

## ESSAY ROUNDTABLE

# WHOSE WORLD, WHICH LAW?

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KEYWORDS: Christianity, law, New Testament, narrative, democracy, Torah, Acts of the Apostles, justice

This essay was presented as the 2015 McDonald Distinguished Scholar Lecture at the Center for the Study of Law and Religion, Emory University.

### WORLDS IN COLLISION

It is an honor to be invited to present this lecture in the McDonald Distinguished Scholar Lecture Series here at the Center for the Study of Law and Religion. At the same time, it is a daunting task to be invited to address the question, “What does Christian theology offer the world of law?” My first response, perhaps just a little facetious, is to echo Alasdair MacIntyre’s well-known questions by asking, “Whose world? Which law?” (Perhaps while I am at it, I should ask “Whose theology?” But presumably you have invited me to speak because you want to know what *my* theology might offer. And if you ask a New Testament scholar to speak, you are going to get a heavy dose of New Testament theology.)

Whose world? Which law? When we start to ask such questions, several texts from the Acts of the Apostles come to mind, for Luke the evangelist offers a fascinating account of the way in which the earliest Christian preachers fanned out through the Mediterranean world and began to encounter various local and imperial legal authorities. For example, consider the story in Acts 18 of the Apostle Paul’s arrest in Corinth and his hearing before the Roman proconsul Gallio:

But when Gallio was proconsul of Achaia, the Jews made a united attack on Paul and brought him before the tribunal. They said, “This man is persuading people to worship God in ways that are *contrary to the law*.” Just as Paul was about to open his mouth, Gallio said to the Jews, “If it were a matter of crime or serious villainy, I would be justified in accepting the complaint of you Jews; but since it is a matter of questions about words and names and *your own law*, see to it yourselves; I do not wish to be a judge of these matters.” And he dismissed them from the tribunal. (Acts 18:12–17)<sup>1</sup>

Here we see the collision of two worlds—or, rather, three. The Jews in Corinth perceive Paul’s evangelistic, apocalyptic, messianic world as a threat to their orderly, traditional religious world;

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<sup>1</sup> Author’s emphases. Except where noted, all passages quoted from the Bible are from the New Revised Standard Version.

consequently, they drag Paul to the civil legal authority and accuse him of persuading people to worship God in a way that is “contrary to the law” (*para ton nomon*). Their artful accusation exploits a semantic ambiguity in the word *nomos*. Their real concern is that they consider Paul’s teaching to be contrary to Torah, that is, contrary to the Law of Moses. But they carefully frame their accusation to Gallio so as to insinuate that Paul’s teaching is subversive of the world of Roman order, the Roman law. No doubt we readers of Acts are meant to recall the uproar in Thessalonica just one chapter earlier, an uproar caused by the Jewish accusation that the Christian preachers, including Paul, have “turned the world upside down” by “acting contrary to the decrees of the emperor, saying that there is another king named Jesus” (Acts 17:6–7).

But before Paul can even begin to defend himself, Gallio curtly dismisses the case by characterizing the complaint as a dispute about “your own law” (that is, Jewish religious law) and therefore not pertinent to the world of Roman law. In short, he says to them, “It’s your problem, not mine, and your law is irrelevant to the concerns of my law.” The attempt by Paul’s adversaries to conflate two senses of “law” fails. (Paradoxically, if Gallio had allowed Paul to speak, he might have discerned at least dimly that the new world proclaimed by Paul did in fact contain the potential to turn the Roman order upside down; hence the delicate narrative irony of this episode.)<sup>2</sup>

Our discussions of a theological perspective on law, however, are often susceptible to the semantic slippage that Gallio cannily avoided. We are constantly tempted to read the New Testament’s words about *nomos* as general statements about civil law, or human positive law. We will do well to remember, on the contrary, that when the New Testament writers speak about *nomos* they are usually speaking very specifically about Israel’s scripturally disclosed law, the divinely given Torah.

