To start with, a confession: The writer does not know much about Africa. Since 1988, however, he has been teaching at a Christian law school. Perhaps some of what he has come to understand about Christian legal education could prove helpful to those called to the ministry of Christian legal education in Africa. In hopes this may be the case, he offers the following.

What makes a legal education a Christian legal education? In part, that it is provided by Christians—Christian faculty and staff. Along with this element could come Christian fellowship and community—the intentional envelopment of the school and its students within the life of Christ as members of His body. Surely, in addition, cultivating high ethical standards befitting Christians in the legal profession would form a part of the training and discipline included within a Christian legal education. Each of these three elements helps constitute a Christian legal education.

But Christians could staff a law school without providing a Christian legal education. And Christian fellowship can exist—even thrive—at a law school without that school’s offering a Christian legal education. Likewise, a law school can embrace and cultivate ethical formation and high ethical standards without doing so as a component of a Christian legal education. While a legal education insisting upon the ethical behavior that should mark Christians, delivered in the context of a Christian community led by Christian faculty and staff, should mark all Christian legal education, these three elements do not render a legal education a Christian legal education.

Beyond these three very important elements lies the essential element of a Christian legal education—bringing the mind of Christ and His word to bear upon the law itself. This element,
opening to students the truth of the law, makes for a distinctly Christian legal education, and so a legal education that is a rich gift from God and that brings Him glory.

* * *

Among the benefits of a legal education that views the law through a Christian lens, four in particular come to mind.

First and perhaps most evident is that such a view brings the standard of truth to the enterprise of evaluating the law as both teachers and students inevitably question the relation between the positive law that exists and the ideal law that ought to exist. Of course, a hermetic seal between positive law and ideal law is one of the myths of positivism. The ideal supplies a frame of reference and a grid for meaning essential to fleshing out the often thin and permeable language of the positive law. All interpretation of the positive law involves the ideal law.

Furthermore, every human project rests upon presuppositions, that is, upon faith. The law most evidently rests upon faith regarding the nature of human beings and the good life, the nature of civil government, the nature of justice. In this sense, all law is religious, a brand of practical theology. If the law by its nature must reflect theology, Christian students of the law should understand what Christian theology holds for the law. Like any Christians, Christian law students should long to know what God’s word teaches about their pursuits, and a Christian legal education should satisfy their longing. The Bible presents God’s critique of man’s law and so also God’s guide to man’s law. A Christian legal education neglects neither.

* * *

1 A foremost Christian scholar who recently did this to the great acclaim of Christians and non-Christians alike was the late William Stuntz, of the University of Virginia and Harvard. See, e.g., William J. Stuntz, Law and Grace, 98 VA. L. REV. 367 (2012).
Second, just as the Bible presents this critique and guide to us, so has it done in times past. To a great degree, even today, the positive law of Christendom—or what used to be Christendom—rests upon biblical foundations. A sound and thorough understanding of the positive law itself demands an understanding of how the Bible, and hundreds of years of lawyerly reflection on the Bible, influenced the development and present shape of the law.  

A Christian law school, of all law schools, should lead its students into this understanding. A Christian legal education above all traces the links between law and Holy Scripture, eager to lay bare the biblical truth lying even today within positive law, with thanks to God for the degree to which our law manifests His. A Christian legal education, then, is poised to surpass other legal education in the depth and richness of its understanding of the law.

* * *

As an example of the benefits of exploring the biblical basis of the law, take the principles and doctrines of the rule of law as found in the common law. The Bible teaches that God alone has aseity and that all authority proceeds from Him. Man’s being and his authority, therefore, come from God and exist only as ordained and regulated by God. Human authority is limited authority, and the common law emphasizes limitations on authority—for example, those on the jurisdiction of courts—in keeping with this doctrine. Such limitations are central to the rule of law.

Similarly, God is the ultimate lawgiver. The method of the common law depends, for all but the easiest questions, upon a transcendent body of law extant before judges pronounce the

---

3 See, e.g., HAROLD BERMAN, LAW AND REVOLUTION (1984). The writer’s own forays into this field include Crime, Moral Luck, and the Sermon on the Mount, 48 CATH. U. L. REV. 801 (1999); The Heart of Mens Rea and the Insanity of Psychopaths, 42 CAP. U. L. REV. 619 (2014); and Torah and Murder: The Cities of Refuge and Anglo-American Law, 35 VAL. U. L. REV. 461 (2001). The (too?) many citations in this paper to the writer’s own works derive from his desire to demonstrate how he has tried to practice what he preaches in this paper.

law and apply it to the case before them. If this were not so, the judgment in every such case would violate the rule of law by applying to the dispute a judge-made rule newly created after the dispute arose.5

A third aspect of God is that of Supreme Judge. The rule of law has depended upon the oaths of civil officers—especially magistrates and jurors—to act according to law, oaths understood to invoke God Himself as enforcer. George Washington, for example, doubted the courts could function if witnesses failed to believe that God held them to account for perjury.6 The biblical doctrine of God, then, underlies essential elements of the rule of law to be found in the common law.

