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Biblical Foundations of Human Rights and Liberties

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Abstract

This article, which is part of a symposium issue on law and religion in the Bible, sets out several clusters of biblical texts that lie at the foundation of the Western rights tradition. We group these texts into Old Testament and New Testament categories. We subdivide them into both general texts of legal and political theory concerning the “image of God,” covenant theory, religious freedom, and others as well as particular examples of procedural rights, economic and property rights, the rights of the poor, widows, orphans, slaves, debtors, and other vulnerable parties, and rights and duties surrounding sex, marriage, and family life. We also gesture anecdotally toward the use of these text clusters by later writers with no pretense of mapping their reception history.

Keywords: Bible, human rights, liberty, religious freedom, procedural rights, economic rights, property rights, vulnerability, poor, slaves, sex, marriage, family

Introduction

The Christian Bible has long been a foundational text for Christian teachings on human rights and liberties. Of course, the Bible is no modern human rights textbook, and some of the practices even of the biblical titans of faith would find little sympathy from a modern human rights court. But the Bible is filled with critical passages that have long inspired Christian writers in their rights reflections and actions.¹ Not only were these biblical passages standard citations in cases and legal treatises until modern times, but the Bible was also an anchor text for many of the greatest human rights documents of the

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¹ Various scholars, however, have drawn rights, liberties, and related teachings on the strength of the Bible. See generally, for example, Jonathan Burnside, *God, Justice, and Society: Aspects of Law and Legality in the Bible* (New York, NY: Oxford University Press, 2011); Michael Welker, ed., *Quests for Freedom: Biblical, Historical, Contemporary*, 2nd ed. (Eugene, OR: Cascade Books, 2019); Robert F. Cochran and David VanDrunen, eds., *Law and Bible: Justice, Mercy and Legal Institutions* (Downers Grove, IL: InterVarsity Press, 2013); Brent A. Strawn et al., eds., *The Oxford Encyclopedia of the Bible and Law*, 2 vols. (New York, NY: Oxford University Press, 2015); Richard H. Hiers, *Women's Rights and the Bible: Implications for Christian Ethics and Social Policy* (Eugene, OR: Pickwick Publications, 2012); David Novak, *Covenantal Rights: A Study in Jewish Political Theory* (Princeton, NJ: Princeton University Press, 2000).

Western tradition—the 1215 Magna Carta, the 1648 Peace of Westphalia, the 1791 US Bill of Rights, and others.² It is an instructive anecdote that when the new American states constructed their constitutional bills of rights in the 1770s to 1790s, political sermons on the Bible constituted some eighty percent of all legal and political literature published.³

This article sets out several clusters of biblical texts that lie at the foundation of the Western rights tradition. We group these texts into Old Testament and New Testament categories. We subdivide them into both general texts of legal and political theory (say, texts on the “image of God”) and very particular examples of public, private, penal, and procedural rights (say, passages on rights within the family). We also gesture anecdotally toward the use of these text clusters by later writers with no pretense of mapping their reception history.

We come to this topic as scholars of law, not biblical or historical theology. We read the canonical Bible much as two millennia of Western Christian jurists read it—as a plain text read seriatim, rather than the composite of interwoven older texts that biblical experts have now untangled or even as a lectionary of creatively clustered passages from the Old and New Testaments and Apocrypha. But even plainly read, the Bible can rightly be called a pillar if not foundation of the Western tradition of rights and liberties.⁴

Old Testament Teachings

General Principles. Foremost among the Old Testament or Hebrew Bible texts is the Genesis account of the creation of man and woman. Genesis 1 rehearses God’s creation of the world, and then comes to the apex:

Then God said, “Let us make man in our image, after our likeness; and let them have dominion over the fish of the sea, and over the birds of the air, and over the cattle, and over all

² See examples in John Witte, Jr., *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007); John Witte Jr., *The Blessings of Liberty: Human Rights and Religious Freedom in the Western Legal Tradition* (Cambridge: Cambridge University Press, 2021); John Witte, Jr., Joel A. Nichols, and Richard W. Garnett, *Religion and the American Constitutional Experiment*, 5th ed. (Oxford: Oxford University Press, 2022).

³ Donald S. Lutz, *The Origins of American Constitutionalism* (Baton Rouge, LA: Louisiana State University Press, 1988), 140–41. See Ellis Sandoz, ed., *Political Sermons of the American Founding Era, 1730–1805* (Indianapolis, IN: Liberty Fund, 1991); J. W. Thornton, *The Pulpit of the American Revolution: Or, The Political Sermons of the Period of 1776* (Boston, MA: Gould and Lincoln, 1860). See, more generally, Mark A. Noll, *In the Beginning was the Word: The Bible in American Public Life, 1492-1783* (Oxford: Oxford University Press, 2016), esp. 177–324.

⁴ We drew on several sources to locate the specific Bible verses pertinent to the human rights topic areas we covered: (1) BibleGateway, biblegateway.com; (2) BibleHub, biblehub.com; (3) OpenBible, openbible.info; (4) Strong’s Exhaustive Concordance, <https://www.biblestudytools.com/concordances/strongs-exhaustive-concordance/>; (5) *The Oxford Encyclopedia of the Bible and Law [OEBL]*, eds. Brent A. Strawn et al. (Oxford: Oxford University Press, 2015); (6) *Encyclopedia of the Bible and its Reception [EBR]* (Berlin: Walter DeGruyter, 2010). At some points in this article, we cite—either at or near the beginning or end of a paragraph—to the OEBL and EBR: these citations are meant to indicate that we relied strongly on these sources for our selection of the Bible verses within that paragraph.

the earth, and over every creeping thing that creeps upon the earth.” So God created man in his own image, in the image of God he created him; male and female he created them. And God blessed them, and God said to them, “Be fruitful and multiply, and fill the earth and subdue it; and have dominion over the fish of the sea and over the birds of the air and over every living thing that moves upon the earth” (Gen. 1:26–28 [RSV]; see also Gen. 9:6).

Various Old Testament passages confirm this basic teaching, not least Psalm 8:3–6a (RSV):

When I look at thy heavens, the work of thy fingers,
the moon and the stars which thou hast established;
what is man that thou art mindful of him,
and the son of man that thou dost care for him?

Yet thou hast made him little less than God,
and dost crown him with glory and honor.
Thou hast given him dominion over the works of thy hands.

The idea of human beings created in the image of God has long been a deep foundation for various Christian theories of human sanctity, human dignity, human liberty, and human rights.⁵ Every human being is created as a “God-carrier,” Desmond Tutu writes, and as such deserves the utmost respect of his or her neighbors because of his or her inherent dignity.⁶ All human beings are created with reason, will, and conscience, and have the inherent right, duty, and freedom to make choices guided by the law “written on their hearts” (Rom. 2:15) and rewritten in scripture, tradition, and experience. Such freedom of choice includes religious freedom, the freedom to choose to accept God and God’s promise of salvation. Tutu puts it memorably: “God, who alone has the perfect right to be a totalitarian, has such a profound reverence for our freedom that He had much rather we went freely to hell than compel us to go to heaven.”⁷ The *imago dei* metaphor remains a foundational principle of domestic and international human rights discourse to this day, and has many parallels in classical, Jewish, Islamic, and various philosophical traditions.

The creation story continues with God’s command to the first man and first woman to join together in “one flesh” and to “be fruitful and multiply” (Gen. 1:28, 2:24 [RSV]). This primal teaching about the first marital family was amplified in later biblical passages that modeled marriage on Yahweh’s enduring love for his chosen people,⁸ and on Christ’s

⁵ See a good overview in Timothy P. Jackson, *Political Agape: Christian Love and Liberal Democracy* (Grand Rapids, MI: Eerdmans, 2015), esp. 84–115.

⁶ Desmond M. Tutu, “The First Word: To Be Human Is to Be Free,” *Journal of Law and Religion* 30, no. 3 (2015): 386–90.

⁷ Tutu, “The First Word,” 388.

⁸ See biblical texts in John Witte Jr., “The Covenant of Marriage: Its Biblical Roots, Historical Influence, and Modern Uses,” *INTAMS Journal for the Study of Marriage and Spirituality* 18 (2012): 147–65.

eternal love for his church (Eph. 5:32). Both the Mosaic Law and the New Testament's "household codes" defined the obligations of parents to nurture, care for, and educate their children (Eph. 5:21–6:9; Titus 2:1–10; 1 Pet. 2:18–3:7). These biblical passages were foundational for the development of Western family law, with its intricate network of reciprocal rights and duties of spouses, parents, and children.⁹

The creation story ends by recounting that humans are given "dominion"—a foundational concept of property rights—over creation. God calls humans to be stewards and cultivators of nature, tasked to dress and keep the Garden of Paradise, but also to use and "subdue" it as they build toward the splendors of a Golden City in the eschaton (Gen. 2:15; Rev. 21). In this primal command of stewardship, medieval monks and modern Christian environmentalists alike have found the warrants for what are now sometimes called "third-generation rights" pertaining to the protection of nature and the environment and to orderly and sustainable development.¹⁰

Also fundamental to the Western rights tradition were the many reciprocal rights and duties embedded in the Mosaic Law and their amplification by both the prophets of the Hebrew Bible and the Rabbis of the Talmud.¹¹ Foremost among these were the Ten Commandments or Decalogue (Exod. 20:1–17; Deut. 5:1–21), which the Christian tradition has long treated as the most authoritative source and summary of moral duty, natural law, and natural rights. The First Table of the Decalogue sets out the religious duties owed to God, the Second Table the civil duties owed to all neighbors. Early modern Catholic and Protestant writers alike used this template to develop a correlative set of religious and civil rights. The First Table commandments, they argued, grounded a person's natural rights to worship God and to avoid idolatry; to honor God's name and avoid blasphemy and false oaths; and to observe the Sabbath day and keep it holy. The Second Table prohibitions against dishonoring parents, committing adultery, killing, stealing, false witnessing, and coveting grounded the neighbor's correlative rights to the integrity of their marriage, family, and household and to life, property, reputation and procedural justice.¹²

⁹ See John Witte Jr., *Church, State, and Family: Reconciling Traditional Teachings and Modern Liberties* (Cambridge: Cambridge University Press, 2019), 238–73.

