

Studies In The Laws of Nature's God

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STUDY 1

The Origin of 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 which 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. That is what this series of Bible studies is all about - to examine some of the key passages of scripture which 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.

But examine everything carefully; hold fast to that which is good. 1 Thess. 5:21.

But if any of you lacks wisdom, let him ask of God, who gives to all men generously and without reproach, and it will be given to him. Ja. 1:5.

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 which 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. 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

1. Herbert Schlossberg, in *IDOLS FOR DESTRUCTION*, stated that "*Questions about justice are fundamentally religious.*" Can any legal system be morally neutral? To what extent is it possible for a legal system to avoid, at a fundamental level, declaring the rules of right and

wrong behavior?

2. Consider the relevance of a God-based view of law to any legal system:
 - a. *If no transcendent God exists, is law unavoidably arbitrary? Without God, who is there who can declare absolutely what is right or wrong, or why?*
 - b. *Unless God is immanent in human affairs, how can His laws be relevant? Unless God actively enforces His laws as the great Sustainer of the universe, why should we obey the rules He prescribes for our conduct?*
 - c. *Unless God has revealed His law authoritatively, how can we know any of it for certain? Unless God clearly and authoritatively revealed His law to us for the governance of society, how could He hold us accountable for its obedience?*
3. 1 Tim. 1:5-8 says, *But the goal of our instruction is love from a pure heart and a good conscience and a sincere faith. For some men, straying from these things, have turned aside to fruitless discussion, wanting to be teachers of the Law, even though they do not understand either what they are saying or the matters about which they make confident assertions. But we know that the Law is good, if one uses it lawfully.*

To what extent may 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?

4. Read the following verses.

"All things have been handed over to Me by My Father; and no one knows the Son, except the Father; nor does anyone know the Father, except the Son, and anyone to whom the Son wills to reveal Him." Matt 11:27.

. . . then comes the end, when He delivers up the kingdom to the God and Father, when He has abolished all rule and all authority and power. . . . For He has put all things in subjection under His feet. But when He says, "All things are put in subjection," it is evident that He is excepted who put all things in subjection to Him. 1 Cor 15:24,27.

Pilate therefore said to Him, "You do not speak to me? Do You not know that I have authority to release You, and I have authority to crucify You?" Jesus answered, "You would have no authority over Me, unless it had been given you from above; for this reason he who delivered Me up to you has the greater sin." Jn 19:10-11.

- a. Does the right to rule people ultimately come from God, ourselves or from somewhere else?

- b. Is anyone above the law of God? What are the limitations on the right of one person to rule over another?
5. Deut. 30:15-18 says, "*See, I have set before you today life and prosperity, and death and adversity; in that I command you today to love the LORD your God, to walk in His ways and to keep His commandments and His statutes and His judgments, that you may live and multiply, and that the LORD your God may bless you in the land where you are entering to possess it. But if your heart turns away and you will not obey, but are drawn away and worship other gods and serve them, I declare to you today that you shall surely perish. You shall not prolong your days in the land where you are crossing the Jordan to enter and possess it.*"

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 discoverable by anyone 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 were conceived as including laws of right and wrong human behavior. Furthermore, these laws were held to be absolute and eternal, never having been rescinded, and not subject to change.

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. But, in point of fact, this view of law was accepted in America for a longer period of time than the subsequent evolutionary view of law has been. So, perhaps it is worth examining to see what it was that captivated the legal community for so long.

DISCUSSION QUESTIONS

1. Psalm 19:1-4,7-9 says, *The heavens are telling of the glory of God; And their expanse is declaring the work of His hands. Day to day pours forth speech, And night to night reveals knowledge. There is no speech, nor are there words; Their voice is not heard. Their line has gone out through all the earth, And their utterances to the end of the world. . . . The law of the LORD is perfect, restoring the soul; The testimony of the LORD is sure, making wise the simple. The precepts of the LORD are right, rejoicing the heart; The commandment of the LORD is pure, enlightening the eyes. The fear of the LORD is clean,*

enduring forever; The judgments of the LORD are true; they are righteous altogether.

- a. Does the revelation of God in creation include a revelation of His will? Of His law? How does one relate to the other?
 - b. What areas of life or aspects of creation, physical or spiritual, has God left ungoverned?
2. Rom 1:18-21,26,28,32 says, *For the wrath of God is revealed from heaven against all ungodliness and unrighteousness of men, who suppress the truth in unrighteousness, because that which is known about God is evident within them; for God made it evident to them. For since the creation of the world His invisible attributes, His eternal power and divine nature, have been clearly seen, being understood through what has been made, so that they are without excuse. For even though they knew God, they did not honor Him as God, or give thanks; but they became futile in their speculations, and their foolish heart was darkened. For this reason God gave them over to degrading passions And just as they did not see fit to acknowledge God any longer, God gave them over to a depraved mind, to do those things which are not proper . . . and, although they know the ordinance of God, that those who practice such things are worthy of death, they not only do the same, but also give hearty approval to those who practice them.*
- a. 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 held accountable?
 - b. What is the connection between rejecting the knowledge of God from nature and the likelihood of engaging in unnatural behavior? To what extent is unnatural behavior also unlawful?
3. 1 Cor. 11:14a,16 says, *Does not even nature itself teach you But if one is inclined to be contentious, we have no other practice, nor have the churches of God.*

Did the apostle Paul believe it is possible to observe the created order and apply the use of reason so as to understand the rules of right and wrong behavior to which God expects people to conform? To what extent, if any, is Paul's view a divine admonition to us today?

4. Prov. 6:6 says, *Go to the ant, O sluggard, Observe her ways and be wise.*

Is it possible to discover righteous human behavioral patterns from a study of the animal kingdom? To what extent?

THE LAW WRITTEN ON OUR HEARTS

Aristotle, among others, took the position that much of the knowledge people have is innate within us. Among Christians, this has generally been regarded as a question of *conscience*, or the imprint

of God on the human heart (or 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

1. Read the following verses. *See also*, Jer. 31:33-34.

For when Gentiles who do not have the Law do instinctively the things of the Law, these, not having the Law, are a law to themselves, in that they show the work of the Law written in their hearts, their conscience bearing witness, and their thoughts alternately accusing or else defending them. Rom 2:14-15.

"Behold, days are coming, says the Lord, When I will effect a new covenant With the house of Israel and with the house of Judah; Not like the covenant which I made with their fathers On the day when I took them by the hand To lead them out of the land of Egypt; For they did not continue in My covenant, And I did not care for them, says the Lord. For this is the covenant that I will make with the house of Israel After those days, says the Lord: I will put My laws into their minds, And I will write them upon their hearts. And I will be their God, And they shall be My people." Heb 8:8b-10.

- a. To what extent does every person have a conscience, that is, a part of the law of God written on their heart?
 - b. Is there any time when God would have written His creation laws on the hearts of the Gentiles without doing the same for the Jews? Is the promise of Heb. 8:8-12 for the Jews alone?
2. Gen 4:8b-11 says, *And it came about when they were in the field, that Cain rose up against Abel his brother and killed him. Then the LORD said to Cain, "Where is Abel your brother?" And he said, "I do not know. Am I my brother's keeper?" And He said, "What have you done? The voice of your brother's blood is crying to Me from the ground. And now you are cursed from the ground, which has opened its mouth to receive your brother's blood from your hand."*

Cain was punished for killing his brother Abel, even though no express rule prohibiting such action had yet been verbalized.

- a. Did God's un verbalized creation laws include a prohibition against murder? To what law was Cain held accountable for his actions?

- b. Did Cain know about the law to which he was held accountable? To what extent does God hold people accountable for breaking laws He has not revealed?
3. Exodus 18:16 says, *"When they have a dispute, it comes to me, and I judge between a man and his neighbor, and make known the statutes of God and His laws."*

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 revelation of God's law in verbal form. Thus, it would have been professionally acceptable in former times 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 can be discovered exclusively from 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

1. Refer again to Psalm 19 and Romans 1:18-32.
 - a. Does the Bible support the view that all of God's law must come from the Bible to the exclusion of nature? If we look to nature to inform us of God's law, have we "strayed" from the Gospel?
 - b. To what extent 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?
2. Matt 5:17-19 says, *"Do not think that I came to abolish the Law or the Prophets; I did not come to abolish, but to fulfill. For truly I say to you, until heaven and earth pass away, not the smallest letter or stroke shall pass away from the Law, until all is accomplished. Whoever then annuls one of the least of these commandments, and so teaches others, shall*

be called least in the kingdom of heaven; but whoever keeps and teaches them, he shall be called great in the kingdom of heaven."

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)?

3. John 13:34 says, *"A new commandment I give to you, that you love one another, even as I have loved you, that you also love one another."*

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?

