


BOOK REVIEW SYMPOSIUM

The Spirit of Christianity and Law

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Abstract

This essay offers an analysis John Witte, Jr.'s contribution to the study of the relationship between Christianity and law as an autonomous branch within the broad field of law and religion. The author discusses Witte as a Christian jurist educated in Reformed Protestantism and influenced by Abraham Kuyper and Harold J. Berman, among others, and describes and evaluates the interdisciplinary, interdenominational, and international project on Christianity and law headed by Witte, to which more than five hundred scholars (jurists, theologians, philosophers, historians, and sociologists) are contributing. Witte analyzes the interaction between Christianity and law from a relational, biographical, and jurisprudential perspective, and underlying his project is the idea that the relationship between Christianity and law is not merely accidental, but has a metahistorical significance and an enduring value for the development of humanity. Although the project has already borne much fruit, there is room for further maturity and methodological purity as it is still in its early stages.

Keywords: John Witte, Jr; law; Christianity; Harold J. Berman; Abraham Kuyper; Christian jurist; religion

Introduction

In this essay, I offer a bibliographic review of the work of John Witte, Jr. in Christianity and law, with a view to sketching out his work still to come in this field. To speak of Christianity and law is also to speak of law and Christianity, for the order of the words can be reversed, their influence being reciprocal.¹ Witte's Christianity is anchored in the Protestant Reformed tradition and heavily influenced by the well-known Dutch pastor, theologian, and politician Abraham Kuyper (1837–1920),² who, within Calvinism, emphasized the sovereignty of Christ over salvation, the world, and indeed all of creation. Thus, words such as *creation*, *sovereignty*, and *covenant* echo in Witte's writings.

Although Witte's Christianity is a precondition for understanding his intellectual production, it is not a sufficient condition. Witte's Christianity must be considered along with what I

¹ See "Bibliography of John Witte Jr.'s Writings, 1981 to 2021," in John Witte, Jr., *Family, Faith, and Freedom: New Studies in Law and Religion*, ed. Norman Doe and Gary S. Hauk (Tübingen: Mohr Siebeck, 2021), 733–62.

² See John Witte, Jr., "Volume Introduction: Abraham Kuyper: Always Reforming," in *On Charity and Justice*, by Abraham Kuyper, ed. Matthew J. Tuininga (Bellingham: Lexham Press, 2022), xxxiii–xlvi. See also John Witte, Jr., "Abraham Kuyper on Family, Freedom and Fortune," in *Faith, Freedom, and Family*, 199–214.



call his *fundamental intuition*. Behind all great scholars usually lie one or a few major intuitions that mark their intellectual trajectory. Intuitions in the strictest sense of the term are lights in our understanding acquired without recourse to conscious reasoning.³ Intuitions are sources of inspiration with which we fully identify because they show us an attractive path to follow. That is why sometimes intuitions are not expressed in literally meant words, but in metaphors, of which Witte is so fond.⁴ When these intuitions mature in the soul, they end up turning into intentions, and these, in turn, evolve into major research projects.

Intuitions are the point of departure and driving force of all serious academic research. We come back to them time and time again throughout our academic lives. These intuitions may be original or shared, often reach beyond our own area of knowledge and, every now and then, shed new light on an old idea, opening up a new horizon for knowledge. The intuition of Friedrich Carl von Savigny (1779–1861) and his historical school of jurisprudence, for instance, was to underscore the connection between history and law and to understand the latter as a product of “the spirit of the people” (the *Volksgeist*).⁵ Hans Kelsen (1881–1973) had the intuition of purifying law of all extraneous political elements in order to develop a true science of law on the basis of a fundamental norm (*Grundnorm*).⁶ John Rawls (1921–2002), for his part, understood “justice as fairness,” within the framework of a society of free citizens holding equal basic rights. Therein lay his fundamental intuition.⁷

