
Faith, Freedom and Family: An Introduction to the Work of John Witte Jr

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John Witte Jr is a law and religion scholar of the first order. For decades, as the director of the Emory Center for the Study of Law and Religion at Atlanta, he has played a leading part in the development of the field of law and religion globally. He has written prolifically across a wide range of law and religion subjects. He has nurtured and guided a generation of vibrant scholars who will shape the field for decades to come. He has brought important new insights to law and religion that have animated critical and original law and religion thinking. This article introduces aspects of his work. It examines the personal interest of Witte in law and religion, and the influences on his approach to the field, particularly his Christian upbringing and convictions. It explores his rich and robust understanding of law and religion, around notions of the dialectical interaction between the two, the religiosity of secular law, and the juridical character of religion. It also studies Witte as a historian of law and religion—his quest to retrieve, reconstruct and re-engage historical aspects of law and religion so as to address challenges of today, interdisciplinary, international and inter-religious. In all this, Witte provides a work ethic for Christian scholars in this field in terms of stewardship, accessibility and engagement.

Keywords: John Witte, law, religion

‘Faith, freedom, and family, the three things people will die for’—John Witte

Family, faith, freedom. Things for which to die. Things for which to live. Things for which to be born. John Witte has dedicated his life to family, faith, and freedom—personally and professionally—both before and since his appointment as the Woodruff Professor of Law, McDonald Distinguished Professor of Religion, and director of the Center for the Study of Law and Religion at Emory University. His prolific scholarship is global in reach, relevance and reputation. This article is a reflection, often using his own words, on his prodigious work,

¹ This article is based on N Doe, ‘An Introduction to the Work of John Witte, Jr’, in N Doe and G Hauk (eds), *Faith, Freedom, and Family: New Essays in Law and Religion* (Tübingen, 2021), pp 1–17.

his deep thought, and his impact in and beyond the academy. It is not a full-scale evaluation of his scholarly output. It is an attempt to understand the reasons behind, influences upon, and meaning of his explorations over forty or so years in the realms of law and religion in general and faith, family, and freedom in particular. In so doing, it draws critically on his vision, hard work and self-understanding.

John Witte was born into the nexus of family, faith and freedom. His Dutch parents emigrated to Canada in 1953, and family and faith were crucial aspects of his early life in Ontario. He explains:

I am a Christian believer, and I have been a member of a Christian family from the very beginning. My parents . . . were of the Christian Reformed faith. I was brought up in that tradition, catechized both at home and at church, sent to Reformed primary and secondary schools, and imbued with the idea that Christianity is the fundamental part of life.²

Witte progressed to Calvin College, in Grand Rapids, MI, a liberal arts college founded by the Reformed Church. These were indeed formative years. He studied with, among others, the philosophers H Evan Runner and Nicholas Wolterstorff (later of Yale Divinity School), who taught him ‘to discern the religious sources and commitments implicit or explicit in historical and modern ideas and institutions’, such as law and politics,³ and with whom he was to collaborate around their shared interest in Christian approaches to human rights.⁴ At Calvin College, Witte majored in history, philosophy and biology, and took the Medical College Admission Test, the Law School Admission Test, and the Graduate Record Examinations. While these gave him considerable freedom of choice about a future career, Witte decided that ‘the field of law was the place where I could find an interesting venue for exploring some of the deep questions about the role that Christianity played in shaping civilization’. He graduated with the degree of Bachelor of Arts (BA) in 1982.⁵

Witte then planned to pursue a doctor of jurisprudence (JD) and/or a doctor of philosophy (PhD) degree. He wanted to study law and history at Yale Law School and the Yale history department with the Reformation scholar Steven

- 2 Interview with John Witte Jr, 6 May 2015, Handong International Law School, Pohang, South Korea, available at <https://www.johnwittejr.com/uploads/5/4/6/54662393/handong_interview_2015.pdf>, accessed 2 February 2022 (hereafter ‘Handong Interview’).
- 3 John Witte Jr, Heidelberg Lecture, ‘Promotionsfeier der Theologischen Fakultät’, University of Heidelberg, 8 February 2017, lecture on receiving Doctor of Theology, *Honoris Causa* (hereafter ‘Heidelberg Lecture’), p 3.
- 4 Interview with John Witte Jr at the Institute of Sino-Christian Studies, Hong Kong, 9 August 2019, available at <https://www.johnwittejr.com/uploads/9/0/1/4/90145433/witte_interview_christinaty_human_rights_and_culture_r.pdf>, accessed 2 February 2002 (hereafter ‘Hong Kong Interview’), pp 2 and 13.
- 5 Handong Interview, p 2.

Ozment (1939–2019). It was not to be. Ozment left Yale for Harvard (where, from 1990 to 2015, he was McLean Professor of Ancient and Modern History). But Harvard had no joint JD/PhD program with the history department. As a result, Witte writes, ‘I was left with the dilemma of where to go’. So ‘I wrote to Harold J. Berman at Harvard Law School, whose work I had read at some length as a college student, and asked what I should do’. Berman must have recognised at once someone with obvious potential, aptitude and enthusiasm. Witte recalls, with typical admiration and respect, that Berman ‘was very generous in responding with a hand-written two-page letter, inviting me to come work with him’. It was, for Witte, ‘a deep privilege to sit at the feet of a great master who was wrestling with some of the fundamental questions of law and religion in the Western tradition’. Indeed, Berman was:

a man who had sacrificed much for the sake of coming to the Gospel, accepting it notwithstanding his Jewish upbringing and with the result of eventual ostracism by his family. Berman worked me very hard, 40-hours a week, during the time I was going to law school; my Dutch Calvinist work ethic carried me in that context.

