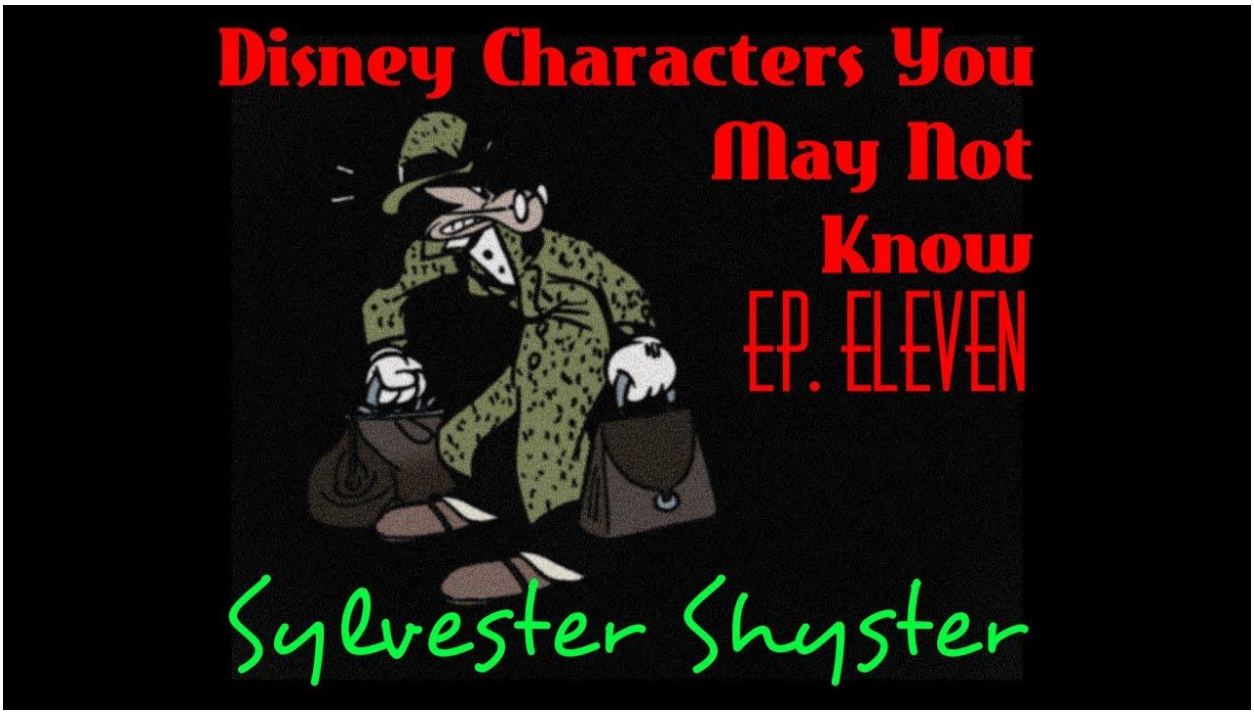
IS CHRISTIAN LAWYER AN OXYMORON?

By David Lee Burris



"The preacher mentioned that he had wanted to go to law school when he was younger, but he decided that he wanted to go to Heaven, instead, so he became a preacher." – ANONYMOUS

The first known legal decision was in 1850 B.C. And in 1700 BC the first written laws were established by a Babylonian king named Hammurabi. Lawyers, some would say paradoxically, are associated with the rise of civilizations which have been recognized as the root of western civilization. Lawyers have always been concerned with the interpretation of the rules which apply to societies and the settlement of disputes through the application of rules. References to lawyers are found in early parts of the Bible. The bible refers to lawyers in the ancient Hebrew nation as 'experts in the law'. The earliest scribes served as official secretaries, with the responsibility of writing and issuing royal decrees (e.g. 2nd Samuel 8:17, 20:25; 1st Chronicles 18:16, 24:6; 1st Kings 4:3; 2nd Kings 12:9-11; 18:18-37). Eventually, the scribes performed other authoritative duties of the nation. There was also a secondary level of scribes, most of whom were Levites, who served as writers e.g. Baruch, who was a scribe for Jeremiah the prophet (Jeremiah 36:4,32). In Biblical terms, after the return from the Babylonian Captivity (see Why Babylon?), when the people of Judah had lost their independence and had no king of their own to serve, the scribes concentrated their activities on the law, becoming "experts of the law," or "lawyers." (Ezra 7:6,10-12; Nehemiah 8:1,4,9,13). By the time of the New Testament, the scribes became closely associated with the Pharisees, who added greatly to the writings of the original God-given Law with their own opinions and traditions. It was their view of the Law that brought them into dispute with Jesus Christ. – Internet Sourcing

