

<http://www.america-betrayed-1787.com/old-testament-law.html>

<http://www.jewishencyclopedia.com/view.jsp?artid=689&letter=C>

<http://www.wcg.org/lit/law/otl/default.htm>

<http://www.gotquestions.org/Christian-law.html>

<http://www.giveshare.org/BibleLaw/lawindex/23.html>

<http://www.free-bible-study-lessons.com/biblical-law.html>

The Institutes of Biblical Law **A Review Article**

—
John M. Frame

[R. J. Rushdoony: *The Institutes of Biblical Law*. Nutley, N.J.: The Craig Press, 1973. vii, 890. \$18.50.] This article originally appeared in *Westminster Theological Journal* 38:2 (Winter, 1976), 195-217. Used by permission.

Encouraging me to take on this review assignment, a colleague said, “We’ll have to start taking Rushdoony more seriously.” Though Rushdoony is one of the most prolific writers in the Reformed camp, though his following is large and increasing, and though his writings contain able exposition and scholarly defense of the Reformed faith, we have pretty much ignored him. His books have not been regularly reviewed and his name has not been frequently mentioned.

I have come to regard this, however, as a premature dismissal of an important Christian thinker. Recent experiences with Rushdoony associates and recent reading, particularly in *The Institutes of Biblical Law*, have convinced me that we must indeed take Rushdoony more seriously. In other fields I have had trouble at many points with Rushdoony’s argumentation; his *Institutes*, however, has convinced me that, whatever may be said in criticism of his work, Rushdoony is one of the most important Christian social critics alive today. It is most necessary, therefore, that we see Rushdoony in perspective, noting both his strengths and weaknesses so that we may best benefit from his really substantial insights. I have noticed that most who know Rushdoony’s work are either passionately for him or passionately against him. This review will not

please either group very much, but I am convinced that in our circles we need less passionate advocacy and more sympathetic critical analysis. My goal is not to please the partisans, but to help those who are willing to admit that they need help in these matters.

Let us begin positively: What is it that makes Rushdoony so important as a Christian social critic? Accordingly, to what criteria do

WTJ 38:2 (Win 76) p. 196

I make this evaluation? First, unlike some other “prophetic Christian voices” in modern society, Rushdoony is perfectly clear as to the source and basis of his social critique. In his view, God’s law for society is *biblical* law, pure and simple. He argues most cogently against any attempt to replace Scripture with “natural law” (pp. 679-693), human wisdom, or plain lawlessness as a basis for social order. The expression “law-word,” ambiguous in the writings of some Christian philosophers, causes no problems in Rushdoony’s *Institutes*, despite its frequent appearance there. The law-word is the law of Scripture. Therefore, Rushdoony’s method of social criticism is simply to expound the biblical law and to measure human societies by that criterion.

Second, Rushdoony not only affirms scriptural authority, but he *knows* Scripture in considerable breadth and depth. Where else can we find a social critic who is so much an exegete? The *Institutes* begins with a 650-page commentary on the Decalogue, which incorporates explanations of nearly every Pentateuchal statute and which traces the applications of these laws throughout the history of redemption. Rushdoony’s interpretations are mostly second-hand, but he displays considerable intelligence and scriptural discernment in evaluating various exegetical proposals. There is much comparison of Scripture with Scripture. Some of his more interesting suggestions follow: The exousia on the woman’s head of 1 Cor 11:10 is a symbol, both of her authority and of her submission to authority (p. 346); the mark placed on Cain represented God’s determination to withhold the penalty of capital punishment from the family authority structure (pp. 358ff). He gives a somewhat expanded view of porneia in Matt 5:32 and 19:9, which warrants a somewhat more liberal view of divorce than is typical of the Reformed tradition (pp. 401ff). He views New Testament elders as leaders of many Christian cultural enterprises beyond the institutional church and the eldership as a “functioning” rather than a merely “voting” office (pp. 743ff). Because of this exegetical thrust, Rushdoony’s work unlike that of some Christian writers, avoids being a mere pale reflection of the latest fashions in humanist thought. His approach is distinctive, and its distinctiveness arises out of its scripturality.

Third, Rushdoony has a remarkably detailed grasp of the historical background and present condition of human culture. If it is rare to find exegetical skill in a social critic, it is even more rare to find that

exegetical skill combined with such knowledge of the world. The extent of Rushdoony's reading is astonishing, and his use of it is always thoughtful and to the point. He is one of the least parochial of Reformed scholars, well acquainted with many ecclesiastical traditions and able to recognize and appreciate biblical elements in non-Reformed and pre-Reformed communions, without compromising his own Reformed convictions (cf., e.g., pp. 339; 345, 401, 513, 549, 849). Many of his anecdotes are amusing. There is always an implicit critique. Rushdoony chooses his illustrations well. One's mind never wanders from the point. At least, my interest did not lag throughout the 849 pages of text. Further, Rushdoony not only knows what happens; he also has a keen sense of why things happen. He displays remarkable insights into the workings of the modern mind: how humanist intellectuals resolve problems about property by defining "property" out of existence (p. 161); the lingering belief in verbal magic whereby American liberals treasured the oratorical skills of Kennedy above the concrete accomplishments of Johnson (pp. 577ff); the wily ability of sinners to slander one another by telling selected portions of the truth (p. 593). Frequently, he is most effective in demonstrating the foolishness of unregenerate thought. The argument that one "cannot define" pornography assumes that without precise definition nothing can be recognized to exist (the rational is the real). But, as Rushdoony correctly points out, pornography, even if it cannot be defined, can certainly be recognized (as can many other things, such as a friend, love, time, etc.). His philosophical skills, though limited, are often well used in such contexts.

