named. Historically, legal commentators concluded that not everything God said is "law," hence, not everything public officials declare is to be regarded as "law," either.

Specifically, it was understood that executive orders and judicial opinions, while obviously involved in implementing law, were not themselves a source of law, nor were they a rule of general action. In fact, the common law understanding was that the role of the judge is to declare what law already exists. The standard legal maxim is, *Jus dicere, et non jus dare*. That is, "the province of a judge is to declare the law, not to make it."

DISCUSSION QUESTIONS

Read Exodus 18:16. When Moses judged the people of Israel, did he resolve disputes by exercising his personal will or by declaring law which pre-existed the dispute?

Read 1 Samuel 13:11-14. When Samuel, who was Israel's judge, held King Saul accountable to the "law," with whom did the law originate?

Read 2 Samuel 12:9-10. When Nathan judged David, did he announce his own rule of law or apply a pre-existing one? What was the applicable rule of law?

Read John 5:30. Did Jesus exercise moral or spiritual judgment according to the pattern of Moses for civil judgment? With respect to making law versus finding it, are moral questions and civil disputes judged in the same manner, or are they adjudicated differently?

Study Three: Covenant Law

INTRODUCTION

The purpose of this study is to examine the law of God revealed in verbal form in the Bible. The Bible, however, is not written like a legal hornbook, with “black letter law” written in propositional statements organized by topic. Rather, various laws were revealed at different times to particular people in specific situations. The legal context of each revelation of laws has generally been understood as a *covenant*, which is a form of agreement between God and people.

Although these divine laws and the law of nature are perfectly consistent, they are different in several respects. For example, the law of nature has applied since the world’s creation, but the divine law was given at various later times. Also, while it is widely believed that the law of nature applies to everyone, there is sharp disagreement as to whether parts of the divine law apply only to certain people.

For legal purposes, our primary interest in the divine covenants is the extent to which they are the means God has used to delegate authority to people. To the extent people have authority to rule over some aspect of creation or each other, that authority is primarily to be determined from a study of the divine covenants. These delegations of authority are covenant specific, that is, they apply only to those governed by the covenant. Thus, one of the key issues is to determine, as a matter of law, to whom each divine covenant applies.

THE DIVINE COVENANTS

Our God is a covenanting God. He has chosen to covenant with people not just once, but several times over the course of history. There are six such divine covenants generally recognized, of which we will look at four: 1) Adamic; 2) Noahic; 3) Mosaic; and 4) the covenant with the Church through Jesus Christ. The covenants with Abraham, David and a possible seventh “covenant with creation” prior to Adam will not be examined here.

Of course, each of these covenants plays a role in the redemptive history of mankind. That is, each covenant has elements of “grace” and is a part of God’s overall plan for salvation. However, the importance of the covenants is not limited to matters of personal salvation and other spiritual concerns. The divine covenants do, in fact, address other matters of legal and governmental significance. It is this aspect of the covenants that is the focus of our study.

DISCUSSION QUESTIONS

The Adamic Covenant—Read Genesis 1:26-30 and 2:15-25.

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Do these scriptures make an express reference to a covenant? Can the existence of a legal relation between God and Adam and Eve be fairly implied? Why or why not?

To what extent does God delegate authority to Adam and Eve with respect to: having children? the earth? the animal kingdom? food? marriage?

What are the legal implications of God's dealings with Adam and Eve relating to family law and environmental law?

The Noahic Covenant—Read Genesis 8:20-9:17.

Do these scriptures make an express reference to a covenant? Who are the express parties?

To what extent does God delegate authority to Noah and his family with respect to: having children? the animal kingdom? food? capital punishment?

What are the legal implications of God's dealings with Noah, *et al.* relating to animal rights and criminal law?

The Mosaic Covenant—Read Exodus 20:1-17-24:1-12.

To what extent does God delegate authority to the Israelites to punish: religious offenses? offenses against the family? offenses against individuals?

What are the legal implications of God's dealings with Israel relating to the constitution of a lawful civil government and the rightful exercise of police powers?

The Church Covenant—Read Matthew 28:18-20.

To what extent does God delegate authority to the Church with respect to evangelism and discipleship? other matters?

What are the legal implications of God's dealings with the Church concerning religious freedom? What about crossing international boundaries to proselytize? to smuggle Bibles into China or Iran?

ARE GOD'S COVENANTS LAW TODAY?

One of the key issues concerning the divine covenants is the extent to which

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they are applicable today. There are many attributes of covenants which have been identified by biblical and legal commentators for the purpose of determining their applicability. Of these many attributes, let us look at three which are directly related to the legal nature of covenants and their legal effects: mutual assent, irrevocability and binding effect on descendants.

The principle of *mutual assent* holds that a covenant is an agreement where two or more persons each consent to be bound by certain terms and conditions. If this principle is valid, we should expect to see God offering His covenants to people in such a way that each person may accept or reject the proposed relationship.

The principle of *irrevocability* holds that a covenant cannot be entirely revoked once the parties have made it. If this principle is valid, we should expect to find evidence that covenants between God and people are perpetual.

The principle of *binding effect on descendants* holds that if the original parties acted in a representative capacity, their descendants will also be fully bound by the covenant. If this principle is valid, we should expect to see that some or all of the divine covenants make an express reference to their applicability to descendants.

DISCUSSION QUESTIONS

The Adamic Covenant

Read Genesis 2:16-17. By commanding that they *not* eat from the tree, God gave Adam and Eve the choice whether to obey Him fully. Can the existence of this choice be linked with the consent to a covenantal relation by Adam and Eve?

Read Genesis 3:14-19. Did the Fall negate or terminate God's prior delegation of authority to Adam and Eve? Did Jesus consider the commands of Genesis 1 and 2 to have been negated in Matthew 19:4-7, or did He view them as irrevocable?

Read Romans 5:12-21. What is the correlation between people affected by the Fall and people who have been given dominion authority per Genesis 1:28?

The Noahic Covenant

Read Genesis 6:14-22. To what extent, if any, did Noah's actions in these verses operate as an acceptance of the covenant with God to come?

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Read Genesis 9:1-17. What is the duration of the Noahic covenant? Are there any people to whom the promise of the rainbow does not apply?

Is there any legal basis for regarding people as subject to the provisions of Genesis 9:13, but not the provisions of Genesis 9:6?

The Mosaic Covenant

Read Exodus 24:3-8. Were the people of Israel coerced into accepting God's covenant, or did they assent to it voluntarily?

Read Psalm 105:8-10 and Hebrews 8:5-13. Has the Israelite covenant been revoked? Is it possible that the covenant could have been modified or obsoleted in part through the ministry of Jesus Christ, but that the rest remains intact?

Is everyone a descendant of Israel? Were Gentiles ever bound by the terms of the Mosaic Code as a matter of covenant law?

The Church Covenant

Read John 3:16-18 and Romans 10:12-13. Is a covenant relationship with God a function of voluntary assent?

Read Romans 8:38-39. What is the duration of the Church covenant?

Read John 1:12-13. Can a people become Christians in a representative capacity on behalf of their descendants? What other scriptures, if any, evidence the existence of such a representative capacity in relation to salvation from sin?

IS COVENANT RULE NECESSARY?

God has an absolute right to rule over people as the non-created Creator of everything and everyone that exists. As a result, God has the right to exercise any means whatsoever to effect His governance. Are these same choices available to us? Arguably not. First, no one is the actual creator of another person. Second, no one has authority over others as part of his or her inherent nature. All people are created equal before the law, and no one is "born to rule" over others.

Study Three: Covenant Law

Although God can exercise any means of rule He wants, it appears that He has chosen to rule us primarily, if not exclusively, by covenant. The question for us then becomes one of whether we have any choice but to exercise rule by covenant. If we receive our ruling authority from God via covenant, this may also be the exclusive means by which we obtain authority to rule over others. To the extent this is true, human covenants are not merely convenient, but an absolutely necessary means for anyone to legitimately rule over others.

DISCUSSION QUESTIONS

Review Genesis 1:27. Does the fact we are made in the image of God mean that we are to relate to each other according to the pattern of the way God relates to us? What does this mean in terms of our legal right to rule over others?

Read Daniel 2:20-21. To what extent do these verses support or contradict the idea of a direct appointment or authorization of civil rulers by God (without the consent of the governed)?

Is all human authority derived, mediately or immediately, from a delegation via divine covenant? In what ways do we otherwise acquire authority?