*     *     *

So also with the biblical doctrine of man. Because God has made man in His own image, man is able to exercise authority as God’s minister, able to receive and to apply God’s law, able to bind himself by oath. These abilities are necessary for responding to God as the fount of authority, as legislator, and as judge.

In addition, however, the creation of man in God’s image supplies the basis of two other doctrines central to the rule of law. As made in God’s image, man deserves the respect that embraces the right to be informed of charges against him and to answer those charges before a magistrate with jurisdiction. That is, he is to be accorded due process of law. Also, because all men share equally in God’s image, all men deserve fundamental equality before the law. Due process of law and equality before the law, two main pillars of the rule of law, flow from the biblical doctrine of man.

*     *     *

6 See Washington’s Farewell Address (Sept. 17, 1796), in 2 AMERICAN POLITICS (NON-PARTISAN) FROM THE BEGINNING TO DATE 14 (Thomas Valentine Cooper & Hector Tyndale Fenton eds., 1888).
But biblical anthropology does not leave man as he was created. Instead it goes on to teach that man is fallen, that he now bears an image of God tarnished, distorted, fractured. This doctrine too supports the rule that human authority is limited authority, a rule resting upon the doctrine of God as well.

The doctrine of the Fall also undergirds the common law method protective of the rule of law. Judges are to decide only the cases before them, ruling only upon questions necessary to the decision, and only as supported by well-reasoned justification from sound precedent. This is a method of modesty, a method well suited to judges who share with all of us a fallen nature. The very importance of the rule of law itself rests in large measure upon an appreciation of our fallenness: the rule of law is supposed to displace the rule of man.

* * *

A fourth doctrine of the Bible provides the greatest of all endorsements of the rule of law. This doctrine is that of the Atonement, the core of the Gospel itself. From the Middle Ages at the latest, lawyers have understood that God Himself abides by law and so a human king must do no less:

The king must not be under man but under God and under the law, because law makes the king. Let him therefore bestow upon the law what the law bestows upon him, namely, rule and power. [F]or there is no rex where will rules rather than lex. Since he is the vicar of God, And that he ought to be under the law appears clearly in the analogy of Jesus Christ, whose vicegerent on earth he is, for though many ways were open to Him for his ineffable redemption of the human race, the true mercy of God chose this most powerful way to destroy the devil’s work, he would use not the power of force but the reason of justice. Thus he willed himself to be under the law that he might redeem those who live under it. For He did not wish to use force but judgment.7

The Atonement teaches that the king, and so all of civil government, is to be under the law. The pinnacle of the Bible is in Christendom the very base of the rule of law.

*     *     *

This excursus on the several biblical foundations of the rule of law in the common law serves only as an example of how integrating a biblical understanding into the teaching and study of the law enriches understanding of the law and traces our law to its roots. Just as Christian thinking contributed to the development of principles and doctrines of the rule of law, so also did it contribute to the development of principles and doctrines of the criminal law, the law of torts, property, contract, and nearly every other subject of the law.

The biblical integration offered by Christian legal education exposes students to the deep truth of the law as it has grown over the centuries. This exposure is sure to promote their appreciation and mastery of the law.

*     *     *

Biblical integration promotes mastery of the law in another related way, the third general benefit of biblical integration that we examine. Tracing the links between the Bible and the law supports rigor in legal analysis. The sophistication required to integrate well the Christian faith and the law serves students of the law in good stead. Seeing how fundamental principles and doctrines find expression in positive law invites careful consideration of the relationship between the law and presuppositions, justice and worldview. The writer recalls that at least one member of a team sent by the American Bar Association to assess the legal education offered by the writer’s school remarked the high intellectual rigor in the classroom and attributed it to the biblical integration he observed on his visit.

*     *     *
As an example of how biblical integration may foster rigor in legal analysis, take the insanity defense. Ought there to be an insanity defense to criminal liability? If so, what ought to be the test for the defense?

Support for an insanity defense derives chiefly from retributive theory, from the notion that an insane defendant does not deserve criminal punishment. Retributivism itself enjoys substantial biblical support.\(^8\) Rather than develop that claim, however, let us examine how light from the Bible may provide a link between retributivism and an insanity defense.

*     *     *

For some, the insanity defense derives directly from the notion that insane persons simply are not responsible actors, that they do not share with other human beings the rationality that desert presupposes.\(^9\) This approach presents both theoretical and practical difficulties. Ought “legal personhood” to depend upon rationality? If so, how much rationality?