4. Numbers 35:29-31,33 says, *"And these things shall be for a statutory ordinance to you throughout your generations in all your dwellings. If anyone kills a person, the murderer shall be put to death at the evidence of witnesses, but no person shall be put to death on the testimony of one witness. Moreover, you shall not take ransom for the life of a murderer who is guilty of death, but he shall surely be put to death. So you shall not pollute the land in which you are; for blood pollutes the land and no expiation can be made for the land for the blood that is shed on it, except by the blood of him who shed it."*
 - a. Is the law of murder a part of the law of nature or is it based solely on the divine law?
 - b. Is capital punishment prescribed in the law of nature or is it based solely on the divine law?
 - c. 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 2

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 impliedly created, not the product of evolution. It would be inconsistent to say that anything was "prescribed," 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

1. 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 uncreated Creator of everything that exists?

In the beginning God created the heavens and the earth. . . . And God saw all that He had made, and behold, it was very good. And there was evening and there was morning, the sixth day. Gen. 1:1,31. The earth is the LORD'S, and all it contains, The world, and those who dwell in it. Ps. 24:1. The LORD has established His throne in the heavens; And His sovereignty rules over all. Ps. 103:19.

2. In creating the universe, did God prescribe the rules by which everything would be governed?

Give thanks to the God of gods, For His lovingkindness is everlasting. . . To Him who made the heavens with skill, For His lovingkindness is everlasting . . . To Him who made the great lights, For His lovingkindness is everlasting: The sun to rule by day, For His lovingkindness is everlasting, The moon and stars to rule by night, For His lovingkindness is everlasting. Ps. 136:2,5,7-9.

Then the LORD answered Job out of the whirlwind and said, . . . "Where were you when I laid the foundation of the earth? Tell Me, if you have understanding . . . Do you know the ordinances of the heavens, or fix their rule over the earth?" Job 38:1,4,33.

3. 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?

For by Him all things were created, both in the heavens and on earth, visible and invisible, whether thrones or dominions or rulers or authorities-- all things have been created by Him and for Him. Col. 1:16.

4. 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 the extent to which laws, particularly God's laws, exist as objective reality, if at all. 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 actually change that law, nor, arguably, can they avoid its inevitable enforcement. Much the same thing can be said about our civil laws.

DISCUSSION QUESTIONS

1. Is God's nature objectively real? Are His laws plainly revealed in nature? Are His laws objectively real?

The heavens are telling of the glory of God; And their expanse is declaring the work of His hands. . . . Their line has gone out through all the earth, And their utterances to the end of the world. . . . The law of the Lord is perfect, restoring the soul; The testimony of the Lord is sure, making wise the simple. Ps 19:1,4,7.

For the wrath of God is revealed from heaven against all ungodliness and

unrighteousness of men, who suppress the truth in unrighteousness, because that which is known about God is evident within them; for God made it evident to them. For since the creation of the world His invisible attributes, His eternal power and divine nature, have been clearly seen, being understood through what has been made, so that they are without excuse. Rom. 1:18-20.

2. How did God take care to reveal His laws to ancient Israel? To what extent were those laws objectively real?

Then the LORD said to Moses, "Thus you shall say to the sons of Israel, 'You yourselves have seen that I have spoken to you from heaven.' . . . Now these are the ordinances which you are to set before them." Exo. 20:22; 21:1.

3. In what sense, if any, were the laws of ancient Israel objectively real? 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?

Then Moses turned and went down from the mountain with the two tablets of the testimony in his hand, tablets which were written on both sides; they were written on one side and the other. And the tablets were God's work, and the writing was God's writing engraved on the tablets. Exo. 32:15-16.

4. How does God continue to reveal His Word and/or His law to people today, if at all? To what extent is it objectively real?

God, after He spoke long ago to the fathers in the prophets in many portions and in many ways, in these last days has spoken to us in His Son, whom He appointed heir of all things, through whom also He made the world. Heb. 1:1-2.

"For this is the covenant that I will make with the house of Israel After those days, says the Lord: I will put My laws into their minds, And I will write them upon their hearts. And I will be their God, And they shall be My people. And they shall not teach everyone his fellow citizen, And everyone his brother, saying, 'Know the Lord,' For all shall know Me, From the least to the greatest of them." Heb. 8:10-11.

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

1. Consider the connection between the nature of God and His right to rule over the creation.

On the contrary, who are you, O man, who answers back to God? The thing molded will not say to the molder, "Why did you make me like this," will it? Or does not the potter have a right over the clay, to make from the same lump one vessel for honorable use, and another for common use? Rom. 9:20-21.

- a. Does God's right to rule originate in the fact that He is all powerful? Because He is good? Or, something else?
 - b. To what extent does the law of nature oblige every person, and why? Are there exceptions?
2. If a person refuses to serve God, to what extent can they avoid the operation and enforcement of the law of sin and death, namely, if you sin, you will die [Cf. Rom. 8:2]? Can anyone declare themselves to be a "neutral party" in the war between God's law and Satan's lawlessness?
 3. To what extent, if any, is every individual person bound to obey the laws enacted by public officials (including lawful representatives) even though they neither ask for those legal obligations nor individually consent to their imposition? Does "government by consent" mean that every person must agree with every law before they are bound by it?

LAW AS A RULE OF ACTION

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

1. Let's consider the permanence of God's law.

a. To what extent is the Word of God unchangeable?

"God is not a man, that He should lie, Nor a son of man, that He should repent; Has He said, and will He not do it? Or has He spoken, and will He not make it good?"
Num. 23:19.

b. To what extent is God's law unchangeable?

"Heaven and earth will pass away, but My words shall not pass away." Mat 24:35.
"But it is easier for heaven and earth to pass away than for one stroke of a letter of the Law to fail." Luk. 16:17.

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

2. Next examine the uniformity of God's law.

a. Reread Rom. 1:18-20. Can anyone escape being a creature of God? Can anyone escape the laws of his or her creation?

Now we know that whatever the Law says, it speaks to those who are under the Law, that every mouth may be closed, and all the world may become accountable to God . . . for all have sinned and fall short of the glory of God . . . Or is God the God of Jews only? Is He not the God of Gentiles also? Yes, of Gentiles also . . . Rom. 3:19,23,29.

b. To what extent 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?

"You shall not do what is done in the land of Egypt where you lived, nor are you to do what is done in the land of Canaan where I am bringing you; you shall not walk in their statutes. . . Do not defile yourselves by any of these things; for by all these the nations which I am casting out before you have become defiled. For the land has become defiled, therefore I have visited its punishment upon it, so the land has spewed out its inhabitants. But as for you, you are to keep My statutes and My judgments, and shall not do any of these abominations, neither the native, nor the

alien who sojourns among you (for the men of the land who have been before you have done all these abominations, and the land has become defiled); so that the land may not spew you out, should you defile it, as it has spewed out the nation which has been before you." Lev. 18:3,24-28.

- c. To what extent may the offenses listed in Lev. 18:6-23 be considered, as they were historically, "offenses against nature"?
- d. To what extent did God's covenant law apply to persons within ancient Israel's jurisdiction? Did this covenant law apply to persons outside of Israel's jurisdiction? Was the covenant law uniform?

"There is to be one law and one ordinance for you and for the alien who sojourns with you." Num. 15:16.

3. Now discuss the universality of God's law.
 - a. Reread Ps. 19:1,4. What are the limits, if any, to God's territorial jurisdiction?

Where can I go from Thy Spirit? Or where can I flee from Thy presence? If I ascend to heaven, Thou art there; If I make my bed in Sheol, behold, Thou art there. If I take the wings of the dawn, If I dwell in the remotest part of the sea, even there Thy hand will lead me, And Thy right hand will lay hold of me. Ps. 139:7-10.

- b. Is there any nation - or any place - where God's law does not govern?

... He made from one, every nation of mankind to live on all the face of the earth, having determined their appointed times, and the boundaries of their habitation . . . Acts 17:26. "This is the plan devised against the whole earth; and this is the hand that is stretched out against all the nations. For the LORD of hosts has planned, and who can frustrate it? And as for His stretched-out hand, who can turn it back?" Isa. 14:26-27.

- c. If we colonized a planet in another solar system, would God's law apply there the same as it does here? Why?

OTHER FORMS OF SOVEREIGN WILL

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 task, which directions were not applicable to everyone. *See*, Josh. 6:2-4 and Acts 10:19-20. 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 Ki. 21:17,19 and Lu. 10:13-15. 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

1. 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? In other words, did Moses "make" laws for Israel, or did he declare the laws he had "found"?

"When they have a dispute, it comes to me, and I judge between a man and his neighbor, and make known the statutes of God and His laws." Exo. 18:16.