Witte wrote his thesis on the scientific revolution and the law.⁶

From these early years, Witte acknowledges the lasting influence of three particular scholars. The first is Berman (1918–2007). They worked together closely for over 20 years. Berman, the ‘twentieth-century master of the idea of law and revolution’, taught Witte ‘the importance of mapping the shifting belief systems in the evolution and revolutions of the Western legal tradition’. In turn, Berman had been influenced by own his mentor while a student at Dartmouth College, the historian and philosopher Eugen Rosenstock-Huessy (1888–1973), whose work on change and continuity following revolution Berman applied to legal transformations that came with, for example, the Papal Revolution of the twelfth and thirteenth centuries, the Lutheran revolution of the sixteenth, the English Revolution of the seventeenth, and the French and American revolutions of the eighteenth century.⁷ Legal development–transformation and reformation–has a prominent place in Witte’s work, and Witte dedicated a book to Berman, his ‘mentor, colleague, and friend’.⁸

6 Handong Interview, p 1.

7 Handong Interview, pp 8–10. See, for example, H Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, MA, 1983); H Berman, *Law and Revolution II: The Impact of the Protestant Reformations on the Western Legal Tradition* (Cambridge, MA, 2006); see also his *Faith and Order: The Reconciliation of Law and Religion* (Grand Rapids, MI, 1993).

8 *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge, 2002). See also J Witte Jr and F Alexander (eds), *The Weightier Matters of the Law: Essays on Law and Religion in Tribute to Harold J. Berman* (Atlanta, 1988); J Witte Jr, ‘A Conference on the Work of Harold J. Berman’ (1993) 42 *Emory Law Journal* 419–589; ‘In Praise of a Legal Polymath: A Special Issue Dedicated to the

A second influence was Herman Dooyeweerd (1894–1977), Dutch professor of jurisprudence at the Vrije Universiteit, Amsterdam (1926–1965), for whom ‘founding metaphors and motifs or fundamental law ideas’ both anchored and transformed ‘the basic ideas and institutions of a given civilization’, such as in the Christianization of Rome, the Middle Ages, the Protestant Reformation, and the French Revolution.⁹ Early in his career, Witte edited a volume of lectures that Dooyeweerd delivered in 1937 in Amsterdam. In the introduction, Witte brilliantly unpacks the originality of Dooyeweerd as a Christian thinker who used biblical and Christian teachings to understand law, politics and society, and ‘the natural, voluntary, and contractual social institutions’ between ‘the individual and the state’, that is, between the public and the private spheres.¹⁰ He later took up Dooyeweerd’s complex Christian theory of rights, which Witte summarises in his collected works.¹¹

Witte sums up: ‘Those two big figures had a deep influence on me early in my scholarly life’. He explains, ‘What I have taken from [Berman] and Dooyeweerd is the idea that there are fundamental seams, transformative moments, watershed periods’ throughout history—and he builds on this idea, particularly with regard to his keen interest in ‘the consequences of what happens when there is a bend in the stream’ or ‘fundamental shift’ in juridical change.¹²

The third influence was another Dutchman, the theologian Abraham Kuyper (died 1920). Witte says: ‘Kuyperian thinking remains an important orientation for me’ in terms of:

a set of intellectual habits and methodological instincts . . . particularly the basic respect for Scripture, tradition, reason, and experience; the emphasis on social pluralism and sphere sovereignty, and the wariness of political, ecclesiastical, or any other kind of monism or monopoly in social organization and authority structuring; the appetite for covenant thinking;

Memory of Harold J Berman (1918–2007) (2007) 57 *Emory Law Journal* 1393–1643; and J Witte Jr and C Manzer, ‘Introduction to Harold J. Berman’, in J Witte Jr (ed), *Law and Language: Effective Symbols of Community* (Cambridge, 2013), pp 1–35.

9 Handong Interview, p 10.

10 H Dooyeweerd, in *A Christian Theory of Social Institutions*, J Witte Jr (ed), trans M Verbrugge (Toronto, 1986).

11 See chapter 16 of *Faith, Freedom, and Family* (note 1).

12 Handong Interview, p 10. See, eg, his overviews of major eras and shifts in law and religion in chapters 4, 14, 24 and 37 of *Faith, Freedom, and Family* (note 1) as well as in his ‘Introduction’ to J Witte Jr and F Alexander (eds), *Christianity and Law: An Introduction* (Cambridge, 2008), pp 1–32; and his introductions to his monographs, *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge, 2007); *The Sins of the Fathers: The Law and Theology of Illegitimacy Reconsidered* (Cambridge, 2009); *From Sacrament to Contract: Marriage, Religion and Law in the Western Tradition* (2nd edn) (Louisville, KY, 2012); *Sex, Marriage, and Family in John Calvin’s Geneva*, 2 vols (Grand Rapids, MI, 2005, 2022); J Witte Jr and J Nichols, *Religion and the American Constitutional Experiment* (4th edn) (Oxford, 2016).

the insistence that everyone operates with a basic worldview [of] beliefs, values, or metaphors.¹³

Kuyper, too, makes regular appearances in Witte's work, including in the lectures and articles he produced for the centennial conference on Kuyper's Stone Lectures at Princeton Theological Seminary in 1998¹⁴ and his receipt of the Kuyper Prize at Princeton the next year.¹⁵

These formative early years—including the lasting influences of Berman, Dooyeweerd and Kuyper—were followed by Witte's move from Harvard to Atlanta. Why Atlanta? Emory University had established a law and religion program in 1982 as part of a broad effort to develop a truly interdisciplinary character for the university. The program founders were James T Laney, then president of Emory, and Frank S Alexander, professor of law and a former Berman student. They believed in the vital need for focused scholarship and teaching in this new field, enabling students and scholars to probe tensions between church and state, religion and politics; to understand the nuances of Jewish, Christian and Islamic laws and their place in modern nations; and to explore the religious foundations and dimensions of law, politics and society. In the interdisciplinary study of law and religion, the program faculty set out to 'enhance understanding of law without diluting rigorous legal study, and [to] widen the horizons of religious education without propagating a particular faith or ideological agenda'. In a constitutional order celebrated for its 'wall of separation' between state and religion, and at a time when 'no other major U.S. law school devoted serious scholarship or teaching to the field of law and religion', it may not be surprising to find that the program 'met with suspicion, even hostility, in some quarters'.¹⁶ However, the new program blossomed.