The intuition that has marked Witte’s academic life, which he shared with his mentor, Harold J. Berman (1918–2007),⁸ is that law and religion have more in common than it seems at first sight: that law has a religious dimension and religion a juridical one.⁹ Religion and law share origins, principles, values, rites, customs, rituals, formalities, methods, concepts, and hierarchies, and they depend on each other. When this interaction is culturally hidden or even manipulated, religion is diluted into ethereal spiritualism, and law is reduced to coercive regulatory imposition. But when law and religion are held in healthy dialectical relation, each side is improved by the other, and society and its core institutions are best positioned to achieve justice, peace, order, and freedom.¹⁰

This fundamental intuition that Witte shares with Berman—his beliefs about “faith in law, and law in faith,” as this book’s title captures it—is very old, even pre-Christian, as Witte recognized already in his earliest published work, in 1982.¹¹ His work has consisted in part in

³ On intuition, see Jacques Maritain, *Distinguish to Unite, or The Degrees of Knowledge*, trans. Gerald B. Phelan (1995; repr., Notre Dame: University of Notre Dame Press, 2011), esp. 263–70.

⁴ See John Witte, Jr., “Law, Religion, and Metaphor,” in *Faith, Family and Freedom*, 37–55, esp. 39.

⁵ Friedrich Carl von Savigny, *Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft* (Heidelberg: Mohr and Zimmer, 1814); in English, Friedrich Carl von Savigny, *Of the Vocation of Our Age for Legislation and Jurisprudence* (Kitchener: Batoche, 1999); Friedrich Carl von Savigny, *System des heutigen römischen Rechts* [The system of contemporary Roman law], 3rd ed. (Berlin: De Gruyter, 2019).

⁶ Hans Kelsen, *Reine Rechtslehre. Einleitung in die rechtswissenschaftliche Problematik*, 2nd ed. (Leipzig: Deuticke, 1960); in English: Hans Kelsen, *The Pure Theory of Law*, trans. Max Knight (Berkeley: University of California Press, 1967).

⁷ John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Belknap Press of Harvard University Press, 1999); John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001).

⁸ Harold J. Berman, *The Interaction of Law and Religion* (Nashville: Abingdon Press, 1974).

⁹ John Witte, Jr., ed., “A Conference on the Work of Harold J. Berman,” *Emory Law Journal* 42, no. 2 (1993): 419–589.

¹⁰ See esp. John Witte, Jr. and Christopher Manzer, introduction to Harold J. Berman, *Law and Language: Effective Symbols of Community*, ed. John Witte, Jr. (Cambridge: Cambridge University Press, 2013), 1–35; John Witte, Jr., “Harold J. Berman,” in *Great Christian Jurists in American History*, ed. Daniel L. Dreisbach and Mark A. Hall (Cambridge: Cambridge University Press, 2019), 230–44.

¹¹ See Witte’s first publication reflecting this: John Witte, Jr. and Darrell J. Stremler, “Hellenic Philosophy of Law: Essential Terms,” Association for the Advancement of Christian Scholarship Academic Paper Series, no. 1 (1982). He has returned to Greco-Roman sources often in his work on the history of the family, human rights, and religious freedom. See, for example, John Witte, Jr., *From Sacrament to Contract: Religion, Marriage, and Law in the Western Tradition*, 2nd ed. (Louisville: Westminster John Knox Press, 2012), 17–30; John Witte, Jr., *The Sins of the Fathers: The Law and*

excavating this enduring intuition, and applying it with new insights and overtones in a pluralistic and secularized society. To highlight this intuition's long lifespan, one only needs to point out that the Latin word for law, *ius*, is derived from the name of the god Jupiter or that the ancient Romans used the word *sacramentum* to refer to judicial processes in ancient legal times,¹² many centuries before Christianity began using the same expression to refer to the signs instituted by Christ by which divine grace is dispensed to humans. During the Middle Ages, divine law was both religious and juridical, as Thomas Aquinas and the great glossators and commentators on canon, civil, and feudal law all confirmed.¹³ In the modern age, Gottfried Wilhelm Leibniz (1646–1716) insisted on this connection because he saw law and religion as having a common structure, a common vocabulary, a common formalism, and a shared interest.¹⁴ Yet it is true that this idea has been lost in our secular age and has needed to be relaunched in a different context.¹⁵