2. When Samuel, who was Israel's judge, held King Saul accountable to the "law," with whom did the law originate?

But Samuel said, "What have you done?" And Saul said, "Because I saw that the people were scattering from me, and that you did not come within the appointed days, and that the Philistines were assembling at Michmash, therefore I said, 'Now the Philistines will come down against me at Gilgal, and I have not asked the favor of the LORD.' So I forced myself and offered the burnt offering." And Samuel said to Saul, "You have acted foolishly; you have not kept the commandment of the LORD your God, which He commanded you, for now the LORD would have established your kingdom over Israel forever. But now your kingdom shall not endure. The LORD has sought out for Himself a man after His own heart, and the LORD has appointed him as ruler over His people, because you have not kept what the LORD commanded you." I Sam. 13:11-14.

3. When Nathan judged David, did he announce his own rule of law or apply a pre-existing one? In either case, what was the applicable rule of law?

"Why have you despised the word of the LORD by doing evil in His sight? You have struck down Uriah the Hittite with the sword, have taken his wife to be your wife, and have killed him with the sword of the sons of Ammon. Now therefore, the sword shall never depart from your house, because you have despised Me and have taken the wife of Uriah the Hittite to be your wife." 2 Sam. 12:9-10.

4. To what extent did Jesus exercise moral or spiritual judgment according to the pattern of Moses for civil judgment? With respect to making law versus finding it, is there one manner of judging moral questions and another way to judge civil disputes, or are they the same?

"I can do nothing on My own initiative. As I hear, I judge; and My judgment is just, because I do not seek My own will, but the will of Him who sent Me." John 5:30.

STUDY 3

Law and Equity

INTRODUCTION

"Equity" may generally be defined as the correction of a defect or error in the law. This idea is apparently of ancient origin, tracing back at least as far as Aristotle, who defined equity as an exception to the rule where the lawgiver's pronouncement is defective and erroneous. There are a number of reasons why a law may be deemed "defective" or "erroneous."

The first reason for making an equitable exception to a law was when the law suffered from "universality," that is, the law was stated too broadly by the legislators. Supposedly the legislators, had they given thought to the matter, would have created an exception to the general rule in certain cases. The defect is really one of inaccurate word-crafting on the part of the legislative drafters. Thus, in theory, the statute does not accurately reflect the true law.

Equity has also been justified in cases where common law judges refused, for whatever reason, to grant relief to a complainant. In such cases, the complainant would seek relief in another place (historically, in the Court of Chancery or a separate Court of Equity). In such cases, the law was viewed as not providing for a remedy that it ought to have.

A third justification for equity relates to so-called "hard cases," that is, where a strict application of the rule of law was clear and possible, but would have resulted in a hardship. In such cases, the harshness of the law was essentially viewed as contrary to justice.

Let's examine how these concepts of equity may be applied, if at all, to the law of God, and by analogy, to modern civil laws.

*My son, if you will receive my sayings, And treasure my commandments within you . . .
Then you will discern righteousness and justice and equity and every good course. [Prov.
2:1,9.]*

GOD'S LAW IS PERFECT

We have discovered that law is something permanent, uniform and universal. It would be helpful to determine the extent to which Lonang supports the concept of equity as a necessary or desirable exception to the law. Accordingly, the present task is to discover instances where God's law is viewed as defective or erroneous, as contrary to justice, or subject to exceptions.

If God's law has any defect or error, it would be imperfect. An imperfect law would require that God Himself is imperfect, for a perfect God could not make an imperfect law. Similarly, a perfect law could not come from an imperfect God. Therefore, either God and His law are both perfect, or they are both imperfect.

DISCUSSION QUESTIONS

1. Read Gen. 1:31, Deut. 32:3-4 and Matt. 5:48.
 - a. Does God have any defects or errors? What are the limitations of God's perfection, if any?
 - b. Does God make mistakes? To what extent was the creation of the world less than perfect? Were Adam and Eve created perfect?
 - c. The law of nature is God's will impressed upon the world from the time of its creation. Is the law of nature necessarily perfect? Why or why not?
2. Read Gen. 3:14-19 and Psalm 19:7. To what extent, if any, did the Fall of man and the resulting curse of the ground introduce any defects or errors into the law of nature? What was the Psalmist's view?
3. Read Matt. 5:17 and Heb. 8:1-13. We know that God's covenant law with Israel was to some extent modified or fulfilled (a matter which will be considered in greater detail in later studies).
 - a. Does this mean that God's covenant with Israel contained defects or errors?
 - b. Were the covenant modifications introduced by the church covenant equitable in nature?

GOD'S LAW IS JUST

If God's law could be shown to be unjust in any respect, it would require that God Himself is unjust, for a perfectly just God could not make an unjust law. Hence, the question is whether there is any injustice with God.

The concept of justice is linked both to impartiality and righteousness. That is, what is just is also right. The definition of "righteousness" is linked to the concept of *law*, for the law declares what is right (or righteous) and what is wrong (or unrighteous). The word "justice" itself is based on the latin word "jus," which means "law." Therefore, justice would seem to mean "carrying out of the law." And, if law is the will of God expressed as a "rule of action," then to do justice is to carry out the will of God when expressed as a legal rule.

It would seem to be a contradiction to carry out the law of God as it should, and have the result termed "unjust." Whenever God's law is followed, the result is always just. Conversely, whenever the law of God is not carried out, no matter what the result, injustice is the result. Consequently, "justice" is not a function of, or dependent upon, someone's opinion of the results of the administration of law. Rather, the question of justice is a matter of whether the administration of law was righteous and impartial.

Justice in civil judgment requires that judges not apply the law in a partial way. That is, justice imposes a duty on every judge not to be a "respector of persons." God is not a respector of persons, which means that His law applies uniformly to all people. This is also the standard for human laws. Accordingly, uniformity in the application of legal rules is a necessary element of justice. A law that is not uniform is not just.

DISCUSSION QUESTIONS

1. Read Deut. 1:17, Deut. 16:18-20 and Lev. 19:15.
 - a. What is the link between justice and impartiality in civil judgment?
 - b. To what extent is granting exceptions to legal rules in a judicial setting a form of partiality prohibited by the law of God?
 - c. Is it ever appropriate to apply a rule of law to some people, but not others, or to people in some situations, but not others? Can the granting of legal exceptions be reconciled with the requirement that all laws must be *uniform*, that is, not relative as to person or situation?
 - d. Is justice a function of the result of the enforcement of law?

GOD'S LAW IS EXCEPTIONAL

We know that God's law is uniform, not being relative as to person or situation, and that God is no respector of persons. Yet, there are a number of situations recorded where Jesus acted in a manner the Pharisees regarded as unlawful. We now need to determine whether these actions can properly be considered either as unlawful or as exceptions to otherwise applicable rules of law. That is, did Jesus ever regard himself as being an exception to the rules of law applicable to everyone else?

DISCUSSION QUESTIONS

1. Read Matt. 15:1-3,7-9. Here Jesus was accused of breaking the traditions of the Jewish elders.
 - a. Did Jesus justify His actions on the basis of an exception to the law?
 - b. Was the law Jesus was accused of breaking of human or divine origin? What difference would it make?
 - c. To what extent could Jesus be characterized as declaring that the "tradition of the elders" was not law at all? Was this an equitable judgment?
2. Read Matt. 12:1-3,5-6,8. Here, Jesus was accused of breaking the law of the Sabbath.

- a. Is the principle of the sabbath rooted in creation and the law of nature? Was the specific offense Jesus was accused of based on the law of nature, or was it a human tradition?
 - b. Did Jesus set aside the law of the Sabbath? Did Jesus justify His actions on the basis of an equitable exception?
 - c. How did Jesus justify the actions of His disciples? Were they "privileged" not to obey the law because they were with Him? Were they living in an "exceptional" time or circumstance which excused obedience?
 - d. Would the justification of what the disciples did back then apply to us today as well? How does your answer impact the legal analysis of the disciples' actions?
3. Read John 8:3-11. Here, Jesus defends the woman caught in adultery.
- a. Did Jesus make an exception to the law of adultery? Did He nullify that law? Did He justify the adulterous woman's actions?
 - b. To what extent did Jesus uphold the law of God and do justice? Was his defense equitable in nature, or was it procedural? What difference does it make?
4. Consider and discuss the merit of the following argument: The law of adultery in ancient Israel required both the man and the woman involved to be tried and punished. *See*, Deut. 22:22. The fact that only the woman was accused, and not the man, is a procedural error in the conduct of the "trial." Indeed, it is doubtful that the mob which accused the adulterous woman constituted a lawful civil tribunal at all. By directing his comments to "he who is without sin among you," was Jesus making a procedural argument, that is, that no one could convict the woman in those circumstances without sin?

GRACE AND MERCY IN THE LAW

It remains to be considered how the concepts of mercy and grace impact the nature of law and equity. It may be argued that mercy and grace permit (or even require) exceptions to be made to the law which are equitable in nature, since "mercy triumphs over judgment." *See*, James 2:13. That mercy and grace are repeatedly affirmed and commended in the Bible is not disputed. However, the question is not whether mercy and grace exist, but whether they create equitable exceptions to the law, and if so, to what extent.

