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# Introduction: Can the Ordinary Practice of Law be a Religious Calling?

Robert F. Cochran, Jr.\*

Surveys of lawyers find that they are generally unhappy people.<sup>1</sup> I have heard many lawyers at the top of their careers ask, “Is this all there is?” For some lawyers, religious faith and law practice have nothing to do with one another – these lawyers live morally schizophrenic lives, with one set of values at work and another set at home and with their religious congregations. For others, religion and work are positively at odds with one another. Perhaps some lawyers feel that their work at church is designed to make up for what they do during the rest of the week.

In February, 2004, Pepperdine University’s Institute on Law, Religion, and Ethics held its inaugural conference to consider the question whether religious faith, particularly the faith of Christians and Jews, can be a source of meaning for the practice of law. It was a remarkable gathering. Two hundred lawyers and law students came to hear 20 lawyers from a broad range of practice areas. We were blessed to also have the wisdom of three rabbis, a philosopher, and an economist. The conference focused on the religious concept of vocation or calling as a means of understanding the ordinary, day-to-day work of ordinary lawyers. Many of the speakers argued that work, even what is normally considered secular work, is an area of life that can and should be redeemed by God. Lawyers discussed how the

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1. See generally MARY ANN GLENDON, *A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY* 85-91 (1994). This paragraph draws concepts from Chapter 5 of this book.

theory of vocation or calling might apply to lawyers – to the problems (and opportunities) created by the adversary system, billing pressures, stress, and lack of collegiality within the profession. Individual panels of lawyers focused on specialty areas—corporate, family, civil litigation, and criminal prosecution and defense—and the ways in which they try to reflect their religious faith in their work.

Most of the essays that follow are a product of the conference. With the demands of law practice, many of the men and women participating in the conference were unable to put their comments into essay form. The full conference proceedings, including the exchanges between the panelists and a very intelligent audience are available on the Institute's web site.<sup>2</sup> This symposium collection contains a few articles from sources other than the "Law as a Religious Calling" conference. Shortly after the conference at another Institute of Law, Religion, and Ethics forum, Professors Thomas Bost and Timothy Perrin of Pepperdine School of Law gave a thoughtful presentation on the relationship between religious faith, corporate practice, and civil litigation. They turned that presentation into three essays that are included in this collection. In addition, the 1999 Pepperdine graduation speech by then Yale Law School Dean Anthony Kronman on the relationship between law practice and religious faith is included.

A few of the participants questioned the use of the term "ordinary" in the conference's title: "Can the Ordinary Practice of Law be a Religious Calling?" As one colleague said, the participants in the conference were anything but ordinary. Indeed, this was a collection of extraordinary people. But I did not intend the title to suggest that any of the participants were ordinary. I intended "ordinary," which in the title modifies "practice," to signal that we would not talk about specialty areas of practice that have an obvious connection to religious faith. For example, poverty law, representation of religious organizations, and religious freedom litigation naturally connect to religious faith. But not many lawyers have the opportunity to engage in these types of practice on a full-time basis. At a conference on religious lawyering, there is a danger that much of the focus will be on these specialty areas of practice, and "ordinary" lawyers may feel that there is no connection between their faith and the practice of law. I wanted this conference to address whether there is a connection between religious faith and what ordinary lawyers do in ordinary law offices on ordinary Wednesday afternoons.

As a theoretical matter, I believe that most religious traditions accept the notion that all productive work can be a religious calling. I fear, however, that the practice of many congregations is quite different. In many congregations, if a young person gets serious about God, he or she is expected to become a member of the clergy. For example, shortly after I graduated from law school, I preached at the church in which I grew up. I preached on the subject of work and argued that God calls people to all sorts of work. After the service, one of the "pillars of the church" was very complimentary about my sermon. But she added, "We'll get you yet; I

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2. Available at: [http://law.pepperdine.edu/visitors/ilre/religious\\_calling.jsp](http://law.pepperdine.edu/visitors/ilre/religious_calling.jsp).

know you are going to become a preacher some day.” I’m not sure that I was a very good preacher that day—she did not seem to understand the central point of my sermon.

In these introductory comments to the symposium articles and reflections, I would like to address two issues: “Why are so many lawyers dissatisfied with their work?” and “Is the ordinary practice of law something that one can do to the glory of God?”

***“[T]here is Nothing Better for a Man Than to Enjoy His Work”<sup>3</sup>: Lessons on Work From Ecclesiastes***

There have been several books in the last decade that detail the troubles in the legal profession.<sup>4</sup> Mary Ann Glendon, in one of her chapter titles describes lawyers as “Feeling Bad When [They] Should be Feeling Good.”<sup>5</sup> She writes:

Lawyers have never wielded more political and economic power than they do today; yet they report a declining sense of control over their own lives.