Has God ever given anyone authority to rule over others apart from the divine covenants revealed in the Bible? How would you know if He had?

Read Joshua 9:3-15. What parallels can you identify between Joshua's actions here and modern Senate ratification of international treaties? Is a treaty a covenant? Why or why not?

Does a modern "covenant running with the land" have the characteristics of mutual assent, irrevocability and a binding effect on future generations?

Study Four: Law & Rights

INTRODUCTION

In this study we will examine the concept of legal rights. In particular, we will look at some of those rights that are given to us by God and their legal importance. These God-given rights, usually denoted *inalienable rights*, form the foundation upon which the traditional American view of rights has been based.

Recently, though, some Christians have questioned whether God intended to give people legal rights, and a few have concluded that the concept of rights is contrary to biblical teaching. One line of reasoning holds that everything we receive from God is a matter of grace, thus, we have no rights with respect to God. By analogy, perhaps we have no claim to earthly rights either.

The question of whether God has given us legal rights is important. Our nation's founders believed that the *primary* purpose of civil government was to secure our God-given rights. But, if we have no such rights, what is the major function of the law or the primary purpose of government? Indeed, one may well ask, if there is no such thing as God-given rights, can there be any such thing as a definite "wrong"?

ARE THERE RIGHTS IN THE BIBLE?

If legal rights are merely a human invention, then arguably there is no guaranteed or certain right to anything nor any definitely wrong behavior (*i.e.*, a violation of rights). Any theory of rights based on this assumption would view all rights as being relative, not absolute. However, our nation's founders, some of whom were Christians, believed in the existence of absolute rights created by God, among which are life, liberty and the pursuit of happiness. Who is right?

DISCUSSION QUESTIONS

Read Numbers 23:19-20. When God makes a promise to someone, is it a matter of grace whether He makes the promise or not? Is it a matter of grace, or obligation, that God keeps His word? Does God retain the right to void a promise once it has been made?

Do we have the right to rely on God's promises, even though He was under no obligation to make them? Are God's promises enforceable?

Read Hebrews 6:13-20. Was God under an obligation to covenant with Abraham? Did Abraham have a right to rely on God's covenant with him? To

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what extent may the descendants of Abraham today claim a legal right to the "Promised Land" because of God's covenant? *See*, Genesis 12:1-7.

Read John 1:12-13. Does a Christian have rights with respect to the kingdom of God? Are these rights enforceable?

Read Leviticus 25:29-33. What was the nature of the right of redemption in ancient Israel? Was it a right given by God? Was it enforceable at law?

Read Deuteronomy 21:15-17. What is the right of the firstborn? Is it a moral right or a legal right? Is it a God-given right? Is it a right peculiar to ancient Israel or is it a natural right applicable in all nations?

THE NATURE OF RIGHTS

Many people have understood that legal rights are a function of legal authority, that is, what one has the authority to do, he also has the legal right to do. Consequently, our concepts of where and how we derive authority for all that we do will greatly determine our view of what legal rights we have.

Historically, this idea has had two significant consequences. First, the authority we receive directly from God gives rise to inalienable rights, the exercise of which people may not alter, prevent, punish or regulate. This is because no one is authorized to take away or deny the exercise of authority which God has given.

Second, where authority is lacking, a legal right does not exist. More to the point, where the law validly prohibits certain behavior, a person can never have the legal "right" to engage in such behavior. Thus, a person cannot have a right to do anything which is unrighteous under God's law or for which authority is lacking.

DISCUSSION QUESTIONS

Read Genesis 9:1-3. Did God give mankind authority to eat meat? To what extent does this give rise to a legal right to eat meat? Could a legislature validly require everyone to abstain from eating meat or force everyone to eat meat against their will?

Read Acts 10:42-43. Is the preaching of the gospel something we are authorized by God to do? Is it a legal right? Is it a right that non-Christians

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have?

To what extent can people delegate their God-given rights to civil government, that is, to authorize public regulation of the exercise of their duties to God? Would your answer be the same with respect to eating meat as preaching of the gospel?

Regarding eating meat and preaching the gospel, is either one more inalienable, more enforceable or more “legal” than the other? Do Christians have legal rights that non-Christians do not have?

Read Exodus 21:7-11. The word “right” is not used in these verses. Yet, do these verses describe the legal rights of a female slave in ancient Israel? What is the relationship between limitations on the master’s authority and the legal rights of the slave?

Read 1 Corinthians 6:9-10. What is the relationship between certain wrongful behaviors and the right to inherit the kingdom of God? Do people have a “right” to disobey God’s law? Do we have the authority to disobey it?

Read Leviticus 20:9-16. Can a person forfeit their own God-given rights, even their right to life, by engaging in certain unlawful behavior? Can people enter into a lawful agreement to violate God’s law?

WHO HAS LEGAL RIGHTS?

To whom has God given authority and/or rights? Historically, there were a number of recognized limitations on who could claim to have received any God-given rights. First, it was recognized that animals have no legal rights. This was founded on the belief that God granted animals no authority nor placed them under any duty, the performance of which is owed solely to Him.

Second, at least in America, it was recognized that all inalienable rights were the rights of individuals, not groups of people. Thus, civil government, as a corporate institution, was believed not to have been granted any direct authority from God. The founders of our nation expressly rejected the notion of a “divine right of kings.” Rather, civil governments were believed to have only *powers*, as distinguished from rights, all rights being inherent in the people alone, as reflected in the 9th and 10th amendments to the U.S. Constitution.

Study Four: Law & Rights

Both of these limitations on rights have been substantially challenged in recent years. Conventional wisdom holds that there is no distinction between rights and powers as applied to civil governments. And, especially in the area of familial authority, civil government is viewed as being the source of rights. Further, much of current environmental policy debate has focused on the rights of other species compared to human rights.

DISCUSSION QUESTIONS

Read Genesis 1:27-28. What is the authority relationship between people and animals according to these verses? What does it mean for people to “rule over” the animal kingdom?

Review Genesis 9:1-3. What do these verses suggest, if anything, about the legal rights of animals compared to people? Does an animal have the right or authority to eat a human? *See also*, Exodus 21:28-32.

Read Genesis 9:9-17. To what extent is the animal kingdom a party to the Noahic covenant? How does this affect the question of animal rights?

Read Romans 13:1-7. Do civil rulers receive a divine commission of authority direct from God? Does God actually choose which people should occupy public office in the United States? Should God’s laws constrain the actions of public officials?

THE PROTECTION OF RIGHTS

The traditional view of the primary purpose of civil government is to protect the inalienable rights of private citizens. However, this view also held that inalienable rights could not be regulated by civil government. This is due to the distinction made between *inalienable* rights and *civil* rights and the corresponding distinction between *moral* duties and *legal* duties.

The reasoning goes something like this: Every right (or authority) gives rise to certain duties (or responsibilities) for the exercise of that right. However, these duties are owed solely to the person who granted the right. Thus, rights granted by God give rise to duties which are owed only to God and are enforceable solely by Him. These duties are merely moral. On the other hand, rights granted by government give rise to civil duties and are civilly regulable. These duties are legal.

Study Four: Law & Rights

Thus, the primary legal question with respect to any right is whether it is of civil or divine origin. Take, for example, the duty of parents to educate their children or to “train up a child in the way he should go.” Holding parents accountable to civilly imposed educational standards presumes that the authority to educate one’s own children is state delegated. On the other hand, if the duty is of divine origin, then parents are accountable for the discharge of that duty to God alone.

One modern trend in legal rights theory has been to blur the distinction between civil rights and inalienable rights, viewing all rights as essentially state granted. Another modern trend has been to blur the distinction between legal and moral duties, viewing all duties as essentially owed to the state. The phrase, “you can’t legislate morality,” used to mean public officials could not enforce duties owed solely to God. But today, what does it mean?

DISCUSSION QUESTIONS

Read Proverbs 31:4-9. Did King Lemuel view the protection of rights as a primary purpose of civil government? Are these verses a normative statement for all civil governments?

Read Deuteronomy 16:18-20 and Isaiah 10:1-2. What is the relationship between justice and securing individual rights? Can justice result when rights are denied? How does a bribe affect the security of legal rights?

1 Timothy 5:3-8. Does a widow have a right to be supported by her children and grandchildren? Is this a legal duty (enforceable at law) or a moral duty (enforced by God alone)?

Read Matthew 5:21-30. Does anyone have the right not to be hated? If so, is it an enforceable right? What are the implications for “hate crime” legislation?