¹⁰ See generally, for example, Bron Taylor, ed., *The Encyclopedia of Religion and Nature* (New York, NY: Oxford University Press, 2010); John Chryssavgis and Bruce V. Foltz, eds., *Toward an Ecology of Transfiguration: Orthodox Perspectives on Environment, Nature, and Creation* (New York, NY: Fordham University Press, 2013); Noah J. Toly and Daniel I. Block, eds., *Keeping God's Earth: The Global Environment in Biblical Perspective* (Downers Grove, IL: InterVarsity Press, 2010); Willis J. Jenkins, *Ecologies of Grace: Environmental Ethics and Christian Theology* (Oxford: Oxford University Press, 2008).

¹¹ David Novak, "The Judaic Foundations of Rights," in *Christianity and Human Rights: An Introduction*, eds. John Witte Jr. and Frank S. Alexander (Cambridge: Cambridge University Press, 2010), 47–63, and expanded in David Novak, *Covenantal Rights: A Study in Jewish Political Theory* (Princeton, NJ: Princeton University Press, 2009).

¹² See examples in Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150–1625* (Grand Rapids, MI: Eerdmans, 2001); Kenneth Pennington, *The Prince and the Law, 1200–1600: Sovereignty and Rights in the Western Legal Tradition* (Berkeley, CA: University of California Press, 1993); Witte, *The Reformation of Rights*.

The Mosaic Law governed a “covenanted” people who were bound together in community with each other and with God.¹³ Already with Noah in the aftermath of the Flood, the Bible tells us, God entered into a covenant with all humanity and nature (Gen. 9:1–17). Some Jewish and Christian scholars regarded this Noahide covenant as an early statement of natural law and natural rights that was fleshed out in the later Decalogue.¹⁴ Thereafter, God entered into more particular covenants with the chosen people of Israel, repeating the terms of the covenant to their leaders Moses, Joshua, Hezekiah, Josiah, and Ezra (Deut. 29–31; Josh. 24:25–27; 2 Kings 22–23; 2 Chron. 29–31, 34; Neh. 8). These covenants obliged every member of the community to live by the law of God and to obey the central commandments to love God and neighbor (Lev. 19:18; Deut. 6:4–5). These covenants further called for special care, protection, and provisions for widows, orphans, debtors, the poor, sojourners, and other needy persons.¹⁵ As the late chief rabbi Lord Jonathan Sacks wrote, the “fate” of a covenant community “is dependent on its treatment of the most vulnerable and marginal members. Ultimately, how a society fares in history is dependent on its commitment to justice, to compassion, to caring for the poor and the widow and the orphan and the stranger.”¹⁶ The later Hebrew prophets returned to these themes repeatedly in calling the people of Israel to their covenant obligations. Many Christian scholars used these Old Testament passages and their echoes in the New Testament to defend an array of social welfare rights.¹⁷

Finally, the Hebrew Bible’s account of the divinely sanctioned political covenant forged between King David and the people of Israel proved critical for later Western constitutionalism. Indeed, 2 Samuel 5:1–3 (RSV) recounts how “all the tribes of Israel came to David at Hebron, and said, ‘Behold, we are your bone and flesh,’” and we want you, David, to be our ruler in place of the abusive King Saul or some other dynastic successor; in response, “David made a covenant with them at Hebron before the Lord, and they anointed David king over Israel.” These same political covenant ceremonies were repeated on the appointments of the biblical kings Solomon, Rehoboam, and others to the throne (1 Kings 1:34–40, 12:1–20). These passages became critical starting points for robust legal and political discussions of political covenants, contracts, and constitutions as the foundation of organized political communities, as well as the right of the people to assemble, petition, debate, and vote in and for a constitutional government.

¹³ See, for example, Daniel J. Elazar, *Covenant and Polity in Biblical Israel: Biblical Foundations and Jewish Expressions* (New Brunswick, NJ: Transaction Publishers, 1995); Novak, *Covenantal Rights*.

¹⁴ See David Novak, *Natural Law in Judaism* (Cambridge: Cambridge University Press, 1998); David VanDrunen, *Divine Covenants and Moral Order: A Biblical Theology of Natural Law* (Grand Rapids, MI: Eerdmans, 2014).

¹⁵ See detailed passages in Richard D. Patterson, “The Widow, Orphan, and the Poor in the Old Testament and the Extra-Biblical Literature,” *Bibliotheca Sacra* (July 1973): 223–34; John Witte, Jr., *The Sins of the Fathers: The Law and Theology of Illegitimacy Reconsidered* (Cambridge: Cambridge University Press, 2009), 11–48.

¹⁶ Jonathan Sacks, “The Great Covenant of Liberties: Biblical Principles and Magna Carta,” in *Magna Carta, Religion, and the Rule of Law*, eds. Robin Griffith-Jones and Mark Hill QC (Cambridge: Cambridge University Press, 2015), 301–13.

¹⁷ See, for example, George M. Newlands and Allen P. Smith, *Hospitable God: The Transformative Dream* (Burlington, VT: Ashgate, 2010); George M. Newlands, *Christ and Human Rights: The Transformative Engagement* (Burlington, VT: Ashgate, 2006).

Particular Precepts. Beyond these general principles, the Old Testament offered particular precepts and examples that were generative of later public, private, penal, and procedural rights developments. A few illustrative biblical examples, by no means an exhaustive compilation, are highlighted in this section. Readers can find far more detailed studies in our Law and Religion Center’s recent Christianity and law book series,¹⁸ which includes detailed studies on Christianity and human rights,¹⁹ freedom,²⁰ natural law,²¹ justice and agape,²² family law,²³ criminal law,²⁴ private law,²⁵ ecclesiastical law,²⁶ international law,²⁷ global law,²⁸ and the laws of conscience,²⁹ market regulation,³⁰ migration,³¹ and taxation.³² Each book mines the relevant biblical materials and then explores their interpretation and application in the Western legal and theological traditions, including their discussions of rights and liberties.

Procedural Rights. The Old Testament spoke at length to procedural rights and what are now called “due process” rights.³³ The Bible placed a premium on truth and truth-telling, presenting them as inherent parts of God’s character and expected virtues of God’s image-bearers. As the Psalmist cried out: the “entirety of [God’s] word *is* truth” (Ps. 119:160 [NKJV]), and God “desire[s] truth in the inward parts” (Ps. 51:6 [NKJV]).

¹⁸ See overview in John Witte, Jr. and Frank S. Alexander, eds., *Christianity and Law: An Introduction* (Cambridge: Cambridge University Press, 2008); John Witte, Jr. and Rafael Domingo, eds., *Oxford Handbook on Christianity and Law* (Oxford: Oxford University Press, 2022). See also John Witte, Jr., *Faith, Freedom and Family: New Essays on Law and Religion*, eds. Norman Doe and Gary S. Hauk (Tübingen: Mohr Siebeck, 2021).

¹⁹ John Witte Jr. and Frank S. Alexander, eds., *Christianity and Human Rights: An Introduction* (Cambridge: Cambridge University Press, 2010).

²⁰ Timothy Shah and Allen D. Hertzke, eds., *Christianity and Freedom*, 2 vols. (Cambridge: Cambridge University Press, 2016).

²¹ Norman Doe, ed., *Christianity and Natural Law: An Introduction* (Cambridge: Cambridge University Press, 2017).

²² Robert F. Cochran Jr. and Zachary R. Calo, eds., *Agape, Justice, and Law: How Might Christian Love Shape Law?* (Cambridge: Cambridge University Press, 2017).

²³ John Witte Jr. and Gary S. Hauk, *Christianity and Family Law: An Introduction* (Cambridge: Cambridge University Press, 2017).

²⁴ Mark Hill et al., eds., *Christianity and Criminal Law* (London: Routledge, 2020).

²⁵ Robert F. Cochran Jr. and Michael P. Moreland, eds., *Christianity and Private Law* (London: Routledge, 2020).

²⁶ Norman Doe, ed., *Church Laws and Ecumenism: A New Path for Christian Unity* (London: Routledge, 2020); see also R. H. Helmholz, *The Profession of Ecclesiastical Lawyers: An Historical Introduction* (Cambridge: Cambridge University Press, 2019).

²⁷ Pamela Slotte and John D. Haskell, eds., *Christianity and International Law: An Introduction* (Cambridge: Cambridge University Press, 2021).

²⁸ Rafael Domingo and John Witte Jr., eds., *Christianity and Global Law* (London: Routledge, 2020).

²⁹ Jeffrey B. Hammond and Helen M. Alvaré, eds., *Christianity and the Laws of Conscience: An Introduction* (Cambridge: Cambridge University Press, 2021).

³⁰ Daniel A. Crane and Samuel Gregg, eds., *Christianity and Market Regulation* (Cambridge: Cambridge University Press, 2021).

³¹ Silas W. Allard, Kristin E. Heyer, and Raj Nadella, eds., *Christianity and the Laws of Migration* (London: Routledge, 2021).

³² Allen Calhoun, *Tax Law, Religion, and Justice: An Exploration of Theological Reflections on Taxation* (London: Routledge, 2021).

³³ See generally Pietro Bovati and Yair Hoffman, *Re-Establishing Justice: Legal Terms, Concepts and Procedures in the Hebrew Bible* (Manhattan, NY: Bloomsbury, 2009).

