

REFLECTIONS ON RELIGION & LAW

Reflections on Integrating Faith and Law

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The prospect was exciting but daunting. I was leaving a stable and rewarding job as a litigation associate at a large firm in Milwaukee, Wisconsin to join a fledgling Christian law school in Virginia Beach, Virginia. The school, Regent University School of Law, did not yet have full ABA accreditation. And it had recently experienced significant turmoil. But it had some great people—and offered an intriguing mission. That mission called for the faculty not only to teach law with excellence, but to do so from a Christian perspective. In particular, the mission charged faculty to integrate biblical principles with the substance of the law and to train and mentor students to apply Christian principles to the way they live and practice law.

I was excited about the mission. As a Christian lawyer, I had seen the dangers of viewing law merely as a technical craft divorced from faith or morality. And I personally felt the importance of leading an integrated life where one's faith informs all aspects of life—work, family, recreation, as well as devotional life.

The immediate problem I faced upon arrival in Virginia Beach, though, was how to carry out this mission. My first semester I was assigned to teach Civil Procedure and Appellate Advocacy. No biblical passages came to mind about, for instance, whether Rule 37 of the *Federal Rules of Civil Procedure* stated the proper process for bringing a motion to compel discovery. Much of Civil Procedure seemed like a collection of technical rules, far removed from moral or religious content or concern. I wasn't sure whether I was cut out for this—or whether fulfilling Regent's ambitious mission was possible, at least in the classes I had been assigned.

Twenty-six years have passed. I continue to teach law at the same—now not so fledgling—law school. We have long since gained full ABA accreditation. We have trained and sent into the profession over three thousand lawyers and judges. But the mission hasn't changed. Nor has my love for it. Indeed, it is the mission (as well as the joy of being with students) that has kept me at Regent all these years.

This short essay contains a few reflections on how I have come to approach the mission of integrating faith and law. It highlights four principles I have come to embrace about how to fulfill that mission in an informed and faithful way. To give context to those

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principles, though, I start the essay by sharing a few experiences from my personal journey that have shaped my approach to bringing faith and law together.

Given my practice background, I was assigned to teach litigation-related courses in my first couple of years of teaching. I focused many of my earliest efforts to integrate faith into what I taught on law practice—how one's faith should have an impact on how a lawyer interacts with cases, clients, judges, and opposing lawyers in a litigation career.

The event that proved to be the most influential in my journey of integrating faith and law occurred in my third year of teaching when the dean asked me to teach and reshape the curriculum for our Foundations of Law course (at the time it was called Common Law). Then, as now, this course stood apart from the rest of the required first-year law curriculum and asked broader and deeper questions. While in Civil Procedure I was teaching students rules for conducting a lawsuit, Foundations of Law explores why we have such rules. It asks core questions. What is law? Is law different from justice? Are there transcendent moral principles—a higher law—that impact what law is or should be. Foundations of Law is students' first exposure to legal history and philosophy.

I was not the most obvious choice to reshape this course. I was still trying to learn how to integrate Christian thinking into Civil Procedure. But the assignment drove me deep into the writings of some of the great legal thinkers of all time. Some, like Thomas Aquinas and William Blackstone, had very robust views of how faith should impact law. Others, like Oliver Wendell Holmes and Hans Kelsen, urged the removal of morality from law altogether, or at least as much as possible. Unable to find a book that explored the integration of faith and law with appropriate depth and with the original sources I thought our students should read, I compiled my own. That compendium, now in its third edition, still provides the core readings for the class (Brauch 2019).

Teaching Foundations of Law (and preparing to do so) greatly deepened my ability to bring faith and law together in a meaningful way. So did the fact that the dean kept assigning me new courses! Over the next few years, I added Criminal Law, Negotiations, and a legal history course (Origins of the Western Legal Tradition) to my teaching repertoire. And these courses exposed me to many more ways in which faith and law intersected. As I describe more fully below, I began to see some overarching themes that connected these seemingly disparate topics.

Five years into my time at Regent Law, I was growing as a teacher and scholar—and slowly making strides in the integration mission. But I received an unexpected phone call from Regent's provost. He and the president wanted me to serve as the law school's interim dean while the school searched for a new dean. I reluctantly accepted what I expected would be a one-year detour from my real calling of being a full-time classroom instructor. But that detour turned out to be the entrance ramp to an altogether different path as I began a sixteen-year stint as Regent's dean.