Three years later, in 1985, the university appointed Harold Berman as the first Robert W Woodruff Professor of Law. Berman brought with him Witte, who in turn became the director of the Law and Religion Program and later succeeded Berman in the Woodruff Chair. Witte recalls: 'I had the privilege of following Berman from Harvard... to Emory... in order to build up this law and religion center... I've been at Emory ever since... I'm still on probation, but working hard'.¹⁷ From 1987, the program grew into the full-fledged Center for

13 Hong Kong Interview, pp 1–2. Kuyper had also been prime minister in the Netherlands from 1901 to 1905. See further chapters 1, 2 and 10 of *Faith, Freedom, and Family* (note 1).

14 J Witte Jr, 'The Biology and Biography of Liberty: Abraham Kuyper and the American Experiment', in L Lugo (ed), *Religion, Pluralism, and Public Life: Abraham Kuyper's Legacy for the Twenty-First Century* (Grand Rapids, MI, 2000), pp 243–262.

15 J Witte Jr, 'God's Joust, God's Justice: The Revelations of Legal History' (1990) 20 *Princeton Theological Seminary Bulletin* 295–313.

16 Center for the Study of Law and Religion (CSLR), available at <<https://cslr.law.emory.edu/about/index.html>>, accessed 2 February 2022.

17 Handong Interview, p 1.

the Study of Law and Religion with Witte as its director. It was established to convene the best minds, produce innovative scholarship, facilitate challenging conversations, and train the next generation of academics, lawyers and religious leaders to advance global conversations at the intersection of law and religion focused on religious perspectives, legal perspectives and interdisciplinary methods. The Center offers six degree programs, a score of cross-listed courses, several multi-year research projects, student and visiting fellowships, regular international symposia, conferences, lectures, and two book series, the *Journal of Law and Religion* and *Canopy Forum*. The Center's projects and fellows have produced nearly 400 books and thousands of articles. The current focus reflects the breadth of expertise of its members, all of whom are distinguished in the areas of their particular specialties—that is: law and Judaism; law and Christianity; law and Islam; and law, religion and human rights. Currently, new focus areas include: law, religion and jurisprudence; law, religion and social justice; and law, religion and health. More recently, the Center has extended its interests to Hinduism, Buddhism and other religions.¹⁸

Witte's flair and energy for organising ambitious, high-profile and topical events is evident in the conferences he has conducted through the Center. A landmark came in 1991, when the Center hosted an international conference, 'Christianity and Democracy'. Eight hundred participants from five continents heard former US President Jimmy Carter and Anglican Archbishop Desmond Tutu deliver keynote addresses.¹⁹ Further public-facing and ambitious conferences dealt with such subjects as religious freedom; proselytism; the rights of children; sex, marriage and family life; and Islamic family law. Each event yielded several new books. Witte's industry for fundraising is second to none—and he seems to have inherited more than a little of what modern sociology of religion characterises as the classic northern European Protestant business acumen. By 2000, the Pew Charitable Trusts had provided a \$3.2 million 'Center of Excellence' grant matched by a \$10 million endowment from Emory University. In all, the Center has attracted around \$25 million in grant funding.²⁰

The bedrock for all this energy, exploration and endeavour is Witte's rich and powerful understanding of 'law and religion'. Honed over years of thinking, it contains three streams, which Witte himself explains as follows. The first is the *dialectical interaction* of law and religion: 'Religion gives law its spirit and inspires its adherence to ritual, tradition, and justice'. Equally, 'Law gives religion its structure and encourages its devotion to order, organization, and orthodoxy'. Moreover, while each discipline is distinct, 'Law and religion share such ideas as fault, obligation, and covenant and such methods as ethics,

18 CSLR (note 16).

19 It led to the book J Witte Jr (ed), *Christianity and Democracy in Global Context* (Boulder, CO, 1993; reprinted London, 2018).

20 See CSLR (note 16).

rhetoric, and textual interpretation. Law and religion also balance each other by counterpoising justice and mercy, rule and equity, discipline and love'. This dialectical interaction gives the two disciplines vitality and strength: 'Without law at its backbone, religion slowly crumbles into shallow spiritualism. Without religion at its heart, law gradually crumbles into empty, and sometimes brutal, formalism'. They also 'cross-over and cross-fertilize each other', interacting: *conceptually* (for example, sharing such concepts as sin and crime, covenant and contract, righteousness and justice, and mercy and equity); *methodologically* (sharing, for example, hermeneutical methods to interpret texts, casuistic methods of argument, systematic methods of organising their doctrines, forensic methods of sifting evidence and rendering judgments); and *institutionally* (for example, through multiple relations between both political and ecclesiastical officials and offices).²¹