Instead of requiring answers to these vexing questions, the Bible presents another approach. Rather than testing the qualities and abilities of human beings generally, this other approach examines from a scriptural point of view how the criminal law calibrates deserved punishment.

*     *     *

While acts themselves play a role in calibrating the punishment to be meted out by the civil magistrate,\(^10\) it is mens rea, the criminal mind, that chiefy calibrates the retributive response. It does this by indicating the quality of the will that the defendant harbored when he engaged in the criminal conduct.

---

\(^8\) Jeffrey C. Tuomala, *Christ’s Atonement as the Model for Civil Justice*, 38 AM. J. JURIS. 221 (1993).


The Bible teaches that the quality of our wills determines moral blame and merit. It is from the human heart that evil things proceed.\textsuperscript{11} The Sermon on the Mount takes the desire for the deed.\textsuperscript{12}

How then does mens rea operate to signal the will of the defendant in committing the criminal act? If the mens rea is “malice,” taken in the sense of wickedness, the link to ill will is clear enough. Likewise perhaps with a mens rea of “purposely,” or “intentionally,” or the like. But what of “knowingly,” “recklessly,” and “negligently?” How do mens rea terms such as these indicate degrees of ill will if a biblical understanding of the criminal law focuses attention on ill will?

* * *

These mens rea terms indicate ill will, but do so indirectly. The states of mind they mark are not themselves evil. Taken purely as degrees of awareness, to know is not evil, nor to disregard a known risk, nor to remain unaware of a risk altogether.

What is evil is to will to act wrongly in the face of those degrees of awareness. The will that actuates conduct with knowledge that an unlawful death will result is but a little less wicked than the will that actuates conduct with purpose to cause such a death. The will that actuates conduct with conscious disregard of an unwarranted risk of death is less wicked. Still less wicked, but wicked still, is the will that actuates conduct without bothering to take the care that circumstances would suggest to one with proper regard for the value of human life. All these levels of mens rea use the defendant’s state of mind to indicate the quality of the defendant’s will, the will being the key to the defendant’s blameworthiness in accord with a biblical understanding of the criminal law.

\textsuperscript{11} Matthew 15:18-20; Mark 7:20-23.
\textsuperscript{12} Matthew 5:21-22; 27-28.
This biblical understanding leads to the formulation of an insanity defense. Sometimes, evidence of a defendant’s mental disorder will suggest the absence of mens rea, perhaps especially when the mens rea of the offense is malice. If so, no insanity defense is needed. It is enough that the defendant counter the evidence that he harbored mens rea.

But if a mens rea of the offense is knowledge, for example, the situation is different. Say a defendant accused of larceny knew the property was of another, but a psychotic delusion caused him to think it a dangerous machine that he needed to take and destroy immediately as only he knew how. Our evaluation of his will in such an event differs from what it would be had he not labored under the psychotic delusion.

An insanity defense permits this evaluation. The usual inference of ill will from mens rea presupposes a heart not misled by a disordered mind. An insanity defense permits the necessary adjustment of the link between the mens rea and the will, all in the service of retaining the biblical emphasis on the will as essential to the question of desert in the criminal law.

So what form of insanity defense fits snugly with this model? As between a cognitive test (whether mental disorder affected the defendant’s ability to understand) and a volitional test (whether mental disorder affected the defendant’s ability to conform his conduct to the law), it would seem that the cognitive fits better. It is a failure of understanding that disrupts the usual link between mens rea and the will. A volitional test embraces the notion of a will that is itself sick, a will that wills evil but somehow stands excused. Whatever support exists for this test comes not from the biblical model advanced here.
To the contrary, the Bible may suggest that a volitional test asks of courts more than they can provide. For human courts applying the criminal law, the ill will of a defendant is likely the terminus of the inquiry on the will. Many influences—including disorders of some sort or another—may contribute to an evil will. To trace these influences and find in some (but not all?) an excuse seems incompatible with a criminal law that renders desert to those that will and do evil.

Explaining the existence of an evil will does not excuse it. One is reminded of our Lord’s judgment on the demonized Judas. A biblical understanding of the criminal law would seem to explain both the purpose of an insanity defense and the shape it is to take, the cognitive and not the volitional shape.

*     *     *

The foregoing discussion of the insanity defense is offered in hopes that it might demonstrate how biblical integration invites rigor in the teaching and learning of the law. Perhaps, at least, the discussion demonstrates how biblical integration raises important questions and suggests possible answers. (The discussion also may demonstrate pitfalls to avoid!)

