



“Oh Lord, according to your justice, give me life” (Psa 119:149b)

ju-ris-pru-dence = theory or philosophy of law; a legal system

One of the first things Jesus makes clear during His earthly ministry is that the entire content of the Law (the legal system established by God under the OC) remains intact for the New Covenant Community/Church (Mat 5:17-20). In the words of the Reformers, the Law changes *not in substance*, only in application. This includes also its jurisprudence. As such, the Church will possess:

1. A JUDICIAL COUNCIL (Exo 18:18-26, Deu 16:18, 17:8-10; Act 22:30 - 23:1)

1.1. **Principle established by the Law:** Qualified men within the covenant community shall be appointed to a magisterial committee for the purpose of representing the congregation and assisting the federal judges and chief justice in determining justice (Exo 18:18-26; Deu 16:18). Though these magistrates possess authority (as representatives of the congregation), such authority is not independent of or superior to the federal court (Deu 17:8-10). Together the magisterial committee and the federal court form the judicial council of the covenant community (Act 22:30-23:1).

1.2. **New Covenant application/precedent:**

1.2.1. Magisterial committee (of qualified men)= Diakonos men¹ (1Ti 3:8-10, 12; 2Ti 2:2; 1Co 14:26-35)

1.2.2. Federal judges = elders (1Co 5:3)

1.2.3. Chief justice = ordained senior pastor-elder (Tit 2:15)

1.3. Luther and the Swiss Reformers (Zwingli, Calvin) understood the need (and biblical precedent) for a judicial body/council able to promote and protect justice for the people of God. However, because they were sacral societies (i.e. the church and state governments were not separate but working together), the secular authorities functioned as the judges and enforcers for church matters (e.g. heresy). As such, these Reformers are sometimes referred to as the Magisterial Reformers.

“The Magisterial Reformation is a phrase that draws attention to the manner in which the Lutheran and Calvinist reformers related to secular authorities, such as princes, magistrates, or city councils, i.e. ‘the magistracy’. The magistrate had a right to authority within the church, just as the church could rely on the authority of the magistrate to enforce discipline, suppress heresy, or maintain order.” – Alistar McGrath

“The Magisterial Reformers are so called because their reform efforts were supported by at least some ruling authorities, or magistrates, and because they believed the civil magistrates ought to enforce the true faith. This term is used to distinguish them from the radical reformers (Anabaptists), whose efforts had no magisterial support. The Reformers are also called “magisterial” because the word *magister* can mean ‘teacher,’ and the Magisterial Reformation strongly emphasized the authority of teachers.” – Steve Lawson

“The church cannot dispense with the spiritual jurisdiction which existed from the beginning. This has been confirmed by consent of all times. First, that this spiritual power be altogether distinct from the power of the sword; secondly, that it be not administered at the will of the individual, but by a lawful consistory (1Co 5:4). Both were observed in the purer times of the church.” – John Calvin

1.4. The Early Church Fathers also made use of a judicial body as part of their church polity (i.e. government).

“From the commencement of my bishopric, I determined to do nothing without the advice of the clergy [elders], nothing without the consent of the people [committee].” – Cyprian

2. A JUST DUE PROCESS (Num 15:15-16; Deu 6:20, 24-25, 16:19-20, 17:2-13, 19:15-21 21:5, 22a, 24:16, 25:1, 32:4; Act 23:2-5)

2.1. **Principle established by the Law:** It is the job of the judicial council to protect the innocent and punish the guilty by seeking to uphold justice and maintain the purity of the covenant community through impartial/unbiased judgment and faithfulness to the Law (Deu 6:20, 24-25, 16:19-20, 17:7, 12-13, 19:20-21a, 25:1, 32:4). This includes applying the same law for all people within the covenant community no matter their gender, age or mental capacity (Num 15:15-16). All reports related to violations of the Law which require some form of recompense or penal action, will be diligently investigated (Deu 17:4) and charges only established where there is direct evidence/witness including the witness of Scripture (Deu 17:6 w/ Joh 5:39). The punishment must fit the crime and be inflicted only on the guilty party (Deu 24:16, 19:21b). The accused or covenant community may appeal, but the final federal court ruling/judgment is binding and must be respectfully submitted to/obeyed (Deu 17:10-11, 21:5; Act 23:2-5) under penalty of apostasy² (Deu 17:12-13 w/Num 15:30-31; also Deu 29:18-20). In cases involving capital crimes, the guilty party is to be put to death (Deu 17:6-7, 21:22).