The second stream of thought in law and religion might be styled *the religiosity of secular laws*: 'the laws of the secular state retain strong religious dimensions'. 'Every legitimate legal system... has what Harold Berman calls an "inner sanctity", a set of attributes that command the obedience, respect, even reverence of both political officials and political subjects'. Like religion, 'law has authority' (it is 'decisive or obligatory'); 'law has tradition' (for example, in precedent, principles and practices); and 'law has liturgy and ritual' (for example, courtroom procedure, professional pageantry and legislative language).²² These commonalities between law and religion may differ in origin and purpose (temporal and spiritual), but they exist profoundly in substance and form. These are products of the centuries-long interaction of law and religion in the Western tradition, Witte shows in several writings.²³

The third stream might be styled *the juridical character of religion*: 'Religion maintains a legal dimension, an inner structure of legality, which gives religious lives and religious communities their coherence, order, and social form'. Importantly:

Legal habits of the heart structure the inner spiritual life and discipline of religious believers, from the reclusive hermit to the aggressive zealot. Legal ideas of justice, order, judgment, atonement, restitution, responsibility, obligation, and others pervade the theological doctrines of countless religious traditions. Legal structures and processes... define and govern religious communities and their distinctive beliefs and rituals, mores, and morals.²⁴

21 Heidelberg Lecture, pp 1–2. See further chapter 1 of *Faith, Freedom, and Family* (note 1).

22 Ibid, 2. See further chapter 11 of *Faith, Freedom, and Family* (note 1).

23 See especially chapters 4–9, 14–15, 25–29 and 34–37 of *Faith, Freedom, and Family* (note 1).

24 Heidelberg Lecture, pp 1–2.

However, law and religion may be in tension: as ‘Every major religious tradition has known both theonomism and antinomianism—the excessive legalization and the excessive spiritualization of religion’, so ‘every major legal tradition has known both theocracy and totalitarianism—the excessive sacralization [and] secularization of law’. Equally, as ‘every major religious tradition strives to come to terms with law by striking a balance between the rational and the mystical, the prophetic and the priestly, the structural and the spiritual’, so it is that ‘every major [secular] legal tradition struggles to link its formal structures and processes with the beliefs and ideals of its people’.²⁵

These are inspirational understandings of the relationship between law and religion. But they come at a high price. Their pursuit, study and substantiation all clearly necessitate an interdisciplinary expertise—the specialist knowledge and methods of jurists and theologians, of historians and sociologists, and of philosophers and political theorists. So, how does Witte see himself within this multifaceted field of law and religion? He says, ‘I am not a philosopher, political theorist, ethicist, or theologian, though I dabble in these fields. I am a lawyer and legal scholar, focused on the history of law and religion’. He works, therefore, on faith, freedom and family ‘largely as an historian’, tapping into ‘the wisdom of the Protestant and broader Christian traditions on fundamental questions of law, politics, and society’. He says he is not a politician seeking ‘to hammer out political platforms’, or a litigator pressing constitutional cases. However important that work is for the law and religion field, that is ‘just not my vocation’, Witte writes.²⁶ Indeed, ‘I have long felt that my calling is to be an historian’. ‘In college and certainly in law school, I became interested in the Protestant Reformation as a... transformative moment in the history of the West, and the influence the Protestant reformers had... on law, politics, and society’.²⁷ Witte links this calling to his earlier experiences: ‘My parents and pastors taught me from the beginning that Law and Gospel belong together, that Scripture goes hand in hand with tradition, and that historical experience has deep meaning [and] purpose for those who have eyes to see and ears to hear’. ‘I have translated all this schoolboy instruction into a commitment to studying the history of law and religion in the Western tradition’.²⁸ Not only this: Witte has a deep respect and affection for the work of modern legal historians and has edited or otherwise contributed to several volumes to

25 Heidelberg Lecture, p 3. See also J Witte Jr, ‘The Interdisciplinary Growth of Law and Religion’ in F Cranmer et al (eds), *The Confluence of Law and Religion: Interdisciplinary Reflections on the Work of Norman Doe* (Cambridge, 2016), pp 247–261; ‘The Study of Law and Religion in America: An Interim Report’ (2012) 14 *Ecc LJ* 327–354; ‘Afterword’, in R Sandberg (ed), *Leading Works in Law and Religion* (London, 2019), pp 197–205.

26 Hong Kong Interview, p 3.

27 Handong Interview, pp 2, 11–12.

28 Heidelberg Lecture, p 3.

honour their valuable scholarship and includes chapters on several of them in his collected works.²⁹

The methods Witte uses as a historian of law and religion are characteristically triadic:

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 an historically informed religious viewpoint with the hard legal issues that now confront church, state, and society.

At the same time, Witte bears three ‘I’s’ in mind; he explains: ‘Much of my historical work is *interdisciplinary* in perspective, seeking to bring the wisdom of religious traditions into greater conversation with law, the humanities, and the social and hard sciences’. Moreover: ‘It is *international* in orientation, seeking to situate American and broader Western debates over interdisciplinary legal issues within a comparative historical and emerging global conversation’. Also: ‘it is *interreligious* in inspiration, seeking to compare the legal teachings of [Roman] Catholicism, Protestantism, and Orthodoxy’, and ‘sometimes’ those of Judaism, Christianity and Islam.³⁰

However, these methods of Witte’s make particular demands on the ethics of scholarship. As such, he recognises five responsibilities that attach to the Christian scholar. First, *stewardship*: ‘As a scholar, one critical responsibility is to be a good steward of the wisdom, knowledge, and methodology that you acquired in your profession and to maintain and develop it, to continue to teach it to the next generation, to prepare the next generation of scholars to stand and succeed you’. Second, *discipline*: ‘If your Christian vocation is to be a scholar, be the very best scholar and teacher you can be’. Third, *accessibility*: scholarship should be expressed ‘in and on the terms that anyone can understand’. Fourth, *influence*: ‘Christian scholars . . . must try to find ways of reforming and improving their profession or discipline to accord better with what the faith teaches’, finding themes ‘where the Christian tradition has had or can have notable influences’. Fifth, *engagement*: ‘Christian scholars have different ways to engage the community, the polity, and public debate’. On

