



Richard John Neuhaus

## Law and the Rightness (and Wrongness) of Things

**T**he law is not like life. Therein lies its utility and even its majesty. The law is not like life. Therein lies its weakness and even its danger. To be sure, the law is part of life; it is part of that communal experience we call history, including this present moment. Law itself, as we shall emphasize, has a history. And yet, when we speak of “the law,” we imply that it is something distinct from ordinary experience. It has a normative status by which we order, remedy, and judge the interactions that make up what we call “life.”

Legal virtues are impartiality, rationality, objectivity, equality, consistency, and fairness. Such virtues have only limited applicability in the larger field of life. Life is marked by preference and passion, by contingency and contradiction, by gradations of merit and success, by tragedy and serendipity, by fancy and whim. Most of all, life—in both endowments and opportunities—is unfair. Law that mirrored life would be no law at all. And life ruled by law alone is deadly.

Our understanding of law is subject to both distortions. Our society becomes ever more litigious as people seek securities and solutions in law. In part this is because lawyers encourage the extra business; in larger part it is because people have been taught and have come to believe that they are entitled to protection against the insecurities of existence. Thus, for example, the intimacies of marriage and friendship are increasingly subjected to the calculus of legal contract. Thus, to take a more bizarre example, some lawyers at a recent congressional hearing on the regulation of religious cults proposed consumer protection laws against false or

dangerous ideas. Contracts spare us the uncertainties of human relationships. The covenant of trust mutually pledged is, by comparison, precarious and arduous in its demand for constant renewal in love. The sensible person knows the difference between law and life. He knows that life is fully lived in the risks of decision and the insecurities of commitment beyond the call of contract. He knows that, in the things that really matter, the litigious life is no life at all.

If life, in all its mystery and diversity, cannot be ruled by law, neither can law be subjected entirely to the mysteries and diversities of life. The law is not merely an instrument for solving problems, a set of rules to be manipulated to advantage by the clever and powerful. Admittedly, the law may sometimes seem to be no more than that, but most of us persist in believing it *should* be more than that. To speak of “The Law” in terms of awe and majesty may be no more than an exercise in “false consciousness,” as the Marxists say, an indulgence in mystification. After all, “The Law” is patently a very human thing. Prick it, and does it not bend? Tickle it, and does it not accommodate? Wrong it, and does it not revenge? Like Shylock, the law is not a thing apart.

Or is it? Is it merely useful to think so, or is it true—that the law has its own integrity, its own logic, its own authority? While the law is clearly susceptible to our decisions, is there not another sense in which our decisions are accountable to the law? I do believe that is so. While it is a part of life, the law calls life to account. That is to say, the law possesses authority. Without such authority the law is merely a bundle of rules backed up by force; with such authority the law is a power we are bound to acknowledge. The word “bound” is important in this connection. In Latin “to bind” is *religare*, from which comes, of course, religion.

At the center of any life worth living is the ordering of our loyalties—accepting the responsibility to decide by

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what we will be bound. The life without obligations that are freely accepted and faithfully observed is a life in bondage to chaos, a life without meaning. With greater and lesser degrees of reflection we bind ourselves in friendship, in marriage, in vocation, and a host of other decisions. The obligation that we affirm most deeply, most daringly, and perhaps most desperately, is our religion. Our religion may be called a religion such as Christianity or Buddhism, or it may be a variation of religion such as atheism, or it may be a political program or humanitarian ideal or an aspiration to some excellence. It may be superficial or profound, a false god or true, but it is that by which we are bound and which bond we affirm, or at least want to affirm. Such a bond is not at our disposal; we do not possess it, and it is prior to our being possessed by it; to it we hold ourselves accountable because to it we are accountable. Having decided upon the ordering of our loyalties, our loyalties order us. After choosing our obligations, we discover they have chosen us. And Jesus said, "You have not chosen me but I have chosen you" (John 15:16). In theological jargon it is called *prevenient grace*, the grace that is always a step ahead of us, turning our achievements into gifts, our discoveries into revelations, and our choices into the knowledge of being chosen.