It would seem that mercy and grace are by definition discretionary. That is, although the Bible repeatedly admonishes people to show mercy and grace, there is apparently no legal obligation to do so in any particular case. Whether a person shows mercy in a given case is entirely discretionary, or volitional, based on all the facts and circumstances.

Thus, the Bible records cases where God chooses to show mercy in not bringing a calamity upon

people ["I will relent." *See*, Jer. 18:8; Joel 2:13-14.] and other cases where He does not show mercy ["I will not relent." *See*, Ezek. 24:14; Zech. 8:14.]

Mercy and judgment, at least in the judicial context, would seem to be logically inconsistent with each other. As shown in an earlier study, judges are not supposed to exercise WILL, which is discretionary, but JUDGMENT, which is non-discretionary. Thus, if mercy is to be employed in a civil or legal context, it would seem to require employment in a non-judicial (*i.e.*, executive or legislative) capacity.

In contrast to the discretionary mercy which executive officers may use, the biblical instruction to civil judges in pronouncing legal judgment is **not** to show mercy or to pardon. That is, judges were not to show pity because of the "harsh" result mandated by the law, nor allow a convict to avoid the legal penalty via payment of some form of ransom.

DISCUSSION QUESTIONS

1. Read Rom. 9:15-16. When God shows mercy towards someone, is it discretionary or obligatory on His part? Is God ever unjust in showing mercy to some people but not to others?
2. Read Jer. 18:8 and Jonah 3:10. When God shows mercy towards someone, is He declaring that the law is not applicable to them, or is He merely staying execution? To what extent can the difference between these alternatives be explained on the basis of the distinction between judicial power and executive power?
3. Read Matt. 18:23-35. Jesus' parable concerning the unmerciful slave urges the reader to forgive his brother from the heart. Is the parable framed in terms of a judicial case? To what extent, if any, is the parable applicable to judicial officers acting in their civil capacities? To whom is the parable applicable?
4. Read Num. 35:31; Deut. 13:6,8-9; and Deut. 19:11,13.
 - a. To what extent, if any, are these scriptures applicable to judicial officers acting in their civil capacities?
 - b. How do you explain the difference between these texts and the New Testament admonition to forgive each other and show mercy? Do these scriptures describe two different Gods (one judgmental, one merciful), two different sets of laws (one for Israel, one for the Gentiles), or two different legal capacities (one for civil judges, one for private individuals)?
 - c. To what extent are the admonitions of Num. 35:31; Deut. 13:6,8-9; and Deut. 19:11,13 applicable to civil judges today?

CURRENT EQUITY METHODOLOGY

The early history of equity jurisprudence in England and America clearly distinguished law from equity. However, the distinction between law and equity has become increasingly blurred over time.

The basis of equity is the administration of grace, or discretion, to do justice. For equitable purposes, though, "justice" does not mean carrying out the law in any strict sense, but to do what the judge thinks is fair or appropriate. Consequently, equity tends to be largely a matter of personal moral conscience.

The extraordinary, or discretionary, jurisdiction of equity (historically) was based on the idea that it was the English Chancellor's role to speak for the conscience of the king in order for justice to be served. Modern equity is based on this same idea, namely, that justice is a matter of personal conscience, not a legal prescription.

It is no accident that equity jurisprudence has its roots in executive power. Although the English common law courts exercised their powers under the general authority of the king, they were primarily judicial in nature and function, limiting themselves to a non-discretionary judgment of the laws. The Court of Chancery, however, was peculiarly executive in nature. The Chancellor purported to exercise the personal conscience of the king, that is, he wielded the power of executive discretion.

In some areas of equitable jurisprudence, rules of equity became formalized through repeated usage over time. Nonetheless, these rules of equity have never lost their character as a jurisprudence of discretionary justice. A continuing hallmark of equity is the case-by-case method of analysis. This form of individualized equity is characterized by a "facts and circumstances" analysis where every case (in some sense) is treated as exceptional.

DISCUSSION QUESTIONS

1. To what extent is the exercise of the power to pardon an act of mercy? Is the pardon power executive or judicial in nature?
2. When, if ever, is it permissible for a judge to find that an "exception" must be made to a civil law to properly account for the applicability of divine law?
3. When, if ever, is it permissible for a judge to find that a civil law necessitates the creating of an exception to the law of nature?
4. When a court engages in a facts and circumstances analysis, is the rule of law applied by the court likely to be permanent, uniform and universal? Is a facts and circumstances analysis a *legal* analysis at all? That is, does it result in the application of a "rule of action" in the historic sense?

5. Consider and discuss the following statement by Blackstone:

[T]he liberty of considering all cases in an equitable light must not be indulged too far, lest thereby we destroy all law, and leave the decision of every question entirely in the breast of the judge. And law, without equity, though hard and disagreeable, is much more desirable for the public good, than equity without law; which would make every judge a legislator, and introduce most infinite confusion; as there would then be almost as many different rules of action laid down in our courts, as there are differences of capacity and sentiment in the human mind.

To what extent has the danger Blackstone warned of already happened?

STUDY 4

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 the 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, namely, the covenants made with: 1) Adam and Eve; 2) Noah and his family; 3) the nation of Israel ("Mosaic covenant"); and 4) 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 to be addressed here.

DISCUSSION QUESTIONS

1. Read Gen. 1:26-30 and Gen. 2:15-25. (Adamic covenant.)

- a. 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?
 - b. Read Hos. 6:7 ("like Adam they have transgressed the covenant") and Jer. 33:20-25 (the express covenant with "day and night"). To what extent do either of these scriptures suggest the existence of a covenant between God and mankind at the time of creation in Genesis 1-2?
 - c. To what extent does God delegate authority to Adam and Eve with respect to: having children? the earth? the animal kingdom? food? marriage?
 - d. What are the legal implications of God's dealings with Adam and Eve relating to family law and environmental law?
2. Read Gen. 8:20-9:17. (Noahic covenant.)
- a. Do these scriptures make an express reference to a covenant? Who are the express parties?
 - b. To what extent does God delegate authority to Noah and his family with respect to: having children? the animal kingdom? food? capital punishment?
 - c. What are the legal implications of God's dealings with Noah, *et al.* relating to animal rights and criminal law?
3. Read Ex. 20:1-17; 24:1-12. (Israelite, or "Mosaic," covenant.)
- a. To what extent does God delegate authority to the Israelites to punish: religious offenses? offenses against the family? offenses against individuals?
 - b. 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?
4. Read Mat. 28:18-20 and Gal. 3:15-22. (Church covenant.)
- a. To what extent does God delegate authority to the Church with respect to evangelism and discipleship? other matters?
 - b. 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 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. These are the principles of 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

1. Adamic covenant.
 - a. Read Gen. 2:16-17. God gave Adam and Eve the choice whether to obey Him fully. To what extent can the existence of this choice be linked with the consent to a covenantal relation by Adam and Eve?
 - b. Read Gen. 3:14-19. To what extent, if any, did the Fall negate or terminate God's prior delegation of authority to Adam and Eve? Did Jesus consider the commands of Gen. 1 and 2 to have been negated in Mat. 19:4-7, or did He view them as irrevocable?
 - c. Read Rom. 5:12,18. To what extent do the effects of the Fall apply to people today (that is, descendants of Adam and Eve)? What is the correlation between people affected by the Fall and people who have been given dominion authority per Gen. 1:28?
2. Noahic covenant.
 - a. Read Gen. 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?
 - b. Read Gen. 9:9-16. What is the duration of the Noahic covenant, by its terms? Has anything occurred since then to cut short the duration of this covenant?
 - c. Are there any people to whom the promise of the rainbow does not now apply? Is there anyone alive today who is not Noah's descendant?

- d. Is there any legal basis for regarding people as subject to the provisions of Gen. 9:13, but not the provisions of Gen. 9:6?
3. Israelite covenant.
 - a. Read Ex. 24:3,8. Were the people of Israel coerced into accepting God's covenant, or did they assent to it voluntarily?
 - b. Read Ps. 105:8-10; and Heb. 8:13. Has the Israelite covenant been revoked, or is it still in effect? 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?
 - c. Read Rom. 11:25-29. Is God finished dealing with Israel as a covenant nation? Who, if anyone, is legally bound by the Israelite covenant today as to civil matters?
 - d. Is everyone a descendant of Israel? Were Gentiles ever bound by the terms of the Mosaic Code as a matter of covenant law?
 4. Church covenant.
 - a. Read John 3:18 and Rom. 10:13. To what extent is a covenant relationship with God a function of voluntary assent? What other scriptures relate to this question, and how do they affect your analysis?
 - b. Read Rom. 8:38-39. What is the duration of the Church covenant? Will it ever be revoked?
 - c. Read John 1:12. To what extent, if any, does a person become a Christian in a representative capacity on behalf of his or her 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 uncreated 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.

