



Law and Religion: Two Great Interlocking Systems of Values and Belief

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Abstract

Indeed, today it has become increasingly clear-as it was in prior centuries-that religion and law are two universal solvents of human living, two interlocking sources and systems of values and beliefs that have existed in all axial civilizations. Law and religion, Justice Harry Blackmun once wrote, enter into that important calculus of how a man should live and how a society should run. To be sure, the spheres and sciences of law and religion have, on occasion, both converged and contradicted each other Every religious tradition has known both theonomism and antinomianism the excessive legalization and the excessive spiritualization of religion.

Keywords: Excessive sacralisation; Legal tradition; Christian reflection; Constitutional doctrines; Vicarious liability; Cross-fertilized

Introduction

Every legal tradition has known both theocracy and totalitarianism-the excessive sacralisation and the excessive secularization of law. But the dominant reality in most eras and cultures is that law and religion stand in a dialectical harmony, constantly crossing-over and cross-fertilizing each other. Every major religious tradition strives to come to terms with law by striking a balance between the rational and the mystical, the prophetic and the priestly, the structural and the spiritual [1]. Every legal tradition struggles to link its formal structures and processes with the beliefs and ideals of its people. Law and religion are distinct spheres and sciences of human life, but they exist in dialectical interaction, constantly crossing-over and cross fertilizing each other. It is these points of cross-over and cross-fertilization that are the special province of the interdisciplinary field of law and religion, and the special opportunity for Christian reflection [2]. How do legal and religious ideas and institutions, methods and mechanisms, beliefs and believers influence each other-for better and for worse, in the past, present, and future? These are the cardinal questions that the burgeoning field of law and religion has set out to answer. Over the past generation of scholarship, a number of tentative answers have begun to come forth, focused on the various modes of interaction between law and religion [3]. For example, law and religion are institutionally related-principally in the relation between church and state, but also in the relations among sundry other religious and political groups.

Jurists and theologians have worked hand-in-hand, and sometimes combated hand-to-hand, to define the proper relation between these religious and political groups, to determine their respective responsibilities, to facilitate their cooperation, to delimit the forms of support and protection one can afford the other [4].

Methodology

Many of the great Western constitutional doctrines of church and state-the two-cities theory of Augustine, the two-powers theory of Gelasius, the two-swords theory of the High Middle Ages, the two kingdoms theory of the Protestant Reformation-are rooted in both civil law and canon law, in theological jurisprudence and political theology [5]. Much of our American constitutional law of church and state is the product both of Enlightenment legal and political doctrine and of Christian theological and moral dogma. Law and religion are conceptually related. Both disciplines draw upon the same underlying concepts about the nature of being and order, of the person and community, of knowledge and truth. Both law and religion embrace closely analogous concepts of sin and crime, covenant and contract, redemption and rehabilitation, righteousness and justice that invariably

combine in the mind of the legislator, judge, or juror [6]. The modern legal concept of crime, for example, has been shaped by an ancient Jewish and medieval Catholic theology of sin [7]. The modern legal concept of absolutely obligating contracts was forged in the crucible of Puritan covenant theology. The modern legal concept of the purposes of punishment is rooted in Catholic doctrines of the causes of natural law and Protestant doctrines of the uses of moral law [8]. Both law and religion draw upon each other's concepts to devise their own doctrines. The legal doctrine that the punishment must fit the crime rests upon Jewish and Catholic doctrines of purgation and repentance. The theological doctrine of humanity's fallen sinful nature is rooted in legal concepts of agency, complicity, and vicarious liability [9].

Discussion

Law and religion are methodologically related. Both have developed analogous hermeneutical methods-modes of interpreting their authoritative texts [10]. Both have developed logical methods, modes of deducing precepts from principles, of reasoning from analogy and precedent. Both have developed ethical methods, modes of moulding their deepest values and beliefs into prescribed or preferred habits of conduct [11]. Both have developed forensic and rhetorical methods, modes of arranging and presenting arguments and data. Both have developed methods of adducing evidence and adjudicating disputes. Both have developed methods of organizing, systematizing, and teaching their subject matters [12]. These methods have constantly cross-fertilized each other; indeed, the same method is often simply applied to both legal and religious subjects. The early modern topical methods of arranging theological and legal data under rhetorical and analytical loci or topoi emerged simultaneously among early Protestant theologians and jurists as shown in (Figure 1). These and other forms of interaction have helped to render the spheres and sciences of law and religion dependent on each other-indeed, as Harold Berman puts it, as dimensions of each other [13]. On the one hand, law gives religion its structure-the order and orthodoxy that it needs to survive and to flourish in society. Legal habits of the heart structure the inner spiritual

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Figure 1: Legal data among early protestant theologians and jurists.



