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Legalism: An Essay on the Views of Dr. Emil Brunner

Ernest F. Kevan

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'Legalism' has become almost a theological war-cry and is constantly being raised against any attempt to create a true regard for God's holy Law revealed in the Bible. The teaching of the New Testament about the place of the Law in the life of the believer has become obscured by a false alarm over legalism. This is largely due to an unfortunate inexactitude in the use of language. The object of this essay, therefore, is to try to remove the ambiguities that have interfered with the clear discussion of this subject and to show the importance of distinguishing between legalism which is to be deprecated and that spiritual keeping of the Law of God which is one of the hall-marks of a truly godly life.

One of the outstanding instances of this inexactitude in the use of the word 'legalism' is found in the opinions expressed by Dr. Emil Brunner. Through his influence, the idea that obedience to the Law of God is legalistic has filtered once more into the realm of evangelical thought.¹

For the purpose of the present study attention will be confined to Dr. Brunner's volume entitled, *Das Gebot and die Ordnungen*, published in 1932, and subsequently known to English readers in its translation by Olive Wyon under the title, *The Divine Imperative*.

What is legalism? *The Oxford English Dictionary* defines theological legalism in a twofold way. First, it is a term 'applied reproachfully to the principles of those who are accused of adhering to the Law as opposed to the Gospel; the doctrine of justification by works, or teaching which savours of that doctrine'; and, secondly, as 'a disposition to exalt the importance of law or formulated rule in any department of action'. The definition of a legalist, therefore, is given as 'an adherent or advocate of legalism; one who believes in or inclines to the doctrine of justification by works': he may also be thought of as merely 'a stickler for legality', or 'one versed in the law'.²

In German, the word *gesetzlich* is somewhat ambiguous in that it has to do duty for the two ideas of 'legal' and 'legalistic', but when used in a religious sense it has nearly always the meaning of 'legalistic'. It is this word, together with its noun *Gesetzlichkeit*, which is principally used by Dr. Brunner. In one place he borrows from the Greek in the word *Nomisten*, and in his discussion of *Lex* he uses *Legalität* and *legaliter*.³

In what sense does Dr. Brunner employ the words *gesetzlich* and *Gesetzlichkeit*? He makes his meaning clear by placing these words in unambiguous contexts. For example, he speaks of 'moralistic legalism—Pharisaism of every kind' and identifies this with the spirit which seeks after a 'righteousness of works'.⁴ It is 'the error of the "natural" man'⁵ who endeavours to be

¹ This kind of opinion was, of course, expressed by the Antinomians of the 17th century, but the basis of their arguments was widely different from that of Dr. Brunner.

² *Op. cit.*, 1933, *in loc.*

³ See chapter XIV. The undernoted page references are to *The Divine Imperative*, ET 1937 (London: Lutterworth).

⁴ 64; cf. 57.

⁵ 64.

'justified by his actions'.⁶ 'Legalism', he says, is 'the worst kind of corruption', because it is that state in which man 'has complete confidence in himself'.⁷ It connotes

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'man's efforts' to save himself 'by way of the Law'.⁸ As the direct opposite of faith, legalism must be regarded as the 'curse of the Law'.⁹

The primal sin of man is his 'emancipation from God in legalism'. 'Wherever man thinks in a legalistic manner... God and man confront each other on the same footing'.¹⁰ Repeating this thought a little differently, he adds, 'Autonomy, the self's sense of absolute independence, and legalism are, ultimately, the same thing'.¹¹ Legalism is to be recognized as 'the evil';¹² it is '*the sin par excellence*'¹³ and is produced by 'Scripture without the Spirit'.¹⁴ The believer is, therefore, warned against allowing the obedience of faith to 'slip into legalism'.¹⁵ With this account of legalism and the rejection of it no evangelical would disagree. The self-sufficient spirit which seeks to bargain on equal terms with God is foreign to the Gospel. It was repudiated by the Apostle Paul who grieved over the arrogance of his fellow-countrymen whom he describes as 'going about to establish their own righteousness', and who have 'not submitted themselves unto the righteousness of God',¹⁶ and it is likewise abhorred by all who magnify the grace of God.

But is it possible to stop at this point and to be content with Dr. Brunner's arguments? Is it really only legalism which he rejects, or is there some further rejection implicit in the reasoning he employs? The answer to this question brings to light the fact that, from a true criticism of a self-righteous attitude to law-keeping, Dr. Brunner proceeds to condemn any kind of submission to the Law of God and to brand it as legalism. This, in turn, reveals Dr. Brunner's basic rejection of the Law itself and his expulsion of it from its high place both in the mind of God and in the obedience of the believer.