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

1. Review Gen. 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?
2. Read Dan. 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)?
3. Is all human authority derived, mediately or immediately, from a delegation via divine covenant? To what extent, and in what ways, do we otherwise acquire authority?
4. To what extent has God ever given anyone authority to rule over others apart from the divine covenants revealed in the Bible, and how would you know if He had?
5. What would be the legal effect of someone claiming that God gave them special authority to tell you what to do? Would you be bound to obey? Why or why not?
6. Read Josh. 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?
7. Does a modern "covenant running with the land" have the characteristics of mutual assent, irrevocability, and a binding effect on future generations?

STUDY 5

Law and Rights

INTRODUCTION

In this study we will examine the concept of legal rights. In particular, we will look at some of those rights which 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, many 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

1. Read Num. 23:19-20.
 - a. 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?
 - b. To what extent do we have the right to rely on God's promises, even though He was under no obligation to make them? To what extent are any of God's promises enforceable?
2. Read Heb. 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 what extent may the descendants of Abraham today claim a legal right to the "Promised Land" because of God's covenant? *See,*

Gen. 12:1-7.

3. Read John 1:12-13. To what extent does a Christian have rights with respect to the kingdom of God? Are these rights enforceable?
4. Read 1 Cor. 9:3-12,18. To what extent did Paul believe he had certain rights with respect to the churches where he labored? Were these moral rights or legal rights? Was Paul looking to God for the enforcement of his rights, or to someone else?
5. Read Lev. 25:29-33. What was the nature of the right of redemption in ancient Israel? Was it a right given by God? To what extent was it enforceable at law?
6. Read Deut. 21:15-17. What is the right of the first-born? 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

1. Read Gen. 9:1-3.
 - a. Did God give mankind authority to eat meat? To what extent does this give rise to a legal right to eat meat?
 - b. Could a legislature validly require everyone to abstain from eating meat, or force everyone to eat meat against their will? To what extent does civil government have any jurisdiction, or legal authority, over the eating of meat?
2. Read Acts 10:42.

- a. 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 have?
 - b. 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?
 - c. As between 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?
3. Read Ex. 21:7-11. The word "right" is nowhere used in these verses. Yet, to what extent, if any, 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, if any, of the slave?
 4. Read 1 Cor. 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?
 5. Read Lev. 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.

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

1. Read Gen. 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? Are animals merely property?
2. Read Gen. 2:7. Notice how Adam is referred to as a "soul" or "being," whereas animals (in Gen. 1:28) are referred to as "things." Does the Bible ever refer to people as "things," or to animals as "beings"? Were animals made in God's image? Is it proper to refer to animals as "persons"?
3. Reread Gen. 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*, Ex. 21:28-32.
4. Read Gen. 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?
5. Read Rom. 13:1-7. To what extent do civil rulers receive a divine commission of authority direct from God?
 - a. Does God actually choose which people should occupy public office in the United States?
 - b. To what extent do God's laws constrain the actions of public officials? (This subject will be covered in greater detail in a later study.)

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.

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

1. Read Prov. 31:4-9. To what extent did King Lemuel view the protection of rights as a primary purpose of civil government? To what extent are these verses a normative statement for all civil governments?
2. Read Deut. 16:18-20 and Isa. 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?
3. 1 Tim. 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)?
4. Read Mat. 5:21-30.
 - a. Does anyone have the right not to be hated? If so, is it an enforceable right? What are the implications for "hate crime" legislation?
 - b. 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?
 - c. What happens when society tries to enforce by legislation merely moral duties?

STUDY 6

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, being 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

1. Read Jer. 18:6-10. In these verses God's authority over the nations is compared to the authority of a potter over the clay.
 - a. What does this analogy teach us about the nature of God's authority?
 - b. What does this analogy teach us about the authority of the potter? What are the implications of this analogy for the law of patents and copyrights?
2. Read Gen. 6:13,17; Col. 2:10 and 2 Pet. 3:5-7. Does God's authority extend even to having the

right to destroy His creation? Are there any limits to God's authority?

3. Read Rev. 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?
4. 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?
 - a. Compare Gen. 1:29-30 with Gen. 9:2-4. Note that eating meat was neither expressly forbidden nor expressly authorized prior to the flood. Should we presume that people could, or could not, eat meat before the flood? Why?
 - b. Read Gen. 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"?
 - c. In the case of Cain, how is this presumption affected by Gen. 9:6 (which was revealed 1600 years later), if at all?
5. Read Gen. 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?
6. Read Deut. 17:9-12. 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 carefully.

DISCUSSION QUESTIONS

1. Read 1 Sam. 16:7; Jer. 17:10; and 2 Chr. 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?
2. Read Heb. 10:16; Prov. 21:1; and Ex. 14:4,17. To what extent does God's jurisdiction over the heart and mind include the right to not only know our thoughts, but also to change our thoughts? Can anyone keep a secret from God? Can Satan read our minds?
3. Read 1 Cor. 2:11; Mat. 7:1-2; and Rom. 14:1,4,10. 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 non-existence of ability imply the existence or non-existence of jurisdiction?
4. Read 1 Cor. 4:4-5 and review 1 Cor. 2:11. To what extent does each person have the jurisdiction to judge his or her own heart? Is it as extensive as God's jurisdiction over our own hearts?
5. Read Mat. 22:37; Ex. 20:17; Eph. 5:3-5; and Mat. 5:21-22. To what extent 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 which are not available to others?
6. To what extent does anyone have the authority to instruct the heart or mind of another (*i.e.*, to teach)?
 - a. Read Jn. 18:37 and Mat. 28:19-20. To what extent is "truth" within the jurisdiction of the kingdom of God? Has God delegated the authority to teach to the Church?
 - b. Read Deut. 6:6-7; and Eph. 6:4. To what extent do families have the jurisdiction to teach?
 - c. 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?

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 gleanings 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" going 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

1. Read 1 Tim. 1:5; and 1 Pet. 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?
2. Read Eph. 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?
3. Read 2 Cor. 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?
4. Consider whether acts of charity, such as a gift, are among the actions governed exclusively by the law of love.
 - a. Read Lu. 10:36-37. To what extent are people to meet their neighbor's need from heartfelt compassion? from a sense of civilly enforced justice?
 - b. Read Rom. 11:6. Is it accurate to say that a charitable act must be both voluntary and undeserved, or it is not charity at all?

- c. Can there be such a thing as compulsory charity, or coerced love? To what extent is public welfare (funded by tax revenues) truly charitable? Are taxes paid voluntarily or under compulsion? Are welfare benefits undeserved, or does everyone qualify for benefits?

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 which eventually predominated American legal thought rejected the idea that civil government had jurisdiction over matters of religion.

DISCUSSION QUESTIONS

1. 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.*
 - a. To whom is this "mutual duty" owed? Can it be legally enforced?
 - b. 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?
 - c. Read Ja. 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?
2. Read Acts 4:18-20 and Acts 5:27-29. To what extent were the early Christians willing to concede that civil rulers had jurisdiction over religious matters?

STUDY 7

The Social Order

INTRODUCTION

In this study, we continue our study of jurisdiction, but from the standpoint of examining the division of authority within society. We will begin our examination of the social order by looking at the individual, the family, the Church and nations.

Specifically, it would be helpful to know 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 (individual, family, church, etc.) are 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

1. Read Gen. 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?

2. To what extent is the individual the measuring unit of moral and legal accountability?
 - a. Read Rom. 3:19-20. How does God hold the world accountable for violations of His law, that is, is accountability reckoned by individuals, families, nations, some combination of these, or other?
 - b. Read Deut. 24:16 and Ezek. 18:19-25. What is the rule of legal accountability under the civil law of ancient Israel? Is this rule peculiar to Israel, or is it a law applicable to modern nations as well?
 - c. Read Josh. 7:1,10-15,22-26. 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?
 - d. Read Josh. 6:15-21. On account of whose sin, or for what other reason, were every man, woman and child in Jericho killed? To what extent does the exception for Rahab and all her relatives confirm or deny the principle of individual accountability?
3. To what extent are some people born to rule over others?
 - a. Read Gen. 25:21-23. Did Jacob have a God-given right, from birth, to rule over his brother Esau? To what extent, if any, does a prophecy about someone give that person the authority or legal right to carry out the prophecy? Does God grant authority via prophecies?
 - b. Read Jer. 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?
 - c. 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 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 a later study.

DISCUSSION QUESTIONS

1. Read Gen. 1:27; 2:18,21-23.
 - a. 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?
 - b. 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 pre-defined authority structure? Is the familial authority structure subject to civil modification?
 - c. 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?
2. Read Gen. 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, or even religious freedom in general. These things each have their importance, but none of them are in view for present purposes.

What is here to be examined is whether, from a biblical perspective, there is such a thing as a God-created church relation with unique legal rights and responsibilities which society ought respect and protect.