Because God desires truth and abominates falsehood (Prov. 6:16–19), the Decalogue made clear: “You shall not bear false witness against your neighbor” (Exod. 20:16 [NKJV]; Deut. 5:20 [NKJV]). This apodictic command echoed throughout the Covenant and Holiness Codes (Exod. 23:1–2; Lev. 19:16). To better reach the truth, Old Testament laws called for two or more witnesses to testify to important facts (Deut. 19:15), for careful inquiry by judges into the truthfulness of the testimony (Deut. 19:16–19), and for often severe punishment for perjury (Deut. 19:19–21).³⁴ Other Old Testament passages, echoing other ancient cultures, tied giving truthful “testimony” literally to holding the “testes” while swearing to the tell the truth—at the risk of severe pain if not sterility (Gen. 24:2, 47:29).³⁵ These early texts helped to inspire the later development of elaborate constitutional protections against false testimony—the rights to confront and cross-examine one’s accusers, to subpoena witnesses, and to test the authenticity of documents and other physical evidence.³⁶

The Old Testament also included broader rules for just hearings of claims and disputes. It is particularly telling that even the omnipotent and omniscient God honored the rights of humans to be heard and to dispute findings of fact before him—key features of the later express right of due process of law. In Genesis, God did not immediately punish Adam and Cain for their grave wrongs, but instead gave them a chance to “answer” for their conduct and then mitigated their punishment in light of what they said (Gen. 3:9, 4:9).³⁷ Before casting his final judgment on Sodom and Gomorrah, God negotiated at length with Abraham to ensure that all innocents would be spared (Gen. 18:16–19:29). An aggrieved Job filed a complaint against God in a metaphorical court (Job 5–9) and disputed both with God and his three friends before receiving God’s final judgment.³⁸ Several times in the Prophets, God brought “charges” against Israel for their idolatry/adultery (e.g., Jer. 2:9; Hosea 4:1; Mic. 6:2; Isa. 43:26) in a metaphorical divorce court.³⁹ These early Old Testament examples speak to God’s iconic “ways of judgment.”⁴⁰ In all these narratives, the fact that even God—who knows all and cannot be proven

³⁴ See Samuel Herald, “False Witness: Hebrew Bible/Old Testament,” in *Encyclopedia of the Bible and its Reception* [hereafter *EBR*] (Berlin: Walter DeGruyter, 2010).

³⁵ See further John H. Wigmore, “Required Numbers of Witnesses: A Brief History of the Numerical System of England,” *Harvard Law Review* 15 (1901): 83–108.

³⁶ See generally Richard Hiers, *Justice and Compassion in Biblical Law* (New York, NY: Continuum 2009), 139–144.

³⁷ See Timothy D. Lytton, “Due Process and Legal Authority in the Garden of Eden: Jurisprudence in Aggadic Midrash,” *Jewish Law Annual* 16 (2006): 185–201.

³⁸ Using forensic language, Job cried out: “How then can I *dispute* with him? ... Though I were *innocent*, I could not *answer* him; I could only *plead* with my *Judge* for *mercy*. Even if I *summoned* him and he *responded*, I do not believe he would give me a *hearing*” (Job 9:14–16 [NIV]) (emphasis added on forensic terms). Job continued: “He is not a mere mortal like me that I might *answer* him, that we might confront each other in *court*. If only there were someone to *mediate* between us...” (Job 9:32–33 [NIV]) (emphasis added on forensic terms). See Edward L. Greenstein, “When Job Sued God,” *Biblical Archaeology Review* 38, no.3 (2012).

³⁹ See Meira Z. Kensky, “Courtroom Scene,” in *EBR*; see also “Trial Procedure,” in *The Oxford Encyclopedia of the Bible and Law* [hereafter *OEBL*], eds. Brent A. Strawn et al. (Oxford: Oxford University Press, 2015).

⁴⁰ Oliver O’Donovan, *The Ways of Judgment* (Grand Rapids, MI: Eerdmans, 2005); Nathan S. Chapman, “The Weight of Judgment,” in *Christianity and Criminal Law*, eds. Mark Hill et al., (London: Routledge, 2020), 332–48.

wrong—disputed with humans and listened to their testimony, signaled the importance of procedural due process.

In day-to-day civil litigation and criminal prosecution in society, the right to be heard was to take place before fair and just tribunals and officials. Under Mosaic laws, disputes were not to be settled by caprice or whim. Instead, the law commanded Israel: “You shall appoint judges and officers in all your towns that the Lord your God is giving you ... and they shall judge the people with righteous judgment” (Deut. 16:18 [ESV]). Later, monarchs too were to provide justice by acting as wise and impartial judges (e.g., 1 Kings 3:16–28).⁴¹ Importantly, as the prophets emphasized, Israel’s adjudicative authorities were not to ignore or exhibit bias against the petitions of the poor and vulnerable (e.g., Isa. 1:23, Jer. 5:28, Amos. 5:11–12).⁴² Instead, declared the Mosaic Law, “[y]ou shall not show partiality, nor take a bribe,” but “shall follow what is altogether just” (Deut. 16:19–20 [NJKV]). Moreover, the law commanded: “You shall have the same rule for the sojourner and for the native, for I am the LORD your God” (Lev. 24:22 [ESV]). Time and again, the Old Testament vindicated a right for people, especially the vulnerable, to procedural justice.⁴³

The Old Testament provided other scattered references to trial procedures that instantiated procedural justice.⁴⁴ First, after a plaintiff launched a complaint (e.g., Deut. 25:7), adjudicating authorities might summon and compel the party to appear for trial (Deut. 19:12, 25:7–8). The disputants were then to stand and present their cases before a panel, which may have consisted of judges, priests, and town elders at the town gate (Deut. 17:9, 19:17–18, 25:1–2, 7). Evidence could come from witnesses (Deut. 19:15–21) as well as physical material, such as animal carcasses, bloodstained cloth, or scrolls documenting transactions (e.g., Exod. 22:13; Deut. 22:17; Jer. 32:10–14). Sometimes, judges also interpreted circumstantial evidence (e.g., famously, Solomon’s judgment in a disputed child custody case in 1 Kings 3:25). Adjudicating authorities might further investigate the matter (Deut. 17:4) and judge the accuracy of witness testimony (Deut. 19:18), and then make a judgment either in declaratory form (Deut. 25:1) or as an order (e.g., 1 Kings 3:27). The guilty party could be fined (Deut. 22:19) or beaten (Deut. 25:2); if the latter, the judge was not to impose more than forty lashes lest the fellow Israelite punished “be degraded” (Deut. 25:3).

Several biblical crimes—including violations of the first nine commandments of the Decalogue as well as kidnapping, cursing or assaulting parents, and several sexual

⁴¹ See “Trial Procedure,” in *OEBL*.

⁴² *Ibid*.

⁴³ See Mathias Schmoeckel, “Procedure, Proof, and Evidence,” in *Christianity and Law*, eds., John Witte, Jr. and Frank S. Alexander (Cambridge: Cambridge University Press, 2008), 143–62; see also “Trial Procedure,” in *OEBL*; Exod. 6–8, 23:3; Lev. 19:15. See generally Richard H. Hiers, “Biblical Social Welfare Legislation: Protected Classes and Provisions for Persons in Need,” *Journal of Law & Religion* 17 (2002): 57–63; Richard H. Hiers, “The Death Penalty and Due Process in Biblical Law,” *University of Detroit Mercy Law Review* 81 (2004): 751–843.

⁴⁴ See “Trial Procedure,” in *OEBL*; “Evidence,” in *OEBL*. To present these scattered references in a chronologically ordered format, this paragraph drew heavily from Donald McKenzie, “Judicial Procedure at the Town Gate,” *Vetus Testamentum* 14, no.1 (1964): 100–104.

offenses contrary to explicit Mosaic prohibitions⁴⁵—were capital offenses with bloody retribution meted out through stoning and other vicious measures if a person were found guilty. But, even here, the Mosaic Law provided a right of asylum or refuge in sanctuary cities for fleeing felons who did not receive a fair trial, or who claimed that they had committed their offenses without *mens rea* (see Num. 35:9–28; Deut. 4:41–43, 19:1–13; Josh. 20). The Old Testament made clear that only the guilty should be punished with no vicarious liability for other family or communal members. Already the Noahide covenant made this clear: “Whoever sheds the blood of man, by man shall *his* blood be shed” (Gen. 9:6 [ESV]) (emphasis added). This was repeated more clearly in the Mosaic Law: “Parents shall not be put to death for their children, nor shall children be put to death for their parents; only for their own crimes may persons be put to death” (Deut. 24:16 [NRSV]; see also 2 Kings 14:5; 2 Chron. 25:4).⁴⁶ The prophet Ezekiel echoed this prohibition on vicarious liability: “The son shall not bear the iniquity of the father, neither shall the father bear the iniquity of the son: the righteousness of the righteous shall be upon him, and the wickedness of the wicked shall be upon him” (Ezek. 18:20 [KJV]).

The surviving Old Testament account of all these procedural laws and rights is neither comprehensive nor systematic, as the Rabbis of the Mishnah and Talmuds quickly made clear. Yet, the biblical laws that condemned false witnesses, called for access to fair hearings, and contained provisions for just dispute resolution, were all important building blocks for the development of procedural rights in the Western legal tradition.⁴⁷

Economic and Property Rights. Economic rights also permeated the Old Testament’s nomos and narratives. The Bible placed a heavy emphasis on work.⁴⁸ Work began with the Creator, whose act of creation was work of such magnitude that even the all-mighty God chose to rest from his labors (Gen. 1–2:3, 2:4b–24). Humans, as creatures made in the image of a working God, were called to work as well.⁴⁹ God created and called Adam and Eve to “fill the earth and subdue it” (Gen. 1:28 [NKJV]), to “tend and keep” the garden (Gen. 2:15 [NKJV]). And because of Adam and Eve’s sin, work was made harder for humanity: “in the sweat of your face you shall eat bread,” said God to Adam and Eve (Gen. 3:19 [NKJV]). This duty to work echoed across the Old and New Testaments (e.g., Prov. 6:9–11, 12:11; Eph. 4:28; 2 Thess. 3:10–12); the Bible included nearly a thousand references to “work” and “labor.” These texts provided the foundation for the correlative right and duty to work in the Western tradition.⁵⁰

⁴⁵ Parmela Bambash, *Homicide in the Biblical World* (Cambridge: Cambridge University Press, 2005); David Noel Freedman, *The Nine Commandments* (New York: Image, 2013); Brent A. Strawn, “Criminal Law in the Old Testament,” in Hill et al., *Christianity and Criminal Law*, 13–30.

⁴⁶ See further Clifford S. Fishman, “Old Testament Justice,” *Catholic University Law Review* 51 (2002): 405–24.

⁴⁷ See generally Witte, *The Reformation of Rights*.

⁴⁸ See Ralph K. Hawkins, “Labor: Hebrew Bible/Old Testament,” in *EBR*.

⁴⁹ See Abraham Kuyper, “Leftover Fragments” in *On Business and Economics* [hereafter *OBE*], eds. Melvin Flikkema & Jordan J. Ballor (Bellingham, WA: Lexham Press, 2021).