There is no question that Dr. Brunner knows where is he taking his argument—for it is all one with the existentialist view of reality by which his theology is dominated—but the double meaning of *gesetzlich*, especially when uniformly translated by 'legalistic', slurs over an important distinction and introduces that inexact use of terms which, all too frequently, leads to erroneous conceptions. Dr. Brunner's use of the word makes no distinction between that which is objectively according to law, or lawful, and that which is subjectively legalistic. The absence of this distinction is, of course, by Dr. Brunner's own design, for he intends to denounce all observance of God's Law as legalistic. Without intending a mere play on words, it must be said that Dr. Brunner's total identification of the legal with the legalistic is illegitimate. All that is

⁶ 69; cf. 71, 147.

⁷ 71.

⁸ 76.

⁹ 72. It would be better to call it the curse of the abused Law, but, as will be shown below, Dr. Brunner would not be able to consent to such a modification because of his views about the Law itself.

¹⁰ *Ibid.*

¹¹ 75.

¹² 85.

¹³ 146.

¹⁴ 92.

¹⁵ 81.

¹⁶ Romans x. 3.

legalistic comes within the compass of the description legal, but not all that is legal is necessarily legalistic. What has to be said about the proud spirit of the self-righteous unbeliever may not be said about the believing man whose reverence for God's majestic holiness leads him to say, 'O how love I thy law!'¹⁷

There are several aspects of Dr. Brunner's thought which would appear to be open to question.

The first of these is his existentialist interpretation of the Law itself. This essay is not the place for a full discussion of existentialism, but no examination of Dr. Brunner's view of legalism would be complete without at least drawing attention to it. According to this philosophical viewpoint the only reality is the experienced. This requires that Dr. Brunner shall distinguish between a general law, from which particulars may be deduced, and a Divine Command,¹⁸ which

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is itself particular and immediate. The written Law, he says, is no more than a guide to the kind of conduct which is conceivably within the will of God, whereas the Divine Command is the authoritative requirement of God which is personally and individually communicated to the believer. Dr. Brunner affirms that the content¹⁹ of the commandment 'is not an abstract law, not a programme that can be known beforehand and codified'.²⁰ One of his important propositions—given at the head of a chapter—is that 'since the Divine Command is absolutely concrete, it cannot be formulated in general terms'.²¹ He feels so strongly about this that he repeats it again and again. He says, 'Whatever can be defined in accordance with a principle—whether it be the principle of pleasure or the principle of duty—is legalistic'.²² The Good, namely, 'what God wills that we should do', is impossible to know beforehand, and 'to wish to know it beforehand—legalism—is an infringement of the divine honour'.²³ The attempt to deduce God's 'absolute demand' from 'any such universal law' is to view life 'in a legalistic way'.²⁴ But is it? If Dr. Brunner's premises were acceptable, then his inference might have some plausibility: but without that presupposition his reasoning amounts to no more than a circular argument which says that because it is legalistic to obey a law known beforehand, therefore to obey a law known beforehand is legalistic!

Dr. Brunner dismisses obedience to the Biblical Law as legalism on the ground that this written Law is not the will of God, and, therefore, that obedience to it is the offering to God of something He does not want and, at the same time, the expression of unbelieving self-righteousness. But two questions have to be answered: (1) Is obedience to the written Law of God something that He does not want? (2) Is obedience to this Law necessarily rendered in the bargaining spirit of unbelieving self-righteousness? To neither of these questions does the

¹⁷ Psalm cxix. 97.

¹⁸ As Dr. Brunner invests this word with special significance, and the English translation gives it a capital initial, it will be written that way in this essay.

¹⁹ He means here the immediate content.

²⁰ 59.

²¹ 122.

²² 82.

²³ 117; cf. 122.

²⁴ 136, cf. 137, where he says that the allusions to the Law in the Sermon on the Mount were made 'in order to prevent... a legalistic anticipation of knowledge' of the Divine Command. But note, further, his concessions to Law, on 138, to be dealt with later.

Scripture give an affirmative answer. Dr. Brunner has a kind of after-thought by which he endeavours to strengthen his argument. In reply to an inquiry about the Sermon on the Mount 'interpreted as a law', he says, 'it means that we are to do what it commands', but then adds, 'the command to love, interpreted as law, immediately diverts our attention from the One who commands to that which has to be done'.²⁵ But does it? If the Law were 'abstract', in the sense which Dr. Brunner likes to give it, there might be some truth in his remark, but such a definition is arbitrary and entirely neglectful of Biblical revelation. The Law is the Law of God, and in the keeping of this Law regard is paid not merely to the Law but to the Divine Lawgiver Himself.