DISCUSSION QUESTIONS

1. Read 1 Cor. 12:13,18,24,27-28.
 - a. Is the institution of the Church an invention of people or a creation of God? Is the Church a true social relation (a legal relationship between people) or is it merely a heavenly relation (a relationship with God)?

- b. 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)? To what extent can civil laws "recognize" the true Church, if at all?
2. Read Mat. 28:18-20.
 - a. Is the authority of the Church to evangelize (gain converts) and disciple (teach everything Christ commanded) an inalienable legal right? Is this authority granted to every individual Christian, or just to corporate bodies?
 - b. Should our civil laws recognize the rights to evangelize and disciple solely with respect to Christians, or do such rights also belong to non-Christians? Does the civil law have jurisdiction to decide who the true Christians are?

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 a later study. 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

1. Read Gen. 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?
2. Read Deut. 32:8. In what respect does God create nations and set their national boundaries? Were "the sons of Israel" a nation at the time of Babel? Does Deut. 32:8 refer to a past or present activity of God?
3. 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

1. 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?
2. What other legal relationships, if any, are subject to a divinely defined authority structure? Can a relationship invented by people properly claim to be vested with any inalienable legal rights or authority?
3. 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?
4. Read Lu. 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?
5. Read Mat. 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?
6. Read Eph. 5:22-6:4 and Prov. 22:6. 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?
7. Read Mark 16:15. What is the role of civil government in supervising the church in the performance of its gospel authority? *See also*, Acts 5:29.

STUDY 8

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. Rather, modern jurisprudence views all familial rights as state delegated and state regulable. In essence, modern jurisprudence treats the family as a non-entity, 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 a prior study, 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 us, 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 relation is subject to a pre-defined authority structure, and the extent to which it serves as the framework for administering the law of families.

DISCUSSION QUESTIONS

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

3. Read Rom. 7:1-3. To what extent is a marriage relationship irrevocably binding? How is the biblical view different from the modern law of divorce?
4. Read Deut. 24:1-4 and Mat. 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?
5. Read Gen. 4:25 and 9:1. To what extent are people authorized to engage in sexual relations outside of the marriage relationship?
6. Read Deut. 23:2 and Hos. 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, the rights of married women, and spousal rape. 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

1. Read Ex. 20:14; Lev. 20:10 and 1 Cor. 6:9-10. To what 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?
2. Read Mat. 5:27:32 and John 8:1-11. To what extent, if any, did Jesus modify the law of adultery?
3. Read Ex. 22:16-17 and Deut. 22:28-29. In ancient Israel, was fornication, like adultery, a criminal offense? Were the fornicators *ipso facto* deemed to be married, either morally or legally? Is the law of fornication for us today any different, and why or why not?
4. Read 1 Cor. 7:1-5. Upon what does the lawfulness of sexual relations depend: authority or consent? Can people lawfully consent to sexual relations that God has prohibited? Can people make sexual relations criminal that God has authorized? How does this impact your view of

"spousal rape"?

5. To what extent do a husband and wife exist within an authority structure pre-defined by God?
 - a. Read Num. 1:1-4,16. To what extent was it possible for a woman to be the head of a household in ancient Israel? What difference did it make in terms of familial authority?
 - b. Read Eph. 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?
 - c. Read Num. 30:3-16. In ancient Israel, could a woman veto the promises of her husband, or of her father? What was the authority relationship between them? Was this a set of laws peculiar to ancient Israel?
6. Read 1 Cor. 11:1-16.
 - a. To what extent are the arguments Paul is making merely cultural, limited in application to the early church, or to the Jews? Look at verses 7-9 and 12. Is Paul reasoning from culture, or from the account of creation? To what extent is familial authority part of the eternal law of nature?
 - b. Look at verse 14. What principle does Paul derive from an examination of nature? What does it have to do with familial authority? Has anything changed in the nature of things since these verses were written? What?
 - c. Compare and contrast verse 2 with verse 16. Is familial structure and authority a matter of man's tradition, or God's requirement?
7. Read Gen. 2:18-23 and Gen. 3:20. To what extent could Adam's naming of the animals be attributed to an exercise of dominion authority over them? To what extent could Adam's naming of Eve (twice) be considered an exercise of familial authority? When a man gives a woman his name in marriage, is it by her choice, or his right?

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. Parents are no longer able to veto a minor daughter's decision to obtain an abortion. States 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

1. Read Prov. 22:6; Deut. 4:9; 6:6-9; 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? The Church? Civil government? Why or why not?
2. Read Prov. 13:24 and Heb. 12:7-8. Do parents have divine authority to administer corporal punishment to their children? Is corporal punishment an inalienable (God-given) legal right?
3. Read Ex. 20:12 and Eph. 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?
4. Read Judges 11:29-40. Does anything in scripture indicate that Jephthah's vow was unlawful? Was Jephthah's daughter under a legal duty to sacrifice her life for the sake of her father's vow? Was she under a moral duty?
5. Read Prov. 31:10-15 and 1 Tim. 5:8.
 - a. 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? What authority has God granted children that parents must respect?
 - b. 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)? Why or why not? 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

1. Read Gen. 1:28 and consider other scriptures mentioned earlier as necessary.
 - a. Can civil government lawfully restrict, control or regulate the extent to which any family chooses to bear children? Can nations lawfully limit the size of families?

- b. Is bearing children a God-given right which cannot be impaired under any circumstances? Is sterilization a lawful form of civil punishment for sex offenses? For imbecility?
2. Notice in Gen. 1:28 that the authority to bear children and to rule over the earth are contained in the same command, given to the same people, and in the same context.
 - a. To what extent does every family have the authority to rule over and subdue the earth (*i.e.*, to take dominion, including property ownership)?
 - b. Is there a significant difference in the amount of control exercised by modern civil government over: 1) bearing children; 2) marriage; and 3) property rights; each in comparison to the others? Biblically, should such differences exist? Why or why not?
3. What is the biblical basis, if any, for "common-law marriage"? Does the marital union require the consent or acknowledgement of a public official before it is legally valid? Who institutes marriage, God or man?

STUDY 9

Civil Power

INTRODUCTION

In prior studies we have been asking whether various laws are enforceable or not, 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 a prior study, we briefly raised the possibility that the relationship and rights of people with respect to civil government is to some extent pre-defined, since nations are created by God. Let's now explore that possibility further, by examining the biblical purpose for civil government.

DISCUSSION QUESTIONS

1. Read Ex. 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 nation?
2. Read Rom. 13:3-4.
 - a. Is it a divine purpose of all nations to punish wrongdoers (punish crime)? To what extent

- is it a purpose of every nation to encourage righteousness?
- b. Is civil government inherently evil? Is it inherently good? What does it mean for civil rulers to be "a minister of God"?
 - c. What means does a nation have authority to employ to punish lawlessness? May it impose physical punishment (even to the point of death)? May it exclude someone from the kingdom of God?
3. Read 1 Pet. 2:13-14.
 - a. What parallels exist between this scripture and Rom. 13:3-4? Do these verses describe the full scope of civil power, that is, are they, in effect, a limitation on civil power, that it may not exceed the scope of these verses?
 - b. 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?
 4. Read Deut. 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?
 5. Read Deut. 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?
 6. Read Gen. 9:6 and review Rom. 13:4.
 - a. 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)?
 - b. Are all nations required to impose capital punishment as a part of their civil duties? Why or why not? What covenant is Gen. 9:6 a part of, and to whom does it apply?
 - c. Some people claim that Gen. 9:6 is the original grant of civil authority to mankind, and that no civil government existed before Noah. Is this correct? 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

1. Read 1 Sam. 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?
2. Read 1 Sam. 8:9-10,19,21-22. If the request for a monarch had been itself lawless, would God have consented to its institution? Why or why not?
3. Read Deut. 17:14-15,18-19.
 - a. Did God impose the monarchial 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?
 - b. Does the fact that God allowed Israel to move from judgeships to a monarchy 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?
4. Read Rom. 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?
5. Read Jer. 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?
6. 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?
7. 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 a prior study 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? And, 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?

DISCUSSION QUESTIONS

1. Read Ex. 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?
2. Read 1 Sam. 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?
3. Read 1 Sam. 16:1-13 and 2 Sam. 2:3-4; 5:3-5. Who initiated the anointing of David to be Israel's next king? Was the anointing a "mere proposal"? Did David take office immediately upon being anointed? What else took place before he assumed office? 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?
4. 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?
5. To what extent 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?
6. Read 2 Chr. 22:10-23:21. When king Ahaziah died, his mother Athaliah ordered all of his sons to be slain so she could rule (unlawfully) as queen in their place. However, Ahaziah's baby son

Joash was rescued by an aunt and was hid in the house of the Lord for six years. At age seven, Joash was installed as the lawful king of Judah, and Athaliah was killed.