Finally, Rushdoony not only acknowledges biblical authority, knows the Bible, and knows our cultural situation; he is also able to apply biblical principles to our culture in creative and cogent ways. Rushdoony has grasped a hugely important point that theologians rarely acknowledge, namely, that theology must involve the application of the word of God to the whole world. Otherwise, theology is a "lie," testifying that God himself is irrelevant (p. 597; cf. pp. 308, 652ff). The *Institutes*, therefore, presents a plan for the reformation of all aspects of human society in accord with biblical law. Rushdoony advocates this reformation in various ways:

(a) He sets forth eloquently the beauty of a society governed by biblical law: a society where the power of the state is strictly limited (pp. 429f, *passim*); where eminent domain belongs to God alone,

not to the state (pp. 492f, 499ff); where there are no property taxes (pp. 56, 283), no expropriations beyond the tithes (pp. 846ff), but where welfare is effectively provided through covenantal institutions; where all citizens expose and prosecute criminals (pp. 271, 463ff); where criminals are responsible to make restitution to their victims (p. 272); where crime is rare because habitual

and serious offenders are promptly executed and because others are caught and forced to make restitution, a society without prisons and the farce of pseudo-rehabilitation (pp. 228ff, 458ff, 514ff); where war is not permitted to take precedence over every other human activity (pp. 277ff); where the environment is protected by following the instructions of its Creator (pp. 141ff, 164ff).

(b) Where the biblical laws at first glance appear *not* to be so beautiful, but rather (to our humanist-indoctrinated minds) to be strange, trivial, or even cruel, Rushdoony effectively explains the divine logic underlying them. The denial of full citizenship to eunuchs (p. 100), the execution of blasphemers (pp. 106ff) and incorrigible juvenile delinquents (pp. 185ff, 481ff), the prohibition of taking a mother bird together with her young (pp. 169, 257, 267), the levirate (pp. 308f), the dowry legislation (pp. 185ff, 481ff) and other perplexing biblical statutes are cogently defended.

(c) Besides showing the inherent logic of biblical law, Rushdoony shows how that biblical law has been used through history, how its observance has brought about justice and happiness in many societies, and how its abandonment has brought about cultural disaster. He is quite specific with regard to American culture, and advocates dramatic changes in our legal and institutional structure. His strongest and most frequent polemic is against “statism,” the view that the state has the right to tax, control, and disturb all areas of human life. In that regard, his rhetoric closely resembles that of political conservatism which, indeed, he acknowledges as resting on Christianity to an extent (p. 289). Yet he strongly opposes *laissez faire* capitalism (pp. 288ff, 432f, 472) as a deification of the abstract laws of economics. Rushdoony’s proposals really do not fit very well under any contemporary label, and that in itself is an index of his zeal to follow Scripture rather than to please men.

All things considered, however, Rushdoony’s apologetic for biblical law presents a pleasing picture indeed! Although in theory he seems to disapprove of pragmatic argumentation for biblical principles (p. 140), much of the *Institutes* amounts to precisely that. It

WTJ 38:2 (Win 76) p. 199

presents a society which almost any regenerate person would prefer over existing societies. Well, the Lord himself motivates his people to obey by giving promises (Exod 20:12, etc). There is a *biblical* pragmatism! Indeed, even those who cannot accept Rushdoony’s view that the Old Testament civil law is normative for contemporary civil government may go away from the *Institutes* wishing that view were true, or perhaps wanting to employ that law despite its non-normativity. Rushdoony himself seems to take the latter approach with regard to the dietary regulations (pp. 297ff). Therefore even if a theological argument is forthcoming to refute Rushdoony’s general thesis about the civil law, we must seriously ask ourselves what better law can be found, what wiser

proposals can be made for the complex and difficult business of governing a nation (cf. Deut 4:8).

Those who object to Rushdoony's position on the civil law must examine themselves to make sure that their objections do not arise out of distaste for the law itself. There are various arguments against his view which arise out of legitimate exegetical and biblico-theological concerns (see below); yet it is hard to understand on the basis of those theological arguments alone the horror sometimes expressed at his position. Is it possible that to some extent these reactions arise simply because we don't want a society which executes homosexuals, forbids hybridization and transplants (pp. 253ff), legislates against sexual intercourse during menstruation (pp. 427ff), etc.? If indeed we object to these laws as such, then we are questioning the wisdom of God, and that is sin. Moral offense at these statutes is moral offense at God's word, his covenant rule. Whatever position we take on the present normativity of these laws, we must learn how to delight in them, to be thankful that God gave them to Israel, to covet the happiness which obedience to such laws must have brought to faithful Israelites. We dare not presume to oppose Rushdoony out of a humanistically tainted moral vision.

According to our four criteria, therefore, Rushdoony is indeed an important Christian social critic. We must listen to him. Let us, then, turn to a fuller consideration of the general structure and argument of the book.

From a formal standpoint, the book is a bit rough-hewn. It began as a series of lectures, and in some respects it is still a series of written lectures rather than a unified book. There is considerable repetition: tithes are discussed in similar ways on pp. 51ff and on pp. 281ff, circumcision and baptism on pp. 41ff and on pp. 755ff,

WTJ 38:2 (Win 76) p. 200

John 8:1–11 on p. 398 and pp. 702ff, abortion on pp. 268 and 714, reasons for these duplications not being entirely clear. Repetition, of course, is inevitable in a lecture series: some in the audience may not have attended an earlier lecture, or may need reminding; the lecturer may get a new insight on a topic already discussed. But there is less justification for this in a published work. The organization of the book is not always clear. Occasionally Rushdoony jumps from topic to topic quickly without clarifying the connections between the matters discussed (pp. 38, 40, 50, 80, etc.). One wonders why "the negativism of the law" is discussed preceding the exegesis of the third commandment, since it is equally applicable to the first and second and could well have been included in an introductory chapter. I, at least, feel that chapters XI–XV might more logically have preceded than followed the material on the decalogue. Some quotations are not footnoted (pp. 308, 325, 477, etc.). These criticisms, however, are minor. Since most will use this volume as a reference book, some repetition may be justifiable, as it is in an encyclopedia. The macro-structure of

the book is always clear, the index is adequate, the style is lucid, concise, and vigorous.