The crucial point in Dr. Brunner's whole argument is his existentialist view of revelation and the use he makes of that theory in the separation of Command from Law. The will of God, he says, can be known only as Command, and this Command is received by man in the form of personal address by God. Law and Command are, therefore, not to be identified. The written Law is inferior and is to be replaced by the perceived Command.

It may, perhaps, be thought that there is nothing much about which to contend here, for what has been shown out of the door (the Law) has come in at the window (the Command). But, as has been shown above, Dr. Brunner means much more than this. It is not the Law that has come back, but something else. The arguments of Dr. Brunner lead to an outright rejection of the Law of God from the position of dignity and authority which it holds in the Bible.

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Here is the deep chasm which divides Dr. Brunner from a true Biblical theology. The Law which Dr. Brunner discusses is not the Law as presented, expounded and urged in the Bible, but the Law as it exists in the mind and conscience of fallen man. The canons of existentialism may well be a valid way of analysing the mind of the unregenerate man, but they constitute a completely inadequate approach to the subject of the Law itself.²⁶ To the unbeliever, the Law is all that Dr. Brunner says it is, but not to God, nor to the believer, and therefore not in itself. The Law is still 'holy',²⁷ and 'spiritual';²⁸ and the believer's regard for this Law is not even remotely legalistic. The evil that has become associated with the Law is not in the Law itself, for the Law is 'good',²⁹ but arises from man's failure to use it 'lawfully'.³⁰

A second aspect of Dr. Brunner's thought which is open to question is his concept of 'the curse of the law'. It is a fact of common observation that every good gift of God is capable of being abused. It is true, for example, that a man's material possessions may be called his curse, if he misuses them, but this is a metaphorical form of speech from which nobody is led to think that material possessions are evil things in themselves. The wrongful acquisition of them, or the wrongful use of them, will *bring* a curse, and the curse is plainly associated with the material things that are possessed. By a parallel method of reasoning it may likewise be said that in so far as the Law is made into an instrument of legalism it brings a curse which may be named 'the curse of the law'. But is this all that Dr. Brunner means? It certainly is part of what he

²⁵ 144.

²⁶ See the adequate discussion of this in H. D. McDonald, *Ideas of Revelation*, 1959, 266-269.

²⁷ Romans vii. 12.

²⁸ Romans vii. 14.

²⁹ 1 Timothy i. 8; cf. *NEB*.

³⁰ *ibid.*

means, but not all. It would not be inaccurate to say that he goes so far as to identify the Law and the curse. In a misquotation of 1 Corinthians xv. 56 he speaks, for example, of Law as 'the sting of death',³¹ and affirms that the Law 'does violence to life'.³² Dr. Brunner is unable to distinguish between Law and legalism.³³ He argues that 'since... the demand has become autonomous', that is to say, since in the mind of sinful man the Law has been divorced from God,³⁴ 'this law has no relation to life', but has become 'a force which destroys life' and 'a rigid legalism'.³⁵ But how can a 'law' become a 'legalism'? If Dr. Brunner will consult his own definitions, he will see that legalism has to do with an attitude to the Law and so cannot be the Law itself.³⁶ The degeneration implied in these citations is a degeneration, not in the Law, but in the man who both misunderstands and misuses it. What Dr. Brunner rightly opposes is the false perspective of law which prevails among men, but he has transferred his opposition to the Divine Law itself.

At the root of Dr. Brunner's account of the Law as a curse is his rejection of the concept of 'ought' which the Law implies. It is this element of duty which, in his opinion, makes the Law the opponent of the Good. 'Duty and genuine goodness are mutually exclusive. Obedience due to a sense of unwilling constraint is bondage.... If I feel I ought to do right, it is a sign that I cannot do it. If I could really do it, there would be no question of "ought" about it at all.... Willing obedience is never the fruit of a sense of "ought" but only of love.'³⁷ 'Freedom means release from the sense of "ought", from bondage to the Law.'³⁸ The significant words in these two quotations are 'unwilling constraint' and 'bondage'. But why should obedience to Law necessarily be 'unwilling'? Is there not a godly delight in the Law of God? And why should obedience to Law necessarily be 'bondage', when the Law was designed for man's true

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blessedness, and when the keeping of it leads him into his true freedom? Even Dr. Brunner confesses that freedom is not the liberty of indifference.³⁹ In the relation of man to his Maker is not the existence of an 'ought' to be expected? What is a demand—or even Dr. Brunner's 'Command'—if it does not imply an ought? And why cannot a man delight to do what he ought to do without destroying the sanctity of the 'ought' or the spiritual freedom with which he does it? No evangelical would differ from Dr. Brunner in his affirmation that 'Nothing is good save obedience to the command of God, just because it is obedience',⁴⁰ and that 'that alone is "good" which is free from all caprice, which takes place in unconditional obedience'.⁴¹ But do not statements like these carry the implication of an 'ought'? Why, then, does Dr. Brunner think it necessary to deny it, and even identify the 'ought' with bondage? The 'ought'

³¹ 72.