OLD TESTAMENT & NEW

BEGINNINGS OF THE HIRED GUN

Origin of the Pharisees, Sadducees & Scribes

SCRIBES:

@ Lawyers

- Learned people well versed in the Law
- Copyist, Teachers & Interpreters
  - Explained the meaning of the Law...
  - How it should be kept...
- Highly respected
- Many Pharisees were also Scribes

If the Pharisees are
the Practitioners of the Law
Then the Scribes are
the 'Theologians/Seminarians'

Tethered and Untethered Scribes

To begin, it is important to differentiate between those scribes who were organizationally attached and those who were not. In order to do so, I am borrowing the notion of a "tether index" from Berlinerblau who has developed it in response to Philip R. Davies' essay, "Is there a Class in this Text?" Berlinerblau observes the distinction Phil Davies makes "between 'scribes in the service of the state' and scribes who maintain varying degrees of autonomy from royal power."[46] He proposes we designate members of the former group "tethered intellectuals" and members of the latter group "less tethered" or "untethered." While Berlinerblau extends these categories by including some discussion of a scribe's loyalty to his patron, I have chosen to restrict Berlinerblau's "tether index" to refer solely to a scribe's degree of *attachment to* or *autonomy from* the royal/temple establishment.

The basic principle of the tether index is simple: the tighter the tether, the stronger the attachment, thereby resulting in lesser scribal autonomy from the employing institution. The opposite is equally true: the looser the tether, the weaker the attachment which resulted in greater scribal autonomy. Viewed along a continuum, every scribe can be classified as being more or less tethered, or in some instances as being untethered. But this needs to be worked out more carefully. To do so, it is helpful to differentiate two separate though not completely unrelated strands of the tether, one related primarily to economics and power, the other to levels of supervision.

Regarding economics and power, the tether index works like this: the greater the scribe's dependence upon the royal establishment for financial security and social position, the tighter the tether, and vice versa. For example, a scribe who not only works for, but is fully employed by, the state or temple can be said to be much more tightly tethered than a scribe who has only occasional contact with these institutions or is only partially supported by them. Untethered scribes would refer to those individuals who worked independently, receiving no compensation from the major institutions of power. Whereas tethered scribes had tight institutional connections and may be considered part of the royal establishment, untethered scribes were institutionally unconnected, working instead for an individual or individuals. These two general categories of scribes are succinctly delineated by Aaron Demsky who writes: "Scribes of various degrees of competence were attached to all government and temple offices. Apparently there were also independent scribes who either served the public or were in the employ of men of means."

By and large, most scribes in the ancient world were of the former variety, that is, they were tethered.[49] This is due, in part, to the highly specialized nature of writing itself & the limited demand for scribal services. As Davies aptly notes, "Writing is an economically supported activity, requiring the specialized knowledge of writing and, not least, a purpose." Since learning to read and write required both leisure time and surplus resources, we can surmise that those who were trained for such tasks were trained by the elite and were, therefore, often obliged to serve the royal/temple establishment in some capacity in return for their training.

Given these economic considerations and the notion of restricted literacy in Israel, it seems doubtful that many untethered scribes could have arisen in that context. Where would such individuals have learned the requisite skills vital to their trade and who would have paid them to write? Indeed, examples of institutionally unconnected or independent "scribes for hire" are not forthcoming from the pages of the Hebrew Bible. The most celebrated, albeit the *only* biblical example, is Jeremiah's amanuensis Baruch (Jer 36:4). Thus, when speaking of scribes in Palestine during the monarchic period, perhaps it is best simply to regard the vast majority of them as being more or less tethered to the institutions which nurtured and sustained them.