For forty years, Witte has been applying and developing this fundamental intuition about law and religion in various fields of legal history, in line with his personal convictions and abilities. Witte substantiates all of these commitments with the triad *faith, freedom, and family*.¹⁶ By way of example, the happy yet sad experience of the life and death of his brother Ponkie (1964–1980), who was born out of a nonmarital relationship and adopted by Witte's parents, was the force that drove Witte to write one of his more beautiful and important books in defense of children's rights, *The Sins of the Fathers*.¹⁷ This is probably Witte's freshest and most creative book, or at least the one that reflects his innermost personality. In what follows, I focus on the relationship between Christianity and law as such, as part of a specific project that integrates and transcends these other, specific fields in which Witte has stood out as an author. Out of necessity, because Witte's work must be taken as a whole, I refer to these other topics, adding cross references.¹⁸

Christianity and Law as an International Project

Witte studied the relationship between Christianity and law as a great branch of the massive, three-millennium-old tree of law and religion. This project is “interdisciplinary, interdenominational, and international,” as Witte usually categorizes it,¹⁹ and right now more than five hundred Protestant, Roman Catholic, and Orthodox scholars—jurists, theologians, philosophers, historians, and sociologists—are contributing to it. Underlying this project

Theology of Illegitimacy Reconsidered (Cambridge: Cambridge University Press, 2009), 49–72; John Witte, Jr., *The Western Case for Monogamy over Polygamy* (Cambridge: Cambridge University Press, 2015), 101–43; John Witte, Jr., *The Blessings of Liberty: Human Rights and Religious Freedom in the Western Legal Tradition* (Cambridge: Cambridge University Press, 2021), 23–27.

¹² See Franz Wieacker, *Römische Rechtsgeschichte* [Roman legal history], vol. 1, *Einleitung, Quellenkunde, Frühzeit und Republik* [Introduction, sources, early days and republic] (Munich: Beck, 1988), no. 15, pp. 310–40, with bibliography. See also Olga Tellegen-Couperus, *Law and Religion in the Roman Republic* (Leiden: Brill, 2012); Rafael Domingo, *Roman Law: An Introduction* (London: Routledge, 2018).

¹³ See John Witte, Jr. and Rafael Domingo, eds., *The Oxford Handbook on Christianity and Law* (Oxford: Oxford University Press, forthcoming 2023), esp. chaps. 6–8.

¹⁴ See Gottfried Wilhelm Leibniz, *The New Method of Learning and Teaching Jurisprudence*, trans. Carmelo Massimo de Iuliis (Clark: Talbot, 2017), pt. 2, para. 4, p. 33.

¹⁵ Charles Taylor, *A Secular Age* (Cambridge, MA: Belknap Press of Harvard University Press, 2007).

¹⁶ See Witte, *Faith, Freedom, and Family*.

¹⁷ Witte, *The Sins of the Fathers*, xi–xiv.

¹⁸ For a general view of Witte's contribution, see Norman Doe, “Faith, Freedom, and Family: An Introduction to the Work of John Witte Jr.,” *Ecclesiastical Law Journal*, 24, no. 2 (2022): 175–91.

¹⁹ John Witte, Jr., *God's Joust, God's Justice: Law and Religion in the Western Tradition* (Grand Rapids: Eerdmans, 2006), x–xi, 4–9; John Witte, Jr., unpublished lecture on receiving an honorary doctorate in theology from the University of Heidelberg, February 8, 2017.

is the idea that the relationship between Christianity and law is not merely accidental but inherent, with metahistorical significance and permanent value for the development of humanity.