#### THE NARRATIVE FRAMING OF LAW

The juxtaposition between the *nomos* of the Jewish plaintiffs in Corinth and the *nomos* of Gallio the Roman proconsul draws our attention to something crucial that Christian theology offers to our understanding of law: there is no such thing as a law that has normative force and validity outside of a particular cultural system, or—to put the point in a more biblical fashion—outside of a particular *story*. The biblical account of the origin of Torah makes this point very clear. The Law is derived neither by some sort of democratic process nor by reason’s unaided contemplation of the night sky; rather, the Law is given by God to a people he has graciously chosen, rescued from slavery in Egypt, and led to the foot of Mount Sinai, where he summons his servant Moses to receive a revelatory disclosure of God’s order and God’s will. The giving of Israel’s Law is imbedded in a much longer story of election, covenant, and gracious deliverance. That is why the Ten Commandments are prefaced with an encapsulated recollection of that story: “I am the LORD your God, who brought you out of the land of Egypt, out of the house of slavery; you shall have no other gods before me” (Exodus 20:1). The Laws given to Moses have binding force because they are the decrees of a Lawgiver who is first of all creator and savior of the people to whom they are given.

Apart from such a story, the rules of any particular system of law will be merely arbitrary assertions of power by those who hold positions of privilege, or at best socially constructed

2 For a nuanced discussion of the issues raised by this passage, see C. Kavin Rowe, *World Upside Down: Reading Acts in the Graeco-Roman Age* (Oxford: Oxford University Press, 2009), 57–62.

compromises, a social contract to limit the power of human beings to inflict harm on one another. Why, for example, should we assert the truthfulness of the laws of Western liberal democracy over the claims of Islamic law as rigorously interpreted by the Islamic State?<sup>3</sup> If we are honest with ourselves, we will see that our preference for one over the other is a consequence of our embeddedness in a cultural community shaped by the long traditions of Judaism and Christianity, now inflected (and to some degree diluted) by modernity's secularized story of human freedom.

But to the extent that law is losing its authority in a postmodern society subliminally infected by a Nietzschean worldview, that is a direct result of our culture's drift away from the biblical story. The theologian Robert Jenson has diagnosed this situation of postmodern malaise in an incisive essay, "How the World Lost Its Story." Jenson writes,

The entire project of the Enlightenment was to maintain realist faith [in a narratable world] while declaring disaffection from the God who was that faith's object. The story the Bible tells is asserted to be the story of God with His creatures; that is . . . there is a true story about the universe because there is a universal novelist/historian. Modernity was defined by the attempt to live in a universal story without a universal storyteller.<sup>4</sup>

With respect to law specifically, we might well add to Jenson's insight the observation that the universal storyteller is also the universal judge. In the world narrated by the Bible, the moral order defined by the Law receives its grounding and normativity in God's character, God's will, and—it must be emphasized—God's grace. The Law of the Lord is a gift to be received joyfully, the Psalmist declares, because it revives the soul, makes wise the simple, rejoices the heart, and enlightens the eyes (Psalm 19:7–8).

At any rate, my main point here is that any particular body of law finds its place and meaning within *some* story. What Christian theology offers to the world of law is a story that offers assurance of truth, promises human wholeness, and holds out the confident eschatological hope that justice will finally prevail so that the earth will be full of the knowledge of the Lord as the waters cover the sea (Isaiah 11:9). Of course the question posed not only to Gallio, but also to our contemporary jurisprudence, is whether the world of law wants to acknowledge and receive the gift that Christian theology offers.

#### ROLES OF LAW WITHIN THE CHRISTIAN STORY

In the theological traditions that flow from the Reformation, there is a well-known topos about three "uses" of the Law—here referring to the Law of Moses. The three uses are (roughly sketched) to restrain sin before the coming of Christ, to convict the conscience so as to make sinners aware of their need for grace, and to provide a positive guide for the moral life for those who have come to know themselves justified by faith. I would suggest that this schema, while identifying some key motifs in the relevant New Testament texts, focuses too narrowly on an individualized conception of an *ordo salutis* and omits some significant aspects of the New Testament's portrayal of the roles of Israel's Law. In the short time we have here today, I would like to give a descriptive sketch of *four*

3 On the role of Islamic law in shaping the agenda of the Islamic State, see the fascinating account given in Graeme Wood, "What ISIS Really Wants," *Atlantic*, March 2015, <http://www.theatlantic.com/magazine/archive/2015/03/what-isis-really-wants/384980/>.