Our main concern, then, will be with substance more than with form. Rushdoony intends the book to be “a beginning...an instituting consideration of that law which must govern society, and which shall govern society under God” (p. 2). One might take the phrase “govern society” in a broad sense, “function as the dominant ideology of society.” In that broad sense, “biblical law” would include the entire Bible, for all of Scripture is given to “govern society” in that sense. Rushdoony sometimes seems to have that broader sense in mind, particularly when he discusses redemption, atonement, the need of regeneration, and the structure of the church. Elsewhere, however, it seems that Rushdoony takes “govern society” in a somewhat more narrow sense, i.e., “function as the basic civil law of society.” At one point, he determines not to discuss certain passages in the sermon on the mount because he feels that they are “not within the scope of civil law” (p. 636). Sometimes, in other words, he seems to aim at applying Scripture to all aspects of society (a large order, to be sure!); at other times, he seems to want to confine himself to the bearing of Scripture upon the civil law-structure of society. Surely we can say at least that the latter is his main concern and the focus of the book.

This brings us to his major thesis, that almost all of the Old Testament

WTJ 38:2 (Win 76) p. 201

civil law is literally normative for civil governments today (on that “almost,” see the discussion below). He defends this position with two sorts of argument. First, he employs many of the traditional arguments against antinomianism familiar to students of Reformed literature: obedience to God’s commands is basic to scriptural morality (pp. 670ff). Law defines the biblical concepts of holiness, righteousness, and sanctification (pp. 306f). Christ is the “champion” of the law, defending it against human additions, subtractions, perversions (pp. 698ff). Apart from biblical law, there is no standard for our behavior in this world; the alternative to obedience is autonomy (pp. 652ff).

These arguments are cogently presented and effective, I would say, against any position suggesting that God’s law as such is not binding. It is possible, however, to renounce antinomianism, to affirm our continuing obligation to obey God’s commands, and still to disagree with Rushdoony as to what particular obligations bind us today. The arguments against antinomianism call in question much Lutheran, dispensational, and modernist thinking on these matters, but they do not serve to establish Rushdoony’s distinctive view of the civil law as over against that of, say, Professor Meredith Kline. Those holding the alternative view would agree with Rushdoony that God’s law is binding, even upon civil magistrates, even upon political and social institutions, while disagreeing with him as to the specific ordinances now in effect. I am inclined to think that Rushdoony expects too much of the arguments against

antinomianism and says too little on the precise question at issue within the Reformed camp, namely, what laws are now binding?

At times Rushdoony expresses himself in such a way as to suggest that there is no change in man's obligation from one age to the next. He speaks of God "whose grace and law remain the same in every age" (p. 2). He quotes a passage from Thielicke which merely raises a question, which is to my mind legitimate and important, as to whether a particular Old Testament statute is binding upon the New Testament believer, and without argument, he charges Thielicke with having "set aside" the law (p. 423). It would seem here that in Rushdoony's view one is antinomian, if he even raises a question about the continuing normativity of an old covenant provision. On the other hand, at various points Rushdoony himself acknowledges divinely authorized changes in the obligations of the people of God: literal frontlets are no longer required (pp. 21ff);

WTJ 38:2 (Win 76) p. 202

there is no more earthly tabernacle since the ascension of Christ (p. 72); the "details" of the quarantine laws are no longer applicable (p. 293); new covenant believers (as opposed to old covenant believers) are forbidden to enter a state of slavery (p. 485); Paul "revised" the ruling of the apostolic council on meats offered to idols (p. 733). Rushdoony's views on the Sabbath (pp. 128ff, 735, 796), the dietary laws (pp. 297ff, 734f, 792), the old covenant sacraments (pp. 734, 794) and animal offerings (pp. 782f), are not altogether clear to me, but they certainly do presuppose some change in obligation from one covenantal order to the next. Thus Rushdoony ought to acknowledge more straightforwardly that there is a question here. The issue is not simply antinomianism versus acceptance of law. The question is also "what law?"

There is a second group of arguments in the *Institutes* which does address this sort of question, defending specifically the present normativity of the Old Testament civil law. Rushdoony argues (1) that it is impossible to distinguish, as has commonly been done, between "civil" and "moral" statutes (pp. 304f), and (2) that Scripture calls all the nations of the world to account for their obedience or disobedience to this civil-moral law (pp. 657ff, 693). His conclusion is that, if the moral law is binding, as Reformed people have always said, then the civil law is binding too, and upon governments and institutions as well as upon individuals. Rushdoony sets forth these arguments much more sketchily than the arguments against antinomianism, but it is at this point that the issues will have to be worked out within the Reformed camp. Rushdoony's arguments have a *prima facie* cogency about them which ought to be taken seriously by his critics. On the other hand, I also wish that Rushdoony would confront more directly the arguments offered by other Reformed writers on behalf of other positions. Rushdoony is familiar, for instance, with the writings of Meredith Kline. It would have been most helpful if Rushdoony had interacted with Kline's account of the relation between covenantal and cultural units in the

new covenant structure (Kline, *By Oath Consigned*, pp. 99-102, *Structure of Biblical Authority*, pp. 94-110). Kline argues that the new covenant establishes a new “community polity” for the people of God. When the kingdom of God is taken from Israel and given to a new people, a new order is established wherein the authority structure no longer bears the sword and carries out civil penalties. We can imagine,

WTJ 38:2 (Win 76) p. 203

I suppose, what a dialogue between Rushdoony and Kline would be like. Rushdoony might well argue that Kline draws too sharply the distinction between old and new covenant orders. He might also point out that even if Kline’s construction be accepted, we must still resolve the question of how nations are to be governed. If the civil magistrate is not a theocratic officer in the Old Testament sense, he is nevertheless a “minister of God” in some sense (Rom 13:4) and obligated to rule in accord with justice. And how do we define civil justice without reference to the Old Testament law, “moral” and “civil”? Then Kline might ask how on this basis we can avoid furthering the Kingdom of God with the sword, and so on. I have said that Reformed scholars will have to take Rushdoony more seriously; but that is a two-way street. He will also have to take them more seriously and address the strongest arguments for positions other than his own. In the *Institutes* he does not even appear to be fully aware what those positions are.