⁵⁰ See, for example, Abraham Kuyper, “Do Not Work for the Food that Perishes” in *OBE*; Abraham Kuyper, “You Shall Not Steal” in *OBE*; Pope Leo XIII, “Rights and Duties of Capital and Labor” in *Rerum Novarum – Encyclical of Pope Leo XIII on Capital and Labor*, https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_1505_1891_rerum-novarum.pdf.

The Old Testament spoke not only of a duty to work but also of a right to rest. God rested on the seventh day (Gen. 2:2–3), and human beings, made in God’s image, were likewise to rest and keep the Sabbath day holy (Exod. 20:8–11). Sabbath rest not only conformed a person’s life pattern to God’s. It also gave slaves and laborers within Israel a chance for reprieve; Israelites, too, the Mosaic Law emphasized, were once slaves in Egypt (Deut. 5:12–15). The Western legal tradition developed this right and duty of rest on the Sabbath early on, and the right to take regular time off from labor remains a critical part of modern international human rights law.⁵¹

Workers must be given a fair wage, the Old Testament stated repeatedly. “Woe to him,” the prophet Jeremiah cried, who “uses his neighbor’s service without wages,” and who “gives him nothing for his work” (Jer. 22:13 [NKJV]). The Mosaic law made this clear: “You shall not cheat your neighbor, nor rob him. The wages of him who is hired shall not remain with you all night until morning” (Lev. 19:13 [NKJV]). “You shall not oppress a hired servant who is poor and needy ... Each day you shall give him his wages ... for he is poor and has set his heart on it; lest he cry out against you to the Lord, and it be sin to you” (Deut. 24:13–15 [NKJV]).⁵² Drawing upon verses like these, Christian luminaries called for just wages and better working conditions.⁵³ “A just wage,” states the modern Catechism of the Catholic Church, “is the legitimate fruit of work. To refuse or withhold it can be a grave injustice.”⁵⁴

Property rights also readily flowed from the stories and laws of the Old Testament. The most famous foundation of property rights was the Eighth Commandment: “You shall not steal” (Exod. 20:15; Lev. 19:11; Deut. 5:19). And relatedly, the Tenth Commandment, too: “You shall not covet your neighbor’s house” or other personal possessions (Exod. 20:17; cf. Deut. 5:21). Stealing and coveting, by definition, presumed the existence of rightful ownership, the legitimacy of declaring something as “mine” or “thine.”⁵⁵ The “right” to own something—be it land or movable property—was gradually expanded in Talmudic jurisprudence and Christian legal thought alike to include the rights to acquire, use, maintain, encumber, and alienate property.

However, human ownership of property was never absolute. The absolute right to ownership rested with God, whose *ex-nihilo* creation of the universe gave God absolute title to all property (Ps. 89:11).⁵⁶ As the Mosaic Law made clear: “To the Lord your God belong the heavens, even the highest heavens, the earth and everything in it” (Deut. 10:14 [NIV]; cf. 1 Chron. 29:11–12; Job 41:11; Hag. 2:8). God then conveyed ownership and usage rights—“dominion”—to humans (e.g., Gen. 1:26–28, 9:1, 13:14–17, 15:18–21). Since only God was the absolute owner of all property, humankind’s ownership rights were by definition inferior to God’s. That was signified in the express command to render

⁵¹ See Kuyper, “The Social Question and the Christian Religion,” in *OBE*, Part 4.

⁵² See “Wage Theft,” in *OEBL*.

⁵³ See, for example, Kuyper, “The Social Question and the Christian Religion,” in *OBE*, Part 4; see also *Catechism of the Catholic Church* (1984), Part III, Sec. 2, Ch. 2, Art. 7.4 (citing Lev. 19:13, Deut 24:14–15, and James 5:4 to justify a just wage). See generally George D. Chryssides, “Labor (Work),” in *EBR*.

⁵⁴ *Catechism*, Part III, Sec. 2, Ch. 2, Art. 7.4.

⁵⁵ See Kuyper “You Shall Not Steal,” in *OBE*.

⁵⁶ See “Property,” in *OEBL*.

to God tithes, tributes, and the first fruits of one's labors (Gen. 14:19–20; Lev. 27:30–34; Deut. 12:5–6; Neh. 10:35–37; Prov. 3:9–10; Mal. 3:8–9). Furthermore, the Bible indicated that humans could not do as they pleased with their property, but had to honor God's commands.⁵⁷ Already in Genesis, God gave Adam and Eve dominion over living creatures (Gen. 1:26–28) and the authority to occupy, use, and cultivate the garden (see Gen. 2:15). But as soon as they ate the fruit that God had forbade them to eat, God ejected them from the garden and employed cherubim to guard against their re-entry (Gen. 3:23–24). This narrative illustrated that Adam and Eve's right to use and inhabit the garden, hinged on their obedience to the divine landowner, who held superior rights to exclude man from the property.⁵⁸

The teaching that humankind's property rights were subordinate to God's, echoed throughout the Old and New Testament. As God commanded Israel: "The land shall not be sold permanently, for the land is Mine; for you are strangers and sojourners with Me" (Lev. 25:23 [NKJV]). Humans were instead to "steward" the property over which they had "dominion" in accordance with God's permissions and prohibitions. The Mosaic Law set out many such rules governing the use of real and personal property. Examples included laws on the division of property (e.g., Josh. 15–19), the redemption of property (Lev. 25:24; Ruth. 4:1–11), theft (Exod. 22:1–4), bailments (Exod. 22:7, 10, 14), inheritance rights (Lev. 25:46), gleaning provisions for the poor (Lev. 19:9, 23:22; Isa. 17:6), and dispute resolution over personal property (Exod. 22:9).⁵⁹

Challenging for our day, but typical in the ancient world, were the Mosaic laws on slavery. The Old Testament teemed with laws and examples of God's chosen people enslaving debtors and criminals (Exod. 22:3), taking slaves as war booty, and purchasing slaves from neighboring nations (Exod. 22:3, Num. 31:9–18; Deut. 20:10–14). Even fellow Jews could be enslaved as forms of punishment for debt or crime, although under the Mosaic Law this enslavement was to be temporary, humane, and closely regulated, with automatic manumission after six or seven years (Exod. 21:1–11, 16; Lev. 25:39–55; Deut. 15:1–6, 12–18, 24:7). Masters had more expansive property rights in their foreign slaves, however, who could not be harmed or stolen by others (Exod. 20:17, 21:20). These slaves were subject to sale, lease, barter, mortgage, gift, and devise (Gen. 12:16, 20:14, 24:35, 30:43, 32:5).

But even foreign-born slaves were regarded as persons, not chattel, in ancient Jewish law and culture—and they, too, should be manumitted after a time (Exod. 21:1–11; Deut. 15:15–6). Masters were required to circumcise their male slaves so that they could participate in Jewish religious life (Gen. 17:13–27; Exod. 12:44; Deut. 10:16). Masters and their sons could marry their female slaves (Deut. 21:10–14). Slaves could be forced to work, but not on the Sabbath (Exod. 20:10, 23:12; Deut. 5:14). Masters could and should discipline their slaves (Prov. 29:19, 21). But if their punishments physically disfigured their slaves, masters had to release them; if these punishments were fatal, masters themselves were to be punished (Exod. 21:20–21, 26–27). Moreover, if slaves

⁵⁷ Ibid.

⁵⁸ See *ibid.*

⁵⁹ See *ibid.*

escaped a cruel master and gained sanctuary, they did not have to be returned as fugitives (Deut. 23:15–16).

The Mosaic Law not only mandated the release of fellow Jewish slaves in the seventh year; it also prescribed a “comprehensive program of release” every fifty years.⁶⁰ Each Jubilee year called for slaves to be released (Lev. 25:40), for the poor to reclaim property they once needed to sell (Lev. 25:24–28), and for people to return to their families and homes (Lev. 25:10, 13, 28, 41) if exiled or ostracized. “[Y]ou shall consecrate the fiftieth year,” the Mosaic Law declared, “and proclaim liberty throughout the land to all its inhabitants” (Lev. 25:10 [ESV]). Jubilee imagery continued into the New Testament, as Jesus proclaimed “liberty to the captives” and “the acceptable year of the Lord” (Luke 4:18–19 [NKJV]).⁶¹ While scholars question whether the ancient Israelites implemented these Jubilee mandates, the laws of Jubilee offered inspiration for racial and social justice worldwide. African-Americans, in particular, who were enslaved in America from 1607 to 1863, anticipated and sang about the “Year of Jubilee” as a year of emancipation.⁶²

The Rights of the Vulnerable. In addition to Jubilee legislation, the Hebrew Bible abounded with other laws that prescribed care for vulnerable classes, including foreigners, disabled persons, widows and orphans, and the poor. The Mosaic Law explicitly commanded Israelites not to oppress the alien (Exod. 23:9; Lev. 19:33–34; Deut. 24:14, 17–18). Instead, Israelites were to show hospitality reflective of God, who “loves the stranger, giving him food and clothing” (Deut. 10:18 [NKJV]). The Mosaic Law accordingly called God’s people “to love the stranger,” reminding the Israelites that they “were strangers in the land of Egypt” (Deut. 10:19 [NKJV]), and that even Israel’s founding patriarchs—Abraham, Isaac, Jacob, and Joseph—were sojourners or exiles for a time, too (Gen. 17:8, 20:1, 28:4, 35:27, 37:1, 37:28, 37:36).⁶³ The Old Testament’s affirmation of the *imago dei*, its stories of God’s provision for migrants, and its legislation for protecting aliens, all provided vital premises for later arguments on the “rights” of foreigners, refugees, and immigrants—on how they should and should not be treated.⁶⁴

Similarly, Old Testament laws commanded respect for the disabled.⁶⁵ While the Old Testament lacked an umbrella word for “disability,” it recognized blindness, lameness, deafness, and muteness (e.g., Exod. 4:11; Jer. 31:8); references to these disabilities recur often in the New Testament, too, and are occasions for Jesus’s miracles.⁶⁶ The Old Testament made clear that the blind and lame were excluded from priestly service (Lev. 21:16–23), and that visual and other bodily impairments could be inflicted as “eye-for-eye,

⁶⁰ See Christoph Berner, “Jubilee, Year of: Hebrew Bible / Old Testament,” in *EBR*.

⁶¹ See Sharon H. Ringe, *Jesus, Liberation, and the Biblical Jubilee* (Minneapolis, MN: Fortress Press, 1985), 36–45.