4 Robert W. Jenson, "How the World Lost Its Story," *First Things* (October 1993): 19–24, 21.

roles of the Law in the biblical story<sup>5</sup> as read through the lenses of the New Testament, and then, in a subsequent set of second-order hermeneutical reflections, suggest some implications for our question about what Christian theology might offer to our own understanding of law, in the “lower-case” sense of law in a democratic society. So, first, a brief description of the four roles of Law in the biblical story.

### *First Role: The Law Defines the Identity of the People of God*

In the New Testament’s vision of the world, the Law is not merely a negative restraining force to curb human sinfulness, though it can sometimes be so described (for example, 1 Timothy 1:8–9). It also creates a positive form of life for the embodied identity of a distinct people in the world. That is why Paul can refer to the Jewish people with shorthand expressions such as *hoi en tō nomō* (“those who are in the Law,” Romans 3:19) or *hoi ek nomou* (“those [who live] on the basis of the Law,” Romans 4:14).<sup>6</sup> Those who have been chosen by God as members of the covenant people are called to obey the Law fully and unconditionally (for example, Deuteronomy 30:11–14). This obligation is, however, not a burden, but a blessing: it holds the promise of life (Deuteronomy 30:15–20; cf. Psalm 19, cited above). That is why Paul can assert that “the advantage of the Jew” is “much in every way” (Romans 3:1–2). Israel is given a privileged knowledge of God’s will and a commission, therefore, to be a “light to those who are in darkness” (Romans 2:19, echoing Isaiah 49:6, though not without a certain ironic critical edge).

Precisely because the Law is an identity-creating power, scholars such as J. D. G. Dunn and N. T. Wright have argued that Paul’s phrase “works of the law” should be understood to refer not to merit-acquiring deeds but chiefly to the identity-marking practices such as circumcision, dietary observances, and Sabbath keeping that set the Jewish people apart from their Gentile contemporaries. As Michael Winger has summarized this interpretation, “*Nomos* is what Jews do.”<sup>7</sup> And because the Law does have this function of marking out a distinct social group with a privileged knowledge of God’s ways, it can unfortunately become the ground for “boasting,” a tendency that Paul devastatingly lampoons in Romans 2:17–24. It can be distorted to become a “badge” of ethnic pride. But the entire New Testament—Gospels, Paul, Hebrews, James, and all the rest—bears witness that using the Law as a basis for self-righteous pride and exclusion of others is a *mis-interpretation*, an abuse of the Law. This observation points to the second role of the Law in the New Testament, a role distinctively identified by Paul.

### *Second Role: The Law Pronounces Condemnation*

The Reformation’s “second use of the Law” rightly identifies a theme that is especially prominent in Paul’s Letter to the Romans: the Law pronounces categorical judgment on the unrighteousness of all human beings, Jews and Greeks alike: “There is no one who is righteous, not even one” (Romans 3:10, paraphrasing Ecclesiastes 7:20), and all are under the power of Sin (Romans 3:9). It is important to note that Paul here envisions Sin as a cosmic power that holds humanity

5 My exegetical observations here are partly adumbrated in an earlier essay. Richard B. Hays, “Three Dramatic Roles: The Law in Romans 3–4,” *The Conversion of the Imagination: Paul as Interpreter of Israel’s Scripture* (Grand Rapids: William B. Eerdmans, 2005), 85–100.

6 Author’s translation.

7 Michael Winger, *By What Law? The Meaning of Nomos in the Letters of Paul*, Society of Biblical Literature Dissertation Series 128 (Atlanta: Scholars Press, 1992), 109.

in bondage, with the result that all have turned away from God into disobedience and violence, as chillingly depicted in Paul's catena of Old Testament citations in Romans 3:10–18. The Law therefore speaks, especially to those who are "in the Law," "so that every mouth may be silenced, and the whole world may be held accountable to God" (Romans 3:19). It is important to see that Paul is not here articulating a comprehensive doctrine about the Law—as some varieties of Protestant theology have sometimes assumed. Rather, within the rhetorical design of this particular letter, he is "seeking to destabilize an entrenched position that associates the Law with the privileged status of the elect Jewish people."<sup>8</sup> Nonetheless, the comprehensive force of the indictment remains: the Law strips away human pretense and exposes the depth of human folly and evil before the face of a righteous God who is our ultimate judge: "All have sinned and fall short of the glory of God" (Romans 3:23).