I am not now ready to endorse or refute Rushdoony’s position on this issue. In general, I feel that the question is not as simple as either Rushdoony or his critics sometimes suggest. And since I am now reviewing Rushdoony’s book, not someone else’s, let me suggest some aspects of his formulation which are in need of clarification. Rushdoony’s thesis is a thesis about the application of God’s law to human society. But “application” of law involves not only law. It involves at least two other things, namely a “situation” to which the law is applied and of a “moral agent” capable of *making* that application. Anyone who is concerned, as Rushdoony is, to exalt the role of law in moral and civil life must be especially careful to specify the relation of law to the other two factors which are crucial to legal and moral righteousness. A balanced view will look at the ethical process from the standpoint of each of these elements in relation to the other two. It will look at these matters from, let us say, normative, situational, and existential perspectives. In each of these areas, I find significant confusions in Rushdoony’s formulations.

The Normative Perspective. This perspective, focusing upon the law itself, is the main perspective of the book. Yet when we ask concerning the precise role of God’s law in the total process of ethical decision-making, Rushdoony’s position appears less clear than it seemed at first glance. As mentioned earlier, Rushdoony’s *Institutes*

WTJ 38:2 (Win 76) p. 204

is not always clear as to precisely what laws are binding upon us today and in what sense they are binding. His rhetoric sometimes suggests that all Old Testament statutes are currently normative, but he also sets forth explicit exceptions to this principle. Some of the exceptions are a bit hard to construe. On the Sabbath issue, he argues on the basis of Col 2:16f that “the *formalisms* of the Old Testament observances are ended” while “the essence of the law is in force and is basic to all biblical law” (p. 157); but he never quite makes clear how we are to distinguish between formalisms and essence. There is no mode of Sabbath-keeping, after all, which has not been regarded by someone as a “formalism”. On the questions of passover (p. 794) and animal sacrifices (pp. 782f) Rushdoony is also vague. He speaks with apparent approval of Christians who carry on these practices, but he does not quite say they are obligatory today. Heb 10 never enters the discussion.

For a book which intends to restore biblical law to its rightful role in human society, and which is in large part a polemic against antinomianism, the *Institutes* is distressingly unclear in its concepts of antinomianism and legalism. We have seen Thielicke rebuked as antinomian merely for raising a question about the current applicability of a particular Old Testament statute. Similarly, Rushdoony attacks Bruce Waltke, who differs from him on the exegesis of Ex 21:22–25, and suggests that this exegetical view is a symptom of Waltke’s general “antinomian dispensationalism” (p. 263). Well, Waltke is a dispensationalist, and may well be antinomian in some sense; but his exegesis of Ex 21 may not be written off as a mere antinomian reflex. Some like Meredith Kline have agreed with Waltke’s exegesis who cannot be suspected of being antinomians. On the exegetical point, I agree with Rushdoony; but the reference to antinomianism is not only forced but it also obscures the concept of antinomianism which is so central to the book. The polemic against antinomianism will lose all force if the reader comes to feel that “antinomian” is a label for anyone who disagrees with Rushdoony’s exegesis.

The concept of “legalism” is even more obscure. The book contains at least four definitions of legalism: (i) legalism is the view that man is justified by keeping the law (pp. 305, 549); (ii) legalism abuses and, I assume, misinterprets (though Rushdoony doesn’t say so), the letter of the law to violate its “spirit” (and also, I

WTJ 38:2 (Win 76) p. 205

assume, its letter rightly interpreted) (p. 636); [As the parentheses indicate, this definition creates problems in and of itself, apart from its relations to the others.] (iii) legalism substitutes man’s law for God’s (p. 709); (iv) legalism is the view that God is bound by the same laws that bind mankind (p. 837). This last definition is not Rushdoony’s own, but is found in an appendix by Gary North which apparently has Rushdoony’s general approval. The second may possibly be regarded as a characterization of legalism rather than a definition. There are logical connections between these four accounts. It may fairly be said

that if one is a legalist in one sense, he will likely be to some degree a legalist in others; but the four are not synonymous, and the simultaneous use of all of them without adequate specification of the relations among them leads to confusion. In the same appendix where the fourth definition appears, Gary North calls John Murray a “legalist” (p. 840) for disagreeing with him about Rahab’s lie in Joshua 2:3ff. I suppose North might plausibly regard Murray as a legalist in the third sense, at this point, since on North’s view Murray is here substituting man’s law for God’s. Even in the third sense, however, it makes little sense to charge Murray with legalism on the basis of this one exegetical issue. All of us are “legalistic” on some point or other, even, I imagine, Gary North. But to call someone a legalist generally implies that the person so labelled is habitually or characteristically legalistic, and North clearly has not demonstrated any such characteristic in Murray. Furthermore, the charge becomes even more absurd if we take it in the fourth sense, which is North’s own definition. North says nothing that comes even close to indicting Murray on that score. And would anyone dream of calling Murray a legalist in the first sense?