Laws may be just or unjust, wise or foolish, but behind the laws is the law. It binds us before we embrace it. A lawyer may be an officer of the court, an agent of a particular law, but—and it is not mere hyperbole to say it—he is a *servant* of the law. And, although not with the same occupational intensity, so it is with all of us. We are dealing here with what the philosophers have called "moral sentiments": shame, guilt, resentment, indignation, reciprocity, trust, mercy, and the such. It can be argued, of course, that such sentiments are not truly universal and therefore cannot be made necessary to the foundation of law. To be sure, there may be people unacquainted with guilt or shame or pride, just as others may be incapable of love. But in our communal conversation about the meaning of law we should not give veto power to the handicapped. Musicians do not defer to the tone deaf, nor painters to the color blind. Moral sentiments may not be universally distributed, they certainly are not evenly distributed, but then, neither is anything else of value. My contention is that moral sentiments point to a prevenient reality. This is not an argument from logic; namely, that there must be a reality prior and related to such sentiments. That argument from logic can be made, but here I would appeal to experience. The pioneer sociologist of knowledge, Alfred Schutz, spoke of an "Ah, ha!" experience. It is the moment in which we are surprised by the self-evident. It is seeing what we had not seen before but had been there all along; and, having seen it, it is impossible to imagine not having seen it. It immediately becomes a part of "taken for granted reality" without which the world is inexplicable. Thus this latest step in discovery becomes the first step, the conclusion turns out to be the premise.

Moral sentiments are part of our experience. To deny their existence is the kind of solipsism that among sophomores passes for profundity. (Yet, as we shall note,

they are ignored, if not denied, in much legal theory today.) And these sentiments—such as guilt, shame, gratitude, etc.—are inherently relational. That is, they do not exist in a vacuum; the experience is related to someone or something beyond itself. Guilt is to say you are sorry; gratitude is to give thanks; resentment is to protest. The experience and the expression, the feeling and the language, are not two distinct things, as though one were the cause and the other the effect. No, the phenomenon we call guilt, or gratitude, is itself relational. To experience it is to be related to that which occasions guilt, or gratitude, or shame, or resentment. It is to be related to something that is religious, having to do with the *religare*, with a network of binding of which our obligations are part.

At this point you may suspect me of having smuggled God into the argument, and that rather clumsily. I assure you that is not true. At the appropriate time I will announce his entrance quite candidly. (Although I admit that I believe we will then discover he has been here right along, he being the prime example of the conclusion that turns out to be the premise.) At the moment I want to suggest that this network of binding to which we are related by moral sentiments is what we mean by the law. The law is more than the sum of its parts. There are laws, for example, against indiscriminate stealing. They are not adequately explained by reference to their utilitarian value, nor by the fact that all societies have had such laws. It is rather the case that there is "an all-embracing moral reality, a purpose in the universe, which stealing offends" (Harold Berman, *The Interaction of Law and Religion*). We break a law, but we offend against the law.

Now offense suggests a personal event: one offends someone. This does not prove, of course, that there is a someone who is offended. You may drop a cherished vase on the floor and say most sincerely to its shattered remains, "I'm sorry." We do that sort of thing all the time. We personalize, or anthropomorphize, inanimate things. We do not really think for a moment that breaking the vase offended some great Master Vase that holds together the "vaseness" of the universe. Yet when we break a law, our feeling is not one of having offended against the law but of having offended The Law. This does not prove the existence of The Law. I merely ask you if this is not your experience, as it is mine, and to ponder its possible implications.