### *Third Role: The Law Prefigures the Righteousness of God in Jesus Christ*

Fortunately for humanity, the Law is not only an accuser and a source of condemnation, for the Law also prefigures the saving righteousness of God, as disclosed in Jesus Christ. Paul insists not only that the Law is "holy and just and good" (Romans 7:12) but also that the gospel message of God's righteousness/justice (*dikaïosynē theou*) in Jesus Christ is "attested [*martyroumenē*] by the Law and the prophets" (Romans 3:21). This is almost certainly what Paul means, I believe, when he declares in Romans 10:4 that "Christ is the end of the Law." The Greek here is *telos nomou*. Paul is not saying that Christ terminates the Law; rather, he is proclaiming that the Law has all along pointed to Christ, who is its *telos* in the sense that he is its *goal*, the disclosure of its true meaning and purpose. This reading is corroborated by the consistent testimony of all four Gospels and Acts that Israel's scripture bears witness to Jesus. In the Gospel of John, Jesus tells his interlocutors, "If you believed Moses, you would believe me, for he wrote about me" (John 5:46). And in the climactic conclusion of the Gospel of Luke, the risen Jesus tells his astounded disciples that "everything written about me in the Law of Moses, the prophets, and the psalms must be fulfilled" (Luke 24:44).

In the time permitted here, I can hardly scratch the surface of this topic, but suffice it to say that this claim about the prefigurative function of the Law opens up wide-ranging implications for how Christian theology reads the Law *retrospectively* as a figural narrative disclosure of something beyond its original literal sense.<sup>9</sup> That is why Paul can insist that his gospel does not negate the Law, but rather upholds it (Romans 3:31). For example, he rereads the story of Abraham (notice here that he treats this biblical narrative as part of "the Law") as a prefiguration of the story of Jesus Christ and sees God's reckoning of righteousness to Abraham as a promise that will also be reckoned to those "who believe in him who raised Jesus our Lord from the dead, who was handed over to death for our trespasses and raised for our justification" (Romans 4:24–25). Clearly here, the meaning and implications of the term *nomos* have expanded far beyond the minimal sense of a code of behavioral rules or legal constraints.

<sup>8</sup> Hays, "Three Dramatic Roles," 93.

<sup>9</sup> For a broader discussion of the New Testament's retrospective figural hermeneutic, see Richard B. Hays, *Reading Backwards: Figural Christology and the Fourfold Gospel Witness* (Waco: Baylor University Press, 2014).

*Fourth Role: The Law Informs the Moral World of the Community of Faith*

And yet, the Law does nonetheless also inform the moral vision of the community of faith. The moral stances of the New Testament authors on many issues of conduct (for example, care for the poor, sexual ethics, and abhorrence of idolatry) are deeply and specifically shaped by the provisions of Israel's Law. And Jesus's double love commandment that mandates love of God and love of neighbor, often taken as the epitome of New Testament ethics, is nothing other than a direct citation of two legal texts from Torah (Matthew 22:37–40, citing Deuteronomy 6:5 and Leviticus 19:18).

It is important to recognize, however, that Israel's Law is also hermeneutically filtered and even reconfigured in the New Testament texts. For example, Matthew foregrounds Hosea 6:6 ("I desire *mercy*, not sacrifice") as a hermeneutical key to understanding the Law (Matthew 9:9–13, 12:1–8), and Jesus, in this same Gospel, admonishes the scribes and pharisees for neglecting "the weightier matters of the Law: justice and mercy and faith" (Matthew 23:23). To take another example, Paul proclaims that "the one who loves another has fulfilled the Law" (Romans 13:8), perhaps echoing Jesus's teaching—but if so, without attribution to Jesus. In some cases the hermeneutical reconfiguration may involve an intensification of the Law's commandments, as in the series of six antitheses in the Sermon on the Mount ("You have heard that it was said . . . but I say to you"), or in the case of Jesus's teaching on divorce, which radicalizes the Law's modest regulation of divorce (Deuteronomy 24:1) by precluding divorce altogether on the basis of the Law's narrative of God's creation of man and woman for each other (Mark 10:2–9), or at least severely restricting the permission of divorce to cases of sexual infidelity (Matthew 19:3–9).