⁶² J.B.T. Marsh, *The Story of the Jubilee Singers* (Boston: Houghton Mifflin, 1881), 26.

⁶³ See M. Daniel Carroll R. et. al., *Christians at the Border: Immigration, the Church, and the Bible* (Ada, Michigan: Brazos Press, 2013), 53–55, 59–60.

⁶⁴ See *ibid.*, 45–101.

⁶⁵ See Jeremy Schipper, “Disability: Hebrew Bible / Old Testament,” in *EBR*.

⁶⁶ See *ibid.*

tooth-for-tooth” punishments (Exod. 21:24, 27; 24:20; cf. Deut. 28:28–29).⁶⁷ But Old Testament legislation explicitly instructed against mistreatment of the disabled. Leviticus 19:14 (NIV) commanded: “Do not curse the deaf or put a stumbling block in front of the blind, but fear your God. I am the Lord.” Deuteronomy 27:18 (NIV) stated: “Cursed is anyone who leads the blind astray on the road.” These injunctions, combined with prophecies of restoration that explicitly included healing for the disabled (Isa. 29:18, 35:5–6; Jer. 31:8–9; Mic. 4:6–7), as well as later stories of suffering and healing in the New Testament, together provided a biblical vision affirming the value of disabled people and their corresponding proper treatment.⁶⁸ It took until well into the twentieth century, however, for the Western legal tradition to name an express set of “disability rights,” though medieval and early modern poor laws and diaconal instructions explicitly included the disabled among “the deserving poor” who had rights of sustenance, succor, and sanctuary.

The Hebrew Bible also required justice and care for widows and orphans, and protection from their mistreatment.⁶⁹ “You shall not afflict any widow or fatherless child,” exclaimed the Mosaic Law (Exod. 22:22 [NKJV]). “If you afflict them in any way, and they cry at all to Me, I will surely hear their cry ... My wrath will become hot, and I will kill you with the sword.” (Exod. 22:21–24 [NKJV]; cf. Deut. 27:19). Creditors were not to collect basic clothing from widows as a pledge (Deut. 24:17). Priests and farmers were to tithe produce from which widows and orphans could eat (Deut. 14:28–29; 26:12–13).⁷⁰ Widows were to be included in the Feast of Weeks (Deut. 16:11) and Feast of Booths (Deut. 16:14). All Israelites were to leave the grains, olives and grapes that they neglected to harvest, for aliens, orphans, and widows to glean free of charge (Deut. 24:19–21; Ruth 2:2–3, 7–8). On the strength of these texts, both the Talmudic Rabbis and the Church Fathers affirmed that widows and orphans have not only negative rights to be free from abuse and exploitation, but also positive rights to acquire food and other necessities for survival.⁷¹

More broadly, the Bible overflowed with texts concerning the poor.⁷² The Mosaic Law prohibited Israelites from charging interest on loans to the poor (Exod. 22:25; Lev. 25:35–37). The poor were entitled to glean uncultivated crops during every seventh year (Exod. 23:10–11) as well as after a harvest (Lev. 19:9–10). As Deuteronomy 15:11 (NKJV) made clear: “You shall open your hand wide to your brother, to your poor and your needy, in your land.” And when these obligations were dishonored, the prophets thundered divine indignation (Amos 2:6–7; Isa. 10:2). Although the Hebrew Bible did not use the explicit language of human rights or entitlements, its patchwork of positive and negative duties

⁶⁷ See *ibid.*; Pauline A. Otieno, “Biblical and Theological Perspectives on Disability: Implications on the Rights of Persons with Disability in Kenya,” *Disabilities Studies Quarterly* 29 (2009).

⁶⁸ See generally Amos Yong, *The Bible, Disability and the Church: A New Vision of the People of God* (Grand Rapids, MI: Eerdmans, 2011); Nancy L. Eiesland, *The Disabled God: Toward a Liberatory Theology of Disability* (Nashville, Tennessee: Abingdon Press, 1994).

⁶⁹ See Pnina Galpaz-Feller, “The Widow in the Bible and in Ancient Egypt,” *Zeitschrift für die alttestamentliche Wissenschaft* 120, no. 2 (2008), 231–253; see also “Widow,” in *OEBL*.

⁷⁰ The prophets echoed the call to defend and not oppress widows (e.g., Jer. 7:6; Ezek. 22:6–7; Mal. 3:5).

⁷¹ Witte, *The Sins of the Fathers*, 11–48.

⁷² See “Justice,” in *OEBL*.

on their neighbors—divinely mandated and enforced—implied corresponding rights for the vulnerable: they were not merely to beg for support, but by God’s design, were entitled to it. By the Middle Ages, these biblical passages were woven into a complex body of law on “the rights of the poor” and the virtues of “redemptive charity.”⁷³

Family Rights and Sexual Ethics. The Mosaic Law provided specific direction on sex, marriage, and family life. Four of the Ten Commandments spoke on these areas, fashioning the basic structure and obligations of the marital household, and grounding the demand for love and fidelity to God and neighbor, parent and spouse, child and servant.

Remember the sabbath day, and keep it holy. Six days you shall labor and do all your work. But the seventh day is a sabbath to the Lord your God; you shall not do any work—you, your son or your daughter, your male or female slave, your livestock, or the alien resident in your towns....

Honor your father and your mother, so that your days may be long in the land which the Lord your God is giving you....

You shall not commit adultery....

You shall not covet your neighbor’s house; you shall not covet your neighbor’s wife, or male or female slave, or ox, or donkey, or anything that belongs to your neighbor (Exod. 20:8–9, 12, 14, 17 [NRSV]).

Additionally, Leviticus and Deuteronomy abounded with rules, procedures, cases, and moral admonitions on point. Included in these many biblical passages were detailed teachings on marital formation, maintenance, and dissolution; on proper sexual behavior by men and women before, within, and after marriage; on the prohibition and punishment of sexual crimes like adultery, fornication, incest, rape, sodomy, interreligious marriage, and more; on the special roles and duties of boy and girl, man and woman, fiancé and fiancée, husband and wife, parent and child, master and servant, brother and sister-in-law, householder and patriarch; on the proper habits of sexual, bodily, and ritual cleanliness for men and women in different seasons (see e.g., Lev. 18:6–29, 20:10–27; Deut. 22:13–30, 27:20–23).

All the Mosaic Law’s commandments on sex, marriage, and family life were part and product of Israel’s covenant obligations to God. Though the Mosaic Law itself did not draw this analogy, the later Hebrew Prophets Hosea, Jeremiah, Ezekiel, Isaiah, and Malachi all analogized this covenant relationship between God and Israel to the marital relationship between a husband and wife: just as God chose to give up his divine freedom to bind himself to his chosen people of Israel, the Prophets argued, so a man chooses to give up his natural freedom to bind himself to his wife, to become “one flesh” with her; just

⁷³ Brian S. Pullan, “Poverty, Charity, and Social Welfare,” in *Christianity and Law: An Introduction* (Cambridge: Cambridge University Press, 2008), 185–204.

as Israel chose Yahweh out of all the other gods of the ancient pantheon to be its God and to make sacrifices only to this God, so a woman chooses her husband from all the other men in the universe to be her only husband, and to sacrifice and dedicate herself to him alone; just as God and Israel swore to bind themselves together by a special covenant, with each side promising to be faithful and obedient to the other, so a husband and wife swore to a special marital covenant, with each side promising to be faithful and obedient to the other in accordance with the terms of their agreement and with the laws of the Torah; just as breach of the divine covenant between God and his chosen people would hurt the parties and have devastating consequences upon later generations, so would breach of a marital covenant between husband and wife hurt the innocent spouse and have devastating consequences for each of them and for the children of that union (Isa. 1:21–22, 54:5–8, 57:3–10, 61:10–11, 62:4–5; Jer. 2:2–3, 3:1–25, 13:27; 23:10, 31:32; Ezek. 16:1–3, 23:1–49; Hosea 2:2–23; Mal. 1–2).⁷⁴

The Old Testament laws also prohibited child sacrifice and kidnapping. Throughout the Old Testament, children faced gruesome horrors and abuse: some were sacrificed in fire (2 Kings 16:3), others were slaughtered as food for idols (Ezek. 23:37).⁷⁵ The Mosaic Law, however, barred the sacrifice of children, whether to God or to idols (Lev. 18:21, 20:2–5; Deut. 12:31, 18:10; cf. Jer. 7:31).⁷⁶ Similarly, the law barred the kidnapping of children, and regarded kidnapping as a capital offense (Exod. 21:16).⁷⁷ The Old Testament's prohibitions on infanticide and kidnapping, implied the premium that God placed on the life and liberty of children. Though Western theologians understood that the Hebrew Bible's laws on sex, marriage, family life, and children were given to ancient Israel and not to all humanity, the early Church Fathers also understood these laws as specific reflections and elaborations of the natural or moral law written on peoples' hearts (Rom. 2:14–15). Thus, these laws served as a valuable prototype for Christians as they mapped out private rights and duties concerning the family and specifically children. Building on these biblical passages, medieval canonists and early modern Protestants alike developed extensive provisions on what are now called "children's rights."⁷⁸

All that said, many Old Testament stories and statutes defy modern human rights standards. In anger over mankind's evil, God flooded the world to wipe away man from the earth, with no trials, no hearings, and no mercy to those outside Noah's family (Gen. 6–8). Later, God ordered complete destruction of the Canaanites (Num. 21:2–3; Deut. 20:17; Josh. 6:17). Levitical statutes prescribed the death penalty for blasphemers (Lev. 24:16), for those who cursed or disobeyed their parents (Lev. 20:9; Deut. 21:18–21), and for those who profaned the Sabbath (Exod. 31:14). The interpretation of these texts and others have never been easy, and for millennia, Christian luminaries have wrestled over

⁷⁴ See further Gordon P. Hugenberger, *Marriage as Covenant: A Study of Biblical Law and Ethics Governing Marriage Developed From the Perspective of Malachi* (Leiden: Brill, 1994); Michael G. Lawler, "Marriage as Covenant in the Catholic Tradition," in *Covenant Marriage in Comparative Perspective*, eds., John Witte, Jr. and Eliza Ellison (Grand Rapids, MI: Eerdmans, 2005), 70–92.