To be sure, we can attempt to "explain"—meaning to explain away—this experience of having offended by employing psychological and other explanatory systems. What we mean by "The Law" may be no more than a residual "father image" or the afterglow of traumatic punishment experienced during potty training. The trouble with such explanations is that they are reductionist and finally trivializing; they do not do justice to the relational character of our moral sentiments. The person who insists that my experience of a Mozart piano sonata is not an encounter with beauty but a neurochemical response to physical vibrations has said nothing of consequence about the experience; he has said a great

deal about his own poverty, if not perversity, of mind. His explanation, so to speak, is not more logical; it is simply less interesting.

I am suggesting, then, that while the law is of necessity unlike life in some respects, it is rooted in life experience. I further suggest that that experience is relational, pointing to something other than itself. It is, in short, of enormous consequence that people have a sense of right and wrong. The experience of right and wrong, in turn, relates to a more universal rightness and wrongness, which is reflected in the law. The person who says the sense of right and wrong is meaningless is, if taken at face value, revealing a deplorable personal deficiency. For those who know the reality of right and wrong, to ask what it "means" is meaningless. Of course one might ask what it means in the sense of what it may imply in this case or that. But the sense of right and wrong itself is the conclusion that turns out to be the premise of all other meanings. But what is to be done about the person who persists in challenging the reality of the experience of right and wrong? Well, one should be patient, of course, and, if one is a believer, one should pray for him. That some people lack a moral sense no more negates the existence of morality and what it implies than does the frequent lack of clear reasoning negate the existence of rationality. In morality, as in music, the arts, the sciences, or anything else of importance, reasonable discourse should not be stymied by the veto power of the handicapped.

So far, however, we have spoken of the law in terms of personal and somewhat individual experience. The personal dimension is important because, however much our ideas may be socially constructed and conditioned, it is as individual persons that we give our yes or no to the moral sense that is the foundation of law. Yet the law is preeminently a social phenomenon. However we severally acknowledge that which is binding, it is together that we spell out those acknowledgments in the bonding that creates and sustains community. Law is by definition a public enterprise, it is transsubjective. We can withhold our subjective acknowledgment or assent from the reality to which our moral sense points, but we cannot, without abandoning the world of reasonable discourse, refuse to recognize the empirical fact of the law as it makes its appearance in every society. Nor can it be denied that—at least in Western societies, although I suspect the phenomenon is more universal—people distinguish between particular laws and that which they call "The Law." It is the latter that partakes of a numinous, even a divine, character that, like religion, is binding. In everyday language a person who protests what he thinks to be the unfairness or silliness of a particular rule is told, "But that's the law." He may not think the rule less silly or unfair, but he acknowledges its authority because it is drawn from the authority of the law.

Those who call themselves "realists" in jurisprudence object that talk about the religious dimensions of law is obscurantist mystification. (Herbert Butterfield once remarked that "realism" is not a school of thought but merely a boast.) To the charge of obscurantism and mystification, it must be honestly answered that the origins and sustaining force of law are indeed obscure

and mysterious. There is nothing more unrealistic, in the sense of being contrary to the evidence, than the proposal that laws are created or obeyed apart from a communal consensus about what is ultimately right and wrong. Nor can it be reasonably denied that that sense of right and wrong is inseparably connected to an awareness of prevenient obligation, whether or not that obligation is expressed in explicitly religious terms.

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**I**n light of all this, then (and with a bow to Harold J. Berman), permit me to take a try at a definition of law. Laws issue from and participate in the law. The law is more than a body of rules; it is the historical, living process of people legislating, adjudicating, administering, and negotiating the allocation of rights and duties. Its purpose is to prevent harm, resolve conflicts, and create means of cooperation. Its premise, from which it derives its perceived legitimacy and therefore its authority, is that it strives to anticipate and give expression to what a people believes to be its collective destiny or ultimate meaning within a moral universe.

