CHristianity and Law

What impact has Christianity had on the law from its beginnings to the present day? This introduction explores the main legal teachings of Western Christianity, set out in the texts and traditions of Scripture and theology, philosophy and jurisprudence. It takes up the weightier matters of the law that Christianity has profoundly shaped – justice and mercy, rule and equity, discipline and love – as well as more technical topics of canon law, natural law, and state law. Some of these legal creations were wholly original to Christianity. Others were converted from Jewish and classical traditions. Still others were reformed by Renaissance humanists and Enlightenment philosophers. But whether original or reformed, these Christian teachings on law, politics and society have made and can continue to make fundamental contributions to modern law in the West and beyond.

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CHRISTIANITY AND LAW: AN INTRODUCTION

Edited by

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Center for the Study of Law and Religion
Emory University
To Milner S. Ball
Inspiring leader, courageous scholar
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Preface

This volume provides an authoritative but accessible introduction to some of the main legal teachings of the Western Christian tradition – as set out in the texts and traditions of Scripture and theology, philosophy and jurisprudence. The sixteen chapters that follow address “the weightier matters of the law” (Matthew 25:23) – justice and mercy, rule and equity, discipline and love. They also address the more technical topics of canon law and natural law, conscience and commandment, contract and promise, evidence and proof, marriage and family, crime and punishment, property and poverty, liberty and dignity, church and state, business and commerce. These topics and others were perennial staples of both jurisprudence and theology in the West, and Christianity gave rise to many of the legal ideas and institutions that still dominate the West today. Some of these legal creations were wholly original to Christianity, born of keen new biblical insight and theological ingenuity. Others were converted and recast from Hebrew and classical prototypes. Still others were reworked and reformed by Renaissance humanists and Enlightenment philosophes and their ample modern progeny. But whether original or reformed, canonical or casuistic, Western Christian teachings on law, politics, and society have made enduring contributions to the development of law as we know it today. And these teachings still hold essential insights for legal reform and renewal in the new millennium.

This volume focuses on the Western Christian tradition – the Patristic, Catholic, and Protestant worlds of Western Europe and eventually North America – and leaves the legal analysis of non-Western and non-Christian religious traditions to other volumes. The interaction of law and Christianity in Europe and North America is a huge topic, and it has proved hard enough to wrestle the most essential material into a manageably sized volume. This volume of necessity only introduces part of the story of law and Christianity. Particularly the riches of the historical and contemporary Eastern Orthodox Churches as well as the numerous forms
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of Asian, African, and Latin American Christianity deserve their own treatment. Many of these forms of Christianity now rival Western Christianity in sheer numbers if not world influence, and many of them have made and are making their own unique contributions to law, politics, and society. We hope that the publication of this volume will catalyze the production of parallel volumes on law and religion in these other quarters of Christianity – as well as in Judaism, Islam, Hinduism, Buddhism, and Confucianism.

This volume is part and product of an ongoing project on Christian Legal Studies, undertaken by our Center for the Study of Law and Religion at Emory University. This project, which has involved more than 200 scholars over the past twenty years, explores the historical and contemporary influence of Christian ideas, institutions, and individuals on Western law, politics, and society. In its earlier phases, the project analyzed some of the Christian foundations and fundamentals of Western constitutionalism, democracy, religious liberty, and human rights, yielding a score of volumes that have appeared in a score of languages. In its current phase, the project has commissioned thirty new volumes on the past and potential contributions of Catholic, Protestant, and Orthodox Christianity to the cardinal legal and political questions that are now challenging and dividing church, state, and society.

This volume provides a brief introduction to some of these questions and some of the answers that the Western Christian tradition has offered. A general introduction puts the main themes of the volume in historical context. Each chapter fills in more detail and nuance about discrete figures and themes, charts the challenges that remain open in each area of law under discussion, and concludes with recommended readings to enhance the value of this text as a teaching resource and research guide. Further research guidance is available through the other volumes and projects described on our Law and Religion Center website (www.law.emory.edu/clsr).

This volume – and the broader project of Christian legal studies of which it is a part – was made possible by generous grants to our Center for the Study of Law and Religion by the Alonzo L. McDonald Family Foundation and the Lilly Endowment, Inc. We express our profound gratitude to Alonzo, Peter, and Suzie McDonald, and Robert Pool of the McDonald Foundation and to Craig Dykstra and his Lilly colleagues for their generous and genial support. We express our warm thanks to our Center colleagues – April Bogle, Eliza Ellison, Linda King, Anita Mann, and Amy Wheeler – for their effective and efficient administrative work on this and related projects, as well as to our students, Amos Davis and Judd Treeman, for their careful editorial work. Finally, we wish to thank Kate Brett, Gillian
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This volume is dedicated to our dear friend and brother, Milner S. Ball, who has long been a great leader of the field of law and religion and has long blessed us with his wit, wisdom, and Wissenschaft. May it long continue!

John Witte, Jr. and Frank S. Alexander