⁷⁵ See Julie Faith Parker, "Child: Hebrew Bible/Old Testament," in *EBR*.

⁷⁶ See Meek Russell, "Infanticide: Hebrew Bible/Old Testament," in *EBR*.

⁷⁷ See Gaß Erasmus, "Kidnap, Kidnapping: Hebrew Bible/Old Testament," in *EBR*.

⁷⁸ Witte, *Church, State, and Family*, 238–73.

the violence of the Old Testament⁷⁹ and the place of its moral, juridical, and ceremonial precepts for the New Testament world, let alone modern Christian and post-Christian societies.⁸⁰ Still, with all its bitter and its sweet, the Old Testament presented insights on how God expected humans to treat and not treat one another: these insights—complex as they are—offer shape and substance for what we now regularly call “human rights.”

New Testament Teachings

General Principles. The New Testament offered several strong pronouncements on freedom (*eleuthería; libertas*). “For freedom Christ has set us free” (Gal. 5:1 [ESV]). “For you were called to freedom” (Gal. 5:13 [ESV]). “[W]here the Spirit of the Lord is, there is freedom” (2 Cor. 3:17 [ESV]). “For the law of the Spirit of life has set you free in Christ Jesus from the law of sin and death” (Rom. 8:2 [ESV]). “[Y]ou will know the truth, and the truth will set you free” (John 8:32 [ESV]). “So if the Son sets you free, you will be free indeed” (John 8:36). You all have been given “the law of liberty” in Christ (James 2:12 [ESV]), “the glorious liberty of the children of God” (Rom 8:21 [NKJV]). You must all now “live as people who are free” (1 Pet. 2:16 [ESV]).

“Freedom” meant three main things in these passages—freedom from “slavery” to sin and earthly temptation and the condemnation it brought (Rom. 8:21, 33; 1 Cor. 7:21–22; Gal. 2:4, 5:1, 13:1); freedom from following Mosaic laws, particularly the ceremonial laws, as a means to salvation (Rom. 6:20; 2 Cor. 3:17; Gal. 3:28, 4:26, 6:8); and freedom to follow the rules of right Christian conduct before God, even if never perfectly, before gaining full communion with God in heaven.⁸¹

These passages have long inspired Christians to work out the meaning and means of spiritual freedom vis-à-vis the political authorities. Already in the first centuries after Christ, the Church Fathers and church councils used these New Testament texts as the foundation on which to build increasingly detailed canon laws that defined Christian rights and duties within the church, and to shape rallying cries for religious freedom from persecution.⁸² An important early statement that echoed throughout the Western traditions came from the Latin Church Father Tertullian. At the turn of the third century, he drew upon these passages to coin the term “freedom of religion” (*libertas religionis*).⁸³ He further argued, in a letter to the Roman authorities, that “it is a human right and a natural power (*humani iuris et naturalis potestatis est*) for everyone to worship what he or she thinks is good; religion brings neither harm nor benefit to the other. It is not even a

⁷⁹ See Christian Hofreiter, *Making Sense of Old Testament Genocide: Christian Interpretations of Herem Passages* (Oxford: Oxford University Press, 2018).

⁸⁰ See, for example, Thomas Aquinas, *Summa Theologica*, I-II, q. 100–108; John Calvin, *Institutes of the Christian Religion*, Ch. 2–3.

⁸¹ See Gerhard Kittel et al., *Theological Dictionary of the New Testament*, 10 vols. (Grand Rapids, MI: Eerdmans, 1964), s.v. “eleutheria/freedom.”

⁸² See several textual examples and good literature summary in Julia Crick, “*Pristina Libertas: Liberty and the Anglo-Saxons Revisited*,” *Transactions of the Royal Historical Society* 14 (2003): 47–71.

⁸³ See Robert L. Wilken, *Liberty in the Things of God: The Christian Origins of Religious Freedom* (New Haven, CT: Yale University Press, 2019), 1, 13–19.

matter of religion to compel religion, since it has to be adopted by free will and not by force; for even sacrifices are only required of a willing disposition.”⁸⁴ In later centuries, Catholic, Protestant, and Orthodox Christians alike turned to these biblical texts as starting points for their theories of religious rights and liberties.

An important component of religious liberty was the freedom to have one’s “conscience clear before God and man” (Acts 24:16 [NIV]); to allow one’s conscience “to bear ... witness in the Holy Spirit” (Rom. 9:1 [ESV]); and to operate in conscience with “holiness and godly sincerity, not by earthly wisdom but by the grace of God” (2 Cor. 1:12 [RSV]; see also 2 Tim. 1:3). “For whatever does not proceed from faith is sin,” wrote Paul (Rom. 14:23 [ESV]). One’s conscience, though at times weak and ignored, always attests to God’s truth and can indict a person for falling short of God’s commands (Rom. 2:15, 9:1). Church members are called to attend to their own consciences and those of others (1 Cor. 10:25–29).⁸⁵

While New Testament Christians were required “in conscience” to obey the legitimate political authorities, to register their properties, and to pay their taxes (Rom. 13:7; 1 Pet. 2:13–17), their overall duty was to “obey God rather than men” (Acts 5:29). Jesus put it memorably: “Render to Caesar the things that are Caesar’s, and to God the things that are God’s” (Matt. 22:21 [RSV]; Mark 12:17; Luke 20:25). The Bible was filled with examples of God’s people resisting unjust authorities who harmed God’s interests or violated God’s laws. “Mor’dcai did not bow down or do obeisance” (Gk. Es. 3:2 [RSV]) to a proud pagan ruler who demanded pagan worship; he explained in his prayer to God that he had done so “not in insolence or pride or for any love of glory” but that “I might not set human glory above the glory of God” (Gk. Es. 13:12–14 [NRSV]). Proverbs 24:10–12 further called on God’s people to “rescue those who are being taken away to death; hold back those who are stumbling to the slaughter” (Pr. 24:10–12 [RSV]), lest they ignore the lesson of Judges 5:23 (ESV), where God is said to have cursed a people “because they did not come to the help of the Lord, to the help of the Lord against the mighty.”

The New Testament called believers to remain separate from worldly temptations, to be “in the world, but not of it,” and not “conformed” to its secular ways (see 2 Cor. 6:17; Rom. 12:2). For Christians were, at heart, “strangers and exiles on the earth”; their “true citizenship is in heaven” (Heb. 11:13 [RSV]; Phil. 3:20). The Bible also spoke frequently about building and rebuilding “walls” to foster this basic separation between believers and the outside world. Saint Paul spoke literally of a “wall of separation” or partition (*paries maceriae*) interposed by the law of God (Eph. 2:14). These passages and others have inspired Christians over the centuries to develop dualistic theories of religion and politics, church and state—two ways, two cities, two powers, two swords, two kingdoms, two realms, and two institutions of religion and politics, of spiritual and temporal life. Today

⁸⁴ Tertullian of Carthage, *Ad Scapulam*, ch. 2 (212), https://www.tertullian.org/latin/ad_scapulam.htm, using translation by Rafael Domingo, “The Right to Religious Freedom: Extension or Erosion,” in *Cambridge Handbook on Natural Law and Natural Rights*, eds. Tom Angier, Iain Benson, and Mark Retter (Cambridge: Cambridge University Press, 2022), ch. 36.

⁸⁵ See Brian Tierney, “Religious Rights: A Historical Perspective,” in *Religious Human Rights in Global Perspectives* (Dordrecht/Boston/London: Martinus Nijhoff Publishers, 1995), 17–46; Roger Williams, “Bloudy Tenent” in *The Complete Writings of Roger Williams* (New York: Russell & Russell, 1963), 3:219.

such images are captured in constitutional injunctions to separate church and state, and to protect the rights and autonomy of churches and church leaders.⁸⁶

The New Testament also called for equality. Saint Paul put this famously: “There is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female; for you are all one in Christ Jesus” (Gal. 3:26–28 [NKJV]; see also Eph. 2:14–15; Col. 3:11). This radical Christian message of human equality trumped conventional Greco-Roman hierarchies based on birth, nationality, social status, gender, and more. Saint Peter amplified this call to equality with his admonition that all Christian believers are equally called to be prophets, priests, and kings of God: “[Y]ou are a chosen race, a royal priesthood, a holy nation, God’s own people” (1 Pet. 2:9 [NRSV]; cf. Rev. 5:10, 20:6). These New Testament passages were critical not only to the gradual development of the theological understanding of the *triplex munus Christi*, but also to the legal development of norms of equal protection and treatment of all persons before the law; their equal rights to speak (as prophets), to worship (as priest), and to participate in government (as kings); and to domestic and international guarantees of freedom of all from discrimination based on gender, race, culture, ethnicity, and social or economic status.

Most fundamentally, the New Testament called for love. Love started with and from God. “This is love: not that we loved God, but that he loved us and sent his Son as an atoning sacrifice for our sins.” (1 John 4:10 [NIV]). God’s love for mankind—as manifested by creation (Gen. 1:1–2:3, 2:4–2:25), providence (Matt. 6:25–34; Luke 12:22–32), and Christ’s atoning death (e.g., Mark 16:1–8)—bestowed human beings with invaluable worth. This worth, then, demands a respect that corresponds to it. As Nicholas Wolterstorff wrote:

And I conclude that if God loves, in the mode of attachment, each and every human being equally and permanently, then natural human rights inhere in the worth bestowed on human beings by that love. Natural human rights are what respect for that worth requires.⁸⁷

Just as God loved humankind, humans were to love one another. As Jesus made clear, “all the Law and Prophets” hung on two commandments: first, “[y]ou shall love the Lord your God with all your heart, with all your soul, and with all your mind”; second, “[y]ou shall love your neighbor as yourself” (Matt 22:37–40 [NKJV]). Saint Paul continued: “For the entire law is fulfilled in keeping this one command: ‘Love your neighbor as yourself’” (Gal. 5:14 [NIV]). Those who truly loved others, would fulfill divinely mandated duties (“the law”) on how to treat other humans. And insofar as fulfilling one’s duties to another necessarily resulted in honoring another’s rights against oneself, love necessarily resulted in the honoring of another’s human rights. In other words, while God’s love for humankind

⁸⁶ See John Witte Jr., “Facts and Fictions About the History of Separation of Church and State,” *Journal of Church and State* 48 (2006), 15–46.