Of course any talk about ultimate meanings makes many jurists nervous. Jurisprudence, like most intellectual enterprises in the modern world, aspires to the status of being "scientific" in the sense that the natural sciences are "scientific." This is in many ways an admirable aspiration. The scientific method, as it has been widely understood in the last two hundred years, is a monumentally important liberation from authoritarianism. It makes everything subject to critical reason. Authoritarianism declared, "This is the law and it is to be obeyed because the king (or the church, or the Bible, or tribal custom) says so." And that was that. The law is the law is the law, and nobody is permitted to ask, "By what authority?" But now comes a delicious irony. Today, after the liberation of the eighteenth-century Enlightenment, there are certain schools of positivism that also declare that the law is the law is the law; and nobody is permitted to ask, "By what authority?" The king forbade the challenge because it was deemed impious and insubordinate. Certain moderns forbid the challenge because it is deemed meaningless or irrelevant. But the point is that both proscribe what is precisely *the* question of critical reason: What is the foundation of the authority that law claims for itself?

That question cannot be answered within the terms of the law itself. That is to say, the law is not self-legitimizing. To be sure, the question of legitimacy can be suppressed, but suppression is presumably the enemy of

scientific inquiry. Once the question is asked, it must be answered by reference to something beyond law itself. "This law has a claim upon your observance because \_\_\_\_\_." Over the years legal philosophies have filled in the blank with many different answers. Although evasions and circumlocutions have been frequent, the "because" finally comes down to the question of right and wrong. Except, of course, for those who, bowing to the divine right of kings or to the positivism of existent fact, refuse to ask, "By what authority?" Critical reason refuses to conform to the authoritarianism of pretentious kings and overweening facticity. Critical reason invokes the "oughtness" of things in order to bring the "isness" of things under judgment. Finally, whatever explanations might satisfy us personally, critical reason recognizes that the historical phenomenon of law is produced and sustained by the perception of a people that law is somehow correlated with the way things really are, or with the way things really should be.

It is commonly said that law has evolved from being organic to being technical. It no longer reflects the belief systems, customs, and traditions of the tribe, but has become a tool chest of complex instruments to be rationally applied for the achievement of specified social purposes. To the extent that this transition does indeed represent a demystification of law, it is to be welcomed. To the extent, however, that it inhibits critical reason from venturing beyond the technical and utilitarian, it becomes a new mystification. The new authoritarianism may be worse than the old, and the new mystification worse than the old, because they claim for themselves the virtue of freedom. In Orwell's "Newspeak," war is peace and slavery is freedom. The slavery that claims to be freedom is the most desperate slavery because it has subsumed into itself the idea of emancipation. Much juridical theory today—as indeed much thought in other disciplines—is in bondage to a species of rationality that refuses to ask, or even forbids the asking of, the questions that get in the way of making jurisprudence an "exact science." The desire for exactitude is inimical to what is called the human factor, human behavior being notoriously lacking in that prime scientific virtue, predictability. Whatever else law may be, it is a human enterprise in response to human behavior, and human behavior is stubbornly entangled with beliefs about right and wrong. Law that is recognized as legitimate is therefore related to—even organically related to, if you will—the larger universe of moral discourse that helps shape human behavior. In short, if law is not also a moral enterprise, it is without legitimacy or binding force.

An excessive emphasis upon law as technique is also demeaning to its professional practitioners. Lawyers want to be viewed as something more than mechanics. To the extent that that desire reflects merely a search for status, it is just a piece of snobbery. After all, to be a mechanic, an automobile mechanic, for instance, is a perfectly honorable occupation, and one can fulfill it without fretting about the metaphysics of transportation. But the thoughtful jurist is vaguely repulsed by the idea that his task is merely mechanical. It is an intuition that should be trusted. A priest who has great confidence in the mechanical, *ex opere operato*, effect of the

sacraments may content himself with doing the technical job at hand, but that is hardly a worthy model of priesthood. So the lawyer has a quasi-priestly role, mediating between human conflicts and what, it is hoped, is a moral universe. The law then becomes the agreed-upon language of mediation. It is not so important that the lawyer who sees his task as purely mechanical demeans himself and his profession; more important is that such an approach demeans the human effort to sustain moral meaning in the universe.