Does anyone have the right not to be an object of lust? If so, is it a legally enforceable right? What are the implications for sexual harassment laws?

What happens when society tries to enforce moral duties through legislation?

Study Five: Jurisdiction

INTRODUCTION

In prior studies, we examined the nature of God's law and of God-given rights. The next step is to determine who has the legal right to assert and enforce such laws in various contexts. This task is essentially an inquiry into the nature of jurisdiction. In its most general sense, jurisdiction is the power to declare (and by implication, to enforce) the law.

In this study, we will examine the most fundamental jurisdictional distinction of all, the distinction between God's authority and our own. The question of who has jurisdiction over any particular matter is essentially a question of authority. That is, the *right* of jurisdiction exists whenever it has been *authorized*. Therefore, our inquiry begins with an examination of how authority is acquired or distributed.

THE DISTRIBUTION OF AUTHORITY

There are three basic issues relating to the origin and nature of all human authority. The first issue is whether human authority is *delegated* or *inherent*. That is, to what extent is any human authority to rule over others dependent on a delegation from someone else?

The second issue is whether human authority is *limited* or *absolute*. If our authority is inherent, would it be unlimited, and if not, what would it be limited by? On the other hand, if our authority is delegated, could we expect it to be limited by the terms of the delegation? If so, can anyone lawfully do anything except as God specifically authorizes him to act?

The third issue is whether human authority is *diffuse* or *concentrated*. Has God given everyone the same authority, or has He concentrated rights and powers in the hands of some people to the exclusion of others? How are we to understand the way in which authority is distributed among people?

DISCUSSION QUESTIONS

Read Jeremiah 18:6-10. In these verses God's authority over the nations is compared to the authority of a potter over the clay. What does this analogy teach us about the nature of God's authority? What does it teach us about the authority of the potter? What are the implications of this analogy for the law of patents and copyrights?

Read Genesis 6:13,17; Colossians 2:10 and 2 Peter 3:5-7. Does God's authority extend even to having the right to destroy His creation?

Study Five: Jurisdiction

Read Revelation 19:15. Has God delegated all authority over creation to mankind, or has He reserved some authority for Himself which has not been delegated? How would you describe what God has reserved?

When the Bible is “silent” regarding the authority to act in a particular way, should we presume that authority exists or that it does not?

Read Genesis 4:3-11. Had God expressly forbidden Cain from killing anyone? What presumption, if any, can we make concerning the authority to take another person’s life in the light of God’s “silence”? In the case of Cain, how is this presumption affected by Genesis 9:6 (which was revealed some 1600 years later), if at all?

Read Genesis 1:28. Does this “Dominion Mandate” give anyone authority to rule over other people? Can we presume the existence of any inherent authority to rule others in the absence of an express grant? Is there any human authority which does not ultimately trace back to a grant from God?

Read Deuteronomy 17:8-12. What is God’s attitude towards those who assert the authority, or jurisdiction, to judge their own case? What does this teach us about whether human authority is delegated or inherent?

LAW AND MORALITY

The contrast between the jurisdiction God has reserved for Himself and the jurisdiction He has delegated to people is often referred to as Morality vs. Law. Thus, the duties we owe to God (which He alone has jurisdiction to enforce) are *moral*, and the duties we owe to other people (which we may enforce) are *legal*.

Some traditional hallmarks of moral jurisdiction include freedom of thought (mind), freedom of choice (will) and freedom of religion (heart). Of course, the track record of Anglo-American jurisprudence in this regard has not been consistent. Centuries ago, English law punished imagining the king’s death as a capital offense, and to this day, English law addresses certain religious offenses.

America’s founders rejected constructive treason (imagining the king’s death) as a valid crime. Additionally, religious offenses have largely been eliminated from civil laws via the First Amendment. Yet, consider what a lack of civil jurisdiction over the mind might mean with respect to civil involvement in education. Therefore, consider this matter of God’s reserved jurisdiction very

Study Five: Jurisdiction

carefully.

DISCUSSION QUESTIONS

Read 1 Samuel 16:7; Jeremiah 17:10; and 2 Chronicles 16:9. What is the extent of God's jurisdiction to examine the heart or mind of any person? To what extent has this same jurisdiction been delegated to people, if at all?

Read Exodus 14:4,17; Proverbs 21:1; and Hebrews 10:16. Does God's jurisdiction over the heart and mind include the right not only to know our thoughts, but also to change our thoughts? Can anyone keep a secret from God? Can Satan read our minds?

Read Matthew 7:1-2; Romans 14:1,4,10; and 1 Corinthians 2:11. Do people have the *ability* to know the heart or mind of others? Have we been given the *jurisdiction* to know the minds or hearts of others? Does the existence or nonexistence of ability imply the existence or nonexistence of jurisdiction?

Read 1 Corinthians 2:11 and 4:4-5. Does each person have the jurisdiction to judge his or her own heart? Is this jurisdiction as extensive as God's jurisdiction over our own hearts?

Read Exodus 20:17; Matthew 5:21-22, 22:37; and Ephesians 5:3-5. Is a person's heavenly citizenship a matter of the heart or mind? Is it within the jurisdiction of the civil law to recognize who is a Christian and who is not? What are the implications regarding the granting of civil exemptions to Christian individuals or groups that are not available to others?

Read Matthew 28:19-20 and John 18:37. Is "truth" within the jurisdiction of the kingdom of God? Has God delegated the authority to teach to the Church?

Read Deuteronomy 6:6-7 and Ephesians 6:4. To what extent do families have the jurisdiction to teach? Has God delegated any authority to teach to civil government? Can the Church delegate its teaching authority to civil government? Can families? Is your analysis with respect to churches and families the same, or different, and why?

Study Five: Jurisdiction

LAW AND CHARITY

Another application of the distinction between moral and legal jurisdiction has to do with love, or charity. Even though civil laws are generally restricted to the realm of actions or deeds (as opposed to thoughts), this does not necessarily mean that all actions or deeds fall within the civil jurisdiction. Some actions, such as charitable deeds, have been recognized as being exclusively governed by God.

The quintessential statement of the law of love is to “love your neighbor as yourself.” However, love must come from the heart of a person freely. Once “love” or “charity” can be claimed as a legal right, earned or merited by the recipient or coerced, it is no longer freely given. And, if it is no longer freely given, how can it be considered “love”? Hence, the historic understanding was that the duty to love one’s neighbor is owed directly to God and only indirectly to the recipient.

For example, the gleaning laws of the Old Testament commended the Jews to be charitable to their neighbor, but no human sanctions were attached to a failure to do so. Similarly, no individual penalty was prescribed for failing to help a poor man in need nor for failing to rescue a neighbor’s animal in distress. Insofar as the civil laws were concerned, even in theocratic Israel, these duties were merely moral, not legal (even though they were revealed as part of God’s law).

There are a number of matters in which the common law likewise recognized that the law of love had exclusive jurisdiction. For example, the common law recognized no duty to rescue a person in distress unless a “special relationship” beyond mere “neighbor” status had been established between the parties. Similarly, the common law held that an undelivered gift was not enforceable, since an unfulfilled promise to make a gift was bound only by the law of love and therefore legally unenforceable.

DISCUSSION QUESTIONS

Read 1 Timothy 1:5 and 1 Peter 1:22. To what extent is love a matter of the heart? Does this necessarily mean that actions of love or charity are beyond civil jurisdiction? Is “love” a mere psychological construct, or is it also a concept having legal consequences?

Read Ephesians 2:8-9. To what extent is love a matter of *grace*, not *works*? Is grace ever earned or merited? Can grace be bought or sold? Is grace always necessarily free, voluntary and discretionary?

Study Five: Jurisdiction

Read 2 Corinthians 9:7. To what extent does God, in exercising His jurisdiction over our hearts, compel people to be charitable or to make gifts? To what extent do people have the jurisdiction to compel charitable acts?

Read Luke 10:36-37. To what extent are people to meet their neighbor's need from heartfelt compassion? From a sense of civilly enforced justice?

Read Romans 11:6. Is it accurate to say that a charitable act must be both voluntary and undeserved, or it is not charity at all? Can there be such a thing as compulsory charity or coerced love? Is public welfare (funded by tax revenues) truly charitable? Are taxes paid voluntarily or under compulsion?

LAW AND RELIGION

As mentioned above, the English common law embraced a variety of criminal offenses against God and religion. Several of these common law offenses appeared in the early statutes of some of the original thirteen colonies. However, the view that eventually predominated American legal thought rejected the idea that civil government had jurisdiction over matters of religion.