Perhaps the most striking hermeneutical reconfiguration of Torah, however, is related to the point I have already made about the New Testament's reading of the Law as prefiguration of Christ. The conviction that Jesus is the *embodiment of Torah*—certainly pervasive in the christology of John's Gospel—perhaps also underlies Paul's repeated appeals to his communities to imitate Christ by humble service to others. For example, Galatians 6:2: "Bear one another's burdens, and in this way you will fulfill the law of Christ" (*ton nomon tou Christou*).

## CHRISTIAN PERSPECTIVES ON THE ROLE OF LAW IN A DEMOCRATIC SOCIETY

How might the New Testament's teaching on the Law of Israel be received hermeneutically in a way that could inform our reflections on the role of law in a pluralistic democratic culture? The question is complicated for many reasons, not least because the semantic gap between "Law" as God's divinely ordained will for humankind and "law" as a democratically devised system for channeling the will of the people constructively makes it impossible to map "applications" of the biblical discourse on Law directly onto legal problems of our time. The only possible way to relate the two senses of law is through a process of metaphorical or analogical comparison that will propose imaginative links between the two. Because of our time constraints, I can only offer a few brief suggestions to serve as provocations for our conversation together.

1. The New Testament's teaching on Law illuminates our understanding of human identity and the human condition. The recipients of biblical Law are addressed as people made in the image of God, capable of hearing and responding to the Law, and indeed destined for covenant partnership with God. As God's creatures, therefore, they have a certain *a priori* dignity and value. At the same time, the perfect Law of God exposes their brokenness and sinfulness—indeed, it

exposes their captivity to patterns of behavior that are destructive to themselves and to others. As Paul insists, they are “under the power of Sin.” The dialectic between human freedom and human fallenness, between human possibility and human perversity, illumines both the necessity of law and the challenge faced by every attempt to legislate human flourishing.

2. The New Testament highlights the limitation of the power of Law to make us whole, or to make us good. This limitation is expressed vividly by Paul in Romans 8:

For the law of the Spirit of life in Christ Jesus has set you free from the law of sin and of death. For God has done what the Law, weakened by the flesh, could not do: by sending his own Son in the likeness of sinful flesh, and to deal with sin, he condemned sin in the flesh, so that the just requirement [*dikaiōma*] of the Law might be fulfilled in us, who walk not according to the flesh but according to the Spirit. (Romans 8:2–4; cf. Acts 13:39)

This same text suggests, however, not only the limits of what Law can do, but also something more hopeful, for it suggests that the deepest remedy for the broken human condition is not restraint and punishment, but forgiveness and reconciliation. This might by analogy lead us to conclude that our best hopes for amelioration of our troubled social order would lie not in the proliferation of punitive laws but in the various movements that aim at “restorative justice.”<sup>10</sup>

3. The Law, despite lacking the ultimate power to transform human character, nonetheless implicitly points beyond itself to a goal of the transformation of human hearts and communities. This emphasis shows up in many New Testament texts. In Matthew, Jesus announces that he has come not to abolish the Law or the prophets, but to fulfill them (Matthew 5:17). That fulfillment is not simply a matter of bringing predictions to completion; rather, it is a matter of transforming the hearts and minds of disciples so that they hunger and thirst for righteousness and seek to create an embodied community that is “the light of the world” as Isaiah had prophesied (Matthew 5:6, 14–16; Isaiah 49:6). Whatever the Law’s limitations, it offers “a shadow of the good things to come,” as the Letter to the Hebrews has it (Hebrews 10:1). Several New Testament texts evoke Jeremiah’s prophetic hope for a new covenant in which God’s Law will be written on human hearts, so that they will know and fulfill the will of God (see Hebrews 8:4, Romans 2:25–28, 2 Corinthians 3:2–3, all alluding to Jeremiah 31:33). The analogies here to our secular civil law are perhaps distant, but one thinks for example of civil rights laws that mandate fair and equal legal treatment of all persons regardless of race. At one level, of course, such laws regulate only outward conduct and policy, but surely we hope that over time these laws will in fact inculcate new and more generous attitudes even in social environments where hostility and condescension might once have been the norm. Only time will tell.
4. Precisely because the biblical story distinguishes between the Law of the Lord and the laws of worldly empires, as we saw in the story of Paul’s arraignment before Gallio, the biblical text opens up a space that provides critical leverage on the contingent laws produced by secular governments. Because there is “another king named Jesus,” the positive laws of secular rulers can never be ultimate, and the possibility of principled civil disobedience is real. Daniel speaks boldly to King Nebuchadnezzar: “If our God whom we serve is able to deliver us from the furnace of blazing fire and out of your hand, O king, let him deliver us. But if not, be it known to you, O king, that we will not serve your gods and we will not worship the golden statue that you