While this unexpected administrative assignment could have derailed further progress in learning to carry out our mission, for two reasons it didn't. First, I continued to teach a course each semester. Each fall I taught Foundations of Law. And in spring and summer I began to teach courses like International Human Rights and International Criminal Law, areas of increasing interest for me—and areas that continued to be fruitful for expanding my capacity to bring faith and law together.

Second, and most important, my position as dean allowed me to lead a focused effort to improve the faculty's collective ability to carry out our mission. For a year, the entire faculty studied together what the Christian Church has historically taught about the integration of faith and law. We called on a colleague, Professor David Smolin from Cumberland Law School, to put together a set of readings from Roman Catholic, Lutheran, Calvinist, and Anabaptist writers on the integration of faith and law. We pored through works by Augustine, Aquinas, Luther, Calvin, and many others. To regularly interact with the readings and each other, the faculty met monthly. And over the course of the year, Professor Smolin led eight 2-hour sessions on topics like "Christianity and Forms of Civil Government" and "The Content of Civil Law: What Laws Should Be Enforced by the State?" This was a major undertaking. But it was a crucial step for all of us to be able to integrate faith and law in a knowledgeable way that built upon the considerable resources that already exist.

Five years ago, I returned to the full-time teaching faculty. I picked up another new course, Torts, but I continue to teach and write in the areas of international human rights and Foundations of Law.

Through this experience of the last twenty-six years, I've come to embrace four principles on how to bring faith and law together in an informed and faithful way.

Approach Biblical Texts in a Prudent and Scholarly Way

Especially early in my integration efforts, I faced temptations to try to take integration short cuts—perhaps grabbing a few Bible verses that seem relevant to the topic at hand and wedging them in an unnatural way into class discussion. At Regent, students drawn by the mission rightly come with expectations of a robust interaction between law and faith. I wanted to fulfill those expectations. But I've come to believe we fail our students if we take short cuts.

One of the great misuses of scripture is the technique of proof-texting—grabbing a biblical verse or two out of the context in which they were written and applying them in a way to support some preexisting point the professor wants to make. I have seen this done both in church and academic settings. I once knew a law professor who was teaching about the due diligence required of a corporate board before taking certain actions. To demonstrate that he was applying Christian principles in doing so, the professor simply looked up a handful of verses dealing with the biblical virtue of diligence and presented them to the students. But the verses had little to do with the legal requirements of corporate due diligence; he was using verses in a shallow and non-contextual way.

One of the most significant jobs we have as law professors is to teach our students to properly interpret legal texts. Words matter greatly in the law. For example, the *New York Times* reported in 2018 that Oakhurst Dairy settled a case brought by its drivers for \$5 million after the United States Court of Appeals for the First Circuit sided with drivers in ruling that the absence of a comma in state law created uncertainty over what work by the drivers required overtime pay (Victor 2018).

Interpreting texts properly is always important but is particularly true with sacred texts. While a variety of human authors physically penned the books that we recognize

today as the Bible, the Bible claims divine authorship as well. The apostle Paul in II Timothy asserts that God acted through divine inspiration: "All Scripture is breathed out by God and profitable for teaching, for reproof, for correction, and for training in righteousness, that the man of God may be complete, equipped for every good work" (II Timothy 3:16).¹ That I am presenting students with principles and conclusions from a divine text gives me added incentive to ensure that I am doing so faithfully and appropriately.

So how can we approach biblical texts appropriately? First, we must understand the Bible's unique nature. Besides claiming both human and divine authorship, it has what theologians Gordon Fee and Douglas Stuart call both historical particularity and eternal relevance (2014: 25). While it informs and teaches over generations and centuries, it was written to address concrete situations of people in particular circumstances. So before asking what an individual text means to us today, we need to know what it meant to its original hearers (see Henrichsen 1985: 49-50). Further, the Bible contains different forms of literature. Little of it is written in the form of a theological treatise. It consists of narratives, letters, laws, prophecies, and even apocalyptic literature (Fee and Stuart 2014: 26). Some of it is in prose, some in poetry.²

Second, it is critical that we employ a proper exegetical approach to each genre of biblical literature. If we don't, we can simply use the text to further a point we want to make but that is not contemplated in any way by the text itself. This is *eisegesis*, described by *Dictionary.com* as expressing "the interpreter's own ideas, bias, or the like, rather than the meaning of the text."³

Instead of *eisegesis*, one seeking to properly understand biblical texts and faithfully apply them to modern contexts and legal issues must practice exegesis. There is nothing magical here. One must read texts in context—both historical and literary (Fee and Stuart 2014: 30-31). The historical context tells us why the writer wrote to the particular audience at that time and place. And the literary context tells us what those particular words would have meant to those readers—within the context of the whole communication. Only with an understanding of the historical and literary context can we possibly understand how the original readers would have understood the text we are analyzing (Henrichsen 1985: 49-50).⁴ And only once we have done that can we extrapolate what we have learned to a modern context or application (Fee and Stuart 2014: 18).