³² 114.

³³ The only 'Law' which Dr. Brunner can allow to exist 'without legalism' is the 'law interpreted by faith', which for him, is not really the Law but the Command. See 81.

³⁴ Although Dr. Brunner is willing to concede that men still see some remote connection with God, in that he brackets the words 'of God' after 'the law' (65).

³⁵ *ibid.*

³⁶ Dr. Brunner's inexactitude of expression shows itself when elsewhere he says that the 'curse of the law' is the 'result' of legalism (72). This is, at least, an intelligible sentence.

³⁷ 74.

³⁸ 78.

³⁹ 58, 59.

⁴⁰ 59.

⁴¹ 83.

does not make obedience legalistic; it merely makes it obedience. There is, therefore, no curse in the Law save the curse of disobedience to it.

A third aspect of Dr. Brunner's thought which calls for investigation is the sense in which he concedes that the Law has a continuing function in the life of the believer. This would be a welcome statement if it could be taken at its face value, but it is hedged around with so many limiting expressions that it is almost emptied of meaning. He affirms, for example, that 'for faith, in faith, the law has been abrogated; for man, however, "round whose neck there still hangs the old Adam", there exists at the same time the demand of God'.⁴² He adds to this the statement that 'through faith—for us who are still sinners—the law is not abolished, but is indeed only now rightly set up',⁴³ and, again, 'even for the Christian the law has not been abrogated'.⁴⁴

According to Dr. Brunner, the only way in which the Law may be said to remain is in so far as the commandments are regarded as 'witnesses'⁴⁵ to the substance of the Divine will. The Decalogue and the Sermon on the Mount 'form part of the revelation of the Divine Will', and 'we can only recognize God's will here and now... on the basis of the previous historical revelation'.⁴⁶ The commandments 'help us to hear the Command',⁴⁷ they are 'authentic "expositions" of the One Command... God-given paradigms of love'.⁴⁸ The Law thus has a 'significance' as the 'exposition of what it means for our conduct to be "in Christ"'.⁴⁹ This is the traditional *usus tertius legis*, the *usus didacticus*⁵⁰. Its ministry, says Dr. Brunner, is that of instruction only, and for one who knows God's grace and God's demand 'it can prepare the decision of the individual as carefully as a conscientious legal adviser prepares the decision of the judge'.⁵¹

The explanation of Dr. Brunner's doctrine of the continuance of the Law lies in his connection of it with the *Lex*—the law which belongs to the provisional order of things in a sinful world—and he considers that the Divine Command presupposes the *Lex*, which requires simple 'legal' obedience.⁵² *Lex* is unavoidable, for 'even if we were to try to imagine the removal of all that is particular and historical, and were to think only of human nature as it has been moulded by creation and by sin, we would still have to admit the necessity for some kind of *Lex*'.⁵³ The result of this situation is that 'we can never hear the Divine Command, we can never obey God, if at the same time... we do not also take into account the *Lex* as the expression, indirectly, of the Will of God, as the "framework" which God has set for our life, for a life in love'.⁵⁴ Dr.

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⁴² 80.

⁴³ 81.

⁴⁴ 179.

⁴⁵ 135.

⁴⁶ *ibid.*

⁴⁷ 112.

⁴⁸ 135.

⁴⁹ 148.

⁵⁰ 149.

⁵¹ 139.

⁵² 140.

⁵³ 141.

⁵⁴ 143.

Brunner considers that 'the Commandments of the Bible also belong to this *Lex*, in so far as they are understood as law', but, 'just as the bud breaks through its sheath, so the believing obedience of love must break through the law from within'.⁵⁵

Although Dr. Brunner makes this concession to the idea of the continuance of the Law, his chief contention is not really for the continuance of the Law but for the change of it. Obedience to the *Lex*, he argues, is still legalism, and so the Law must be changed to Command. Once more the existentialist concept of 'becoming' obtrudes on the theological discussion. He writes, 'For us the Commandments are primarily the Law, and they only become the Divine Command through faith'.⁵⁶ This, he says, is because 'the Divine Command understood as law is not really God's command'.⁵⁷ It is only when the Law is understood and received in the sense of Command that its true object is achieved and it comes to mean, 'Thou shalt love the Lord thy God with all thy heart, with all thy mind, and with all thy strength'.⁵⁸

But what is this change of Law to Command for which Dr. Brunner asks? He speaks equivocally here, for although ostensibly he wants to prove a change in the Law, what he really does is to show the necessity of a change in the sinner. It is the sinner who must understand the Law as the Divine Command; indeed, he must give up his legalism and come to love God for Himself.