2.2. **New Covenant application/precedent:**

2.2.1. Punish the guilty and protect the innocent by seeking to uphold justice and maintain purity of the covenant community through impartial/unbiased judgment and faithfulness to the Law. This includes applying the same law for all

¹ Qualifying as a Diakonos member of the church would mean that man possesses the necessary character traits to serve in this capacity. It however, does not communicate aptitude/spiritual gifting. Though all in the church receive spiritual gifts, not all receive the same gifts or abilities (Eph 4:7-12; 1Co 12:1-31; Rom 12:3). The principle of observation established in 1Ti 5:22 would therefore apply.

² By apostasy is meant the same as blasphemy of the Holy Spirit or committing the unforgivable sin. The Reformers referred to this as anathema.

people within the covenant community no matter their gender, age or mental capacity. (1Th 5:15; 1Ti 5:19-22; 1Co 5:1-8, 13; 2Ti 1:13, 3:14-17, 4:2; 1Ti 1:3,7-8)

2.2.2. Charges established only where there is direct evidence/witnesses (2Co 13:1-4; 1Ti 5:19; Mat 18:16)

2.2.3. Punishment must fit the crime and be inflicted only on the guilty party (2Co 2:5-7, 12:21 w/13:1-2)

2.2.4. The accused or covenant community may appeal³ but the final federal court ruling/judgment is binding and must be respectfully submitted to/obeyed under penalty of apostasy (Act 15:1-2, 5-7, w/22-23; Gal 2:2; Mat 18:17-20; Mat 16:19; Joh 20:22-23; Heb 13:17; 1Th 5:12-13; Heb 10:28-29)

2.2.5. In cases involving capital crimes, the guilty party is to be put to *spiritual* death –i.e. to be excommunicated from the covenant community⁴. This includes loss of justification and participation in the Lord's Table (1Co 5:1-5, 11, 13; 1Ti 1:20):

2.2.5.1. Murder (Exo 21:12-14; Lev 24:17, 21; Num 35:30-31; Deu 19:11-13)

2.2.5.2. Wrongful death (Exo 21:29 w/option for ransom v30)

2.2.5.3. Adultery (Lev 20:10; Deu 22:13-24)

2.2.5.4. Kidnapping (Exo 21:16; Deu 24:7)

2.2.5.5. Homosexuality (Lev 20:13)

2.2.5.6. Idolatry: false gods, gospels or worship (Exo 22:20 w/Lev 27:29; Deu 7:25-26, 13:1-16, 17:1-7)

2.2.5.7. Sexual acts with unbelievers (Num 25:1-8 w/1Co 10:8 w/1Co 6:15-20; 2Co 5:20-6:2, 14-18; Exo 34:12-16)

2.2.5.8. Bestiality (Exo 22:19; Lev 20:15-16)

2.2.5.9. Sorcery (Exo 22:18; Lev 20:27)

2.2.5.10. Incest: sexual intercourse with parents, sons and daughters, sons and daughters-in-law (Lev 20:11-12, 14)

2.2.5.11. Profaning/forsaking God's holy day⁵ (Exo 31:13-15 w/Heb 4:6-11, 10:24-26ff w/Joh 13:10 w/Act 20:7)

2.2.5.12. Rape (Deu 22:25-27)

2.2.5.13. False prophecy (Deu 13:1-5, 18:20)

2.2.5.14. Blasphemy (Lev 24:15-16)

2.2.5.15. Child abuse (Lev 20:1-5)

2.2.5.16. Falsely accusing another of a capital crime (Deu 19:16-20)

2.2.5.17. Adolescent/Adult child rebellion in the home (Exo 21:15, 17, Lev 20:9; Deu 21:18-21).

2.3. Excommunication (incl. from the Lord's Table) and apostasy, were viewed by Calvin as an important duty of the Church.