⁸⁷ Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton: Princeton University Press, 2008), 360.

offered a foundation for human worth that grounded human rights, Christ's command to love one another offered the means to honor those rights.

Particular Precepts. The same Christ who enabled Christians to be “released from the law” and “serve in the new way of the Spirit, and not in the old way of the written code” (Rom. 7:6 [NIV])—also made clear that he came to fulfill and not abolish the law. As Jesus stated in his famous Sermon on the Mount:

Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them. For truly I tell you, until heaven and earth disappear, not the smallest letter, not the least stroke of a pen, will by any means disappear from the Law until everything is accomplished. Therefore anyone who sets aside one of the least of these commands and teaches others accordingly will be called least in the kingdom of heaven, but whoever practices and teaches these commands will be called great in the kingdom of heaven. For I tell you that unless your righteousness surpasses that of the Pharisees and the teachers of the law, you will certainly not enter the kingdom of heaven (Matt. 5:17–20 [NIV]).

In fact, in the same sermon, Christ explained that the true law was even stricter than the Mosaic Law was commonly understood. Not only was it wrong to murder; those who lingered in anger over their neighbor would be subject to judgment (Matt. 5:21–22; see Exod. 20:13). Not only was it wrong to commit to adultery; those who lusted after another already committed adultery in their heart (Matt. 5:27–28; see Exod. 20:14).

These passages and others supported the understanding that Christ's fulfillment of the law (Matt. 5:17), God's forgiveness for those who disobeyed it (e.g., 1 John 1:9), and the Holy Spirit's empowerment of believers to submit to the law (see Rom. 8:1–11), did not abrogate, but rather affirmed the reality of the law's existence. Certainly, debates persist to this day on *which* of the laws of the Old Testament remain binding on Christians today.⁸⁸ These debates notwithstanding, we examine a few of the precepts in the New Testament that embodied duties and corresponding rights constitutive of a Christian account of justice.

Procedural Rights. The New Testament gave less direction than the Old Testament on procedural rights in civil litigation and criminal prosecution. In fact, Jesus and Saint Paul called Christians to resolve their disputes with fellow Christians outside of

⁸⁸ To see the different views on Christ's relationship with the Mosaic Law, see generally, for example, Wayne G. Strickland, ed., *The Law, the Gospel, and the Modern Christian* (Grand Rapids, MI: Zondervan, 1993); James D. G. Dunn, *Jesus, Paul and the Law: Studies in Mark and Galatians* (Louisville, KY: Westminster/John Knox Press: 1990); Robert Banks, *Jesus and the Law in the Synoptic Tradition* (Cambridge, Cambridge University Press: 1975).

courtroom procedures. Christ commanded believers to first settle disputes by one-on-one confrontation; if unsuccessful, by taking two or three witnesses; if still unsuccessful, by bringing the dispute before the church (Matt. 18:15–17; see also Matt. 5:21–26; Luke 12:57–59). Paul exhorted believers to forgo lawsuits in state courts, and settle conflicts with each other outside court, writing: “To have lawsuits at all with one another is already a defeat for you. Why not rather suffer wrong? Why not rather be defrauded?” (1 Cor. 6:7 [ESV]). After all, Jesus willingly emptied himself, giving up his rights by refusing to “count equality with God a thing to be grasped” (Phil. 2:6 [ESV]).

But Christians could use the secular courts and exercise their procedural rights in criminal case, as Saint Paul demonstrated. He complained that floggers under the orders of Roman magistrates “beat us publicly without a trial, even though we are Roman citizens, and threw us into prison” (Acts 16:37 [NIV]). Once the magistrates decided to release Paul and Silas, Paul insisted that they do so publicly rather than secretly: fearfully recognizing that they had wronged Roman citizens, the magistrates escorted Paul and Silas out of prison (Acts 16:39). Paul later exercised his rights as a Roman citizen to obtain hearings before Roman provincial governors (Felix in Acts 24:1–27 and Festus in Acts 25:6–12), and before King Agrippa, Bernice, and others (Acts 25:13–26:32). By exercising his rights, Paul held officials accountable and more importantly, acquired opportunities to vindicate and share the Gospel. These passages illustrated that although Christians were called to “turn the other cheek” (Matt 5:39), they could strategically use and insist upon their rights to advance noble purposes.

Importantly, the New Testament also contained eschatological passages that spoke to procedural justice. The purpose of the judgment and its makeup (trials, judges, counsel) was to administer justice—to give each person their due. “For we must all appear before the judgment seat of Christ,” Paul wrote, “so that each one may receive what is due for what he has done in the body, whether good or evil” (2 Cor. 5:10 [ESV]; see also Rom. 2:1–5). Even on the Final Day of Judgment, every person would have a right to be heard and represented, with appointed divine counsel no less (Matt. 12:36; Acts 17:31; 1 John 2:1; Rev. 20:11–15;). Whether in Genesis or Revelation, attributes of divine judgment—fairness and truth—illuminated biblical expectations for human’s judgment of fellow man.

Indeed, although God would fully deliver justice in the eschaton (Rev. 20:11–15), God also implemented justice through earthly, government authorities. Romans 13:4 described such authorities as avengers who carried out God’s wrath on the wrongdoer; 1 Peter 2:14 (ESV) stated that the Lord sent governors “to punish those who do evil and to praise those who do good.” These verses did not speak directly to procedural obligations, but they suggested that the role of the state—including its trial procedures—was to institute justice. God empowered officials, as his vice-regents in this earthly realm, to adjudicate not by whim or caprice, but in ways that rewarded good and punished evil. Implicitly then, though people were to obey the state (Rom. 13:3–4), they had a biblical basis to expect the state to apply procedures conducive to fairness.

Rights of the Vulnerable and the Enemy. The substance of loving one's neighbor involved caring for those in need. The New Testament was even more radical than the Old in its call to treat the "least" members of society with charity, respect, and dignity. Jesus took pains to minister to the social outcasts of his day—Samaritans, tax collectors, prostitutes, thieves, traitors, lepers, the lame, the blind, the adulteress, and others (Matt. 8:3, 9:10, 21:31; Mark 2:1–12, 8:22–25, 15:27; Luke 7:36–50, 10: 25–37; John 8:1–11). "He who is without sin among you, let him throw a stone at her first," he instructed a stunned crowd ready to stone a convicted adulteress (John 8:7 [NKJV]). "Today you will be with me in Paradise," he told the contrite thief nailed on the cross next to his (Luke 23:43). The point was that even duly convicted criminals deserve mercy and love.

Echoing the Hebrew Bible, the New Testament called believers to share their wealth, to shore up those in need, to give up their extra clothes and belongings (e.g., Mark 10:21; Luke 3:11, 12:33). "Blessed are the poor," Jesus opened the Beatitudes. (Matt. 5:3; Luke 6:20). And blessed are those who care for the poor, Jesus went on: "I was hungry and you gave me food, I was thirsty and you gave me drink, I was a stranger and you welcomed me, I was naked and you clothed me, I was sick and you visited me, I was in prison and you came to me" (Matt 25:35–36 [ESV]). "Truly, I say to you, as you did it to one of the least of these my brothers, you did it to me" (Matt 25:40 [ESV]). Similarly, Jesus's apostles exhorted believers to feed and care for the poor, widows, and orphans in their midst, to visit and comfort the sick, imprisoned, and refugee (Gal. 2:10; 1 Tim. 5:1–8; James 1:27, 2:1–26; 1 John 3:17–18). Accordingly, already the earliest Church Fathers and church councils made ample provision for the rights of the poor, particularly the "deserving poor," and these rights remain an important part of modern social welfare legislation and international human rights instruments.⁸⁹

Importantly, Christ even called believers to love their enemies (Matt. 5:43–48), to turn their cheeks to those who strike them (Matt. 5:38–40), to forgo vengeance, lawsuits, and retributive measures (Matt. 5:21–25), to be peacemakers in expression of the radical demands of Christian discipleship (Matt. 5:21–26; Rom. 12:9–21). Many Christians over the centuries—monks and nuns, ascetics and Anabaptists, missionaries and peacemakers among them—have sought to live out these Christian ideals, often in highly structured Christian communities. Biblical passages and historical exemplars on loving others, provided strong foundations for the rights of the poor and needy in society as well as the rights of conscientious objectors against military participation.⁹⁰ Though the needy and the enemy did not "earn" or "deserve by earning" a believer's care, Jesus showed

⁸⁹ See, for example, Brian Tierney, *Medieval Poor Law*, repr. ed. (Berkeley, CA: University of California Press, 2020); Brian S. Pullan, *Poverty and Charity: Europe, Italy, Venice, 1400–1700* (Aldershot: Variorum, 1994).

⁹⁰ Ibid.; see further Walter Rauschenbusch, *A Theology for the Social Gospel* (Louisville, KY: Westminster John Knox Press, 1997); United States Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (1986) and other papal encyclicals, <http://w2.vatican.va/content/francesco/en/encyclicals/index.html> and analysis in *Catholic Social Teaching: A Volume of Scholarly Essays*, eds. Gerard V. Bradley and E. Christian Brugger (Cambridge: Cambridge University Press, 2019).

that it was “right” for a believer to still provide it: arguably then, the vulnerable and even the enemy had a “right” to care as the later laws of churches and states made out.

Economic and Property Rights. Like in the Old Testament, the New Testament affirmed the existence of property rights. Certainly, the church in Acts shared their possessions (Acts 4:32–37). Yet, this did not mean that the concept of “ownership” or the boundaries of property rights were demolished. Jesus and Paul affirmed the Decalogue’s commands to not steal and not covet (e.g., Mark 10:19; Luke 18:20; Rom. 13:9). “Let the thief no longer steal,” Paul exhorted, “but rather let him labor, doing honest work with his own hands” (Eph. 4:28 [ESV]).

Similarly, the right to work—implicit from a duty to work—echoed throughout the New Testament. The New Testament condemned idleness, making clear: “If anyone is not willing to work, let him not eat” (2 Thess. 3:10 [ESV]; see also Rom. 12:11; James 5:1–5). Those who failed to provide for their household, “denied the faith” and were even “worse than an unbeliever” (1 Tim. 5:8 [ESV]). Importantly, God equipped believers with the resources “to abound in every good work” (2 Cor. 9:8 [ESV]) and would hold humans accountable for how they used what was given to them on earth (Luke 19:13–27; 2 Cor. 5:10). The obligation to work and provide for one’s dependents, implied a right to work: the right provided the space to fulfill the duty.