DISCUSSION QUESTIONS

According to the VIRGINIA BILL OF RIGHTS, §16: *it is the mutual duty of all to practice Christian forbearance, love and charity toward each other.* To whom is this "mutual duty" owed? Can it be legally enforced?

That same section of the VIRGINIA BILL OF RIGHTS also speaks of *religion, or the duty which we owe to our Creator.* Is religion a duty owed *exclusively* to God so as to preclude any civil jurisdiction over it?

Read James 1:27. Are charity, love and religion the same with respect to civil jurisdiction? That is, if civil jurisdiction cannot extend to religion, can it extend to charity? Why or why not?

Read Acts 4:18-20 and 5:27-29. To what extent were the early Christians willing to concede that civil rulers had jurisdiction over religious matters?

INTRODUCTION

As we continue our study of jurisdiction, we will now examine the division of authority within society. We begin our examination of the social order by looking at the individual, the family, the Church and nations.

Specifically, will discuss whether scripture regards these social institutions as unique for legal purposes and, if so, to what extent. This inquiry is important for two reasons. First, to the extent we can identify any institutional authority given by God, it will indicate the existence of specific inalienable rights which society ought to respect and protect.

Second, to the extent we can identify how these institutional authorities relate to each other, we will be able to describe the nature of inter-institutional accountability. Of particular interest is the extent to which the private sector (the individual, family, church, etc.) is legally accountable to civil authority.

INDIVIDUAL GOVERNMENT

The individual is not a social relationship, nor do we normally think of the individual as an institution. Yet, the individual is extremely important for legal purposes. The traditional view of inalienable rights, for example, holds that all such rights are the rights of individuals. Even our most fundamental civil rights, such as criminal process rights and the right to vote, belong to the individual.

This should come as no surprise. The biblical record is clear that moral responsibility and the accountability for sin are reckoned by God on an individual basis. No one is held accountable for the sin of another, even for the sins of parents. Similarly, redemption from sin is accomplished on an individual basis—each person must come to Christ on his or her own.

One of the issues we want to reckon with here is the extent to which individuals have authority with respect to other individuals. Are there any scriptures which indicate what the nature of individual authority is?

DISCUSSION QUESTIONS

Read Genesis 1:27. To what extent may God be considered the Creator not only of the first man and woman but of all people? What is the relationship between being made in God's image and the law of equality? The right to life? By what mechanism or law can we claim the rights or authority conferred upon Adam and Eve, if at all?

Is the individual the measuring unit of moral and legal accountability?

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Read Romans 3:19-20. Is the accountability of the world to God reckoned by individuals, families, nations, some combination of these or something entirely different?

Read Deuteronomy 24:16 and Ezekiel 18:19-25,30. What is the rule of legal accountability under the civil law of ancient Israel? Is this rule peculiar to ancient Israel, or is it a law applicable to modern nations as well?

Read Joshua 6:16-18, 7:1,10-15,20-26. For what reason were the sons and daughters of Achan killed when the contraband was found? How does this example impact your analysis of individual accountability, if at all?

Read Joshua 6:15-25. To what extent does the sparing of Rahab and all her relatives confirm or deny the principle of individual accountability?

Read Genesis 25:21-23. Are some people born to rule over others? Did Jacob have a God-given right, from birth, to rule over his brother Esau? Does a prophecy about someone give that person the authority or legal right to carry out the prophecy? Does God grant authority via prophecies?

Read Jeremiah 27:4-11. Does God ever give one person the right to rule over another person in the civil or political sense? Did God make Nebuchadnezzar the ruler of Israel? If not, what was Nebuchadnezzar's relationship to that nation?

How could you test the validity of someone's claim that they had been granted authority by God to rule over you?

FAMILY GOVERNMENT

Like the individual, the family unit is an important social institution. Not only did God create individuals, but He also created the two sexes and brought the first man and woman together in a marital relation. This raises the question of the extent to which the family unit is also a creation of God and whether families have legal authorities and responsibilities much as individuals do.

If so, the modern breakdown of the family is not only a moral and social problem, but a legal one. Indeed, perhaps one of the most important questions facing society today is the extent to which the family is to be recognized as a

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legal entity with duties and authorities that society ought to protect and respect. A related issue is the matter of definition: For legal purposes, what is a family anyway?

Because of the importance of these matters, the subject of families and their legal character will be examined further in Study 7.

DISCUSSION QUESTIONS

Read Genesis 1:27; 2:18,21-23. Is marriage and the institution of the family an invention of people or a creation of God? Who has jurisdiction to define what a family is, and why? Who has jurisdiction to define what rights a family has and why?

Did God intend for a husband and wife to relate to each other in a particular way? Is the relationship of husband and wife governed by a predefined authority structure? Is the familial authority structure subject to civil modification?

Compare and contrast families with cohabitation. May God be considered the Creator of cohabitation relationships in the same sense as marriages? Does a cohabitation relationship have any of the authority, rights or other legal consequences of a marriage? How do you know?

Read Genesis 2:24 and Mark 10:7-9. Consider the legal character of the marital union. Is marriage a new legal relationship? Is it a new legal entity? To what extent are “marriage” and “family” synonymous terms?

THE CHURCH

When people refer to social institutions, it is common to hear the *church* referred to in the same context as *individual*, *family* and *state*. Yet, the matter of dealing with the Church as a legal institution is difficult because of the tendency to delve into doctrines of the internal structure of a church as an ecclesiastical polity, constitutional doctrines related to the separation of church and state, the influence of religion in public life and even religious freedom in general. These things each have their importance, but none of them are in view for present purposes.

What we need to examine is whether, from a biblical perspective, there is such a thing as a God-created church relation with unique legal rights and

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responsibilities which society ought respect and protect.

DISCUSSION QUESTIONS

Read 1 Corinthians 12:13-28. Is the institution of the Church an invention of people or a creation of God? Is the Church a true social relation or is it merely a heavenly relation?

Does God intend for members of the Church to relate to each other according to a divinely imposed authority structure? To what extent is this ecclesiastical authority structure temporal (legal) and/or spiritual (moral)? Can civil laws “recognize” the true Church?

Read Matthew 28:18-20. Is the authority of the Church to evangelize and disciple an inalienable legal right? Should our civil laws recognize the rights to evangelize and disciple solely with respect to Christians? Do such rights also belong to non-Christians?

NATIONS

We often think of the “state” in a purely political sense, but here we must be careful to distinguish the organs of civil government from the people who are governed. It is quite possible for God to be the Creator of nations (and states), yet to regard people as the inventors of civil government.

It requires us to consider whether a nation or state can be legally recognized apart from, or irrespective of, its organs of government. Certainly, there is some historical precedent for this. The nation of Israel existed when it was enslaved in Egypt, yet it had no political structure. Even the United States existed as a nation in 1777, yet it had no national government.

The nature of civil government will be examined in greater detail in Study 8. For now, we just want to see if there is any sense in which God may be considered the creator of nations. Later on, we will examine what legal impact this might have on the nature and function of civil government and the social order.

DISCUSSION QUESTIONS

Read Genesis 10:1,5,20,31,32; 11:1-9. To what extent is God the Creator of the first nations of the world? Was the creation of nations man’s idea? Were there any nations prior to Noah’s flood? How do you know?

Read Deuteronomy 32:8. In what respect does God create nations and set their

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national boundaries? Were “the sons of Israel” a nation at the time of Babel? Does this passage refer to a past or present activity of God?

Read Acts 17:24-28. Did Paul regard the nations formed since Noah’s flood to be created by God? Is God still in the nation-creating business today, or was this a finished work back in the days of Babel (~ 2200 B.C.), or Deuteronomy (~ 1400 B.C.), or Paul (~ 50 A.D.)? What has changed since Paul’s time, if anything, which would affect the way God deals with nations?

FITTING IT ALL TOGETHER

Now let’s examine the Bible for any evidence of a generalized description of the social order, and whether portions of the Bible may be considered as directed to specific social institutions.

DISCUSSION QUESTIONS

What other legal relationships, if any, are created or instituted by God? Should civil laws treat the rights and liberties of God-created relations with priority compared to man-invented relations? Why or why not?

Is it possible to be born into any legal relation other than as an individual, a family member, a member of the body of Christ or a national citizen? In what ways, if any, is birth legally significant?