A great lover of triads, Witte turns to them to explain the project. “I try to study this history with three ‘r’s’ in mind—retrieval of the religious sources and dimensions of law in the Western tradition, reconstruction of the most enduring teachings of the tradition for our day, and reengagement of a historically informed religious viewpoint with the hard legal issues that now confront church, state, and society.”²⁰ Witte believes that Christians must regain a leading role in public life not in a dogmatic or nostalgic way, but “fully equipped with the revitalized resources of the Bible and the Christian tradition in all their complexity and diversity.”²¹

Just as one must excavate and lay a foundation before building a house, Witte has embarked on his project by initiating a deep international and interdisciplinary conversation on the mission of Christianity in the secular era, especially in the field of law, to ensure that the project is underpinned by solid foundations. At a time when many intellectuals advocate a public space free from religion, Witte is arguing that Christian values and principles should be democratically restored to public life. This is how he put it in a 2015 interview at Handong International Law School: “The easy notions of a public reason that brackets all comprehensive doctrines and that brackets especially religious discourse about fundamental matters of the state is giving way to a more realistic and inclusive epistemology. Even early architects of religion-free public reason, like John Rawls and Jürgen Habermas, began to realize that a de-theologized discourse, a bleached and bland public reason, could not work in debates about such fundamental institutions as marriage and family life. Christians and persons of other faiths, as a consequence, are invited back into the conversation.”²²

Witte uses a broad definition of Christianity that encompasses the three major Catholic, Protestant, and Orthodox branches and various denominations within them. As could not be otherwise in a project of this quality and ambition, Witte refers to law in its broadest sense, which is also the one that best captures its meaning. Law is a regulatory social order of justice, powers, rights, and freedoms, exercised and maintained by institutions that exercise authority individually or collectively and that affect local, national, international, and global private and public human relations.

The key to understanding the relationship between Christianity and law is that law precedes Christianity in time, but Christianity elevates the very idea of law to a new dimension, which is the dimension of love. Christianity assumed and adopted Jewish and Roman law, but effected a profound spiritualization of law: *ius Evangelio praecedit, Evangelium autem ius elevat* (law precedes the Gospel, but the Gospel elevates law). In the same way that light blinds and harms us when we look too closely, however, so the relationship between law and Christianity can be blinding when religion comes too close to law or when law tries to conquer the religious space illegitimately, contravening Christ’s own mandate: “Give therefore to Caesar the things that are Caesar’s and to God the things that are God’s” (Matthew 22:21; Mark 12:17; Luke 20:24).²³

Witte has approached this massive project in law and Christianity from three different perspectives: one that we could call merely relational, another biographical, and a third

²⁰ Witte, *God’s Joust, God’s Justice*, x.

²¹ Witte, 464.

²² John Witte, Jr., “Christianity and Law,” in *Faith, Freedom, and Family*, 715–32, at 726.

²³ New Revised Standard Version. See further Rafael Domingo, *God and the Secular Legal System* (Cambridge: Cambridge University Press, 2016).

jurisprudential.²⁴ Though operating in different stages of his work, these different perspectives coincide in time and are cumulative and mutually supportive. They are not closed but rather interdependent perspectives.²⁵

The Relational Perspective on Christianity and Law

From the relational perspective, Witte has sought to map the historical, conceptual, categorical, and dogmatic ties between Christianity and law, both as ideas and in their most varied institutional forms and ramifications.²⁶ Early modern Protestantism first embraced the democratic ideal; centuries later, modern Roman Catholicism followed suit, especially with the Second Vatican Council, but above all with John Paul II, who applauded the idea of civic participation and collaboration and peaceful succession among rulers.²⁷ On the other hand, the tie between Orthodox Christianity and democracy is much weaker, and perhaps this partly explains why Orthodox-majority countries have lagged behind in the process of democratic transformation.