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 10
The Bible As Law

INTRODUCTION

In the preceding studies we examined a number of possible legal inferences which may be derived from a reading of the Bible. In this study, we will look into the general use of the Bible as a basis for deriving substantive rules of law. This inquiry will consider whether the Bible is exclusively a religious book which speaks solely to spiritual matters, or whether the Bible also speaks to temporal legal matters and may be regarded as a legal text to that extent. In all likelihood, by going through each of the prior studies in this series, you have already reached a conclusion on this matter.

This is not to presume that the scope of legal subjects addressed by the Bible is narrow; in fact it is very broad. A biblical perspective of law encompasses the whole revelation of God with respect to law. Thus, it includes rules of morality and religion, as well as those of every kind of civil conduct. Yet, as the preceding studies of jurisdictional law indicate, the rules of morality and religion can be legally distinguished from the rules of individual conduct which human institutions can enforce. This ability to separate religious law from civil law is actually a great benefit.

For example, one of the benefits of jurisdictional law is that it lays the foundation for true religious and intellectual freedom. Another great benefit is that an examination of biblical law can be focused on either religious or civil law. Thus, this series of studies made no attempt to examine the laws of internal governance of the Church, regulations of redemption and worship, or to detail the laws of religious faith and doctrine. These things are capable of being done from a legal perspective, but they are not for any reason *necessarily* involved in an examination of law from a biblical perspective.

Matters of religion are simply one aspect of the whole field of biblical law, not its foundation or point of origin. Consequently, there is no basis for concluding that all law from a biblical perspective is necessarily religiously grounded, that it is more religious than any other legal philosophy, or dependent upon religious belief.

What are religious ideas anyway? Is the concept of a creator necessarily a religious idea? Is the idea of the law of nature religious? Is the Declaration of Independence a religious document, and is that the way the founders would have understood it? How could the framers have prohibited religious oaths as a test of civil office, yet affirm Divine Providence in our national charter?

GOD AS CREATOR, SUSTAINER & REDEEMER

One place to start in examining the question of whether the Bible is necessarily religious in all matters to which it speaks is to ask whether God always acts in a religious capacity.

It is common to refer to God as a Trinity, but in fact, there is more than one trinitarian concept of

God. The most familiar, perhaps, is that of God as Father, Son and Holy Spirit. Another familiar trinity is that of Jesus alone, referring to His roles as Prophet, Priest and King.

Another historically understood trinity concerning God is that He is the great Creator, Sustainer and Redeemer of mankind. It is these latter attributes of God's character that are relevant to an understanding of the distinction between laws of the Bible directed toward redemption (religion) and those of creation (civil application).

In other words, if we can understand that God Himself sometimes acts in a manner which is non-religious, then perhaps some of His revealed Word, and some of His laws, are non-religious. This is not to say that any portion of the Bible is any more or less authoritative or inspired than the rest of the Bible, rather, it is a question of the extent of God's Lordship, or sovereignty.

If God is indeed sovereign over all areas of life and every area equally, then either everything in life is inherently religious (at which point the term "religious" loses any descriptive value), or God must relate to some areas of life in a non-religious way. How does it seem to you?

DISCUSSION QUESTIONS

1. Read Gen. 1:1 and Col. 1:16.
 - a. Can anyone receive salvation, merely by acknowledging God as Creator? Is the fact that God created all mankind sufficient to put anyone in a relationship of fellowship with Him?
 - b. In what sense, if any, can the creation of the world be regarded a religious act?
2. Read Job 34:14-15 and Col. 1:17.
 - a. To what extent do the existence of the earth and the continuation of life depend on God's sustaining power?
 - b. To what extent, if any, may *law* be regarded as a means by which God sustains the universe? Does law, in fact, govern the creation, holding it together as a continuing reflection of God's will?
3. Read Isa. 44:24 and Titus 2:11-14.
 - a. Does the fact that God is the Great Redeemer of the world mean that everyone will be redeemed? Is God any less the Great Governor of those who are not redeemed?
 - b. If God is the Creator of all people, whether saved or not, where might we look to find an expression of the laws which govern the unredeemed?

CREATION LAW vs. REDEMPTION LAW

Orthodox Christianity generally holds that mere belief in the existence of God will not bring any person into covenant relationship with the Savior or effect their personal redemption or salvation. Consequently, many have concluded that even though a perspective of law is entirely founded on the existence of God, the belief that a Creator God exists is not itself a religious belief. If this is true, then it is at least possible that some laws of the Creator would apply irrespective of a person's religious beliefs or spiritual status.

This is, in fact, what is meant by the term "creation law." Creation law is not religious or sectarian, and applies to everyone, not just the religiously faithful. The basis for this assertion is simple: not all people are redeemed by God, but all people are created by God whether they believe it or not. Accordingly, all people are governed by the laws of God which apply to all of creation and His laws which apply to all human beings.

"Redemption law," on the other hand, refers to the law which governs the redemption of sin, personal salvation, individual piety, and the fellowship of believers within the Church. In other words, redemption law is that part of biblical law which pertains peculiarly to God in His redemptive capacity or to people in response to God as Redeemer. Redemption law is inherently religious, because it pertains to matters of the heart and mind and those acts which are governed exclusively by the law of love.

Redemption law therefore applies to the areas of life covered by God's reserved jurisdiction. That is, redemption law is not part of the law enforceable by people, but governs those duties owed solely to God, which He alone can enforce.

DISCUSSION QUESTIONS

1. Read Ja. 2:19 and Rom. 1:21. Does mere belief in the existence of God redeem a person from sin? Under what rationale, then, is mere belief in the existence of God deemed "religious"?
2. Read Gen. 4:3-8.
 - a. When Cain killed Abel, did he violate a law of the creation? Is there anyone on earth, now or in the past, to whom this law does not apply?
 - b. Is the law of murder a religious law? Is it applied or enforced differently for Christians compared to non-Christians?
3. Read Num. 35:29-34.
 - a. Does compliance with God's laws of creation depend on a person's consent? If a person refuses to acknowledge the existence of God or a creator, does that make the law of murder any less binding on that person?

- b. Can a legislature repeal, or a judge nullify, the law of murder? Why or why not?
 - c. Is the recognition of the law of murder by a society necessarily a religious act, just because it is mentioned in the Bible? If a law of creation applicable to all creatures is mentioned in the Bible, can the Bible be used as a source of legal authority to validate the existence of that law, without injecting "religion" into the process?
 - d. What about the laws of theft and adultery - are they matters of "creation law" or "redemption law"? Are our duties with respect to theft and adultery owed solely to God, or are they legally enforceable?
4. How do you know whether a matter is governed by "creation law" or by "redemption law"? Is there a legal rule which distinguishes one from the other? What is it?

THE BIBLE AS A LEGAL TEXT

This distinction between redemption law and creation law is an important one in the history of the United States. For a time in our nation, particularly in the several states, redemption law was made civilly enforceable after the pattern of England. These civil laws were eventually repealed. It might well be asked whether, in disestablishing religion, the biblical foundation of law in America was thereby removed. In other words, America was founded on the creation laws revealed in the Bible, and to some extent, on the biblical redemption laws as well. When the latter were removed from our laws, were the former unaffected, or were they removed also?

One way to approach this matter is to examine the law of religious tests. To some extent, the law of religious tests presents a dilemma for those who maintain either that a biblical perspective of law is inherently religious, or that the Bible is a book which speaks exclusively to religious and sectarian matters.

Modernly, there is a uniform expression of law regarding religious tests at the state and federal levels. Religious tests cannot lawfully be used as a basis for determining eligibility to participate in civil affairs. That is, our nation has rejected *religion* as the basis for our system of government and its laws.

One could respond by arguing that the law of religious tests, etc. expressed in the U.S. Constitution and/or by the U.S. Supreme Court is wrong, but one need not make this argument to show the relevance of the Bible to America's legal affairs. The rejection of religion as a basis for civil law is not "anti-biblical" if it is understood to mean solely that our nation's laws are not based on *redemption law*.

Whether the religious laws of the Bible are a proper basis for civil laws today raises the question of whether the United States is, or should be, a theocracy or have an established religion. It is possible to argue for the laws of the Bible as a basis for modern civil laws without advocating that America is or should be a theocracy or have an established religion.

The Bible is not merely a religious book, because not all things in the Bible pertain to redemption law. This is demonstrated by the fact that the Bible contains legal rules of universal applicability respecting such things as the nature of law, the rights of individuals and families, limitations on civil powers, the jurisdiction of civil laws, the legal relation of social institutions, etc. Consequently, the Bible is a source book of fundamental law and, as it were, a legal textbook. Furthermore, the Bible is competent legal authority in America as part of our organic laws.

Having established that the creation law of the Bible applies to all people, it now remains to discover the terms of that law. Since the discussion in preceding chapters relating to the nature of law, covenants and jurisdiction is primarily an exposition of the law of nature, those rules will not be further reviewed here. Rather, the present purpose is to examine more closely the covenantal provisions of law which have universal applicability to all people.