But there is another dimension of the tether index we have yet to consider which is related to the degree of "supervision" a scribe experienced. For this strand of the tether, the basic principle is as follows: the most tightly tethered scribe is the most closely monitored one. Tightly tethered scribes were highly attached to, and carefully controlled by, the palace & temple administration. Such scribes operated on a short leash, so to speak. Their work would have been subject to a considerable amount of scrutiny and supervision by their patrons or those loyal to them. Less-tethered scribes, on the other hand, experienced less direct supervision and therefore enjoyed more freedom insofar as their writing endeavors were concerned. Presumably, all the institutionally attached scribes were more or less tethered in a supervisory sense.

Regrettably, we are never apprised of the degree of scribal supervision exerted in ancient Israel, making it is impossible to know with any degree of certainty which scribes were more or less closely monitored in any given situation. One might imagine that scribes of a more senior rank were given quite a bit more freedom while their junior partners were more closely monitored. On the other hand, it is equally possible that the most senior scribes were watched especially closely due to the sensitive nature of much of their work. We lack information.

Furthermore, while certain od their projects might have required extensive oversight and control, many others would have been far less critical and may have been completely unregulated. And finally, there is the question of how much "manpower" these institutions could spare for such supervisory tasks.

In short, the amount of supervision exerted over an individual scribe's literary endeavors would have varied considerably in accordance with the task assigned, scribe involved, and the particular resources of the institution. It will be important to keep in mind the reality of this element of potential vigilantism as we proceed. This type of surveillance would necessitate any unauthorized critique to be undertaken with the utmost care and stealth. Otherwise, the dissatisfied scribe crafting it might find himself without more than just his job! But here I am getting ahead of myself.

Royal Scribes and Temple Scribes

In light of the foregoing discussion, we may now consider two particular "varieties" of institutionally tethered intellectuals. Since "there can be little doubt that much of the literature composed during the period of the Monarchy was the work of either the royal or the priestly [i.e. temple] scribes," it is imperative to consider the nature, role, and activity of these individuals. As alluded to earlier, this task is impeded by the paucity of information preserved in the Hebrew Bible about such individuals.

There are basically only two terms used to describe writing professionals in ancient Israel: *sōpēr* and *mazkîr*. The term *sōpēr*, usually translated as "scribe" or "secretary," would seem to include a broad range of individuals occupied with various writing *and* non-writing functions in both temple and palace. The role of the *mazkîr* ("recorder") is largely a mystery. The following discussion explores both the assignments and affiliations of these writing professionals whom I shall refer to by the descriptive designations "royal scribes" and "temple scribes," designations which denote the institution to which these individuals were tethered.

Royal Scribes

Royal scribes were members of an elite class[57] which consisted of aristocrats, retainers, court administrators, and other fortunate individuals who enjoyed those special privileges accompanying those who were a part of the royal establishment. Royal scribes did not, however, all enjoy the same level of privileges and it may be useful to differentiate between scribes belonging to the core elite and those who may be considered part of the sub-elite.[60] The core elite includes those royal scribes who appear to have held an office analogous to that of modern-day Cabinet Secretaries in the United States, having responsibilities only remotely related to the clerical duties we often associate with "secretaries" today. Such senior officers are occasionally listed among the highest-ranking members of the king's "cabinet." Examples would include Seraiah/Sheva (read Shausha[62]) under David (2 Samuel 8:17; 20:25), his sons Elihoreph and Ahijah under Solomon (1 Kgs 4:3), Shebnah under Hezekiah (2 Kgs 18:18), an unnamed scribe under Jehoash (2 Kgs 12:10//2 Chr 24:11), and Shaphan under Josiah (2 Kgs 22; 2 Chr 34:8–18). As this list suggests, there is some evidence that the royal cabinet scribal positions were passed down from father to son and thus kept in the family. It is clear that these individuals were among the king's most trusted officials, serving the king in a variety of capacities ranging from Secretary of State to military conscriptionist. They, along with the other senior advisors, were the king's closest counselors and the people to whom he turned when making major decisions. They were also involved in the highest levels of diplomacy and functioned as the king's representatives. Moreover, there is no question that some of these high-ranking scribes could wield considerable power and were a force to reckon with.[67] Though undoubtedly literate and often multilingual, it is unclear how much actual writing these "court scribes" were required to perform.