¹ All biblical passages have been taken from English Standard Version of the Bible.

² Compare, for example, the poetic Psalms with Judges, written primarily in prose.

³ [Dictionary.com](https://www.dictionary.com/browse/eisegesis) is available online at <<https://www.dictionary.com/browse/eisegesis>> (accessed 14 July 2020).

⁴ Roy Zuck argues we should ask these questions of a text: 1) What did the words convey in the grammar of the original readers? 2) What was being conveyed by those words to the initial readers? 3) How did the cultural setting influence and affect what was written? 4) What is the meaning of the words in their context? 5) What literary form is the material written and how does that affect what is said? and 6) How do the principles of logic and normal communication affect the meaning? (Zuck 1991: 66-67).

What this means is that bringing biblical texts into discussions of law demands effort and painstaking attention to be done well. But I've come to believe that it would be better to do no integration of faith and law than to do it poorly. When dealing with sacred texts, the stakes are too high.

Focus on Overarching Themes

The importance of reading texts within their context relates to a second principle that I have come to embrace. I feel much less confidence in conclusions I draw if they come from an isolated biblical text or two than if they appear repeatedly and across multiple texts or the whole of scripture.

When I first taught Civil Procedure, I decided to see how the concept of "justice" was discussed throughout the Bible. The concept of course appears dozens of times. In a judicial context, I found many passages (as I had expected) expressing God's desire that substantive justice be done—the guilty should be punished and the innocent acquitted, even the weak and vulnerable should receive justice (for example, see Proverbs 17:15, Isaiah 1:17; 5:23). But I was surprised to see how many passages showed God's equal concern for procedural justice. In ancient Israel's justice system, God insisted on certain basic due process principles. For example, all parties have a right to be heard, whether or not they are rich and powerful (Deuteronomy 1:16-17). Matters may only be established by a substantial weight of evidence (two or three witnesses; Deuteronomy 19:15). Bribery must not be allowed to interfere with the justice system's functioning (Deuteronomy 16:18-20).

Seeing God's numerous and careful instructions about how the justice system was to be structured gave me confidence in sharing with my students the overriding importance of ensuring due process. Procedural rules, like those my students were learning, are not mere technicalities that sometimes thwart substantive justice. They guard against state overreach and temptations of individuals and entities to lie and abuse power. Such discussions gave my students a deeper understanding of justice itself, even if I couldn't produce verses on technical rules relating to venue or discovery.

I have similarly been struck in my study of scripture by God's evident concern after the commission of a wrong that the wrong be punished and the victims be made whole. Principles of retributive justice and restitution appear throughout scripture, in both Old and New Testaments (see e.g. Genesis 9:5-6; Exodus 21:23-25; 33-36; 22:1-15; Leviticus 6:1-7; Deuteronomy 25:1-3; Luke 19:1-9; Romans 3:21-26). The Mosaic Law is filled with admonitions to compensate victims and to punish wrongdoers based on principles of desert (for example, see Exodus 21:23-25; 33-36; 22:1-15; Leviticus 6:1-7; Deuteronomy 25:1-3). But how God himself administers justice reflects how fundamental the principle of retribution is to justice itself.

The New Testament tells the story of the atonement—that Jesus Christ, God's son, stands in the place of sinners and takes their sin and punishment on himself so they may be forgiven (see Romans 3:21-26; II Corinthians 5:17-21; I Peter 2:23-24).⁵ It is natural to

⁵ See also Isaiah's prophecy regarding the atonement (53:4-11).

ask why Jesus had to die. Why didn't God simply forgive sin without the need for punishment and the crucifixion? He couldn't. His holiness and justice would not allow it. Sin demanded punishment and Jesus took it upon himself.