Read Luke 6:27-38. To what extent, if any, are these verses directed to public officials acting in their civil capacities? Is it God’s will that civil government “give,” “lend” and “pardon”? To whom might these verses be directed and in what legal capacity?

Read Matthew 18:15-20. To what extent are these verses directed to a formalized social relation? Does the phrase “tell it to the church” mean any group of Christians, or is a specific institutional structure presumed?

Read Proverbs 22:6 and Ephesians 5:22-6:4. Is the relational authority between family members delegated to them by public officials? To what extent is child-bearing and child-raising the province of individuals (outside of marriage), the Church or nations?

Read Acts 5:29. What is the role of civil government in supervising the church in the performance of its gospel authority?

Study Seven: The Family

INTRODUCTION

Today, legal issues directly impacting the family institution, such as education, corporal punishment, abortion notification, no-fault divorce and homosexual rights are rarely examined from a perspective of God-given rights and authority. Modern jurisprudence views all familial rights as state delegated and state regulable. In essence, modern jurisprudence treats the family as a nonentity, or at least an entity having no legal rights or authority of its own as against civil government.

However, the biblical picture of the family is somewhat different. The family institution is the creation of God with a built-in authority structure and the right, as it were, to exercise dominion over the world. This grant of authority to families has never been rescinded. Anthropologically, the nations of the world originated in family units dispersed from the tower of Babel. It is certainly possible for families to thrive without civil government, but could civil government even exist without families? Consequently, the extent to which society respects familial rights and protects the family institution is an important concern of jurisprudence.

THE MARRIAGE COVENANT

In Study 3, we examined covenant law, particularly with regard to the divine covenants. The concept of covenant law is not limited to the relationship between God and people, however. The divine covenants also serve as the pattern for legal relationships between people. Of all the possible covenantal relationships, the two most important (for legal purposes) are marriage and civil constitutions. These two are most important because they are, in addition to being modeled after the divine covenants, responsible for governing the civil aspects of families and nations.

In this study, we want to look at the way the marriage relationship mirrors the legal aspects of the divine covenants. First, we will examine the scriptural evidence for considering the marriage relationship as a form of covenantal union. Next, we will consider whether this relationship is subject to a predefined authority structure and the extent to which it serves as the framework for administering the law of families.

DISCUSSION QUESTIONS

To what extent is a marriage relationship based upon mutual assent? *Read Genesis 24:58,67.* Did Rebekah consent to marry Isaac? *Read Matthew 1:18-25.* Did Mary and Joseph consent to be married? Are these examples the rule

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or the exception?

Is a marriage relationship binding on descendants? Can children undo the marriage of their parents? Can children choose their parents? What are the implications with respect to the legal “emancipation” of minors from parental authority?

Read Mark 10:7-9 and Romans 7:1-3. To what extent is a marriage relationship irrevocably binding? How is the biblical view different from the modern law of divorce?

Read Deuteronomy 24:1-4 and Matthew 19:3-12. Is the *act* of divorce the creation of God or man? Is the *law* of divorce the creation of God or man? Does the existence of divorce negate the irrevocability of the marriage covenant?

Read Genesis 1:27-28, 4:25 and 9:1. To what extent are people authorized to engage in sexual relations outside of the marriage relationship?

Read Deuteronomy 23:2 and Hosea 5:7. To what extent are people authorized to bear children outside of the marriage relationship? What bearing does this have on the legitimacy of surrogate motherhood, if any?

HUSBAND AND WIFE

In examining the relationship between husband and wife, there are two primary areas of legal concern. The first is what constitutes a valid marriage. Here, we are concerned with the legal effects of cohabitation, fornication, same sex marriages and adultery. We want to investigate what it is that makes some relationships legitimate and others illegitimate.

The second area of primary concern is the legal relationship, particularly the authority relationship, between husband and wife. Here, we are concerned with head of the household issues and the rights of married women. If possible, we would like to find out what God’s expectations are in connection with family governance and whether the divine expectations translate into civilly enforceable rights. How we view the legal nature of marriage will play a vital role in shaping our jurisprudence of family law.

DISCUSSION QUESTIONS

Read Exodus 20:14; Leviticus 20:10 and 1 Corinthians 6:9-10. To what

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extent do a husband and wife owe each other a duty of mutual fidelity, that is, a duty not to commit adultery? Is this duty merely moral or is it legally enforceable?

Read Matthew 5:27-32 and John 8:1-11. To what extent, if any, did Jesus modify the law of adultery? Why did Jesus not condemn the woman caught in adultery to death, in accordance with Levitical law? *See also* Leviticus 20:20. Was He condoning adultery?

Read Exodus 22:16-17 and Deuteronomy. 22:28-29. In ancient Israel, was fornication, like adultery, a capital offense? Were the fornicators *ipso facto* deemed to be married, either morally or legally? Is the law of fornication for us today any different? Why or why not?

To what extent do a husband and wife exist within an authority structure predefined by God?

Read Ephesians 5:21-25,33. Does Jesus, as “head” of the Church, have authority over it? Does a husband, as “head” of his wife, have authority over her? Can the authority relationship of one be different from the other, according to this scripture? How does verse 21 affect the nature of authority between people, particularly husbands and wives, and the nature of our relationship with Christ? **Read Luke 22:26-27.** According to Christ, what is to be the nature of one in authority?

Read Numbers 30:3-16. In ancient Israel, could a woman make legal, binding vows separate from her husband or father? What was the authority relationship between them? Was this a set of laws peculiar to ancient Israel?

PARENT AND CHILD

Both the Adamic and Noahic covenants commend people to “be fruitful and multiply,” that is, to reproduce through the bearing of children. The early view of the common law was that since God entrusted the bearing of, and caring for, children to their parents, the parents were not accountable to anyone else for the discharge of these duties.

Modernly, civil laws have assumed an increasing role in superintending the authority of parents over their children. In some states, parents are no longer able to veto a minor daughter’s decision to obtain an abortion. States

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have assumed primary jurisdiction over the education of children. Parents who fail to provide medical attention for their children for religious reasons are often charged with neglect, and parents who use any form of physical punishment with their children can be charged with abuse.

DISCUSSION QUESTIONS

Read Deuteronomy 4:9, 6:6-9; Proverbs 22:6; and Eph. 6:4. To what extent do parents have intellectual or educational authority over their children? Is this authority limited to religious instruction? Does this authority preclude the education of children by other individuals? Why or why not?

Read Proverbs 13:24 and Hebrews 12:7-9. Do parents have divine authority to administer corporal punishment to their children? Is it an inalienable legal right?

Read Exodus 20:12 and Ephesians 6:1-3. Is the duty of children to *honor* their parents legally enforceable? How about the duty of minor children to *obey* their parents? Are your answers to these questions different, and if so, why?

Read Proverbs 31:10-15 and 1 Timothy 5:8. Do parents have any kind of duty to provide for the material needs of their children? Do children have the legal right to enforce it? Does a father have a legal duty (biblically) to support a child who is no longer a member of his household (such as where custody is granted to the mother following divorce)? Can the law impose parental responsibility without recognizing parental authority?

THE FAMILY AND THE STATE

We now want to consider the interrelationship between families and civil government and the extent to which family rights ought to be secured by society.

DISCUSSION QUESTIONS

Read Genesis 1:28. Can civil government lawfully restrict, control or regulate the extent to which any family chooses to bear children? Is sterilization a lawful form of civil punishment for sex offenses? For imbecility?

What is the biblical basis, if any, for “common-law marriage”? Does marriage require the consent or acknowledgment of a public official? Who institutes marriage, God or man?

Study Eight: Civil Power

INTRODUCTION

In prior studies we have been asking whether various laws are enforceable and the extent to which certain rights are inalienable. In substance, these questions have been prompting us to think about what it is civil government can do, and what it cannot.

Modern jurisprudence acknowledges few absolute limitations on civil power. Though governments are limited by constitutions, there are few, if any, modern limits on what a constitution can provide, so long as the amendment procedure is followed. When people do advocate limits on civil power, they are often based on purely practical considerations. Thus, government actions are criticized not because civil power or authority is lacking but simply that such actions are “unwise” or “unpopular.” The *legality* of any governmental action is largely conceded.

However, the biblical view of civil power is somewhat different. It would be rather astonishing if God, having reserved all moral jurisdiction for Himself, were inclined to allow civil government to exercise authority over morality. It would be more astonishing still if He had left us no guidance by which it could be discerned where civil power begins and ends, leaving us at the mercy of our rulers.

WHY IS THERE CIVIL GOVERNMENT?