But there is an even more serious normative unclarity in this book, which, if not remedied, could nullify Rushdoony’s otherwise admirable defense of the authority of biblical law. This problem also arises out of the rather strange discussions of truth-telling, one by Rushdoony and another by North. Both men defend Rahab’s lie, as many other exegetes have done. Whatever we may think of that position, there is nothing strange or unusual about it as such. The problem arises in that it is hard to tell which of the following positions Rushdoony and North wish to advocate: (i) lying in some situations is permitted by the law and therefore approved by God—

WTJ 38:2 (Win 76) p. 206

Rahab’s lie was lawful and therefore not sinful; (ii) lying is unlawful and therefore sinful, but in some situations we must do it anyway in order to achieve some higher divine purpose—Rahab was legally guilty for lying, but she was right in allowing herself to incur guilt. Now we may well disagree with the first position, but at least it makes some meta-ethical sense. It presupposes that the law is the criterion of right and wrong, that obeying it is always right, and disobeying it is always wrong. Whether or not we accept this position, we surely ought to accept its meta-ethical presupposition, which is good Reformed thinking and one of the basic thrusts of the *Institutes*. The second position, however, suggests that law is not the ultimate criterion of right and wrong, that it is sometimes necessary and good to break the law; or, perhaps, interpreted somewhat differently, it suggests that the law at some points requires sin. I devoutly hope that Rushdoony and North are asserting the first rather than the second position. But if they are not asserting the second, then I don’t understand a number of things in these chapters, such as the argument on p. 548 against making truth-telling an “absolute.” In that section, Rushdoony argues that truth-telling is not absolute; only God himself is absolute. But he surely ought to know the dangers inherent in setting “God himself” over against God’s

commandments. Once we do that with one commandment, we must do it with all. If a genuine command of God can be broken out of some extralegal concern for “God himself,” then how do we avoid the antinomianism against which Rushdoony so zealously warns us? I am also disturbed by the argument on page 549, where criticism of Rahab’s lie is blamed upon an “abstract” concern for “self-perfection” as the goal of sanctification. Well, no one wants an “abstract” concern about anything, whatever that means! But does Rushdoony mean to say here that in order to please God we must be willing to sacrifice our own perfection? Does he mean that we must be willing to incur guilt in order to honor God? I hope not. Such an idea introduces contradiction into the law and into God’s very nature. But I find the argument hard to comprehend otherwise. If Rushdoony is arguing the first position, then there is really no need to engage in this obscure and dangerous reasoning. On this position, truth-telling *as defined by the law* is indeed absolute, not in the sense of being superior to God, but in the sense of being binding upon men. Further, that law will never require us to compromise our own

WTJ 38:2 (Win 76) p. 207

perfection or holiness, for that perfection and holiness consists precisely in obedience to the law of God. The second position, however, is antinomian, and Rushdoony ought to disown it in no uncertain terms.

The Situational Perspective. Let us turn now to the question of how the law is to be applied to various life-situations. We shall note two sorts of problems. Firstly, Rushdoony never formulates very clearly his view on the extent to which cultural change affects the proper application of biblical law. He does admit some effects of this sort. Commenting on 1 Cor 7:11–24, he argues that the Old Testament provisions against mixed marriage could not be simply applied to marriage in Gentile cultures, since the latter form of marriage was “atomistic” or “noncovenantal” in character (pp. 412f). Presumably, then, all Old Testament statutes ought to be investigated in this way, to see if God intended them to function in cultures which are, as ours, different in many ways from that of Old Testament Israel. But Rushdoony rarely makes use of this sort of principle or carries out this sort of investigation. Might it not at least be useful to supplement the biblical law with additional statutes, applying the broad principles of biblical justice to situations (steel mills, space travel, atomic war, etc.) unknown in biblical times? Here Rushdoony is somewhat unclear. At times he appears to reject all “statute law” (pp. 585, 638, 644, 787) on the basis of the sufficiency of Scripture. One suspects at times that although to Rushdoony Scripture is not a “textbook of physics or biology” (p. 684) it is indeed a textbook of statecraft in the sense that it includes all the statutes that will ever be needed for any sort of culture. At other times, however, he seems to grant legitimacy to those statutes which are proper applications of biblical law (pp. 499, 517f, 690ff, 708f). *The Institutes* would be greatly helped by some explicit consideration of the general problem of how the ancient biblical law is to be applied to current situations. How can we take the “situation” into account

without making nature or history normative (one of Rushdoony's major concerns) or lapsing into antinomian pragmatism (another)? We have seen how Rushdoony sometimes disapproves, sometimes engages in a kind of "pragmatic" argumentation. At points he seems to deny that "virtue is always rescued and rewarded, and truth is always triumphant" (p. 543; cf. pp. 259ff, 841); at other times he insists on the basis of biblical promises that obedience brings blessing and disobedience

WTJ 38:2 (Win 76) p. 208

brings disaster (the second paragraph of p. 508 is especially relevant here; cf. also pp. 255, 367, 821f). I think there is truth on both sides of this apparent contradiction, but that truth must be much more clearly defined to be helpful. The answer is to be found, I would say, in the integration of general and special revelation advocated by Van Til. Nature and Scripture interpret one another. When we have properly interpreted our "situation" in the light of Scripture, then we may properly make moral decisions on the basis of an expected divine blessing within the situation. If, however, that expectation of blessing is not scripturally grounded, then any moral appeal to it is an autonomous pragmatism.

Secondly, it is hard, sometimes, to apply the law to life-situations even when cultural change is not a major consideration. Most theologians agree that the biblical case laws, for instance, are intended to exemplify principles which apply to cases other than those explicitly stated. Certainly the apostle Paul adopts this approach to the statute concerning ox-muzzling (1 Cor 9:9; Deut 25:4). But how do we determine the principles exemplified in case laws? How did Paul know that Deut 25:4 exemplified the principle of fair reimbursement rather than, say, merely the principle of kindness to animals or the evil of greed? Doubtless the key is to compare Scripture with Scripture, to compare this statute with other scriptural teachings about man's status in the creation. Then by an *a fortiori* argument: if God requires fair reimbursement to animal laborers, how much more to human? Rushdoony also uses *a fortiori* arguments cogently at various points. For example, if a habitually delinquent son is to be executed, then (*a fortiori*) all habitual criminals deserve that punishment (p. 187; cf. also pp. 430, 482, 594). At other times the argument is not *a fortiori*, but the derivation of principle is fairly obvious. For example, if a husband may not slander his wife, then a wife may not slander her husband either, and the penalty is the same in both cases (pp. 591). At other points, however, Rushdoony's derivations of principles are controversial indeed. Some which trouble me follow: (i) Although he argues *via* parity against a wife's slander of her husband, as we have seen, he argues that female and male homosexuality are very differently regarded in the law, male homosexuality being a capital crime, female homosexuality being an "uncleanness" justifying divorce (p. 425). I cannot understand why the case for parity here is not as strong as in the other case.