Witte's analysis of the relational perspective of law and Christianity matured and gained new momentum with the publication of some of his monographs on law and the Reformation.²⁸ These volumes zeroed in on how classic Protestantism related to law, and what contributions the Reformation movements made to the transformation of public, private, penal, and procedural law and legal theory in European lands and their colonies. While the relationship of Protestantism and law has continued to occupy him as a scholar,²⁹ Witte took a much broader, pan-Christian and interdisciplinary view in projects with other scholars in the field, analyzing the connections between law and Christianity in the different branches of legal knowledge, ranging from family law and criminal law to global law.³⁰ Several other volumes in this series of introductions to Christianity and law are in print, engaging Christianity and freedom, natural law, justice and agape, private law, church law, international law, the laws of conscience, market regulation, migration, and taxation.³¹

Witte is also working with other scholars on a multiyear project on the roles of religion, the market, family, health care, the military, and other institutions in character building—a

²⁴ John Witte, Jr., "What Christianity Offers to the World of Law," in *Faith, Freedom, and Family*, 57–66.

²⁵ See the contributions in the following: John Witte, Jr. and Gary S. Hauk, eds., *Christianity and Family Law: An Introduction* (Cambridge: Cambridge University Press, 2017); Rafael Domingo and John Witte, Jr., eds., *Christianity and Global Law* (London: Routledge, 2020).

²⁶ John Witte, Jr., ed., *Christianity and Democracy in Global Context* (London: Routledge, 2018).

²⁷ See John Paul II, *Centesimus Annus* [Encyclical on the hundredth anniversary of the *Rerum Novarum*] (May 1, 1991), section 46, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus.html.

²⁸ See esp. John Witte, Jr., *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge: Cambridge University Press, 2002); John Witte, Jr., *The Reformation of Rights: Law, Religion and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007).

²⁹ See, for example, John Witte, Jr. and Amy Wheeler, eds., *The Reformation of the Church and the World* (Louisville: Westminster John Knox Press, 2017); John Witte, Jr., *Sex, Marriage, and Family in John Calvin's Geneva*, vol. 2, *The Christian Household* (forthcoming); John Witte, Jr., *A New Reformation of Rights: Calvinist Contributions to Modern Human Rights* (forthcoming).

³⁰ See, for instance, Witte and Hauk, *Christianity and Family Law*; Mark Hill, Norman Doe, R. H. Helmholz, and John Witte, Jr., eds., *Christianity and Criminal Law* (London: Routledge, 2020); Rafael Domingo and John Witte, Jr., eds., *Christianity and Global Law* (London: Routledge, 2020); Witte and Domingo, *The Oxford Handbook on Christianity and Law*.

³¹ See list of introductions in print and production in Witte, "What Christianity Offers to the World of Law," in *Faith, Freedom, and Family*, 61–64.

project featuring, among other things, the civic and educational function of law.³² Law in accordance with justice distills moral values, thus contributing to the moralization of modern liberal societies. Hence the need to draw up a basic civil morality for modern liberal societies and to analyze the appropriate instruments, mechanisms, and procedures for cultivating and enforcing morality.

The Biographical Perspective: The Idea of the Christian Jurist

The second perspective from which Witte analyzes the relationship between Christianity and law is biographical. This is no longer just a matter of putting together two ideas and analyzing similarities, differences, and reciprocal influences and connections throughout history, but of ascertaining how Christianity and law are forged and intertwined in the minds and hearts of specific Christian jurists, philosophers, and theologians who, with their writings and actions, have guided law along the paths of justice. In essence, this biographical perspective is a projection of Witte's own experience as a Christian jurist. Christianity is not a passing fashion, but rather something that touches upon an essential part of every person's being and supernatural being. *Ius ex persona oritur*, we could say in the manner of the classics: "law comes from the person."³³

Witte knows better than anyone that Martin Luther had condemned jurists as "bad Christians" (*Juristen böse Christen!*³⁴), yet Witte's own experience as a Christian jurist is much more decisive than the impulsive reformer's whimsical cry. Indeed, the relationship between Christianity and law has a strong biographical content that cannot be ignored. The category of Christian jurist encompasses any Christians who have devoted themselves to the cause of justice in its broadest sense and have had a significant impact on law and the legal system.