If some theories would turn law into the technique of exact science, others take quite the opposite direction. They want to be relentlessly realistic about how law is made and applied; there is a tone of iconoclasm, even of cynicism, in their exultation over the arbitrariness of law. To speak of principles or of morality is, in their view, ludicrously naive. Some who are of this temperament say laws are the instrument of class interests, the rules of convenience for the powerful. Others, less ideologically inclined, emphasize accident more than conspiracy. Law is an arbitrary game, and the lawyer is a skilled player of the game. In ancient times it was said that the law is what the king says it is. In our enlightened era it is declared that the law is what the court says it is. No more and no less. The king and the court may be good or bad, they may have the counsel of wise men or scoundrels, but, if there is no appeal beyond king or court, the law is finally capricious. And capricious is one thing that, by definition, law is not supposed to be. Capriciousness has always been the mark of tyranny. Law that issues from the whim of monarchs or the caprice of courts can command obedience only by force. It lacks the power of moral legitimacy.

The law is greater than the agencies of law. As the church is under the gospel, so the court is under the law. Churches, like courts, forget this at their peril. Neither church nor court is self-legitimizing.

Recall the earlier definition of law: The premise of law, from which it derives its perceived legitimacy and therefore authority, is that it strives to anticipate and give expression to what people believe to be their collective destiny or ultimate meaning within a moral universe. At this point theology enters the picture. The disciplined application of critical reason to the meaning of life is what is here meant by theology. Pursued seriously enough (and here is the candid announcement I promised earlier), the question of meaning is the question of God. Theology is the exploration into God; that is, the exploration of the ultimate or absolute meaning, the final source and purpose, of all reality. *Christian* theology works with the data of God's self-revelation in the life, death, resurrection, and promised return of Jesus whom we call the Christ. But there are many ways of doing theology other than the Christian way. Much that is in fact theology is not connected with any brand-name religion. But, in law or any other field, the search for ultimate meanings that provoke morally binding legitimacy for any enterprise is, in this view, a theological search.

To put it somewhat differently, theology is the disci-

plined reflection upon transcendent truth and value that gives significance, perhaps eternal significance, to our lives. It is important to underscore that, while theology may speak of the supernatural and of other worlds, it addresses the meaning of *this* life, *this* world, *this* history of which we are part. At least Judeo-Christian theology, unlike that of some Eastern religions, is pledged to the ultimate significance of this ordinary stuff of history that makes up what we call reality. And, again in Christian theology, the ultimate meaning of anything is to be found in the end of that thing. As the meaning of an epoch of history is perceived at the end of the epoch, as the meaning of a life is perceived from the end of that life, so the meaning of all history is revealed—if the Christian gospel turns out to be true—in the End Time of the consummation of history in the Messianic Age.

But now we are getting ahead of ourselves. The Messianic Age is, after all, about as far as you can go, while 1979 is, to judge by the evidence, far short of that consummation devoutly to be wished. In this present moment we are witnessing in social philosophy and jurisprudence some signs of an incipient revival of theology, although, of course, it is not called theology. But some thoughtful people are addressing the legitimacy crisis of modern law by searching for transcendent meanings that can rescue law from the tyranny of capriciousness. I will limit my comment here to the work of John Rawls, most particularly his elegantly argued and justly influential *A Theory of Justice*.