WTJ 38:2 (Win 76) p. 209

Rushdoony raises no clear scriptural considerations against the parallel. (ii) Both Rushdoony and North argue that bribery is a crime only for the one who takes a bribe, not to the one who offers it (pp. 535f, 842f). But elsewhere the book presents sound biblical grounds against encouraging, indulging, and consenting with evil (pp. 425, 483, 544, 832). Surely, to offer a bribe is to encourage someone else to commit a crime. In this biblical context it would certainly seem necessary to take the bribery statute as forbidding both taking and giving of bribes. North might still be able to defend what he calls “biblical bribery” on some sort of “intrusion” principle (Kline); but he ought at least to address the strong *prima facie* case for the other position and to avoid suggesting that offering bribes is warranted by the statute in question. (iii) In discussing “The Negativism of the Law,” Rushdoony argues that since the decalogue is largely negative, our civil laws ought to be negative too, i.e., directed against specific evils rather than setting forth ideals for society to attain. However, on pages 110f, 220f, 241, and elsewhere, he follows the Westminster Catechisms in setting forth the “positive” implications of the commandments. So far as I can tell, he says nothing adequately to reconcile the two emphases. More briefly: (iv) Does the commandment against removing landmarks really justify a general social conservatism, as Rushdoony seems to think (p. 328)? If so, to what degree? (v) Does the requirement of corroboration in legal testimony really rule out *all* use of lie detectors (pp. 565ff)? (vi) Does the protection of fruit trees in war really warrant the general proposition that “production is prior to politics” (p. 280)? (vii) Does the fifth commandment really require instant obedience to parents of such a sort that the child may never ask questions about the justification for the command (p. 193)? (viii) Does the separation of Paul and Barnabas into separate spheres of labor really justify separation from an ecclesiastical fellowship to avoid formal discipline (p. 769)? (ix) If Rahab’s treason is justifiable in terms of some special wartime ethic (pp. 837ff), then on what basis do we condemn participation in revolution, as Rushdoony wants to do (pp. 76, 722f, etc.)? (x) If it was wrong to import rabbits into Australia (p. 261), why was it right to import martins into Griggsville (p. 259)? (xi) Does the law against transvestism really forbid an able-bodied man to be supported by his wife (p. 436)? If it is really wrong, as Rushdoony suggests, for a man to do

WTJ 38:2 (Win 76) p. 210

“woman’s work” (p. 437), why is it not wrong for the woman of Prov 31 to go into business?

Other examples could be given. There are a lot of proposed applications in the book which are implausible in themselves and not adequately argued in the text. This fact suggests to me that Rushdoony has not given sufficient thought to just what is involved in applying a law to a situation. Perhaps these examples merely indicate that the book was written too hurriedly. In any case, the book could benefit greatly, not only from more consistency and better arguments, but also from a discussion of the specific question of applicatory methodology.

The Existential Perspective. We now focus upon the moral agent, the person who applies the law to situations. It is in this area that Rushdoony's book is weakest of all. In fairness, it should be said that Rushdoony may well have regarded this area as outside the proper scope of the book. He declines to discuss the teachings of the Sermon on the Mount concerning lust and hatred on the ground that they are "not within the scope of the civil law" (p. 636). He might argue, therefore, that we should not demand of him, in this already lengthy book, a full account of moral agency, motive, heart-attitude, etc. I must, however, venture into this area, first, because what he does say about these matters is often misleading and, second, because his inadequacies in this area generate serious problems elsewhere in his system. The three "perspectives" are so interrelated that it is really not possible to treat one of them properly without some attention to both the others.

To his credit, Rushdoony emphasizes strongly man's need of regeneration as the prerequisite for law-keeping (pp. 706, 709, 725, 43, 113, etc.). He also emphasizes eloquently and cogently the personalism of biblical ethics—the fact that Scripture treats man as a responsible person rather than as an environmentally determined victim (pp. 24ff, 272, 339, 434, 446, 467, 486, 507, 570f, etc.). He shows quite well in these sections how the fashionable "personalisms" of secular thought actually depersonalize man by denying his responsibility. We should note also Rushdoony's refreshing defense of the passions as over against stoicized forms of Christianity (p. 635). Regeneration, personalism, a positive view of the passions—these are important first steps in the formulation of a biblical doctrine of moral agency.

However, almost everything else he says—about the emotions,

WTJ 38:2 (Win 76) p. 211

regeneration, conscience, and even love—is negative. There is in the book a rather pervasive polemic against "emotionalism," "sentimentality," etc. (pp. 121ff, 213, 247, 251, 483, 463, 634ff, etc.). Taken in the best sense, this polemic justifiably rebukes those who would substitute emotion, sentiment, "sensitivity," etc., for God's law. But in these passages, one looks in vain for any recognition of the positive functions of conscience, of feeling, and of sensitivity. The defense of the passions on page 635 noted above is almost entirely isolated and is somewhat compromised in its own context. Nowhere is there any suggestion that the love-ethic of Scripture requires godly emotions, a renewed conscience, a renewed sensitivity to the concerns of others. Rushdoony seems at one point, for instance, to disparage a moral appeal to gratitude, simply because there is not in the immediate context any reference to law (p. 213). But, on that ground the decalogue itself would be "sentimental" since it motivates obedience chiefly through gratitude to God for the redemption from Egypt. New Testament ethics, too, rarely urges believers to obey simply because God has commanded obedience. The basis of obedience is, most commonly, gratitude for what Christ has done. Apart from law, to be sure, there would be no way of knowing how

such gratitude ought to be expressed. But Rushdoony's account would lead one to think that gratitude as such is unsuitable as a motive for good works, and that is simply not the teaching of Scripture. It is better to say that only through the law of God may we distinguish true and false gratitude and thus live lives of true thankfulness.