This biographical approach is based on the empirical fact that specific human beings, flesh and blood, are behind the significant developments and reforms of law, as is also the case in empirical science. Just as the history of the theory of relativity would not have begun in 1905 without the Swiss patent-office clerk Albert Einstein, so the concept of constitutional courts would not have taken hold in Western Europe in the 1920s without the Austrian-American jurist Hans Kelsen.

The biographical approach has great potential for the study of law and legal history because it shows both the complexity and ambiguity and even the accidental nature of historical and modern legal systems. What lies behind legal documents and rules are facts, and, beyond them, people. The *who* of the person always prevails over the *what* and the *how*. To the extent that critical legal actors are Christians, the law and legal systems that they shape are, of necessity, imbued and permeated with their Christian values and beliefs. The reason is that legal systems are simultaneously a whole in themselves and thus, to a degree, self-sufficient, but also a part of and thus interdependent with other parts of society. Christian jurists participate in not only legal institutions and the church but also many other institutions in their societies, thus carrying their faith into those other systems.

³² See, for example, John Witte, Jr. and Michael Welker, eds., *The Impact of the Law on Character Formation, Ethical Education, and the Communication of Values in Late Modern Pluralistic Societies* (Leipzig: Evangelische Verlagsanstalt, 2021).

³³ See Rafael Domingo, *The New Global Law* (Cambridge: Cambridge University Press, 2010), xvi.

³⁴ Although it is attributed to him, the phrase was popularized before Luther. See Michael Stolleis, "Juristenbeschimpfung, oder, 'Juristen—böse Christen'" [Lawyer scolding, or jurists, bad Christians], in *Politik—Bildung—Religion. Hans Maier zum 65. Geburtstag* [Politics—education—religion. Hans Maier on his 65th birthday], ed. Theo Stammen et al. (Paderborn: Schöningh, 1996), 163–70.

Witte has used this biographical approach to the study of law and Christianity throughout his many monographs on the history of family law, religious freedom, and human rights. He has returned again and again to retrieve and reconstruct the work of many of the legal titans of the Christian tradition. One of Witte's strengths has been to read these historical figures in and on their own terms and in their own contexts and then to extract enduring lessons from their writings for the ongoing legal challenges of the tradition and of our day.³⁵

Such an extensive project, in which the methodology has been steadily polished with experience and experimentation, and which involves so many different people, has inevitably produced mixed results. In each volume, one can criticize whether a particular jurist deserves the status of Christian in the strict sense, even whether the person chosen deserves the status of jurist. There are also notable absences; for example, Thomas More should have been included among the English jurists. Overall, however, and with ever greater success, most legal historians have risen and responded to this idea of reappraising the biographical perspective to legal history and appreciating the expansive category of a "Christian jurist."

The fact that the project is divided into geographical areas and nations, rather than chronologically, apart from the volume on the first millennium, is also open to criticism. But Witte has mapped the path as he has gone along. Instead of outlining in advance a perfect methodology, which does not exist, and then applying it, what he has done is to explore the issues, analyze them, and gradually polish the methodology over time. Law, like cooking, entails a lot of artistry, and this can be learned only by practicing. The highly visible result is manifest and has served to let outsiders know what is happening with law and Christianity in each country studied. The strong language barriers and the local nature of law are two further real obstacles that only a global project like this one is capable of overcoming.³⁶

The Jurisprudential Perspective: Toward a Christian Jurisprudence

The third perspective from which Witte addresses the relationship between Christianity and law endeavors to build a general jurisprudential framework, based on Christian values, for a pluralistic society. Following in the footsteps of his mentor, Harold Berman, who at the end of his academic career devised an "integrative jurisprudence," Witte is seeking theoretically to integrate and harmonize the Christianity-law relationship by creating a narrative suitable for a pluralistic, post-Christian society.³⁷ One glimpses a change of focus in Witte's intellectual project—from retrieval of the relationships of Christianity and law and the teachings of great Christian jurists to reconstruction of a Christian jurisprudence for our modern day.