29 See, for example, J Witte Jr et al (eds), *Texts and Contexts in Legal History: Essays in Honor of Charles Donahue* (Berkeley, CA, 2016); *The Weightier Matters of the Law* (1988); J Witte Jr, ‘Hugo Grotius and the Natural Law of Marriage: A Case Study of Harmonizing Confessional Differences in Early Modern Europe’, in T Harris (ed), *Studies in Canon Law and Common Law in Honor of R. H. Helmholz* (Berkeley, CA, 2015), pp 231–50; J Witte Jr, ‘Canon Law in Lutheran Germany: A Surprising Case of Legal Transplantation’, in M Hoeflich (ed), *Lex et Romanitas: Essays for Alan Watson* (Berkeley, CA, 2000), pp 181–224. See further chapters 11–13, 17–24 and 35–37 of *Faith, Freedom, and Family* (note 1).

30 Heidelberg Lecture, p 3.

one hand, ‘One can simply produce scholarship, write it, teach it, lecture about it, and equip other specialists to take the work and run with it. That is a lot of what I do. I do [not] spend a lot of time doing the litigation, lobbying, and legislative work that are a natural outgrowth of what I do’. On the other hand, scholars may engage in ‘legal debates about faith, freedom, and family: they participate in cases, they craft legislation, they work hard . . . with the other leaders of the culture’ on ‘hard questions’ – through op-eds, debates, television appearances, and other social media: ‘That is equally important and responsible Christian scholarship’.³¹

Witte has a deep appreciation of the horizons open to Christian scholars of law and religion and the fields in which they may live out these responsibilities of stewardship, discipline, accessibility, influence and engagement. First, there is the field of secular law. On one hand, Witte accepts the ‘common sentiment’ that Christian faith and the legal profession may be ‘incompatible’ or at least ‘in tension’. Quoting Luther’s claim, ‘*Juristen, böse Christen*’ (Jurists are bad Christians), Witte accepts that law is often seen as ‘a grubby, greedy, and ugly profession, and some of that is true’. However, law is ‘fundamental’, one of the ‘universal solvents of human living’, and ‘a society without law would quickly devolve into hell itself’. So ‘we need Christians at work in the law’.³² For example, in the field of secular law, Christian lawyers have a distinct and active part to play in the field of human rights on the basis that: these are ‘natural gifts of God’; ‘human beings are created in the image of God’; and ‘God has given us the gifts of [for example] companionship of other humans’.³³ Witte himself has taken the lead in several important projects on Christianity and human rights,³⁴ following these with studies on perspectives of other religious traditions globally.³⁵

Another field to which Christian scholars of law and religion may contribute is ecumenism and inter-Christian dialogue. One challenge is for ‘Catholic, Protestant, and Orthodox Christians to develop a rigorous ecumenical understanding of law, politics, and society’ and ‘together to work out a

31 Handong Interview, pp 10–11.

32 Ibid, pp 15–16. See also, for example, J Witte Jr, ‘What Christianity Offers to the World of Law’ (2017) 32 *Journal of Law and Religion* 4–97. See further chapter 2 of *Faith, Freedom, and Family* (note 1).

33 Hong Kong Interview, pp 9–10.

34 See, for example, J Witte Jr, ‘Christianity and Human Rights’ (2015) 30 *Journal of Law and Religion* 353–495; J Witte Jr and F Alexander (eds), *Christianity and Human Rights: An Introduction* (Cambridge, 2010); Witte, note 19.

35 See, for example, J Witte Jr and J van der Vyver (eds), *Religious Human Rights in Global Perspective: Legal Perspectives* (Dordrecht, 1996); J Witte Jr and M Broyde (eds), *Human Rights in Judaism: Cultural, Religious and Political Perspectives* (New York, 1998); J Witte Jr and M Christian Green (eds), *Religion and Human Rights: An Introduction* (Oxford, 2012); J Witte Jr and M Bourdeaux (eds), *Proselytism and Orthodoxy in Russia: The New War for Souls* (Maryknoll, NY, 1999); J Witte Jr and R Martin (eds), *Sharing the Book: Religious Perspectives on the Rights and Wrongs of Proselytism* (Maryknoll, NY, 2000).

comprehensive new ecumenical “concordance of discordant canons” that draws out the best of these traditions, that is earnest about its ecumenism, and that is honest about the greatest points of tension’. For Witte, ‘few studies would do more both to spur the great project of Christian ecumenism and to drive modern churches to get their legal houses in order. Law is at the backbone of the church, and at the foundation of Christian solidarity.’³⁶ This thinking has already borne fruit in the work of an ecumenical panel and its agreed statement of principles of Christian law which is being fed currently into the work of the World Council of Churches as an instrument to foster greater unity among Christians worldwide—and Witte and his center at Emory have provided invaluable support to this, including Witte’s sharing his aspirations at a meeting of the panel in Oxford in 2018.³⁷

A related challenge that Witte advances, ‘perhaps the greatest of all’, is ‘to join the principally Western Christian story of law, politics, and society known in North America and Western Europe with comparable stories . . . in the rest of the Christian world’, in the Global South and East—Africa, Korea, China, India, Philippines, Malaysia, and well beyond, where ‘rich new indigenous forms and norms of law, politics, and society are also emerging, premised on very different Christian understandings of theology and anthropology’. ‘It would take a special form of cultural arrogance for Western and non-Western Christians to refuse to learn from each other’.³⁸ Once more, Emory has helped to promote this vision in several ways.³⁹