Note that this discussion of the insanity defense also presents an example of how efforts at biblical integration propose ideals against which positive law can be tested. That was the first benefit of biblical integration mentioned above. As to the second benefit, an enriched understanding of the law and its roots, the actual historical development of mens rea and of the insanity defense (in Anglo-American law at least) parallels the analysis used in this discussion. To the extent a contemporary legal system embraces the analysis, the fourth benefit of biblical integration—yet to be discussed—is advanced as well. The manifold benefits of biblical integration often come together and offer mutual support.

Of course, for biblical integration to foster this third benefit, rigor in a Christian legal education, that integration itself must be rigorous. Sound biblical hermeneutics must be wed to lawyerly analysis.

Especially important for this wedding is careful attention to what the Bible teaches on the applicability of its norms to civil governments. The Bible abounds in laws and precepts. Yet much of these are for the guidance not of civil governments, but rather of individuals and families, of churches, or of the holy realm of Israel when it existed. In the Sermon on the Mount, for example, Jesus took pains to explain that ethics for individuals is a matter different from the law enforced by the nation of Israel. Israel enforced the law against murder, but God holds human beings to a standard higher than “You shall not murder.”\textsuperscript{14} Israel enforced the law against adultery, but God holds human beings to a standard higher than “You shall not commit adultery.”\textsuperscript{15} Israel allowed divorce, but here too God holds human beings to a higher standard.\textsuperscript{16}

Similarly, careful regard to the text of the Bible through lawyerly eyes reveals the difference between norms to be enforced by the civil government of Israel and norms not to be enforced.\textsuperscript{17} It also reveals that some norms Israel enforced by virtue of its holiness, a character now absent from all civil governments.\textsuperscript{18} Rigor and accuracy in biblical integration demand attention to such distinctions, distinctions that foster not only the proper use of the Holy Scriptures but also the skills that law students should acquire as part of a Christian legal education.

\textsuperscript{14} \textit{Matthew} 5:21-22. \\
\textsuperscript{15} \textit{Matthew} 5:27-28. \\
\textsuperscript{16} \textit{Matthew} 5:31-32. \\
\textsuperscript{17} \textit{See}, e.g., \textit{Exodus} 21-23. \\
\textsuperscript{18} \textit{See}, e.g., \textit{Leviticus} 20.
So, biblical integration in teaching the substance of the law brings with it an ideal for testing and fleshing out the law, a deeper understanding of the law itself, and a rigor of analysis. These three are benefits from bringing the truth to bear upon legal education, benefits a Christian legal education should welcome and nurture. But perhaps the most important benefit, a benefit central to the ministry of Christian legal education, remains to be considered. That benefit is essential to the lawyering for which Christian legal education is designed to prepare its students.

For the Christian, the practice of law is ministry.\(^{19}\) It is not merely a platform for ministry, or a means to support ministry, or an avenue for ministry. It itself is ministry.

For the Christian, in fact, all licit work is ministry. What makes the practice of law licit, even noble and perhaps holy, is that the sound practice of law brings a measure of justice and peace to human affairs. It uses God’s gift of language to order the affairs of those made in His image as they pursue a fundamental purpose of their creation—the dominion and filling of the earth in harmony with others. Biblical integration sees in property and contract law the just ordering of stewardship. It sees in tort and criminal law the just correction of wrongs. It sees in adjective law techniques for the just resolution of disputes. And so on and on, for all the practice of law.

Biblical integration casts the practice of law as ministry in the context of a calling especially friendly to a conscious ministry orientation. At least for most legal systems, few positive laws are totally bereft of some element of biblical truth.\(^{20}\) Searching out that truth helps equip law students to practice law as ministers glorifying God as they serve their clients. It enables Christian lawyers to live lives of integrity, as wholly Christian in the workweek as on Sunday.

---

\(^{19}\) See Michael P. Schutt, Redeeming Law (2007).

Christian legal education, itself a ministry, should prepare its students for a life of ministry. Biblical integration is an essential component of that preparation.

*   *   *

Christian law schools may be tempted to think a legal education is Christian if it is provided by Christians, or if it is offered in the context of a Christian community, or if it instructs students in ethics thought to be distinctly Christian. They should resist these temptations.

Perhaps instead they may consider a legal education Christian only if it also teaches how to practice law as a Christian ministry. But it cannot do that well unless it teaches what the Bible speaks of the law itself. Integrating biblical truth into teaching the law equips students to practice law as a ministry. It also brings other considerable intellectual and professional benefits.

Biblical integration should inform the role and mission of the Christian law school in Africa.

In fact, a Christian law school in Africa likely has special reason to integrate the Bible into the teaching of the law, presented as it is with unique challenges and unique opportunities. And Christian legal educators throughout the world should be eager to glean the wisdom and truth to be found as Christian law schools in Africa search out the mind of Christ in the law.