Scribes of lesser standing, who were absolutely indispensable to the efficient maintenance of the state, may be regarded as part of the sub-elite. These "scribes of more humble station" presumably shouldered the bulk of the writing assignments necessary for the monarchical bureaucracy to operate effectively. While some of these assignments were meaningful, many were probably quite menial, what we might call "grunt work." Still, their ability to read and write, and their association with the king and the court, gave them a privileged standing which elevated them among their compatriots and set them apart.[70]

Second, as previously alluded to, royal scribes were clients of the king. They were employed by and financially dependent upon the state.[72] In his study on scribes in the Mesopotamian context, Ronald Sweet observes that "the leisure … necessary for scholarship required patronage as much in ancient Mesopotamia as it has in later ages and in other lands, and the palace was better able to supply patronage than were private individuals or even the temples." Such a connection surely influenced both what royal scribes wrote and why they wrote it. It comes as no surprise then to discover that their literary productions typically reflected the interests and concerns of the ruling class which they served. Working from within the establishment, royal scribes had a vested interest in maintaining (or increasing!) the power and prestige of the royal establishment. As noted in one of the epigraphs to this chapter, "*Clients usually assume the world view and values of their patrons*; to do other would be risky."[75] Presumably, they would have been very cautious about criticizing the state, at least openly.

Third, royal scribes were responsible for the production and preservation of a wide variety of written texts necessary for the effective administration of a state bureaucracy. E. Lipiński's study regards these royal scribes as simple "compilers of royal annals, writers of state letters, collectors of proverbs and other items, and authors who diffused the Davidic ideology and the royal propaganda." They would have been responsible for the keeping of a written record of goods exchanged, tribute received, and taxes collected. Royal scribes maintained diplomatic correspondence and drew up legal documents which represented a broad range of topics: boundary lists, marriage contracts, court decisions, political treaties, and the like. These scribes kept the royal archives, which included organizing, classifying, preserving, and retrieving important state documents.[77]

Finally, and of particular interest to us, these scribes produced political propaganda. Such tendentious writing was created for a variety of reasons such as defending a king against claims of illegitimacy, demonstrating his divine approval, and generally enhancing his reputation. In short, royal scribes engaged in every aspect of writing necessary to keep the state bureaucracy running smoothly.

Temple Scribes

It is well known that temples in the ancient Near East were complex bureaucracies which required considerable personnel to operate effectively.

The temple administration would have had its own group of scribes who would have functioned (semi)independently from those residing in the palace. Like royal scribes, temple scribes were part of an elite class who may have been partly supported by the king and who were similarly concerned about preserving their privileged positions of power & authority. One also suspects that certain aspects of the temple scribe's training would have been similar to that of their royal counterpart. From what we can tell, they often shared similar duties and responsibilities, such as the collection of tithes, offerings, or taxes, and the maintenance of economic records. Given these similarities, what distinguishes a royal scribe from a temple scribe?

To begin, it seems safe to say that temple scribes were less concerned with the political maneuverings associated with the palace than were their royal counterparts. While certainly not either uninterested nor oblivious to what happened around the throne, their concern was more religious and less political, though one must be cautious not to draw too great a distinction here as the priestly overthrown of Athaliah makes abundantly clear (2nd Kings 11)! Additionally, though it is difficult to prove, one suspects temple scribes were, generally speaking, less politically powerful than the highest ranking royal scribes. Temple scribes were not at the forefront of any type international diplomacy and presumably did not enjoy the same kinds of opportunities for advancement as did scribes in the royal employ.