The same sort of problem arises when Rushdoony considers the question of how to define good works, sanctification, and righteousness. He is most insistent that these concepts be defined in terms of law. He reproaches Berkhof because the latter's definition of good works focuses upon their origin in regeneration and only secondarily points out that they must conform to the law (pp. 553f). He finds the definition in terms of regeneration to be "too vague." Well, that all depends on what you are looking for. Scripture itself defines and characterizes good works in various ways. Good works are in obedience to God's commands, but they are also "fruits of the Spirit." Sin is transgression of law, but it is also lack of faith (Rom 14:23). Scripture looks at good works from many angles, and does not, so far as I can see, define one angle as better than another, or one angle as more vague than another. It is just as

WTJ 38:2 (Win 76) p. 212

important, I would think, to see good works in their relation to regeneration as to see their relation to the law. A definition of good works in terms of regeneration may seem vague if you are looking for an account of the relation of good works to law; but the reverse is also true. What one misses in Rushdoony is any appreciation for the importance of defining good works in relation to moral agency, regeneration, gratitude, love, etc. It is, I agree, wrong to make any of these a substitute for law. But the opposite error is just as bad.

Rushdoony frequently makes use in various forms of the slogan, "Justification is by grace through faith; sanctification is by law" (pp. 304f, 549, 674, 714, 732f, 751). The slogan is somewhat misleading, for it could be taken to suggest that law plays no role in justification and grace no role in sanctification—a plainly unbiblical idea. We would simply write off this slogan as a slip of the pen, except that (1) Rushdoony uses it so frequently, and (2) the slogan is symptomatic of a serious weakness: he really seems to have little appreciation for the role played by grace in the area of sanctification. This is a fairly serious criticism, and I would certainly like to believe that his own convictions are more adequate than what comes out in the book. But we have seen how he treats only negatively the relation of sanctification to regeneration and its fruit, gratitude. We shall see it also in Rushdoony's treatment of the central concept of biblical ethics, namely love.

If love is the fulfilling of the law, one would expect that a top priority item in any account of biblical law would be a full discussion of the biblical view of love. Amazingly, however, Rushdoony takes the same approach with regard to love as that we have seen him take toward other basic concepts. His discussion

of love is almost exclusively negative. He issues a polemic against substituting love for law, an admonition to keep love subordinate to law (pp. 173, 254, 284, 467, 303f, 336, 346, 432). Compare, however, page 360, where love is almost given its due in the marital context. The reciprocity of the law-love relation in Scripture is completely missing from this account. Yes, we must not substitute love for law; but we had better not substitute law for love either. Yes, love may be defined in terms of law; but the requirement of the law is also summarized and defined in the love-commandment. The language of subordination between law and love, unless it specify mutual subordination, is in my view most inadequate here. Love must

WTJ 38:2 (Win 76) p. 213

indeed conform to law; but obedience to law must arise from and manifest love. Without love, the first fruit of the Spirit, there can be no good works or sanctification.

This serious inadequacy has further consequences. The biblical doctrine of love to one's enemies in particular receives most inadequate treatment. It is acknowledged briefly on pages 599f as part of a general exhortation to further a godly law-order where everyone will receive his legal deserts. Compare also page 247, on restoring the enemy's ox. But note also the following. At a number of points in the book, there is a rather imprecise polemic against "sympathy" for criminals. In Rushdoony's view, sympathy for criminals, together with the tendency to blame society for a criminal's misdeeds, is a kind of sentimentality which is disobedient to God (pp. 188, 384, 421, 572). But surely more distinctions have to be made here. It is certainly true that Scripture forbids "pity" in the judging process, i.e., a judge ought not to reduce the sentence required by the law out of pity for the offender. But this biblical provision surely does not forbid every sort of "sympathy" for criminals, as seems to be suggested by Rushdoony's rather sweeping formulations. If it did, then Jesus would have broken the law in ministering to the woman taken in adultery (a passage to which Rushdoony attaches considerable importance despite the textual problem), or to the thief on the cross. And since there is such a thing as "community responsibility" (pp. 270ff), is there not some sense in which we must blame society for crime? Not, of course, in any sense which removes responsibility from the criminal, but in a sense wherein the community must face up to its own particular sort of responsibility? Rushdoony here as elsewhere uses a meat-axe where a scalpel is needed; his imprecision rather distorts the over-all biblical teaching on this matter. In my view, if Rushdoony had given more thought to the positive scriptural teaching on love, especially love of the enemy, he would not have been so confused at this point.

Gary North argues that certain commandments in the Sermon on the Mount are "recommendations for the ethical conduct of a *captive* people" (p. 845, italics his). The commands to agree with adversaries quickly, to go the second mile, to turn the other cheek, in North's view, are exhortations telling us how to

ingratiate ourselves to unbelieving rulers while we ourselves are out of power. But once the unbelieving ruler loses power, that ethic no longer

WTJ 38:2 (Win 76) p. 214

holds. In the latter situation, says North, the Christian should not go the second mile or turn the other cheek, but rather “should either bust him in the chops or haul him before the magistrate, and possibly both.” He says, “It is only in a period of civil impotence that Christians are under the rule to ‘resist not evil’.” Interesting exegesis! I had always thought these passages had something to do with loving our enemies! And I had also thought that we should love our enemies even when we are in power. These passages do appear in the same context as the command to love our enemies (Matt 5:43ff). On North’s view, the sayings of Matt 5:25 and 39–42 have very little to do with love of enemies; rather, they urge cynical political acts, policies to be repudiated once we get some political muscle. Well, I am not ready to condemn this exegesis, but I consider it strange in the extreme that North does not even mention the command to love one’s enemies or try to fit that into his interpretation. In fact, one wonders what positive bearing the command to love one’s enemies can have in such a framework. But North does not even seem to recognize the existence of a problem here. It seems to me that both Rushdoony and North need to do a lot more thinking in this area if the scripturality of their approach is to be demonstrated.