Civil government is often viewed as one of the many “necessary evils” of modern life. But, is civil government really necessary, from God’s point of view? If so, is it necessarily evil? The founders of our nation thought that civil government is both necessary and serves a beneficial purpose. Thus, the Pilgrims thought it necessary and desirable to provide for their “civil Body Politick” (in the Mayflower Compact) before they would consent to disembark at Plymouth Rock.

In Study 6, we briefly raised the possibility that the relationship and rights of people with respect to civil government is to some extent predefined, since nations are created by God. Let’s now explore that possibility further by examining the biblical purpose for civil government.

DISCUSSION QUESTIONS

Read Exodus 19:3-6. What was the national purpose for ancient Israel? To what extent was it a civil purpose? A religious purpose? Is this scripture a general statement of God’s purpose for nations today, that is, to what extent is it the purpose of civil government to secure a kingdom of priests or a holy

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nation?

Read Romans 13:3-5. Is it a divine purpose of all states to punish wrongdoers (punish crime)? To what extent is it a purpose of every state to encourage righteousness?

Is civil government inherently evil? Is it inherently good? What does it mean for civil rulers to be “a minister of God”?

How may a state punish lawlessness? May it impose physical punishment (even to the point of death)? May it exclude someone from the kingdom of God?

Read 1 Peter 2:13-14. What parallels exist between this scripture and Romans 13:3-4? Do these verses describe the full scope of civil power, that is, are they a limitation on civil power, that it may not exceed the scope of these verses?

Can a civil government not only praise what is right, but also perform it? That is, can civil government be charitable because charity is good? Or, can civil rulers legally establish religion because religion is good?

Read Deuteronomy 32:8 and Acts 17:26. Is any nation the “policeman of the world,” that is, does any one nation or group of nations have the authority to punish other nations for crimes?

Read Deuteronomy 16:18-20. What does this say about the purpose and function of civil government? Is this scripture consistent with punishing wrongdoers and commending righteousness?

Read Genesis 9:6 and review Romans 13:4. What does it mean for a nation to “bear the sword”? Is the use of capital punishment limited to those who exercise civil rule (as opposed to familial or church authority)?

Are all nations required to impose capital punishment as a part of their civil duties? Why or why not? What covenant is Genesis 9:6 a part of, and to whom does it apply?

Some people claim that Genesis 9:6 is the original grant of civil authority to mankind and that no civil government existed before Noah. Is this correct?

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What evidence is there to substantiate or repudiate this claim?

ALL POWER TO THE PEOPLE?

An important jurisprudential question is where to locate the ultimate source of civil authority. Is it with the people who are ruled or the leaders who rule? Is the authority of public officials delegated to them by the people, or do they have a commission to rule direct from God? And, what difference does it make?

The difference is this: accountability runs to the source of authority. If God directly empowers certain people to rule a nation, then the accountability of the rulers is essentially *moral*, being enforceable only by God. On the other hand, if civil rulers are delegated authority by the people, public officials will be legally accountable directly to the people.

The issue can be expanded to also ask whether God ever (or always) prescribes the *form* of civil government for a nation. Does God determine whether any nation should have a monarchy, aristocracy, dictatorship, democracy, republic or other political structure? Or, is there one form of civil government which is more lawful or biblical than any other? America's founders understood that God does not dictate, endow or impose any particular form of civil government on any people. Their position was that there is liberty as to the form of civil government, which the people may choose as it seems best to them in accordance with God's law.

DISCUSSION QUESTIONS

Read 1 Samuel 8:4-7. On whose initiative was Israel's form of government changed to a monarchy? Did God unilaterally set a king over Israel? Are there any indications as to whether the resulting monarchy was a lawful or unlawful form of government?

Read 1 Samuel 8:9-22. If the request for a monarch had been itself lawless, would God have consented to its institution? Why or why not?

Read Deuteronomy 17:14-15,18-20. Did God impose the monarchical form of government on Israel, or did He merely impose the law of the kingdom, and what is the difference? If God had chosen a monarchy for Israel, why didn't He have the nation start out that way in the beginning?

Does the fact that God allowed Israel to move from judgeships to a monarchy

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indicate that choosing a form of government was a matter of liberty which the nation could choose for itself and that they had the right to do so?

Read Romans 13:1-2. When it is said that all authority is established by God, does this mean that God dictates the form of government each nation should have irrespective of the wishes of the people? Why or why not?

Read Jeremiah 27:5-8. Does the power of God to intervene in international affairs imply that He also chooses to intervene in each nation's choice of an internal civil structure? Why or why not?

Are a nation and its civil government one and the same? In the history of the United States, was the nation and its national government formed at the same time or by the same legal instrument?

Is it possible to abolish a national government without abolishing the nation itself? Is the crime of constructive treason (imagining the king's death) more likely to regard public officials as identical with the nation or as separate from it? Why do you think constructive treason was rejected as a criminal offense when the United States was founded?

IS A CONSTITUTION NECESSARY?

In Study 3, we considered the principle that a covenant is necessary for one person to exercise rule over another. Even God, though He did not need to, chose to exercise His rule over us via covenant. Does this also hold true in the civil context? Since a civil covenant is called a *constitution*, the issue can be rephrased this way: If there were no constitutions, would there still be lawful civil rule?

Historically, government by consent of the people through a civil covenant was deemed to be absolutely necessary. This heritage is based on the writings of Samuel Rutherford, John Locke and the words of the Declaration of Independence.

As a case study, let's look at the covenantal history of ancient Israel. Did it have a civil constitution, and if so, did it have the characteristic of government by consent? Do civil rulers have the right to establish the organs of civil government, or do they merely have the authority to *propose* changes in the form of civil government, subject to ratification by the people?

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DISCUSSION QUESTIONS

Read Exodus 24:1,3,7. Was Israel's covenant voluntarily consented to, or did God force His law upon the people against their will? Who consented to the covenant on behalf of the nation?

Read 1 Samuel 10:1,17-24. Did either God's appointment or Samuel's anointing of Saul authorize him to assume the office of king? What part did the voice of the people crying "Long live the king!" have in installing Saul as king, if any?

Read 1 Samuel 16:1-13 and 2 Samuel 2:3-4; 5:3-5. Who initiated the anointing of David to be Israel's next king? Was the anointing a "mere proposal"? Why didn't David assume the kingship over all twelve tribes of Israel at once? What needed to happen before he could be king over all the tribes?

What parallels do you see between the history of Israel and the American experience? When the U.S. Constitution was written, was it immediately binding, or was it a mere proposal? Did the Constitution require ratification before it became effective, and if so, by whom?

Does the U.S. Constitution follow the pattern of the divine covenants? Does it contain the element of mutual assent? Is it irrevocable? Is it binding on the descendants of those who originally agreed to it?

Read 2 Chronicles 22:10-23:21. When a lawless civil ruler comes into power, does God depose that person, or does He wait for the people to act to restore lawful rule? Would God be more likely to depose a lawless ruler in the United States or in Israel where he still controls the throne? What are the implications of this?

Study Nine: A Christian Nation?

INTRODUCTION

The question is often asked whether England or America either have been, or are now, Christian nations. To answer this, we must first determine what a Christian nation is. Such an inquiry necessarily involves consideration of a variety of legal factors, for behind the religious question lurks a jurisprudential issue: "To what extent, and in what sense, should the laws of any nation reflect Christian values?" These are the questions to be explored in this study.

The Bible contains various admonitions for the people of a nation to turn toward God and remain faithful to Him. But, how are nations supposed to indicate faithfulness toward God? Is it enough for Christians in a nation to be faithful toward God to enjoy His blessings, or must the civil government formally evidence a faithfulness toward God? If the latter, what form does this national faithfulness take? Can a "Christian nation" openly tolerate non-Christians or non-Christian religions?

In the history of the common law, various people have at times claimed that England and America each are, or were, Christian nations. However, there is little in these assertions which define the form or substance of what it means to have a Christian government or to be a religious nation. Let's see what the scriptures say.

IS A RELIGIOUS DEMOCRACY ENOUGH?

One way to define a Christian nation is in statistical terms—that is, a nation where a majority of people are Christians. We might term this a *Christian democracy*, but not as a description of its form of government. What is meant is simply that the religious character of the nation is determined by whatever religious faith a majority of the population professes. Certainly, there was a time in America, as well as England, when a majority of the population professed to be Christians.