Rawls's work should be welcomed by all who care about the foundation and future of law. It is an important effort to establish principle over discretion and moral purpose over mechanical precedent. You will recall his basic argument. He wants to redeem the idea of social contract as the basis of law, and asks how the meaning and terms of justice might be established in a normative way that can transcend past and present disagreements about what is meant by justice. Very briefly, he argues that the meaning and terms of justice can be established by rational persons seeking their own interests behind a "veil of ignorance." The veil of ignorance assures that these people do not know what their own placement in life might be. They do not know, in this social contract they are designing, who will be rich and who poor, who gifted and who disadvantaged, who the darling of fate and who life's loser. Therefore, it is argued, they will try to maximize the chances of each but also build in some hedging of the bets for the less fortunate, and the result of all this will be as close an approximation of justice as we are likely to get. Obviously, I've not done justice to his elaborate argument, but that's the gist of it.

Rawls's effort has been much discussed, much celebrated, and much criticized. It has been noted that Rawls assumes a rather narrow definition of the rational person, excluding, as he does, the gambler and adventurer. It has been pointed out that antecedent and abstract choices are qualitatively and substantively different from choices made in particular circumstances. It is objected that it is by no means obvious that people would choose equality as the chief goal; they might well prefer some other personal or social excellence. It is proposed that Rawls's "sense of

fairness" would not necessarily be the controlling sentiment—that a sense of obligation, of altruism, or of achieving some collective purpose might well have priority. Well, the criticisms are many, and I am sympathetic to more than a few of them.

But my purpose in discussing Rawls is to illustrate a laudable intention miscarrying in a way that is symptomatic of our problems in relating law to life. The laudable intention, again, is to restore legitimacy to law by developing a normative truth to which otherwise capricious laws are subject. The problem, as I see it, is that Rawls's way of establishing justice contradicts almost every part of the definition of the law that I offered earlier. Law, it was suggested, "is the historical, living process of people legislating, adjudicating, administering, and negotiating the allocation of rights and duties." But Rawls's people behind the veil are, in fact, nonpersons. They have no history, no tradition, no vested interests, no self-knowledge, no loves, no hates, no dreams of transcendent purpose. Living persons are distinguished by partiality, by passion, by particularity. Instead of re-linking life and law, Rawls has simply subsumed life into a totally abstracted notion of justice that could not be farther removed from the real world in which the legitimacy of law must constantly be renewed.

It is of paramount importance that there is no history behind the veil of ignorance. Rawls and many other theorists assume a universe in which everything is already in place. As Mircea Eliade and others have noted, in this the "scientific" approach of the secular Enlightenment is similar to the "primitive" worldviews of ancient times. There is finally no real history, no real contingency, no real change; the world is either composed of static entities or what looks like change is simply a cyclical recurrence of the same old thing. The Judeo-Christian tradition, however, is premised upon the notion of real history, real change, happening in an incomplete universe that is still awaiting its promised fulfillment.

In order to establish normative truth, Rawls and others seek an objectivity and universality that transcend existing conflicts about the meaning of law and justice. But abstraction reaches the point of absurdity when we try to manufacture nonexistent persons to resolve existent conflicts. Only through the application of critical reason to public evidence can we arrive at intersubjective truth that approximates what we call objectivity. That is to say, there is no alternative to history; only in history can we address the problems of history. Many students of jurisprudence have observed that the idea of the "ongoingness" of law—the way it develops and grows incrementally and corrects itself—is dependent upon the Judeo-Christian understanding of history. Thus, in our earlier definition, it was suggested that law has an "anticipatory" quality; it reaches forward, so to speak, to embrace an excellence of "right order" that has not yet been actualized. Law is therefore always provisional, the "isness" never perfectly embodies the "oughtness"—the "now" is at its best only a preview of the promised "not yet." (Herein lies the validity of the theological notion of "two kingdoms," the kingdom of grace revealed in Jesus Christ and the king-

dom of historical experience in a creation that has not yet been fulfilled in the established rule of that grace.)