American lawyers are the wealthiest in the world; yet in all branches of the profession lawyers reported that their levels of satisfaction with their work plummeted by 20 percent in the six years between 1984 and 1990.

. . .

In influence, affluence, and prestige, practicing lawyers surpass most other occupational groups; yet there is a high incidence among them of clinical depression . . .

Why are so many lawyers so sad?<sup>6</sup>

According to the Jewish and Christian traditions, the author of *Ecclesiastes* is Solomon.<sup>7</sup> Solomon was a judge, as well as king.<sup>8</sup> If he is

3. *Ecclesiastes* 3:22 (New International Version). All subsequent citations to the Bible are from the New International Version.

4. MARY ANN GLENDON, *A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY* (1994); ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (Belknap Press 2001) (1993); and SOL M. LINOWITZ, *THE BETRAYED PROFESSION* (1994).

5. See GLENDON, *supra* note 1, at 85.

6. *Id.* at 15. See also *id.* at 85-89 (describing the prevalence of lawyer depression, alcoholism, and dissatisfaction with work).

7. Although unnamed, the author identifies himself as “son of David, king in Jerusalem” See *Ecclesiastes* 1:1.

the author, we should not be surprised that his reflections on work speak to lawyers. During Solomon's life, he achieved the heights of power, wealth, honor, pleasure, and wisdom.<sup>9</sup> At the writing of *Ecclesiastes*, Solomon, assuming he is the author, appears to be at the end of his life. Having done many things and achieved many successes, he is reflecting on the meaning of life. He recounts the many triumphs of his life. His work brought him many things, but like some lawyers of today, those things did not bring him satisfaction.

*Possessions* – The author “undertook great projects” and built houses, vineyards, gardens, parks, and reservoirs.<sup>10</sup> He obtained slaves, herds, flocks, silver, gold, and a harem<sup>11</sup> and “became greater by far than anyone in Jerusalem before me.”<sup>12</sup> “I denied myself nothing my eyes desired.”<sup>13</sup> “Yet when I surveyed all that my hands had done and what I had toiled to achieve, everything was meaningless, a chasing after the wind; nothing was gained under the sun.”<sup>14</sup> Solomon recognized that possessions ultimately give little satisfaction. “Whoever loves money never has money enough.”<sup>15</sup>

*Pleasure* – Solomon found pleasure ultimately unsatisfying as well. “I thought in my heart, ‘Come now, I will test you with pleasure to find out what is good.’”<sup>16</sup> “I refused my heart no pleasure.”<sup>17</sup> “But that also proved to be meaningless.”<sup>18</sup> Solomon concluded that “All man's efforts are for his mouth, yet his appetite is never satisfied.”<sup>19</sup>

*Status* – I believe that some lawyers find the competitive nature of law practice to be a strong motivator. The challenge of beating others and attaining status drives them. The author of *Ecclesiastes* has a word for them as well. “I saw that all labor and all achievement spring from man's envy of his neighbor. This too is meaningless, a chasing after the wind.”<sup>20</sup>

*Wisdom* – The author of *Ecclesiastes*, like many legal scholars, also sought meaning in wisdom. “I devoted myself to study and to explore by wisdom all that is done under the sun.”<sup>21</sup> But it, too, is “meaningless, a chasing after the wind.”<sup>22</sup> “Of making many books there is no end, and much study wears the body.”<sup>23</sup> We law professors hear that around exam time.<sup>24</sup> Even as I write, the author of *Ecclesiastes* challenges me: “The more

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8. See, e.g., 1 Kings 3:16-28 (Solomon resolves dispute between two prostitutes over baby.).

9. See, e.g., 1 Kings 4 (Solomon's government, daily provisions, and wisdom), 7:1-12 (palace), 10:14-29 (possessions), 11:1-3 (700 wives and 300 concubines).

10. *Ecclesiastes* 2:4-8

11. *Id.*

12. *Id.* at 2:9.

13. *Id.* at 2:10.

14. *Id.* at 2:11.

15. *Ecclesiastes* 5:10.

16. *Id.* at 2:1.

17. *Id.* at 2:10.

18. *Id.* at 2:1.

19. *Id.* at 6:7.

20. *Ecclesiastes* 4:4.

21. *Id.* at 1:13.

22. *Id.* at 1:14.

23. *Id.* at 12:12.