The same applies to interfaith dialogue, and Witte’s center has already convened ‘deep conversations between and among Christians, Jews, and Muslims, sometimes Eastern religions too, on fundamental legal, political, and social questions’.⁴⁰ Likewise, ‘Christian scholars have been among the leaders of [the] global law and religion movement’, with growing numbers of Jewish and Muslim scholars, and specialists in Asian and traditional religions who ‘have already learned a great deal from each other’ and ‘cooperated in developing richer understandings of . . . legal and political subjects’. This ‘comparative and cooperative interreligious inquiry into fundamental issues of law, politics, and society needs to continue’, especially in a world of ‘increasing interreligious

36 Heidelberg Lecture, pp 4–6.

37 J Witte Jr, ‘Foreword’, in N Doe (ed), *Church Laws and Ecumenism* (Abingdon, 2020), pp vii–ix.

38 Heidelberg Lecture, pp 4–6.

39 For example, the contribution of Emory Center member J van der Vyver, ‘African Traditional Religion and Indigenous Perspectives on the Environment’, in M Christian Green (ed), *Law, Religion and the Environment in Africa* (Stellenbosch, 2020), pp 333–342. See further J Witte Jr and F Alexander (eds), *Modern Christian Teachings on Law, Politics, and Human Nature*, 2 vols (New York, 2005) (on Catholic, Protestant and Orthodox thinkers). The Cambridge Studies on Christianity and Law series that Witte edits and the Routledge Law and Religion Series that I edit include several commissioned studies on ‘great Christian jurists in world history’ from across the Christian world. See further chapter 3 of *Faith, Freedom, and Family* (note 1).

40 Hong Kong Interview, pp 3–4.

conflict and misunderstanding’ struggling ‘to discover from within and impose from without proper, responsible, and effective legal constraints on religious fundamentalism, extremism, and terrorism’.⁴¹ Once again, Witte’s call for comparative religious law studies has been heard and acted upon.⁴²

The quantity and quality, the breadth and depth, and the written and oral genres of the work of Witte are breath-taking. His publications have appeared in fifteen languages—including Chinese, Korean, Polish and German. He has delivered more than 350 public lectures—at schools, research institutes and academic conferences in North America, Europe, Israel, Japan, Hong Kong, South Korea and South Africa. He has given dozens of high-profile endowed lectures—including the Brauer Lectures at Chicago, the Franke Lectures at Yale, the Meador Lectures at Virginia, the Beatty Lectures at McGill, the Lofton Lecture at Melbourne, the Steinmetz Lecture at Duke, the McDonald Lecture at Oxford, the Pennington Lecture at Heidelberg, the Jefferson Lectures at Berkeley, the Cunningham Lectures at Edinburgh, the Tikvah Lecture at Princeton, and the Gifford Lecture at Aberdeen. His leadership in the field is evidenced in his position as series editor of the Cambridge Studies in Law and Christianity, as co-editor of the *Journal of Law and Religion*, as an editorial board member of, *inter alia*, the *Ecclesiastical Law Journal* and the *Journal of Church and State*, and as series editor of the *Emory Studies in Law and Religion*. In his editorial work, ‘I have been working hard . . . on themes of Christianity and law across the world today, as part and product of a broader effort to build a vast new library of books not only in law and Christianity, but also in law and each of the other axial world religions’.⁴³

Witte’s zeal for collaboration not only functions at the professional level. He also thrives on and stimulates friendship, fellowship and fun inherent in collegial work, especially through his now well-known roundtables, which he has convened in dozens of universities around the world. This is nowhere better seen in recent years than in the preparatory work and roundtables in Atlanta and London to advance a co-edited volume, under the leadership of Mark Hill QC, on Christianity and criminal law. Hill himself—a distinguished ecclesiastical judge and leader in the renaissance of the study of English ecclesiastical law and the wider field of law and religion—also has a genius for inspiring a sense of community among scholars, including bridging the

41 Heidelberg Lecture, p 4.

42 See, for example, N Doe, *Comparative Religious Law: Judaism, Christianity, Islam* (Cambridge, 2018); N Doe, *Christian Law: Contemporary Principles* (Cambridge, 2013).

43 Heidelberg Lecture, p 3. See, for example, J Witte Jr and G Hauk (eds), *Christianity and Family Law: An Introduction* (Cambridge, 2017); N Doe (ed), *Christianity and Natural Law: An Introduction* (Cambridge, 2017); R Domingo and J Witte Jr, *Christianity and Global Law* (London, 2020). The Emory Center has commissioned a score of other such ‘introductions’ to Christianity and law for publication in the Routledge Law and Religion Series and the Cambridge Studies in Christianity and Law series.

experiences of practice and scholarship. The energy that Hill and Witte together brought to this collaboration is evident in the fruit it yielded and in the enduring friendships it stimulated.⁴⁴

Of Witte's books on law and religion, human rights and religious freedom, four may be selected here as ground-breaking. *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (2002) provides an account of the eventual recognition of the need for norms in Lutheran ecclesial and earthly life, and the transformative impact of Lutheran theological ideas on the secular laws of Germany and Scandinavia. *God's Joust, God's Justice: Law and Religion in the Western Tradition* (2006) provides a powerful case to study of law and religion.⁴⁵ *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (2007) explains how early modern Calvinism (anticipating the Enlightenment) contributed to the development of constitutional law, the rule of law, human rights, and religious freedom; it shows that the Calvinists from the sixteenth to the eighteenth century articulated a religious understanding of rights and liberties bounded by responsibilities and duties, and set in a covenantal framework. A hefty new Cambridge title, *The Blessings of Liberty: Human Rights and Religious Freedom in the Western Tradition* (2021) documents and defends the essential interdependence of human rights and religious freedom from antiquity until today and the Christian roots and routes of rights developments in the Western legal tradition on both sides of the Atlantic. In this book, Witte answers both modern Christian critics who see human rights as a betrayal of Christianity and modern secular critics who see Christianity as a betrayer of human rights.⁴⁶