Witte is a man of synthesis, an intellectual cartographer, adept at generating new understandable paradigms. He knows how to create narratives and convincingly explain religious and, in particular, Christian phenomena. He demonstrated this with his studies on Protestantism and law, as well as with his histories of marriage, family, and children, and of

³⁵ See John Witte, Jr. and Frank S. Alexander, eds., *The Teachings of Modern Christianity on Law, Politics, and Human Nature*, 2 vols. (New York: Columbia University Press, 2005–2006).

³⁶ See, for example, Christoph J. H. Meyer, "Was von christlichem Recht und Juristenleben übrigblieb" [What remains of Christian law and legal life], Review of *Law and the Christian Tradition in Italy*, by Orazio Condoerlli and Rafael Domingo, eds., *Rechtsgeschichte/Legal History*, no. 29 (2021): 302–06. For a very positive approach, however, see Kyle C. Lincoln, Review of *Great Christian Jurists in Spanish History* by Rafael Domingo and Javier Martínez-Torrón, eds., *Bulletin of Medieval Canon Law*, no. 38 (2021): 452–57.

³⁷ John Witte, Jr., "Law and Religion: The Challenges of Christian Jurisprudence," *St. Thomas Law Journal* 2, no. 2 (2005): 439–52; John Witte, Jr., "The Integrative Christian Jurisprudence of Harold J. Berman," in *Faith, Freedom, and Family*, 215–28.

religion, human rights, and religious freedom. He is now on a relentless quest for a new paradigm between faith and law, between Gospel and culture in the context of a pluralistic and highly secularized society.

Witte judges that the necessary protection of nonbelievers and secular thought is not a sufficient reason to erect a Berlin Wall between law and religion, particularly between Christianity and law, as if their relation were a taboo subject. Any exclusion of religion from the public sphere will always be artificial, for law has an unavoidable religious dimension. In the West, this religious dimension, historically, has been informed mainly by the Jewish and Christian traditions. It is not surprising that Witte has used the metaphor of the cathedral to refer to law: “The law is like a massive medieval cathedral, always under construction, always in need of new construction. It stands at the center of the city, at the center of matters spiritual and temporal, at the center of everyone’s life.”³⁸ If, up to now, Witte has been occupied, as a historian of law, with telling us the story of how this cathedral was built, it now seems that he himself wants to participate in its design and construction, putting his best talents at its service.

As Witte is so fond of triads,³⁹ some of which I have already mentioned, I venture to turn to them in this initial phase of his new, more theoretical perspective in order to encourage Witte to continue along this path. In addition to the triads he has already generated, I offer four more that I think capture Witte’s thinking.

Christianity, Community, Culture

Christianity provides a unique metadimensional Trinitarian paradigm for the law, one that illuminates all the legal aspects from within and without. If the revelation of God as Father, Son, and Holy Spirit (Matthew 28:19) is the central mystery of Christian faith and the center of the whole of reality, this mystery must enlighten all human existence and dimensions, including the legal realm.

The doctrine of the Trinity understands God relationally. The Triune God is certainly a unique and absolute unity, the Absolute One, whose three divine persons manifest the pure communication of love, the most profound depths of free self-giving. Each divine person freely gives the plenitude of love to the others, glorifying them.⁴⁰ This revealed truth serves to illuminate a united and diverse political community; the greater the diversity, the greater the unity, and the greater the unity, the greater the diversity. This sense of communal inclusion, which does not exclude other communities but rather affirms that all are part of a global community, calls for a cultural change. The Western secularized culture has often promoted fragmentation, territorialization, and exclusionary nationalism.

Creation, Covenant, Conscience

Creation occupies a central place in Witte’s thought. It is a manifestation of God’s infinite love, which permeates the entire universe, and most particularly the human being, made specifically in God’s image and likeness (Genesis 1:27). Creation establishes a covenant between God and humankind over the created order. A covenant institutes a more solid and permanent framework than a contract, for the covenant includes the natural order of creation and assumes a conceptual framework of truths that cannot be altered by mere human consent. God does not enter into contracts, but God does enter into covenants.