However, this does not necessarily mean that in a Christian democracy the religion of the people would be reflected in the nation's laws. Christians have often taken the position that their religious preferences should not be reflected in the civil law. And today, certainly, it would be difficult for our nation's Christians to agree on what laws ought to be passed or repealed. The mere fact that people are Christians is no guarantee that they will have the same legal views.

Accordingly, a "Christian nation" that depends on the existence of popular consensus alone is an elusive thing. That is why the question for any "Christian nation" is whether a religious democracy is enough.

Study Nine: A Christian Nation?

DISCUSSION QUESTIONS

Read 2 Chronicles 7:14. What does it mean for a “people” to be called by God’s name? Does a national identification with God depend on the percentage of the population who identify themselves as Christians?

Read Psalm 33:12. Does the fact that a majority of people in a nation profess to be Christian make that nation one “whose God is the LORD”? What nations can rightfully claim to be the people whom God has chosen for His own inheritance?

If a Christian nation is defined in statistical terms, are either England or the United States good candidates for “Christian nation” status at present? Can you think of any nation today where most of the people claim to be Christian?

What is the jurisprudential legacy of a merely democratic Christian nation? What legal heritage, if any, can be passed down to the next generation which would assure continuation of the nation’s Christian character?

A MODERN THEOCRACY?

As an alternative to a Christian democracy, some people have suggested that America should follow the pattern of ancient Israel in becoming a theocracy. They believe that ancient Israel’s theocratic form of government is the model for all modern nations. Indeed, historically, some early settlers viewed America as God’s “new Israel,” suggesting that it was intended to be a Christian nation in this sense.

However, before we can assess whether ancient Israel serves as the pattern for modern nations, we need to determine what it is that made Israel a theocracy in the first place. For one thing, is *theocracy* a legal term defined by legal precepts? We also want to consider whether the theocratic nature of ancient Israel was unique to that nation or whether other nations have been, or can become, theocratic to the same extent as Israel.

DISCUSSION QUESTIONS

Read Exodus 24:8 and Psalm 105:8-10. Did God participate in the formation of Israel’s national covenant? Was He a witness, a party, a testator, or did He act in some other capacity?

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Read 1 Samuel 8:7. Who was king and/or the supreme civil head of state over ancient Israel prior to the monarchy?

Read 1 Samuel 10:20-25, 2 Samuel 7:16 and Isaiah 33:22. How did the institution of the monarchy affect the theocratic nature of Israel? To what extent did God exercise civil rule over Israel after the monarchy was instituted? Did the institution of the monarchy change the Ten Commandments or any of the nation's organic laws? If so, how?

Read Luke 1:31-33. Who has the present right to rule as king over Israel as its personal, national civil head? Does the authority to rule as king of Israel carry with it the authority to rule over any other nation as its king?

Read Psalm 147:19-20 and Deuteronomy 7:6. See also Deuteronomy 14:2. In what ways was ancient Israel unique among all the nations? Is this uniqueness still true today? Is Israel's theocratic nature part of its uniqueness?

What is the legal definition of a theocracy? Can any nation in the history of the world, other than Israel, claim to have its national affairs ruled by God as its personal civil head of state? Can any nation other than Israel claim to have a covenantal relationship with God?

SHOULD WE ESTABLISH RELIGION?

Both England and America have a history of religious establishments. But, what is an "establishment" of religion? For present purposes, let us use the definition of an *establishment* as legally prescribing matters of spiritual redemption. This legal prescription is often referred to as making a particular religion the official national religion, but in fact, it may take a variety of forms, any number of which may be used in combination with each other.

Some examples of religious establishments used in England and America include the following: 1) the nation has a legally prescribed religious faith, that is, civil law prescribes what people must believe about God; 2) the national welfare is said to depend on the maintenance and preservation (or denial) of a particular religious faith (in the case of England, the denial of papism); 3) civil privileges (such as voting or holding public office) are accorded to citizens professing a specific religious faith, but denied to others; or 4) there is a jurisdictional merging of church and civil spheres (that is, civil punishments are meted out for religious offenses).

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Of course, the main problem with legal establishments of religion in America is that they have been utterly rejected as a means of promoting public virtue. All of the states which formerly had established religions abandoned them by the 1830's. Further, the First Amendment to the U.S. Constitution expressly denies that Congress may make any law "respecting an establishment of religion." But, what does the Bible say?

DISCUSSION QUESTIONS

Read Exodus 20:3-6. Did ancient Israel legally prescribe what people must believe about God?

Read Deuteronomy 28:1-2,15. Did ancient Israel's national welfare depend on the maintenance and preservation of a particular religious faith?

Read Leviticus 7:25. Did ancient Israel grant or deny civil privileges according to a person's profession of religious faith?

Read Leviticus 20:27, 24:16 and Deuteronomy 17:2-5. Did ancient Israel impose civil punishments for religious offenses?

To what extent does ancient Israel serve as a model for modern nations to promote the legal establishment of religion? Recall our examination of covenant law in Study 3. Is the Mosaic law covenantally binding on the United States as a nation? Why or why not?

What is the link between established religion and a theocracy? Why do you think religious establishments were utterly rejected as a model in the founding of America? Is the First Amendment unbiblical?

A CHRISTIAN REPUBLIC?

A *republic* may be defined in both political and legal terms. Politically, a republic is defined in terms of representative government. But legally, a republic is a consensual form of government in which there is "a government of laws, and not of men." This latter phrase is intended to denote a government in which law itself rules the nation, every person is under the law and the law is that which conforms to the objective legal order.

In a sense, a Christian republic is a form of government which is intended to institute the rule of God's law by virtue of the consent of the governed.

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However, we should be careful to note that a Christian republic does not necessarily mean that the provisions of Old Testament law are to be imported verbatim into modern statutory codes.

Let's consider this matter in the specific context of the founding of the United States. We commonly refer to our nation as a republic, but even so, was it ever intended to be a Christian republic? If so, was that a proper intention, and is our nation a Christian republic now?

DISCUSSION QUESTIONS

Read Matthew 21:43. What does it mean for a nation to “produce the fruit” of the kingdom of God? How does a nation know when it has achieved this goal?

Does God have a set of laws for all nations that are distinguishable from His laws for ancient Israel? Where would you find these laws, and how would you know them when you see them?

According to the Declaration of Independence, the *Laws of Nature and of Nature's God* “entitled” the United States to assume a “separate and equal station” among the nations of the world. Did the Declaration purport to be consistent with the laws of God? Did the Declaration establish God's law as the legal basis for the founding of our nation? Have we lived up to the legal legacy of the Declaration?

The Declaration of Independence also contained the following language: *We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed.*

To what extent does the Declaration: 1) acknowledge the Creator and His laws of creation; 2) affirm the existence of God-given rights that society should recognize and protect; and 3) recognize that the form of government is a function of the consent of the governed via a binding covenant?

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The words “republic” and “republican” nowhere appear in the Declaration of Independence. Nevertheless, did the Declaration form a new republic in substance? Was it a Christian republic?

According to John Quincy Adams, the “highest glory” of the American Revolution was that it connected the principles of civil government with the principles of Christianity. “From the day of the Declaration ... [the American people] were bound by the laws of God.” Was Adams correct or incorrect?

Can a nation have a religious democracy, theocracy, establishment of religion and a republic, all at the same time? Are any of these categories mutually exclusive? How many of these did ancient Israel exhibit at any one time? How about the United States?

Study Ten: The Mosaic Law

INTRODUCTION

In prior studies, we have had occasion to look at a Bible verse embodying a legal rule and ask, "Is this law peculiar to ancient Israel, or is it applicable to all nations today?" In this study, we will examine this matter in more detail. A key feature of the Mosaic law is its affiliation with Israel's covenant, which was discussed in Study 3. Thus, the interpretation of that law becomes, in essence, an interpretation of the applicability of Israel's covenant.

We are not without precedent in examining this matter, of course. One approach is to consider Israel's covenant as terminated in its entirety because it has been superseded by the Church covenant. A second approach views the Mosaic law as simply irrelevant to Gentile nations in its entirety because it never applied to anyone but the Jews. A third approach argues for the existence of "continuity" between Israel's covenant and the Church covenant, viewing the Mosaic law as covenantally binding on the Church, except for its redemptive (ceremonial) aspects.

A fourth approach regards the applicability of the Mosaic law as depending on the subject matter involved. Some presume the provisions of the Mosaic law are repealed unless expressly repeated in the New Testament. Others presume the specific provisions of the Mosaic law are presently binding unless expressly modified in the New Testament. There are, to be sure, many other views.