Seeing God's retributive justice in the atonement is something where I have found both the historic writings of the Church and scripture to be helpful. Medieval Archbishop of Canterbury St. Anselm insisted, for example:

God in his mercy cannot forgive man's sin freely, as a matter of grace, ... [because] this would leave a disturbance of the order of the universe, caused by sin, uncorrected, and that an uncorrected disorder would constitute a deficiency in justice. The just order of the universe, the *iustitia* or righteousness of God, requires that the price be paid. (Berman 1983: 179)

God applied retributive justice to his own son. Scripture agrees. Paul writes that in punishing Jesus Christ as an atonement for sins he is both "just and the justifier of one who has faith in Jesus" (Romans 3:26; see also II Corinthians 5:17-21; I Peter 2:23-24).

Teaching many courses in many different disciplines of law has also helped me greatly in seeing overarching themes of biblical justice. It was remarkable how often, whether I was teaching Civil Procedure, Criminal Law, Foundations of Law, or Human Rights, the same issues came up. One of the most foundational is the nature of humans. Are humans created with inherent worth or are they the product of time, matter, and chance? Is the human heart basically good or evil? Are humans morally accountable for evil choices? What if those choices were influenced by genetic, cultural, or environmental factors? How we answer these questions has a profound effect on whether and how we punish criminal offenders, how we set up a government, and whether and how we assert and enforce human rights.

The nature of human beings is something that scripture discusses a lot—across all eras and genres. Digging into what scripture says about human nature and addressing its implications in various classes ultimately led me to write a book on the subject: *Flawed Perfection: What It Means To Be Human & Why It Matters for Culture, Politics, and Law* (Brauch 2017). The book's thesis is that the only way to understand and properly address issues of law and policy is to get human nature right. The book seeks to lay out a biblical understanding of human nature and then apply that to a wide variety of issues from human trafficking and gene editing to criminal punishment and the structure and role of government.

As is likely evident from this description, the book focuses on broad themes. It reflects that I find greater confidence in integrating faith and law by relying on overarching foundational principles rather than isolated verses from Leviticus or Deuteronomy.

Integration is Personal

One of my more surprising conclusions about integration after twenty-six years is that integration has a very personal aspect. Indeed, my efforts to integrate faith and law have

deepened my faith in God. There is a strongly devotional aspect to this work. The work is not simply one of mining abstract principles of “justice” or “truth” from biblical texts.

The Mosaic Law is not simply a set of rules. It is also a reflection of the character of God, his holiness and justice (Poythress 1991: 160; Sproul 2020). My reading and study of that Law—and God’s character—demands a response. I am called to faith and obedience. “Blessed are those whose way is blameless, who walk in the law of the Lord! Blessed are those who keep his testimonies, who seek him with their whole heart” (Psalm 119:1-2). God’s law should affect my actions and my relationship with him.

In the New Testament, Jesus doesn’t simply speak truths, he embodies truth. He declares: “I am the way, the truth, and the life” (John 14:6). And he continues by urging a relationship with him and his father: “No one comes to the Father except through me” (ibid.). Jesus’ follower John, who recorded these words and the others in his Gospel of John, insisted: These words “are written so that you may believe that Jesus is the Christ, the Son of God, and that by believing you may have life in his name” (John 20:31).

My faith in God has been deepened by reflecting on God’s care for the poor, oppressed, and enslaved that appears in so many passages about biblical justice. Similarly, I am awed by the idea that Jesus would take my sin upon him and die in my place. The atonement isn’t just an abstract argument for retributive justice, it is an historical act that prompts faith and love.

Understanding integration as personal affects the goals I have for my students. When I address passages of scripture in a law school classroom, I am not just training my students to articulate or advance certain positions. I am hopeful that scripture will have an impact on their lives, too. For example, I referenced the character of Jesus Christ—and his embodiment of truth—when I taught the challenges that occur in the discovery phase of a lawsuit (when both parties seek to learn about the evidence the other side has that is relevant to the case). I shared my own struggles with wanting to hide or shade truth in response to interrogatories or document requests from opposing lawyers. I challenged students to decide now—before they are in the heat of litigation battle—how they would handle such issues; whether they would follow Jesus in their embrace of truth.

Regent has a unique 10-minute devotion period before class in which faculty and students can reflect on how to be people whose faith matters in the practice of law itself. We look, for example, at Jesus’ famous Sermon on the Mount and ask whether a successful lawyer can be meek, pure in heart, and a peacemaker, as Jesus urged—and embodied himself. If so, how? We consider how people of faith throughout history have lived, faithful to a set of values even when those values are not shared by the majority in their culture. And we reflect on the reality that some of them, like the biblical character Daniel, winsomely helped bring justice to that culture.

Integration of faith and law is not just about abstract principles. It is personal.