24. However, first year law students, straining under the burden of Civil Procedure, should take

the words, the less the meaning . . . .<sup>25</sup>

As with today's lawyers, the "influence, affluence, and prestige"<sup>26</sup> attained through work brought the author of *Ecclesiastes* little meaning—it was all "meaningless, a chasing after wind."<sup>27</sup> Yet the author says, "A man can do nothing better than to eat and drink and find satisfaction in his work. This too, I see, is from the hand of God . . . ." <sup>28</sup> It is not hard to envision food and drink as a blessing, but work? The thought that work is a blessing may have been as difficult to sell in the author's day as in ours, for the author repeats this message five times in the first five chapters of *Ecclesiastes*.<sup>29</sup> In the previously discussed sections, he finds that the material fruits of work do not provide satisfaction, but here he suggests that work itself should provide satisfaction.

I believe many Americans and many American lawyers have taken exactly the opposite approach from *Ecclesiastes*' "meaning in work, rather than its fruits" approach. For them, work is merely a means to an end – a means of earning money that will enable them to have the things that they want: influence, affluence, and prestige. But for the author of *Ecclesiastes*, work has meaning, beyond the things that can be purchased with its fruits; its value is inherent, not merely instrumental in this sense.

The author of *Ecclesiastes* emphasized the need for balance in life, and this included balance in work. This was one of the themes that ran through many of the speeches in our "Law as a Religious Calling" conference. One's work is only one of many vocations to which we are called. We are called to be fathers, mothers, children, friends, and members of religious congregations as well. In the most famous section from *Ecclesiastes*, activities which we would recognize as work are among the many things for which there is a time in God's plan:

There is a time for everything,  
and a season for every activity under heaven:  
a time to be born and a time to die,  
a time to plant and a time to uproot,  
a time to kill and a time to heal,  
a time to tear down and a time to build,  
a time to weep and a time to laugh,

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note: "the wise heart will know the proper time and procedure, [f]or there is a proper time and procedure for every matter." *Id.* at 8:6.

25. *Ecclesiastes* 6:11.

26. See GLENDON, *supra* note 1, at 85, text accompanying note.

27. See *Ecclesiastes* 1:14, 2:11, 4:4.

28. *Id.* at 2:24-25.

29. *Id.* at 2:24 ("A man can do nothing better than to eat and drink and find satisfaction in his work."); 3:13 ("That everyone may eat and drink, and find satisfaction in all his toil—this is the gift of God."); 3:22 ("[T]here is nothing better for a man than to enjoy his work. . ."); 5:18 ("[I]t is good and proper for a man to eat and drink, and to find satisfaction in his toilsome labor. . ."); and 5:19 ("[To] . . . be happy in [one's] work—this is a gift of God.").

a time to mourn and a time to dance,  
a time to scatter stones and a time to gather them,  
a time to embrace and a time to refrain,  
a time to search and a time to give up,  
a time to keep and a time to throw away,  
a time to tear and a time to mend,  
a time to be silent and a time to speak,  
a time to love and a time to hate,  
a time for war and a time for peace.<sup>30</sup>

The author describes a pattern to life. “[God] has made everything beautiful in its time.”<sup>31</sup> He tells the sluggard to get to work: “The fool folds his hands and ruins himself.”<sup>32</sup> He tells the workaholic to relax: “Better one handful with tranquility, than two handfuls with toil and chasing after wind.”<sup>33</sup>

The author of *Ecclesiastes* prefers communal work over individualistic work.

Two are better than one,  
because they have a good return for their work:  
If one falls down,  
his friend can help him up.  
But pity the man who falls  
and has no one to help him up!<sup>34</sup>

Rather than work as a sole practitioner, the author of *Ecclesiastes* might advise practicing law in a partnership or in close collaboration with other lawyers.

Finally, the author of *Ecclesiastes* suggests that doing good is part of finding satisfaction in one’s work. “[T]here is nothing better for men than to be happy and do good while they live. That everyone may eat and drink, and find satisfaction in all his toil—this is the gift of God.”<sup>35</sup> One source of pleasure in work is the sense that you are part of a bigger purpose, a purpose that is good. I turn now to a consideration of the question whether what lawyers do is good.

### ***“Building a Cathedral to the Glory of Almighty God”<sup>36</sup>***

I believe most legal ethics classes, bar association ethics discussions, and lawyer jokes focus on the negative things that lawyers do. I also believe

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30. *Id.* at 3:1-8.

31. *Id.* at 3:11.

32. *Ecclesiastes* 4:5.

33. *Id.* at 4:6.

34. *Id.* at 4:9-10.

35. *Id.* at 3:12-13.