There are also, of course, those works on faith, freedom and family, topics treated 'separately and together, historically and today, in the West and beyond'.⁴⁷ For example, of his books, *From Sacrament to Contract: Marriage, Religion and Law in the Western Tradition* (1997, 2nd edition 2012) explores how Lutheran, Calvinist and Anglican reformers replaced the traditional Roman Catholic idea of marriage as a sacrament with a new idea of the marital household as a social estate, covenant or little commonwealth to which all persons are called—clerical and lay alike. *The Sins of the Fathers: The Law and Theology of Illegitimacy Reconsidered* (2009) is 'in some sense a plea against the stigmatization of the other, especially the bastard as that

44 M Hill, N Doe, R Helmholtz and J Witte Jr (eds), *Christianity and Criminal Law* (London, 2020). The roundtable in London (October 2018) also allowed new friends to hear the power of his preaching at the Temple Church, London (prominent in the genesis of Magna Carta and mother church of the common law).

45 This was later abridged and translated as J Witte Jr, *The Foundations of Faith, Freedom, and the Family*, trans H Ohki and Y Takasaki (Tokyo, 2008) (Japanese edition).

46 J Witte Jr, *The Blessings of Liberty: Human Rights and Religious Freedom in the Western Tradition* (Cambridge, 2021).

47 Heidelberg Lecture, p 3.

person is called in this tradition. My adopted brother was a bastard, and that book was dedicated to his memory. It is . . . a troubling story about Christian brutality and charity at once'. What Witte describes, on its publication, as his 'biggest, fattest, most ambitious scholarly book' is *The Western Case for Monogamy over Polygamy* (2018), which 'broke open a lot of historical material that nobody has ever seen and that tells the story that really has not been told before in the Western tradition' – 'excruciatingly difficult to write', it took five years.⁴⁸

Book reviews are an obvious barometer to test opinion about Witte's contribution to the field. A typically balanced review is of his *Church, State, and Family: Reconciling Traditional Teachings and Modern Liberties* (2019), a book of equal ambition. The reviewer, himself a distinguished scholar of law and religion, writes: 'The first six chapters provide a rollercoaster ride through history, visiting the teachings on sex, marriage and family life by those who have shaped the family teachings of the Western legal tradition' – these chapters alone 'would be more than enough to mandate [the book's] inclusion on reading lists and bookshelves'. However, chapter 7 (as Witte states) reconstructs traditional teaching into 'a multidimensional theory of the marital family sphere, with natural and spiritual poles, and with social, economic, communicative and contractual dimensions radiating between these poles'. The remaining chapters apply this theory to 'several hard issues born of the modern sexual revolution', such as defects in religious approaches to children's rights; the case against polygamy; arguments for and against the use of faith-based family laws in modern liberal democracies (he proposes a shared jurisdictional model); and equality within marriage, which, Witte argues, is 'not well served by legal equality between all forms of marriage, or by its wholesale abolition'. The book has a long conclusion, in which Witte calls for 'radical same-sex marriage and LGBTQ advocates [to] stop viewing religious liberty as the enemy' and for Western churches and other religions 'to rein in their anathemas and actions against same-sex marriage in public life and instead focus on improving the culture of marital life more broadly'. The reviewer concludes: 'Whether you agree with Witte's assessment or not, this is a book which needs to be read. Impressive and epic in scope yet providing an integrated and focused argument, it is a work of first-rate scholarship' – it is 'a definitive work' and sets 'a high benchmark'.⁴⁹

The legacy of Witte to date is formidable. Of the Emory Center project Witte says: 'It has been deeply gratifying to see the growing interest in law and religion study around the world'. In the 1980s, 'we were almost alone; now 55 centres and

48 Handong Interview. See also his *Church, State, and Family: Reconciling Traditional Teachings and Modern Liberties* (Cambridge, 2019). On these volumes and their critics, see further chapters 35 and 37 of *Faith, Freedom, and Family* (note 1).

49 The quotations from *Church, State, and Family*, pp xiv, 365 and 377. The reviewer is Russell Sandberg: (2020) 22 *Ecc LJ* 260–263.

institutes of law and religion have popped up on campuses around the globe'. Then 'there was only a small handful of journals and books'—now there are 27 periodicals with more than 1700 books on law and religion published worldwide in the past 20 years. In the United States, virtually all law schools now have a basic course on religious liberty or church–state relations, a growing number also have courses in Christian, Jewish and Islamic law, and some consider religion in such courses as legal ethics, legal history, jurisprudence, law and literature, legal anthropology, comparative law, environmental law, family law, and human rights. Therefore, religion is no longer a 'hobbyhorse' of lone scholars or religiously chartered law schools. Rather, 'Religion now stands alongside economics, philosophy, literature, politics, history, and other disciplines as a valid and valuable conversation partner with law'.⁵⁰ It was a particular delight and honour for the Centre for Law and Religion at Cardiff Law School—the establishment of which, in 1998, was inspired by the work of the Emory Center—to welcome Witte to seminars to mark its 10th anniversary in 2008 and on later occasions.⁵¹