Figure 2: Abandon time-tested practices with trepidation and explanation.

life and discipline of religious believers, from the reclusive hermit to the aggressive zealot. Legal ideas of justice, order, atonement, restitution, responsibility, obligation, and others pervade the theological doctrines of many religious traditions [14]. Legal structures and processes-the Halacha in Judaism, the canon law in Christianity, the Shari'a in Islam-define and govern religious communities and their distinctive beliefs and rituals, mores and morals. On the other hand, religion gives law its spirit-the sanctity and authority it needs to command obedience and respect. Religion inspires the rituals of the court room, the decorum of the legislature, the pageantry of the executive office, all of which aim to celebrate and confirm the truth and justice of the law. Religion gives law its structural fairness, its inner morality, as Lon Fuller called it. Legal rules and sanctions, just like divine laws and promises, are publicly proclaimed, popularly known, uniform, stable, understandable, prospectively applied, consistently enforced [15]. Religion gives law its respect for tradition, for the continuity of institutions, language, and practice, for precedent and preservation. Just as religion have the Talmudic tradition, the Christian tradition, and the Islamic tradition, so law has the common law tradition, the civil law tradition, and the constitutional tradition. As in religion, so in law, we abandon the time-tested practices of the past only with trepidation, only with explanation as shown in (Figure 2).

Religion gives law its authority and legitimacy, by inducing in citizens and subjects a reverence for law and structures of authority.

Conclusion

Like religion, law has written or spoken sources, texts or oracles, which are considered to be decisive in them. Religion has the Bible and the Torah and the pastors and rabbis who expound them. Law has the constitutions and the statutes and the judges and agencies that apply them

Acknowledgement

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Conflict of Interest

None

References

1. Shahid TN (2013) Islam and women in the constitution of Bangladesh: The impact on family laws for Muslim women.FLJS UK:1-11.
2. Hossain K (2003) In Search of Equality: Marriage Related Laws for Muslim Women in Bangladesh.J Int Women's Stud MA 5:1-38.
3. Levitus S, John I, Wang J, Thomas L, Keith W, et al (2001) Anthropogenic Warming of Earth's Climate System. USA 292:267-270
4. Yoram J, Didier T & Olivier B (2002) A satellite view of aerosols in the climate system. Nature UK 419:215-223
5. Hassan A, Qadri MA, Saleem M (2021) The Muslim Family Law Ordinance 1961: Pioneer of Women Empowerment in Pakistan.JRSP PAK 58:1-8.
6. Cariou, P, Mejia MQ, Wolff, FC (2008) On the Effectiveness of Port State Control Inspections. Transp Res E Logist Transp Rev UK 44:491-503.
7. Costanza R (2004) Estimates of the Genuine Progress Indicator (GPI) for Vermont, Chittenden County and Burlington, from 1950 to 2000. Ecol Econ 51:139-155.
8. Lemaitre JC, Grantz KH, Kaminsky J, et al (2021) A scenario modeling pipeline for COVID-19 emergency planning. Scientific reports, 11(1), 1-13.
9. Hassan A,Qadri MA,Saleem M (2021) The Muslim Family Law Ordinance 1961: Pioneer of Women Empowerment in Pakistan.JRSP PAK 58:1-8.
10. Abdullah R,Monsoor T,Johari F (2015) Financial support for women under Islamic family law in Bangladesh and Malaysia. Taylor and Francis UK 21:363-383.
11. Shahid TN (2013) Islam and women in the constitution of Bangladesh: The impact on family laws for Muslim women.FLJS UK:1-11.
12. Shehabuddin E (2008).Reshaping the holy: Democracy, development, and Muslim women in Bangladesh.CUP NY:1-304.
13. Hossain K(2003) In Search of Equality: Marriage Related Laws for Muslim Women in Bangladesh.J Int Women's Stud MA 5:1-38.
14. Yoram J, Didier T & Olivier B (2002) A satellite view of aerosols in the climate system.Nature UK 419:215-223.
15. Ramanathan P, Crutzen, J, Rosenfeld D (2001) Aerosols, climate, and the hydrological cycle. Nature UK 294:2119-24.