Integration Calls for Humility

When we were young parents, my wife and I began attending a small parenting study group. The book we were given was titled *Growing Kids God’s Way* (Ezzo and Ezzo 1997). I winced at the boldness of the book’s implicit claim—that inside this book was the

articulation of how God wanted all parents to raise their kids. Of course, the book contained many fine principles, but the implicit claim went a little far for me.

My experience in trying to integrate faith and law has only made me more hesitant to make such bold claims that I know with certainty the way God views a certain topic. Instead, I've come to believe that one seeking to bring faith and law together would be wise to do so with humility.

Undoubtedly one reason I believe this is that I have been a sort of "utility infielder" faculty member, teaching a wide variety of classes, as well as a long-time administrator. I have not focused for the last twenty-six years on a narrow issue of law and explored it in complete depth. But I think it is more than this. My advocacy of humility was similarly shaped by the faculty reading and training we went through years ago. The historic body of literature exploring the intersection of faith and law is enormous. And great thinkers often take very different approaches to certain issues or biblical principles. This reality is another reason why I feel greater confidence in drawing firm conclusions on topics when there is significant unity in approach among key thinkers—and perhaps throughout history. The relatively consistent approach to the Christian understanding of human nature (while there are, of course, subsidiary differences) was one of the things that gave me confidence to write a book exploring the implications of that understanding for a variety of issues.

Perhaps the biggest influence on my adopting a humility-based approach to the integration of faith and law has been how much I learn each year from my students. It has been a joy to teach the Foundations of Law class for over twenty years. The class is designed to foster wide-ranging discussion and debate about important topics at the intersection of faith and law. Sometimes at the end of the discussion I will articulate my position on the topic. I usually title my accompanying PowerPoint presentation: "Tentative Thoughts on ..." I do that because I find my understanding deepens each time I teach the course. Next year's PowerPoint presentation may well contain a reference to an outstanding point a student just made this year.

In the integration of faith and law, I expect—and hope—to spend the rest of my life continuing to learn.

Conclusion

The principles outlined above are not "the Biblical Principles of Integration." They are not the Mount Rushmore of the "Four Best Principles." Instead, in many ways, I could have titled this article the same thing as my PowerPoint presentations: "Tentative Thoughts on the Integration of Faith and Law."

The principles here are a few that I've come to embrace as I've tried to carry out the mission that brought me to Virginia twenty-six years ago and that still motivates me today. It is my hope that they will provoke thought and encourage others who seek to take on the important role of bringing faith and law in a way that will make a difference in the law and in lives.

WORKS CITED

- Berman, Harold J. 1983. *Law and Revolution: The Formation of the Western Legal Tradition*. Cambridge, Ma.: Harvard University Press.
- Brauch, Jeffrey A. 2019. *A Higher Law, Readings on the Influence of Christian Thought in Anglo-American Law*, 3rd edn. Getzville, N.Y.: William S. Hein & Co.
- Brauch, Jeffrey A. 2017. *Flawed Perfection: What It Means to Be Human and Why It Matters for Culture, Politics, and Law*. Bellingham, Wa.: Lexham Press.
- Dunnett, Walter M. 1974 [1984]. *The Interpretation of Holy Scripture*. Nashville, Tenn.: Nelson Publishers.
- Ezzo, Gary, and Anne Marie Ezzo. 1997. *Growing Kids God's Way*, 4th edn. Chatsworth, Ca.: Micah 6:8. [?]
- Fee, Gordon D., and Douglas Stuart. 2014. *How to Read the Bible For All Its Worth*, 4th edn. Grand Rapids, Mich.: Zondervan.
- Henrichsen, Walter. 1985. *A Layman's Guide to Interpreting the Bible*. Grand Rapids, Mich.: Lamplighter Books.
- Poythress, Vern S. 1991. *The Shadow of Christ in the Law of Moses*. Brentwood, Tenn.: Wolgemuth & Hyatt.
- Sproul, R.C. 2020. "The Goodness of the Law." *Ligonier Ministries* (n.d.); available online: <<https://www.ligonier.org/learn/articles/goodness-law/>> (accessed 4 June 2020).
- Victor, Daniel. 2018. "Oxford Comma Dispute Is Settled as Maine Drivers Get \$5 Million." *New York Times* (9 February); available online: <<https://www.nytimes.com/2018/02/09/us/oxford-comma-maine.html>> (accessed 13 July 2020).
- Zuck, Roy B. 1991. *Basic Bible Interpretation*. Wheaton, Ill.: Victor Books.