<sup>10</sup> See Christopher D. Marshall, *Compassionate Justice: An Interdisciplinary Dialogue with Two Gospel Parables on Law, Crime, and Restorative Justice*, *Theopolitical Visions* 15 (Eugene: Cascade Books, 2012).

have set up” (Daniel 3:16–18). And in Acts, we hear Peter and the apostles defying the orders of the chief priest and the council in Jerusalem: “We must obey God rather than any human authority” (Acts 5:29). The horrifying failure of German Christianity in the Nazi era was its inability to make such a distinction and to resist an evil regime; by contrast, the power of the testimony of the Confessing Church lay in its clear-minded recognition that baptism was a more fundamental identity marker than nationality, and that at times resistance is necessary in the name of a God who rules over the nations. This is so because God is ultimately the judge of all, as compellingly articulated in Israel’s tradition:

Listen therefore, O kings, and understand;  
 learn, O judges of the ends of the earth.  
 Give ear, you that rule over multitudes and boast of many nations.  
 For your dominion was given you from the Lord,  
 and your sovereignty from the Most High;  
 he will search out your works and inquire into your plans.  
 Because as servants of his kingdom you did not rule rightly,  
 or keep the law,  
 or walk according to the purpose of God,  
 he will come upon you terribly and swiftly,  
 because severe judgment falls on those in high places.  
 For the lowliest may be pardoned in mercy,  
 but the mighty will be mightily tested.  
 (Wisdom of Solomon 6:1–6)

The secular analogue of this teaching would be at least this: governments are always subject to be held accountable to standards of justice, and individuals may rightly oppose and resist unjust laws or governments that fail to follow just laws that do exist. Of course, once again such a dictum leads back to the question, “Whose justice?” Christian theology offers an answer to all who have ears to hear.

**CONCLUSION: WHAT DOES CHRISTIAN THEOLOGY OFFER TO THE WORLD OF LAW?**

A dose of humility. A sign of hope. And ground to stand on, even in the face of suffering.

*A dose of humility.* Christian theology can help the world of law know itself and recognize the contingent character of even its own best institutions; theology provides a critical capacity for the world to assess its social practices and particular laws in light of divine justice.

*A sign of hope.* Christian theology can offer the world of law a vision of a transformed community that seeks not just its own good but the good of others. The paradigm for such a community is the self-emptying, merciful figure of Jesus. Even those who doubt or reject the truth of Christian claims about this man invariably recognize the compelling power of communities that seek to embody his vision and follow his example. The world of law should honor such communities and seek to encourage institutions that emulate them in whatever ways are possible.

*A ground to stand on in the face of suffering.* Finally, Christian theology holds out the hope that the injustice that persists in the world will not have the last word. The Christian story is neither naïve nor sanguine about the actual conditions of human suffering under unjust rulers in the world. I did not read you the ending of the story of Gallio’s dismissal of the complaint against Paul. Here it is, just two sentences: “Then [the crowd] seized Sosthenes, the official of the



synagogue, and beat him in front of the tribunal. But Gallio paid no attention to any of these things” (Acts 18:17). Here is a ruler derelict in doing justice, indifferent to violence right in front of his nose. And of course the New Testament could hardly be unaware of the miscarriages of justice under the *pax Romana*, for the central event of the New Testament story is the unjust crucifixion of an innocent man who was the very embodiment of God’s justice. Nonetheless, the resurrection declares that injustice and death will not finally prevail. As Desmond Tutu repeatedly told his compatriots who were resisting apartheid in South Africa, “Don’t give up hope. I’ve read the end of the book: we win!”

In short, Christian theology *asks* the world of law what story does frame its own self-understanding. And Christian theology *offers* the world of law a story that makes sense of our experience of human dignity, human evil, and our hope for justice.