INTERPRETATIONAL FRAMEWORKS

To promote discussion (without any intention of being dogmatic), the present effort will propose a number of legal rules and interpretive principles in an attempt to chart a methodical course through this difficult area. This study will attempt to find some common threads from our prior studies in jurisprudence which apply to the present matter. Of course, you are welcome to disagree and to clear your own path of legal understanding as God leads you.

The proposed interpretational rules are as follows:

A. We should not interpret Israel's covenant differently from any other divine covenant. Those rules of law and logic which apply to one covenant ought to be applied to all of the covenants in a consistent and evenhanded fashion.

B. To the extent a legal principle or rule is based upon the biblical account of creation, it is a part of the law of nature applicable to all people because it reflects the will of God impressed upon the creation to which all are subject.

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C. Any legal principle or rule in scripture that is not part of the law of nature must be a part of some divine covenant. A covenant, however, is binding only on the original parties and their descendants.

D. It is possible that some provisions of the divine covenants merely restate (in verbal form) the law of nature. However, when this happens, it does not make the entire divine covenant applicable to everyone. A single verse may, in fact, embody multiple legal principles, some of which are based in creation and some of which are peculiar to a covenant.

Most of the controversy in this matter centers around paragraph C; to wit: 1) Has God given us any laws other than what is contained in the law of nature and the divine covenants? and 2) Just who does a divine covenant bind, anyway? Well, let's have at it:

DISCUSSION QUESTIONS

Is any divine covenant binding on someone other than the original parties and their physical descendants? If so, give an example.

Read Romans 2:28-29. Are Christians the legal heirs of Israel? Is "Jewishness" for purposes of this verse a moral, or legal, quality?

Read Galatians 3:15-19,26-29. Are Christians the legal heirs of Abraham? Are Christians entitled to legal possession of the land of Israel? Why or why not?

Can a single provision of a covenant embody multiple legal principles or rules, some based upon creation, some peculiar to the covenant and others that are no longer applicable?

Is there any legal or logical rule that requires a single passage of scripture to embody no more than one principle? Is there any precedent for one passage of scripture having multiple applications or standing for multiple principles? If so, give an example.

THE ETERNAL MORAL LAW

The Mosaic covenant has essentially three legal components, which have been recognized for centuries by a wide variety of biblical and legal commentators, namely, *the moral, the ceremonial and the judicial law.*

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It is proposed that the eternal moral law is none other than the *law of nature* applicable to all people today. Arguably, many of the specific Mosaic laws were simply applications of the law of nature to specific situations. To the extent these laws are based upon the nature of the creation, they still apply to everyone today.

Let us now examine the Ten Commandments as an illustration of the moral law. The legal task is to determine whether the Ten Commandments are based in the biblical account of creation. Are the Ten Commandments part of God's eternal moral law?

DISCUSSION QUESTIONS

Have no false gods. Is this commandment based in creation because there is only one Creator hence, there is only one God?

Make no idols. Is this commandment part of the law of nature because no created thing can be a god transcendent from the creation?

Don't use God's name in vain. Consider this logic: The revealed names of the Creator are holy, and our words must not be spoken in vain respecting the Creator. Yes or No?

Keep the Sabbath day holy. Is the principle of the Sabbath based on the manner in which the world was created?

Honor your father and mother. Contemporaneous with man's creation, God instituted the family. To what extent is honoring one's parents merely to honor the family order instituted by the Creator?

Do not murder. Did the law of murder pre-exist the Ten Commandments? Is it part of the law of nature?

Do not commit adultery. Is the law of adultery part of God's eternal moral law?

Do not steal. Does stealing dishonor the dominion God has given to someone else? Is this principle based in creation?

Do not testify falsely. Accusations spoken falsely dishonor a fellow image-bearer of God. Is this part of the law of nature?

Study Ten: The Mosaic Law

Do not covet. Consider this: Coveting concerns a person's heart attitude respecting property and possessions belonging to others; thus, is linked with the command not to steal. Is this command part of the eternal moral law?

THE JUDICIAL OR CIVIL LAW

The judicial law was historically described as certain forms of justice and equity delivered to the polity of Israel. Thus, it is proposed, that the judicial law is *the law peculiar to the national polity of Israel as a theocracy*. A legal theocracy, as examined in Study 9, is where God is the civil head of the nation and an actual party to the civil covenant. Presumably, the nation of Israel is unique in this respect. It is this sense of uniqueness which provides the key to unlocking those provisions of the Mosaic law which are "judicial."

Therefore, we are on the lookout, as it were, for those provisions of the Mosaic law that relate to ancient Israel as a nation set apart from all other nations as God's chosen people, as well as the laws regarding the unique political structure of the nation. The following are submitted as examples of the judicial aspect of the Mosaic law:

DISCUSSION QUESTIONS

Read Deuteronomy 7:1-8. To what extent does the command not to intermarry with the people living in the land before the Israelites possessed it reflect an ethnic and spiritual purity which Israel was to maintain as a holy nation?

Read Exodus 19:12-13, 22:18-20, 31:14-15; Leviticus 20:27, 24:16; and Deuteronomy 17:2-7. To what extent is the infliction of capital punishment for offenses against God unique to Israel?

Read Deuteronomy 17:14-15 and 2 Samuel 7:1-29. To what extent are laws relating to the throne of Israel, including the Davidic covenant, unique to that nation?

Read Leviticus 25:8-17, 25 and Numbers 36:7-9. Do the land laws of the Jews reflect the theocratic nature of the nation?

Do you think any of the above laws are moral laws applicable to us today? Which ones, and why?

THE CEREMONIAL LAW

The ceremonial law is generally regarded as the tutelage of Israel that foreshadowed Christ pertaining to the redemption of sin. It is proposed here that the ceremonial law is *the law pertaining to the Levitical priesthood and the system of sacrifice for personal atonement it administered*. The ceremonial law is no longer effective because it has been modified by the eternal priesthood of Jesus Christ. Thus, it does not apply even to Israel any longer.

For an example, we could look at the various provisions of the law pertaining to animal sacrifice and the temple, but that's too easy. Let's try something a little more legally challenging: To what extent is the law of tithing applicable today?

DISCUSSION QUESTIONS

Read Genesis 14:19-20 and 28:20,22. Why did Abram and Jacob give a tenth to the Lord? Do their actions in any way indicate the existence of a law of the nature of tithing?

Read Numbers 18:21-24. Was the Levitical tithe a general giving of a tenth in the discretion of the giver or a prescribed form of giving in which the donors, recipients, time, place and manner were all specified in detail?

Read Numbers 18:1-6. What was the underlying rationale for the institution of the Levitical tithe?

Read Hebrews 7:12, 8:1,6-7,13. What was the effect of Jesus' death with respect to the Levitical priesthood? To what extent did the abolition of the Levitical order require a legal change? What was the nature of that legal change? What law is the subject of Hebrews 7:1-11, and how does it relate to verse 12?

Are there some aspects of tithing which are part of the law of nature (the moral law), and some aspects which are peculiar to the Levitical priesthood (ceremonial law)? If so, could other biblical laws have a similar dual aspect?

About the Author

Gerald R. Thompson

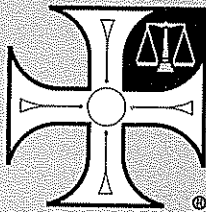
Gerald R. Thompson is a member of Thompson & Thompson, P.C., located in southeast Michigan. His chief areas of practice include tax-exempt organizations, estate planning, and related areas of taxation, corporation and business law. He has served as a Professor of Law with the Simon Greenleaf University School of Law in Anaheim, California, where he taught Jurisprudence, Biblical Principles of Law, Constitutional Law and other courses. Prior to that he was legal counsel for Campus Crusade for Christ International and its worldwide affiliates. He is admitted to the Michigan and California bars.

*"I will put my laws in their hearts,
and I will write them on their minds."*

— **Jeremiah 31:34**

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The author, Gerald R. Thompson, is a member of Thompson & Thompson, P.C., located in southeast Michigan. His chief areas of practice include exempt organizations, estate planning and related areas of taxation, and corporate and business law. He has served as professor of law with the Simon Greenleaf University School of Law in Anaheim, California, where he taught jurisprudence, biblical principles of law and constitutional law. He has also served as legal counsel for Campus Crusade for Christ International and its worldwide affiliates. He is admitted to the California and Michigan bars.



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