³⁸ Witte, lecture on receipt of honorary doctorate; John Witte, Jr., “Afterword: The Cathedral of the Law,” in *God’s Joust, God’s Justice*, 466–67.

³⁹ On Witte’s triads, see Gary S. Hauk, Foreword to Witte, *Faith, Freedom, and Family*, xvii–xxi, at xix.

⁴⁰ See Witte, “Law, Religion, and Metaphor,” 53–55.

Moreover, every human contract that respects the natural order and puts God as a witness becomes a covenant (for example, marriage). Conscience is a divine light within human beings that helps them to interpret God's will in every covenant.⁴¹ This creation-covenant-conscience triad clashes with a world vision based on mere chance without creation, where human liberty is reduced to simple freedom of choice without respecting the natural order, and the conscience is mistaken for personal conviction without a recognition of prior truths.

Law, Liberty, Love

Christianity has elevated law, liberty, and love to a new divine order. Law cannot be reduced to pure legalism because justice reaches all dimensions of reality and participates in the same created order (*ius divinum*). Liberty is a gift of God to fulfill our obligations to God, to ourselves, to others, and to the universe as such. Liberty is the necessary, though not sufficient, condition for fully loving God and, in God, all creatures and the created universe. Law's mission is to protect this liberty as one of the most precious divine gifts,⁴² as it is to protect and impart justice: without justice there is no love, and love perfects justice by imbuing it with charity. This triad of love, liberty, and law is in direct opposition to the triad that reduces law to legalism, freedom to arbitrariness, and love to personal satisfaction.

Sovereignty, Society, Solidarity

Witte employs a broad concept of sovereignty, inherited from Kuyper, which can be applied to God, to the nation-state, to the smaller political community, and to all institutions (family, church, school, business) and power structures that order society according to the principles of liberty and justice. Witte conceives society as a network of relationships and institutions united by the bonds of cooperation and solidarity, a solidarity born of the sharing of all human beings in the one and only image of a Triune God. This law of human solidarity, without excluding the rich variety of persons, cultures, and peoples, assures us that all men and women are truly brothers and sisters.

Conclusion

Witte can be defined as a Christian jurist who has devoted himself primarily to the study of the relationship between law and religion from a historical perspective. He has done so primarily in the area of the influence of Protestantism, especially in the early stages of its first reformers—and, by extension, in the areas of human rights, religious freedom, and marriage and the family, which he has traced from classical and biblical sources to the latest legal developments.

Over time, Witte has spearheaded a bold and far-reaching project that aims to encompass the relationship between law and Christianity. He is working on this contribution from three perspectives: a purely relational one, a biographical one, and a jurisprudential one. Despite

⁴¹ John Witte, Jr. "Covenant Liberty in Puritan New England," in *Jurisprudenz, Politische Theorie und Politische Theologie: Beiträge des Herborner Symposiums zum 400. Jahrestag der "Politica" des Johannes Althusius 1603-2003* [Jurisprudence, political theory and political theology: Contributions of the Herborn Symposium on the 400th anniversary of the *Politica* by Johannes Althusius 1603-2003], ed. Frederick S. Carney, Heinz Schilling, and Dieter Wyduckel (Berlin: Duncker & Humblot, 2004), 169-89.

⁴² Witte, *The Blessings of Liberty*, 290-303.

having already borne much fruit, the project still requires greater methodological clarity and maturity. Witte is an instinctual and experimental thinker: he maps the scholarly and methodological path as he goes along, letting his sources and intuitions guide and inspire him. His essay on what Christianity offers to law is only a first draft of that bigger effort.⁴³ Witte knows this and is working on it. The theoretical and jurisprudential part is fundamental to consolidate and complete his lifelong project. This theoretical part could be based on the four alliterative and illustrative triads set forth above.

⁴³ Witte, "What Christianity Offers to the World of Law."