Just like the Old, the New Testament also affirmed that workers were not to be denied their wages. “Now to the one who works, his wages are not counted as a gift but as his due” (Rom. 4:4 [ESV]; see also Luke 10:7). Indeed, 1 Timothy 5:18 explicitly quotes the NT, emphasizing that the “laborer deserves his wages.” Paul even reminded church members that those who shared their gospel “should get their living by the gospel” (1 Cor. 9:14 [ESV]).

The New Testament affirmed the rights to property, work, and wages not to support a goal of endless wealth-accumulation. Instead, these rights existed within an ethics of trust, stewardship, contentedness, and charity. Numerous times, the New Testament warned against greed or ultimate reliance upon money: “For the love of money is a root of all kinds of evils” (1 Tim. 6:10 [ESV]). “But woe to you who are rich, for you have received your consolation” (Luke 6:24 [ESV]). James prophesied that misery would attend those who put their hope in earthly riches (James 5:1–5; cf. 1 John 2:15–17).

Instead of anxiously working to hoard wealth, humans were to do all things for God’s glory (Col. 3:23). This meant charity—i.e., that each person was to give not reluctantly but cheerfully, remembering that God loved those who did so (2 Cor. 9:7; see also Luke 6:38). This meant working with a trust in the provision and abundance of the God who fed the ravens (Luke 12:22–31), who would supply “every need ... according to his riches in glory in Christ Jesus” (Phil. 4:19 [ESV]). It meant seeking God’s kingdom first, trusting that God would provide all the provisions that one needed (Matt. 6:33).

Family Rights and Sexual Ethics. The New Testament also provided a patchwork of rights and obligations pertaining to the family. Both Jesus and Paul echoed the creation

story of marriage lifting up the union of male and female in “one flesh” as the normative ideal for Christian marriages (Matt. 19:4–6; 1 Cor. 6:16, 7:2–3). They elaborated upon the Mosaic laws of marriage, now calling the faithful to live both by its letter and by its spirit (Matt. 22:1–14, 25:1–13; Mark 2:19–20; John 3:29; 2 Cor. 11:2; Rev. 19:6–8, 21:9–10). And they introduced a new ideal of marriage by analogizing it to the mysterious and sacrificial union between Christ and the church (Matt. 22:1–14, 25:1–13; Eph. 5:22–32).

The New Testament gave detailed instructions on sexual ethics. These included prohibitions on incest, sodomy, prostitution, polygamy, seduction, immoderate dress and grooming, and other forms of sexuality immorality outside monogamous marriage (Rom. 1:24–27; 1 Cor. 5:1, 6:9, 15–20; Eph. 5:3–4; 1 Thess. 4:3–8; 1 Tim. 2:9–10, 3:2; Heb. 13:4). The Christian sexual ethic grounded its focus on bodily purity in the reality that Christians ultimately belonged to God. “[D]o you not know that your body is a temple of the Holy Spirit within you, whom you have from God? You are not your own, for you were bought with a price. So glorify God in your body” (1 Cor. 6:19–20 [ESV]).

The emphasis upon bodily purity and exclusive, sacrificial bodily union with one’s spouse continued in Paul’s famous statements on marriage in 1 Corinthians 7 and Ephesians 5. Whereas many Hebrew Bible passages focused on the husband, Paul widened this egalitarian trajectory in 1 Corinthians 7. There, he underscored the mutual rights of both the wife and the husband to sexual bonding, the mutual sacrifice expected for the body of the other, and the mutual need for husband and wife to agree together to abstain from sex, and then only for a season, lest the unused marital bed tempt either of them to test the neighbor’s bed (1 Cor. 7:2–7).

This egalitarian language of mutuality and equality was even more pronounced in Ephesians 5:25–33 (NIV). The full passage bears quotation:

Husbands, love your wives, just as Christ loved the church and gave himself up for her to make her holy, cleansing her by the washing with water through the word, and to present her to himself as a radiant church, without stain or wrinkle or any other blemish, but holy and blameless. In this same way, husbands ought to love their wives as their own bodies. He who loves his wife loves himself. After all, no one ever hated their own body, but they feed and care for their body, just as Christ does the church—for we are members of his body. “For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh.” This is a profound mystery—but I am talking about Christ and the church. However, each one of you also must love his wife as he loves himself, and the wife must respect her husband.

All these biblical teachings would become anchor texts for the emerging Christian theology, law, and ethics of sex, marriage, and family life, and subject to endless interpretations and elaborations.

Importantly, the New Testament also affirmed the rights of children. The Old Testament repeatedly promised that God would avenge harms against children and bring them peace, sustenance, and protection (Jer. 49:11; Mal. 3:5). In the New Testament, Jesus paid special attention to the care, nurture, and protection of children, and warned that it would be better to be cast into the sea with a millstone around one's neck than to mislead a child (Mark 9:42). Jesus also repeated God's solicitude for children: "Let the children come to me, and do not hinder them; for to such belongs the kingdom of God" (Luke 18:16 [RSV]).⁹¹ Few texts of the day would prove a stronger foundation for the later development of children's rights in the Christian tradition.⁹²

Such biblical passages inspired the medieval churches to "let the children come" to them for support and protection, especially when such help was not available from their parents and families. Medieval church law formulated the church's obligation to children partly in terms of the rights of the child. Canon law recognized a whole series of children's rights—the right to life and the means to sustain life; the right to care, nurture, and education; the later right to contract marriage or to enter into a religious life; and the right to support and inheritance from biological or adoptive parents. These were real children's rights in the later Middle Ages that church courts helped to enforce.⁹³ Indeed, these guarantees of children's rights remain part of the Catholic Church's canon law to this day.⁹⁴

Concluding Reflections

A number of Christian theologians and philosophers today—Catholic, Orthodox, and Protestant alike—view human rights with suspicion, if not derision.⁹⁵ Yes, these critics acknowledge that Christians from the start embraced the right to religious freedom, at least for the Christian church and its members. Many Christians today also lament the myriad persecutions of Christians and others around the world, and the growing tension between religious freedom and sexual freedom in late modern liberal democracies. But many serious Christians today question seriously whether their spiritual predecessors really had much to do with rights, and whether modern human rights ideas faithfully

⁹¹ See more generally O.M. Bakke, *When Children Became People: The Birth of Childhood in Early Christianity*, trans. Brian McNeil (Minneapolis, MN: Fortress Press, 2005).

⁹² See Marcia Bunge, *Children in the Bible* (Grand Rapids, MI: Eerdmans, 2008); Marcia Bunge, ed., *The Child in Christian Thought* (Grand Rapids, MI: Eerdmans, 2001).

⁹³ See illustrative sources and discussion in R.H. Helmholz, "Children's Rights and the Canon Law: Law and Practice in the Later Middle Ages," *The Jurist* 67 (2007): 39; Charles J. Reid Jr., *Power over the Body, Equality in the Family: Rights and Domestic Relations in Medieval Canon Law* (Grand Rapids, MI: Eerdmans, 2004); Charles J. Reid, Jr., "The Rights of Children in Medieval Canon Law," in *The Vocation of the Child*, ed. Patrick McKinley Brennan (Grand Rapids: Eerdmans, 2008), 243; Witte, *The Sins of the Fathers*, 49–134.

⁹⁴ See Michael Smith Foster, "The Promotion of Canonical Rights of Children," *Proceedings of the Canon Law Society of America* 59 (1997): 163–203; Charles J. Reid, Jr., "The Right to Life and its Application to the Welfare of Children in the Canon Law and the Magisterium of the Catholic Church, 1878 to Present," in *The Best Love of the Child: Being Loved and Being Taught to Love as the First Human Right*, ed. Timothy P. Jackson (Grand Rapids, MI: Eerdmans, 2011), 142–78.

⁹⁵ See such critics discussed in Nigel Biggar, *What's Wrong with Rights?* (Oxford: Oxford University Press, 2020).

express the moral norms and narratives of the Bible and the Christian tradition. Many view human rights as a dangerous invention of Enlightenment liberalism, predicated on a celebration of reason over revelation, of greed over charity, of nature over scripture, of the individual over the community, of the pretended sovereignty of humanity over the absolute sovereignty of God. These scholars call for better ideas and language to emphasize core virtues like faith, hope, and love and core goods like peace, order, and community.⁹⁶

Whatever the philosophical and theological merits of these respective positions might be, it is hard to sustain these arguments in light of the teachings of the Bible. While the Bible did not often speak explicitly in terms of rights (*iura*) and liberties (*libertates*) as the Roman law of the day did, both the Old Testament and the New are filled with general principles and particular precepts that have been critical to the development of the Western tradition of rights and liberties. The Old Testament introduced fundamental principles of human dignity and the *imago dei*; on the first family and the foundation of family rights; on dominion and property rights in the creation order; on covenants as the foundation of constitutional order and the duties of rulers and rights of the people. It also provided detailed norms and narratives about procedural rights and responsibilities; economic and property rights and conditions; and the rights of the poor, needy, disabled and other *personae miserabiles*; and the rights of parents, spouses, and children.

Confirming and elaborating these earlier biblical teachings, the New Testament set out fundamental principles of liberty, equality, separation of church and state, justice, judgment, and the rights of conscience and religious freedom, all to be exercised within a sturdy framework of love of God, neighbor, and self. Both Jesus and the apostles provided extensive guidance for the development of the rights of the poor, needy, widows, orphans, sojourners, and even enemies, and for the rights and duties of love that governed husbands and wives, parents and children, masters and servants. Saint Paul and others pressed the early churches to develop their internal governance and dispute resolution vehicles, while exemplifying for Christians strategic insistence upon procedural rights in civil litigation and criminal prosecution in secular courts. These biblical teachings, together with classical Roman understandings of rights (*iura*), liberties (*libertates*), capacities (*facultates*), powers (*potestates*), and related concepts laid the foundation for the development of rights and liberties in the Western legal tradition.

⁹⁶ See detailed sources in John Witte, Jr., *The Blessings of Liberty: Human Rights and Religious Freedom in the Western Legal Tradition* (Cambridge: Cambridge University Press, 2021).