There are other problems too. I think the confusion noted earlier about the negative and positive sides of the law might have been avoided through more reflection on the role of love in biblical law. It is precisely the love-commandment which imparts a positive thrust to negatively formulated statutes. I think that consideration of moral agency would make Rushdoony a bit more positive on the matter of “self-perfection” as an ethical goal (p. 549). I also think that if he were more aware of the personal, subjective aspects of biblical morality he might have been a bit less dogmatic about rather dubious applications of laws, more aware of his own fallibility as a human moral agent. It would also have motivated him to show a bit more “sympathy” in his analyses of various problems. For example, his treatment of the civil rights movement is wholly disapproving (pp. 121, 157), and he sanctions racial and cultural discrimination of various sorts which were opposed by that movement (pp. 257, 531). At the same time, one looks in vain through this book to find any sympathetic account of the human suffering which preceded the civil rights protests. Now it may be true that

WTJ 38:2 (Win 76) p. 215

Scripture permits us to associate with whom we will, that it does not require us to “integrate” with those of different cultures; but what of those situations where millions of people of one race, by exercising their right of free association, effectively deprive another race of opportunity in employment, housing,

education, etc.? Rushdoony does oppose the “oppression” of one group by another, on racial as well as other grounds (p. 537); but what remedy does he have for the kind of hurt done to people through apparently legal means in this situation (cf. p. 636)? A bit more “sympathy” with people and a bit less preoccupation with legal rights would greatly improve his treatment of these matters. Scripture does not always require us to make full use of our “rights”—quite the contrary (1 Cor 9); but Rushdoony doesn’t give us much help on the question of when to demand our rights and when not to.

Finally, I must say that this book displays little “sympathy” for those who disagree with Rushdoony’s positions. Over and over again, Rushdoony accuses some Christian thinker or other of “nonsense” (pp. 14, 764, 551), even “pharisaic nonsense” (with reference to John Murray, p. 546) and “heretical nonsense” and “silly, trifling reasoning” (with reference to Calvin, pp. 9, 653), and “blasphemy” (with reference to Bucer, p. 682). Some are even “proponents of pauperization, encouragers of usury...middlemen of economic whoredom...financial pimps” (p. 819—North’s assessment of pastors who fail to preach his application of the usury statutes). The term “sanctimonious ostrich” applies to some (p. 842—North’s characterization of a “legalist” like John Murray). It may be that some of these epithets are appropriate, but I don’t believe most of them are. At a number of points, Rushdoony quotes an opponent and then places upon that quotation the worst possible interpretation, often in my view with little justification (pp. 253, 336, 483f, 423, 510, 681, 841). He tends to see unambiguous evil where it is possible to demonstrate only confusion. In criticizing opponents he sometimes sets forth dubious, even unclear hypotheses as if they were obvious proven fact: dispensationalism teaches two ways of salvation (p. 18); voodoo is the traditional religion of the American Negro (p. 61); the goal of the civil rights movement is “not equality but power” (p. 60); pietism disparages the passions (but is also too emotionalist!) (pp. 635f). At best, these are over-simplifications; at worst, simply false. I cannot help but point out

WTJ 38:2 (Win 76) p. 216

here Rushdoony’s own complaint against the “sinful intolerance of human frailties” in some circles (p. 630). Even granting that everything Rushdoony teaches is right (and that assumption should be in question), it just might be that some of those who disagree with him are not pharisees, hypocrites, sanctimonious ostriches, and the like, but sincere Christian believers who simply have not yet discovered what Rushdoony has learned. For such who are trying to learn from him, the book displays little tolerance of their failings, little appreciation of their need, little winsomeness.

In Calvin’s (not Rushdoony’s) *Institutes* (III, vii, 6) there is a beautiful passage setting forth the Christian’s obligations to show love to all men. In a book published in 1971, *The One and the Many*, Rushdoony attacked that passage as coming close to liberalism and containing a “vein of antinomianism”

(p. 263). In my view, Rushdoony has been so preoccupied with the question of the authority of the law that he has missed some very weighty elements of biblical teaching, and that has distorted both the content and the style of his own *Institutes*. I do wish he would go back and read that Calvin passage again and open himself up to the sheer scripturality of it. That could help a great deal.

In conclusion, Rushdoony's *Institutes of Biblical Law* is a big book, with great strengths and great weaknesses. I have tried to keep this review balanced between strong praise and strong criticism. As it has turned out, the first part has been almost all positive and the last part almost all negative. In case the first part has been forgotten, I would reiterate that Rushdoony is a most important thinker, possibly the most important contemporary Reformed social critic. But he needs to develop much more intellectual self-discipline and self-criticism, particularly in the meta-ethical area, in order to define clearly what it means to accept biblical law as normative. And he needs to give much more attention, both analytical and personal, to the biblical teaching on moral agency, regeneration and its fruits, particularly love. In developing his approach in these areas, it would certainly be an advantage for him to become less isolated from the mainstream of Reformed ecclesiastical and theological life. My impression is that he tends to set himself off so sharply from other Reformed thinkers that he is not in a very good position to benefit from their counsel. Nor are they in a good position to benefit from his. Rushdoony's isolation is probably not entirely his own fault, and if that isolation is to be

WTJ 38:2 (Win 76) p. 217

overcome, the initiative will have to be mutual. It is a matter of making the fullest use of the gifts of the Spirit; and on that matter the Lord will not allow us to be indifferent.

Westminster Theological Seminary,

Philadelphia, PA

[1]