36. See John Witte, Jr., *Kuyper Lecture: God’s Joust, God’s Justice: The Revelations of Legal History*, PRINCETON THEOLOGICAL SEMINARY BULLETIN, Vol. 20, No. 3, 1999, at 295, 313.

that most professional responsibility cases involve lawyers who have done bad things. The professional responsibility rules set minimum standards for lawyers; they define the bad lawyer.

Many lawyers, when asked why they practice law, talk about good things that they can do while they are practicing law, rather than the practice of law itself. While at the office, they can be good to secretaries, fellow lawyers, and clients. With the proceeds of their practice, they can provide a good living for their families. But is there something inherently good about what they do as lawyers? In considering this question, I start with a story told by John Witte, which on its face does not appear to have anything to do with the practice of law:

In 1415, a traveller came to the French town of Chartres to see the great cathedral that was being built there. He arrived at the cathedral just as the workmen were leaving for home. He asked one man, covered with dust, what he did there. The man replied that he was a stone mason. He spent his day carving rocks. Another man, when asked, said he was a glassblower, who spent his days making slabs of colored glass. Still another workman replied that he was a blacksmith who pounded iron for a living. Wandering into the deepening gloom of this unfinished edifice, the traveller came upon an old widow, armed with a straw broom, sweeping up after the day's work. "And what are you doing?" he asked her. The woman paused, looked up, and said proudly: "Me? Why, I am building a cathedral to the glory of Almighty God."<sup>37</sup>

In order to see this as a story that tells us something about lawyers, we must first ask whether practicing law is anything like building a cathedral to the glory of Almighty God. What is the cathedral in which lawyers invest so much labor? I think that for many lawyers, it is the law itself. These lawyers shape the law through drafting legislation, trying cases, arguing appeals, writing opinions, and advising clients to comply with the law. But in addition to serving the law, I believe many lawyers are servants of commerce—they draft contracts, organize corporations, and put together deals. Their cathedral is the cathedral of commerce. Of course, the work of many lawyers overlaps, adding to the structure of both law and commerce. It seems to me that the work on each cathedral is justified if that cathedral glorifies God, and in my view, a cathedral glorifies God if, on balance, it serves the commandment that we are to love our neighbor as ourselves.<sup>38</sup> What lawyers do is meaningful if the legal and commercial structure which they build and maintain serves their neighbor. So the question is: Does law, does commerce, on balance serve the good of the neighbor?

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37. *Id.* at 312-313.

38. *Leviticus* 19:18, *Matthew* 19:19, *Mark* 12:31, *Luke* 10:27, *Romans* 13:9, *Galatians* 5:14, and *James* 2:8.



First, the cathedral of law. Lawyers play a host of roles in building and maintaining the law. There are many of our laws with which I and others disagree, but on balance, I think most would agree that our legal system is important and worthy of protection. In part, it is worthy of protection because those of us who disagree with law have means to challenge and seek to change those laws. The value of law is most obvious when we look at nations that do not have a strong rule of law. The experience of Rwanda, Bosnia, Afghanistan, and Iraq in recent years testifies to the value of a strong legal system. And a strong legal system would not be possible without the work of lawyers. The role that lawyers play most often, advising clients how to comply with the law, is essential to the functioning of the legal system. In my view a lawyer's greatest service to the law probably comes, not in dramatic courtroom scenes, but in the privacy of the law office, as she counsels clients to act within legal parameters. But of course, lawyers also serve as advocates. One may rightly criticize the excesses of lawyer advocacy—advocacy that distorts or conceals, rather than clarifies truth—but most advocacy, most of the time, is beneficial. Legal argument sharpens judges' and juries' thinking, by providing a variety of viewpoints. On balance, I believe that lawyers' arguments increase the possibility that truth will be discovered, and that law will be just. In this way when lawyers make arguments, they are helping to build a cathedral. I believe that it is a cathedral to the glory of Almighty God.

Second, the cathedral of commerce. In the American commercial system, as well as in the legal system, and their many areas of overlap, there are many injustices, but here as well, I believe that on balance, the system is a force for good. Our commercial system provides an amazing number of jobs, which enable people to feed and provide shelter for themselves and their families. Our commercial system produces some trashy products, but, on balance, most of its products serve society in good ways. Though many may not think of work as a religious service, working for the commercial system that meets the needs of our neighbors is a means of serving and loving our neighbors.

In the first essay in this symposium collection, Lee Hardy, uses the following example: We wake in the morning and pray, "Give us today our daily bread."<sup>39</sup> God gives us our bread, but generally, it does not appear magically. At the very time that we pray, the baker is already awake, kneading the dough, and preparing the bread. The baker does God's work.