"The severest punishment of the church, and, as it were, her last thunderbolt, is excommunication. Those who profess to be the household of faith ought to be judged according to the doctrine which is taught. Now this cannot be done without connecting with the office of the ministry a right...of keeping back from the communion of the Lord's Supper (1Co 5:12). Paul makes the members of the church subject to censures for the correction of their vices, and intimates the existence of tribunals from which no believer is exempted. This power, as we have already stated, did not belong to an individual who could exercise it as he pleased, but belonged to the consistory of elders, which was in the church what a council is in a city. If no society, or, no house with even a moderate family can be kept in a right state without discipline, much more necessary is it in the church, whose state ought to be the best ordered as possible. Hence as the saving doctrine of Christ is the life of the church, so discipline is, as it were, its sinews; for to it is owing that the members of the body adhere together, each in its own place. Wherefore, all who either wish that discipline were abolished, or who impede the restoration of it, whether they do this by design or through thoughtlessness, certainly aim at the complete devastation of the church.

Paul...punishes the incestuous Corinthian with excommunication as soon as he was informed of his crime (1Co 5:4). Therefore, when the church banishes from its fellowship open adulterers, fornicators, the perjured, false witnesses, etc., it exercises a jurisdiction which it has received from the Lord. Moreover, lest anyone should despise the judgment of the church, or count it a small matter, the Lord has declared that it is nothing else than a promulgation of his own sentence, and that that which they do on earth is ratified in heaven. For they act by the word of the Lord in condemning the perverse (Joh 20:23). Those, I say, who trust that churches can long stand without the bond of discipline are mistaken, unless, indeed, we can with impunity dispense with a help which the Lord foresaw would be necessary. Those whose turpitude might throw infamy on the name must be expelled from the family. And here, also, regard must be had to the Lord's Supper, which might be profaned by (their) admission. This was the method observed by the ancient church when legitimate government was in vigor...to abstain from participation in the sacred Supper, and thereafter to humble himself before God, and testify his penitence before the church. There were, moreover, solemn rites, which, as indications of repentance, were wont to be prescribed to those who had lapsed. When the penitent had thus had satisfaction to the church, he was received into favor by the laying on of hands. The legitimate course to be taken in excommunication, as shown by Paul is not for the elders alone to act apart from others, but with the knowledge and approbation of the church, so that the body of people, without regulating the procedure, may, as witnesses and guardians, observe it, and prevent the few from doing anything capriciously.

"Our Savior confines the power of binding, the censure of the church, which does not consign those who are excommunicated to perpetual ruin and damnation, but assures them that perpetual damnation will follow if they do not repent. Excommunication [therefore] differs from anathema [apostasy] in this, that the latter completely excluding pardon, dooms and devotes the individual to eternal destruction, whereas the former rather forewarns of his future doom." – John Calvin

³ Planned format for appeals will be a general (voluntary) meeting after the decision by the judicial council has been made known to the congregation. Those with questions or wishing to appeal may attend.

⁴ It is important to distinguish between when it is God commanding His people to put the guilty party to death – and when its God Himself doing such work. Only the former qualifies as a capital crime (e.g. Lev 10:1-3, Act 5:1-11; 1Co 11:28-30).

⁵ "The activity of Christians on the Lord's Day is analogous to the activity of the priests on the Mosaic Sabbath; it is service to God in worship. It is this priestly activity of worship that has been transferred from the Sabbath to Sunday." - Richard J Bauckham