The invention of a history-less notion of justice finally miscarries because it contradicts our empirical experience of law. In addition, the legitimacy of a law in a democratic society depends upon the believability of the linkage between law and what people think life is and ought to be. The admirably elegant reasoning of John Rawls and others is, whether it is right or wrong, inescapably esoteric. At the most, only a few thousand people can, or care to, read it—and there is little agreement among them on what to make of it. Thus the quest for universality becomes simply the parochialism of a few intellectuals. This is not to indict intellectuals as a class, for indeed most of us are counted in their number, but it is to underscore the limitations of theories of justice that cannot be widely shared and therefore cannot sustain a democratic consensus regarding the legitimacy of law.

This is precisely the cultural crisis of our society: The popularly accessible and vibrant belief systems and worldviews of our society are largely excluded from the public arena in which the decisions are made about how the society should be ordered. Daniel Bell ponders this dilemma in the final part of his *The Cultural Contradictions of Capitalism* and concludes, reluctantly, that the answer lies in a more public role for religion. The conclusion that he accepts reluctantly is the premise of all I have said today. Specifically with regard to law, there is nothing in store but a continuing and deepening crisis of legitimacy if courts persist in systematically ruling out of order the moral traditions in which Western law has developed and which bear, for the overwhelming majority of the American people, this society's sense of right and wrong. There is in store a continuing and deepening crisis unless a transcendent moral purpose is reasserted by which the state can be brought under critical judgment, unless it is made clear once again that the state is not the source but the servant of the law.

With apologies to Spinoza, transcendence abhors a vacuum. Today there is such a vacuum in the public space of American law and politics. Unless it is democratically filled by the living moral traditions of the

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***Contra Rawls: "The Judeo-Christian tradition...is premised upon the notion of real history, real change, happening in an incomplete universe that is still awaiting its promised fulfillment."***

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American people, it will surely be filled, as has happened so tragically elsewhere, by the pretensions of the modern state. As the crisis of legitimacy deepens, it will lead—not next year, maybe not in twenty years, but all too soon—to totalitarianism or to insurrection, or to both.

One final word. In my remarks I have focused upon the condition of legal theory, as I understand it, and upon related problems in secular social philosophy. I do not want to leave the impression that I think the role of religion and of the Christian church in particular is above criticism. To the contrary. The exclusion of living moral tradition from the public arena dates from the wars of religion in the seventeenth century. The loveless fanaticism of the churches almost destroyed Europe and forced thoughtful people to seek some other language and some other faith on which to ground the common life of society. It is not surprising that social and legal theory frequently assumed an antireligious posture. The exclusion of religion from public discourse continues today also because too many religionists and theologians perpetuate a privatized and privileged form of belief. Salvation is privatized and individualized in a way that implies that, quite literally, the rest of the world can go to hell. And religious belief is thought to be privileged, so that it is not vulnerable to public challenge and critical reason. So long as religion persists in its divisive and self-protective ways, it will be justly dismissed from the public arena as dangerously "sectarian."

There are three things that must happen (and, I am glad to say, three things that are happening, although not fast enough) in order to point us toward a more promising future. First, the churches must seek full communion and visible unity as the one Church of Christ. This includes the secure reestablishment of Christianity's bond with living Judaism. Only in this way will religion in our society stop posing the threat of divisiveness and come to be what the Church is called to be, a symbol of the unity of humankind. Second, the churches must once and for all be seen to repudiate any ambition to temporal rule. At his inauguration last year Pope John Paul I refused to be crowned with the papal tiara, the vestigial symbol of the claim to temporal power. John Paul II followed his good example, and so must all the churches set aside their tiaras. It may seem improbable to us, but there are many secularists in this society who do most genuinely fear the Church's ambitions to rule. Those fears must be put to rest if we are ever to achieve a more natural and fruitful relationship between Church and State, between religion and the public realm.

The third change is most directly pertinent to a law school within a Christian university. To claim the name university is to acknowledge that all the disciplines and departments share a common universe of discourse. More particularly, theologians and jurists are not dealing with separate worlds, separate subject matters, but are engaged in this one history and this common task: to enhance life by relating it to the justice of law, and to renew law by relating it to the meaning of life. **WV**