DISCUSSION QUESTIONS

1. Read Gen. 1:28-29.
 - a. To what extent do these verses apply to the descendants of Adam and Eve today? To whom would the verses not apply, if anyone? How is your answer affected by your assumptions about the literal existence of two individuals who were the physical ancestors of all people?
 - b. To what extent do these verses grant anyone authority to have children, rule over the earth, and eat vegetation? Is this authority limited to use by Christians? Is this authority inherently religious in nature?
2. Read Gen. 3:17-19. To what extent did either man's Fall or God's curse of the ground alter or abolish the prior grants of authority in Gen. 1? To what extent does the curse apply to the descendants of Adam and Eve, and why? To what extent may the law of inheritance apply here? Is our fallen nature merely a religious assertion, or is it also a legal conclusion?
3. Read Gen. 9:11,13. One of the most well known promises of the Bible is that God would never flood the earth again. This promise and its sign, the rainbow, were part of the Noahic covenant. To what extent do these verses apply to the descendants of Noah today? To whom would the verses not apply, if anyone? How is your answer affected by your assumptions about the literal existence of eight people who survived a flood in which all other human life perished?
4. Read Gen. 9:1,7. Does this command relate to having children, or to something else? Is it merely a religious command? Is it applicable only to Christians?
5. Read Gen. 9:2-4. Is the eating of meat a religious act? Do people have a legal right to eat meat? If so, does this right apply only to Christians?
6. Read Gen. 9:5-6.
 - a. These verses are generally understood as relating to capital punishment. Is capital

punishment a function of religious law and church authority, or a function of civil law and state authority?

- b. Compare Gen. 9:5-6 with 9:2-4. Both sets of verses were delivered by God at the same time to the same people as part of the same divine covenant. Is there any legal rationale which would argue for the continuing validity of one set of verses and deny the continuing validity of the other, or must both sets of verses rise or fall together? If you conclude that neither set of verses has any legal effect today, how, if at all, can you defend the eating of meat by humans?

STUDY 11

A Christian Nation?

INTRODUCTION

The question is often asked whether England or America either have been, or are now, a Christian nation. To answer this, it must first be determined, "What is a Christian nation?" 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, a Christian nation. 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, or any particular, legal views.

Accordingly, a Christian nation which depends on the existence of popular consensus alone is an elusive thing. Such a definition of "Christian nation" is entirely a matter of popular opinion, not legal prescription. There is little or no legal stability or security because popular consensus can change at any time. That is why the question for any "Christian nation" is whether a religious democracy is enough.

DISCUSSION QUESTIONS

1. Read 2 Chr. 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?
2. Read Ps. 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"? To what extent does this verse apply to nations other than Israel? What nations can rightfully claim to be the people whom God has chosen for His own inheritance?
3. 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?
4. What is the jurisprudential legacy of a merely democratic Christian nation? In other words, 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 will 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

1. Read Ex. 24:8 and Ps. 105:8-10. To what extent, if any, 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?
2. Read 1 Sam. 8:7. Who was king and/or the supreme civil head of state over ancient Israel prior to the monarchy?
3. Read 1 Sam 10:20-25, 2 Sam. 7:16 and Isa. 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, Israel's covenant relationship with God, or any of the nation's organic laws? If so, how?

4. Read Lu. 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?
5. Read Ps. 147:19-20 and Deut. 7:6. *See also* Deut. 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? Why or why not?
6. 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? What is the legal definition of a theocracy?

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 where a nation legally prescribes 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 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).

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

1. Read Ex. 20:3-6. To what extent did ancient Israel legally prescribe what people must believe about God?
2. Read Deut. 28:1-2,15. To what extent did ancient Israel's national welfare depend on the

maintenance and preservation of a particular religious faith?

3. Read Lev. 7:25. To what extent did ancient Israel grant or deny civil privileges according to a person's profession of religious faith?
4. Read Lev. 20:27, Lev. 24:16 and Deut. 17:2-5. To what extent did ancient Israel impose civil punishments for religious offenses?
5. To what extent does ancient Israel serve as a model for modern nations to promote the legal establishment of religion?
 - a. Recall our examination of covenant law in a prior study. Is the Mosaic law covenantally binding on the United States as a nation? Why or why not?
 - b. Why do you think religious establishments were utterly rejected as a model in the founding of America? Is the First Amendment unbiblical?
 - c. What is the link between established religion and a theocracy? What are the inherent assumptions, if any, which the institution of a religious establishment makes concerning the ability of civil rulers to govern in the place of God?

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. 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

1. Read Mat. 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?
2. Does God have a set of laws for all nations which are distinguishable from His laws for ancient

Israel? Where would you find these laws, and how would you know them when you see them?

3. 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? To what extent did the Declaration establish God's law as the legal basis for the founding of our nation? To what extent have we lived up to the legal legacy of the Declaration?
4. 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.*
 - a. 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?
 - b. 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?
5. According to John Quincy Adams, in 1821, 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." To what extent was Adams correct or incorrect?
6. To what extent may one 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 12

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 a prior study. 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 than 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 even-handed 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.
- C. Any legal principle or rule in scripture which 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 ¶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

1. Was the Mosaic law, as a matter of covenant, ever obligatory upon any nation other than ancient Israel?
 - a. Is any divine covenant binding on someone other than the original parties and their physical descendants? If so, give an example.
 - b. Read Rom. 2:28-29. Are Christians the legal heirs of Israel? Is "Jewishness" for purposes of this verse a moral, or legal, quality?
 - c. Read Gal. 3:15-19,26-29. To what extent are Christians the legal heirs of Abraham? Are Christians entitled to legal possession of the land of Israel? Why or why not?
2. To what extent may a single provision of a covenant embody multiple legal principles or rules, some based upon creation, some peculiar to the covenant, and others which are no longer applicable?
 - a. Is there any legal or logical rule which requires a single passage of scripture to embody no more than one principle?
 - b. 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*.

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. What do you think - are the Ten Commandments part of God's eternal moral law?

DISCUSSION QUESTIONS

1. *Have no false gods.* To what extent is this commandment based in creation because there is only one Creator, hence, there is only one God?
2. *Make no idols.* To what extent is this commandment part of the law of nature because no created thing can be a god transcendent from the creation?
3. *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?
4. *Keep the sabbath day holy.* To what extent is the principle of the sabbath based on the manner in which the world was created.
5. *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?
6. *Do not murder.* Did the law of murder pre-exist the Ten Commandments (Hint: remember Cain and Abel)? Is it part of the law of nature?
7. *Do not commit adultery.* God instituted the marriage relation at the time of creation. Is the law of adultery part of God's eternal moral law?
8. *Do not steal.* To what extent does stealing dishonor the dominion God has given to someone else? Is this principle based in creation?
9. *Do not testify falsely.* Try this: Accusations spoken falsely dishonor a fellow image-bearer of God. Is this part of the law of nature?
10. *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, the judicial law is *the law peculiar to the national polity of*

Israel as a theocracy. A legal theocracy, as examined in a prior study, 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."

Thus, we are on the lookout, as it were, for those provisions of the Mosaic law which 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

1. Read Deut. 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?
2. Read Lev. 19:19 and Deut. 22:11. To what extent is the command not to wear clothing made of two materials symbolic of the ethnic and spiritual purity which the Israelites were to maintain?
3. Read Ex. 31:14-15; Ex. 19:12-13; Lev. 24:16; Deut. 17:2-7; Ex. 22:20; Lev. 20:27; and Ex. 22:18. To what extent is the infliction of capital punishment for offenses against God unique to Israel, because only in that nation would an offense against God also be an offense against the civil ruler?
4. Read Deut. 17:14-15 and 2 Sam. 7:1-29. To what extent are laws relating to the throne of Israel, including the Davidic covenant, unique to that nation?
5. Read Lev. 25:8-17,25; and Num. 36:7-9. Do the land laws of the Jews reflect the theocratic nature of the nation? To what extent did the land, as the unique possession of Israel, reflect the fact that Israel was God's unique possession?
6. 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 which 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

1. Read Gen. 14:19-20 and Gen. 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?
2. Read Num. 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?
3. Read Num. 18:1-6. What was the underlying rationale for the institution of the Levitical tithe? (Hint: Who were the Levites, and what were their special duties and legal disabilities in the nation?)
4. Read Heb. 8:1,6-7,13. What was the effect of Jesus' death with respect to the Levitical priesthood? To what extent was the Levitical order of priests abolished?
5. Read Heb. 7:12. To what extent did the abolition of the Levitical order require a legal change? What was the nature of that legal change? Were all laws associated with the Levitical order equally affected by that change? What law is the subject of Heb. 7:1-11, and how does it relate to verse 12?
6. Were Abram and Jacob bound by the Mosaic law, or their tithing activities undertaken pursuant to the Levitical tithe? What effect would a change of the ceremonial law have on pre-Mosaic law?
7. Does the law of tithing have a dual legal aspect? That is, 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?

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