The underlying truth of importance which has to be perceived amid all the blurring of distinctions in Dr. Brunner's work is that the Law is always to be understood in the context of grace. It is in this context that the change is clearly to be seen as a change in the sinner and not in the Law.

Dr. Brunner begins his Preface as follows: 'The question, "What ought we to do?" the great question of humanity, is the entrance to the Christian Faith; none can evade it who wish to enter the sanctuary. But it is also the gate through which one passes out of the sanctuary again, back into life; but in spite of the fact that the question—so far as the actual language is concerned—is unaltered, it has gained new meaning'.⁵⁹ This, says Dr. Brunner, is because for the person concerned, 'something has happened to him.... something which has opened his eyes and his heart to a reality which he never knew before: the reality of the living God'.⁶⁰ Such a man 'now has another "position" in this world'.⁶¹ Here is the basic factor in the destruction of legalism: the man himself is changed, and once the man is changed, legalism is gone.

Dr. Brunner insists that the grace of God brings not merely a new ability to keep the Law (indeed, he thinks this to be a quite insufficient account of the work of grace), but enables the

⁵⁵ *ibid.*

⁵⁶ 112.

⁵⁷ 144.

⁵⁸ 145, as quoted by Dr. Brunner.

⁵⁹ 9.

⁶⁰ *ibid.*

⁶¹ *ibid.* The quality of personal address and immediacy for which Dr. Brunner contends in 'Command' is a truly acceptable emphasis, for that is no knowledge of God which is but second hand. But a change in a person's approach to an object is not the same as a change in the object. Existentially, it may be possible to say that 'Law', as a rigorist code adopted by the legalistically minded person, is replaced by 'Command' *in the experience* of the regenerate man who has come to know the Lord and hear His voice. It is replaced *so far as his experience* is concerned, but it is nevertheless still the same 'Law' which he now appreciates as 'Command'.

sinner to understand the Law 'from a wholly new angle'.⁶² This was the view of Luther and Calvin, and if only Dr. Brunner had kept within the Biblical teaching of the Reformers he would not have spoken about a change in the Law. He beautifully describes the work of grace in the heart of the believer when he says of him, 'God is—as it were—always behind him, not in front of him as the legalist believes. This it is which constitutes the joy and the peace of the new state of life';⁶³ but the fact must not be overlooked that the change is not in the Law, but in the believer. Dr. Brunner speaks again of 'the Law, as faith knows it',⁶⁴ and this is the heart of the matter. What the grace of God does, is not to destroy the Law,⁶⁵ nor even to change it, but to transform the complete conception of Law-keeping. The Law that is

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kept is loved by the believer, and his keeping of it in faith and obedience is the way he shows his love for his Father in heaven. This is no legalism, else were the Son of God Himself a legalist.

Dr. Brunner draws attention to two questions which, he says, belong to the foreground of his inquiry. The first is that of the basis of the Good, and the second is that of the possibility of achieving the Good. The first leads to the truth 'that we are to will what God wills, because He wills it', and the second leads back to 'faith as the source of all Good in union with God'.⁶⁶ Both of these answers are true, but neither of them requires the treatment of Law which Dr. Brunner gives, nor the reproach of legalism which he fastens upon Christian Law-keeping.

In these days of evangelical uncertainty about the place of the Law of God in the life of the believer it is important that cries of 'Legalism!' shall not be irresponsibly raised, but that a clear distinction be kept between the legalism of unbelief and the Law-keeping of faith. Dr. Brunner defends himself against the charge of Antinomianism by saying, 'We are not Antinomians because we do not wish to be legalists,'⁶⁷ and this essay may well end by reversing the sentence and saying, 'We are not legalists because we do not wish to be Antinomians'.

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⁶² 100.

⁶³ 78.

⁶⁴ 149.

⁶⁵ Matthew v. 17-20.

⁶⁶ 57, 58.

⁶⁷ 138. See a full discussion in E. F. Kevan, *The Evangelical Doctrine of Law*, 1955.