But, of course, even if one is doing God's work that does not mean that one is going to feel that it is meaningful. In the Chartres Cathedral story, the stone mason, the glassblower, and the blacksmith were all, like the sweeper woman, building a cathedral to the glory of God, but their work did not seem to provide meaning to their lives. They were focused only on the immediate task at hand. Whether the workers found meaning in their work depended in large part on their perception. Each may have been doing just as good a job as the other, but the stone mason, the glassblower, and the blacksmith focused on their little corner of the cathedral, while the widow saw her part

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39. See *Matthew* 6:11.

in the whole project. Each little part of the work, by itself, might have had very little significance, but the sweeper saw the broader picture. She envisioned the entire cathedral, the people who would worship there, and the God who it would glorify.

In an earlier day, it may have been easier for some people to see a connection between their work, their neighbor, and, ultimately, God. The baker was able to see the people he served. This, no doubt, gave him great pleasure. I believe that the practice of many lawyers is like this. Some may see individual clients every day and their service—drafting legal wills, representing individual clients in court—gives them a direct picture of the good that they do. But much of the work of lawyers is more like work on a cathedral. They work on a little part of a bigger project. Today, many lawyers and bakers are far removed from the people who benefit from their work. This distance is likely one of the sources of the alienation that many people may feel from their work. But that distance does not make their service any less of a religious calling. The lawyer who drew up the contract for the transportation of the bread and the lawyer who drew up the articles of incorporation for the supermarket chain that sells the bread should both take pride in their work. God provides bread, not only through the hands of the baker, but through the hands of the lawyer who drafted the documents necessary for its sale.

In my view, most lawyers, most of the time, should see themselves building a cathedral to the glory of God, even if they only do a small part in its development and are far removed from many of the people who benefit from their work. Though Oliver Wendell Holmes did not express this in religious terms, indeed he expresses it in terms of bringing glory to lawyers, he captures this notion of lawyers contributing to an important and worthy project when he said that a lawyer's monument "is the body of our jurisprudence . . . to which the least may make their contribution and inscribe it with their names. The glory of lawyers . . . is more corporate than individual. Our labor is an endless organic process."<sup>40</sup>

But, of course, finding meaning in building a cathedral to the glory of God requires that the cathedral be to the glory of God. The clients a lawyer accepts and what she does for them is important. If a client is using the lawyer's services to produce a destructive, rather than a beneficial product, it is hard to argue that the lawyer is building a cathedral that glorifies God. The lawyer who wants to find meaning in work must be doing a worthwhile thing. Some lawyers may need to take another look at the clients they represent, the projects they further, and the way that they practice, but many lawyers just need to take another look at the work that they already do. They need to look up in order to see the fruits of their labor. They are

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40. See GLENDON, *supra* note 1, at 92 (citing Oliver Wendell Holmes, *The Profession of the Law*, in *THE OCCASIONAL SPEECHES OF JUSTICE OLIVER WENDELL HOLMES* (Mark DeWolfe Howe, ed., Belknap Press 1962)).

building a cathedral to the glory of God.

## CONCLUSION

For some lawyers, this symposium collection of essays may be the start of seeing the broader significance of their work. We have divided it into two parts—the first dealing more with the theory, philosophy, and theology underlying law practice as a religious calling. In the first three essays, Lee Hardy, Joseph Allegretti, and Samuel Levine discuss the notion of work as a calling from Calvinist, Catholic, and Jewish perspectives. They all argue for the importance of living an integrated life, of viewing all of life, including work, as a service to God. In the fourth essay, Thomas Bost and Timothy Perrin provide a matrix for the range of approaches that lawyers might take to the relationship between faith and work. They question their own restorationist tradition's tendency to reject the practice of law. In the fifth essay, Anthony Kronman notes the spiritual significance to the lawyer's work, but cautions that religious lawyers should place limits on the reach of their religious values into their work. Concluding Part One, economist Kenneth Elzinga asks the provocative question whether lawyers are "wonderfully made."

Part Two of this symposium collection addresses very practical questions. Kenneth Starr and Arthur Gross-Schaeffer, address the ethical challenges that face lawyers and the answers that faith might bring. Mark Osler considers how religiously-grounded humility might affect a lawyer's practice. Moshe Kushman makes a strong argument that people of faith should go into the practice of law—law practice needs their influence. In the following three essays, Thomas Bost, Timothy Perrin, and John Acuff address the ways that Christian faith should impact corporate, civil litigation, and the general practice of law. Finally, Robert Conrad discusses the importance of lawyers living a balanced life and concludes this symposium, appropriately, with the lawyer's prayer of Thomas More.

It is our prayer that this symposium collection will enable lawyers to live a more integrated and meaningful life.