For so many of these achievements, Witte has rightly received a host of honours. At Emory Law School, he has been recognised on twelve separate occasions (from 1992–1993 to 2011–2012) as the Most Outstanding Professor and in 1994 received the Emory University Scholar/Teacher Award. In 1995, the United Methodist Foundation for Christian Higher Education awarded him the Most Outstanding Educator Award for all Methodist-affiliated Schools, and that same year he received the Max Rheinstein Fellowship and Research Prize from the Alexander von Humboldt-Stiftung, in Bonn. In 1998 the Black Law Students Association at Emory Law School presented him with its Professor of the Year Award, and in 1999, Princeton Theological Seminary presented him with the Abraham Kuyper Prize for Excellence in Theology and Public Life. Further honours followed in this century, including the National Religious Freedom Award from the Council for America's First Freedom (2008); the James W C Pennington Award from the University of Heidelberg (2016); the Harry Krause Lifetime Achievement Award in Family Law from the University of Illinois (2016); and a Doctor of Theology degree (*honoris causa*) from the University of Heidelberg (2017). Witte was listed in 2018 among the top three law-and-religion scholars worldwide.⁵² He was scheduled to deliver the keynote lecture to the International Consortium for Law and Religion Studies which, but for the pandemic, would have been held

50 Heidelberg Lecture, p 4.

51 In 2017 Witte attended a symposium that helped to inspire the publication of R Sandberg (ed), *Leading Works in Law and Religion* (London, 2018), and on the same visit delivered a magisterial lecture to mark 500 years since the Reformation—later published as 'From Gospel to Law: The Lutheran Reformation and its Impact on Legal Culture' (2017) 19 *Ecc LJ* 271–291.

52 R Ahdar (ed), *Research Handbook on Law and Religion* (Cheltenham, 2018), p 5.

in 2020 in Cordoba, Spain, a city whose long history of interactions between law and religion is almost as interesting as that of Witte himself.

What of the future? Witte has a particular project in mind. First, typically, he looks to the past: 'For 2000 years, Christians have wrestled with the place of Scripture in the evolving legal cultures around them' and 'the fundamental questions of faith, freedom, and family, of politics, law, and society'. 'It takes a special form of arrogance to simply...offer one's own normative perspective uninformed by the tradition'. Second, therefore, 'it might be wise to try to distil this into a more systematic [and] normative form'—namely, a modern 'Christian jurisprudence'. Third, this would be a jurisprudence that is 'authentic', 'engages the hard legal questions', 'is accessible to insiders and outsiders', and 'tries to distil the 2000 year tradition [into] a form that other people might be able to profit from and build upon'. Fourth, in other words: 'In my more audacious moments, I feel the pull to try to write a modern Summa, Institutes, or Dogmatics on Christian Jurisprudence'. Fifth, he admits: 'I am sure pride is part of this', but 'to answer the fundamental questions of law, politics, and society with power, precision, and prescription' is 'maybe my calling... to say more'.⁵³

Last year, Witte's collection of recent articles and book chapters was published under the title *Faith, Freedom, and Family: New Essays on Law and Religion*. This 800-page volume contains a wealth of studies that reflect and bring together in a single accessible volume the fundamentals of Witte's work in this field.⁵⁴ All the elements of the story we have seen thus far in this article are to be found in the studies unfolding here. All the labour of research, all the deep thinking, all the tireless honouring of the past and recalibrating what it teaches for the hard issues of today are set out here. Part 1 on 'Faith' has three studies that map in general terms the field of law and religion—its educational value, its use of metaphor, and its Christian contribution. Several chapters explore in a long historic perspective what faith in law means, and how particular scholars have given shape to the field of law and religion study, ancient and modern. Part 2 on 'Freedom' offers selected studies on the history of religious freedom, the Protestant Reformation of rights, resistance and revolution as well as natural law and natural rights. It also takes up the contributions of several scholars to our understanding of human rights and religious freedom; the reach is national, international and global, the method evaluative and sometimes critical. Part 3 on 'Family' focuses on sex, marriage and family life with insights from scripture and history, law and theology, politics and society, and a response to his reviewers in this field.

53 Handong Interview, pp 11–12.

54 N Doe and G Hauk (eds), *Faith, Freedom, and Family: New Essays on Law and Religion* (Tübingen: Mohr Siebeck, 2021).

All in all, it is clear that Witte was been shaped personally in his interest in law and religion by his family and his faith, and advantaged by the ample academic freedom and institutional support that he has enjoyed at Emory. The intellectual influences upon him were many, but he generously recognises those of Berman, Dooyeweerd and Kuyper. His move from Harvard to Atlanta was a watershed moment—there he has helped to bring together a vibrant community of talents. The responsibility of the directorship of the Emory Center for the Study of Law and Religion has, indeed, stimulated a profound and rich understanding of law and religion, around notions of the dialectical interaction between them, the religiosity of secular law, and the juridical character of religion. In all this, Witte is a historian of law and religion. His methods are to retrieve, reconstruct and re-engage these disciplines with the challenging issues of today, with interdisciplinary, international and inter-religious elements. Not only does Witte offer a work ethic for the Christian scholar in this field around ideas of stewardship, accessibility and engagement; he also provides a challenging agenda for ecumenism and greater interfaith dialogue. His studies on religion, human rights and religious freedom have been ground-breaking, bringing into clear relief the contribution of Reformation thinkers as they anticipate Enlightenment approaches to law and religion. Also of the highest order are his works on the family, faith and freedom—they have been an inspiration to so many and will continue to form the discipline.

Finally, however, there is a fourth 'F' to go along with the three in this article's title—fishing. This, too, is a cherished site of freedom, faith and family for John. Freedom on an isolated beach abreast the Atlantic for the dawn tide. Faith in a catch—red fish, whiting, pompano, flounder and blue fish, most of them put back in the water. Food for the family—which John enjoys with his wife, Eliza Ellison (theologian and mediator), two daughters, and five grandchildren. The scholarships outlined in this article, then, are but one fruit of faith, freedom and family as they reel out in the many facets of the life of John Witte.