Although the king often co-opted the temple to serve state interests, it would be misguided to view the temple as little more than a tool of the state. While it seems reasonable to conclude that the activities of the Jerusalem temple were more closely monitored than those of the outlying sanctuaries, geographical proximity should not be taken to suggest ideological unanimity. Despite the close connection between palace and temple in Jerusalem, there were clearly tensions and sharp ideological differences between these two powerful institutions. In the context of frequent and the sometimes bitter disagreements, it is not difficult to imagine that temple scribes occasionally might use their writings as a means to indicate their favor or displeasure with the king and his politics. Moreover, even if temple scribes were paid in part by the king, it seems reasonable to assume that some of them enjoyed a relative measure of freedom from the king's direct control.

The religious interests of temple scribes, such as concern for the correct preservation of rituals and the proper maintenance of the cult, had a direct and obvious impact upon what they wrote. Temple scribes fastidiously kept genealogical records, composed liturgical texts, and recorded laws and general instructions relating to the temple service. As R. N. Whybray observes,

"Psalms, laws, and other cultic material are probably of priestly origin, although the lack of information provided by the texts themselves about their authorship makes it impossible to draw a sharp distinction."

Additionally, it is also possible some scribes had the additional responsibility of teaching the law to the general population,[83] though it is difficult to know how much of this actually took place during the monarchic period.

With these admittedly general profiles of royal & temple scribes, we are still left with several nagging questions. For instance, how loyal were tethered scribes to their patrons? Did they always write what they were told? And how might they have registered a protest against the state when their ideas clashed with those of the ruling class? My attempt to address these questions leads me to posit a distinction between those scribes who submitted to the will of the king/temple authority, and those subverted it.[1]

[1] Seibert, E. A. (2006). *Subversive Scribes and the Solomonic Narrative: A Rereading of 1 Kings 1–11* (Vol. 436, pp. 51–65). London; New York: T&T Clark.

The Dilemma in the Bible: The Book of Micah

The Hebrew prophet Micah relates perhaps the most familiar version of a surprisingly common, albeit a bit peculiar, set piece in the Old Testament. Scholars call it a *riv*: a lawsuit between God and his people Israel. (*Riv* literally means "indictment," or "controversy".) God charges Israel with failing to honor the covenant it made when God rescued the Israelites from Egypt. God orders Israel to do three things as restitution for its breach of the covenant. But God's demand has a puzzling, indeed dismaying, contradiction in it…

We find the *riv* trope throughout the Hebrew Bible: first in Deuteronomy, and then in 2 Samuel, 2 Chronicles, Isaiah, Jeremiah, Ezekiel, and Hosea, as well as in Micah. Hosea's formulation is typical:

> **Hear the word of the Lord, O people of Israel; for the Lord has an indictment against the inhabitants of the land. There is no faithfulness or loyalty, and no knowledge of God in the land. Swearing, lying, and murder, and stealing and adultery break out; bloodshed follows bloodshed. Therefore, the land mourns, and all who live in it languish; together with the wild animals and the birds of the air, even the fish of the sea are perishing.[65]**

The *riv* form comes out of what scholars call the "vassal treaty" tradition. Early twentieth-century archaeologists uncovered evidence of Hittite treaties, and later (in the 1950s) Assyrian treaties from the reign of Esarhaddon, who ruled Assyria and various tributary states in the seventh century BCE. The forms of the Hittite and Assyrian treaties vary somewhat, but share basic elements: a dominant ruler (the "suzerain") reminds the subjected peoples of the benefits that the suzerain has conferred on the subject peoples, and the continued benefits of remaining loyal (with corresponding penalties for disloyalty.) Biblical scholars examining the treaties noticed intriguing parallels with covenant language in the Hebrew Bible. The hypothesis was that the *riv*, essentially a suit for breach of promise, used the vassal treaty tradition as a model.

Just as a suzerain would warn a vassal kingdom of the consequences of disobeying a treaty, in the Hebrew Bible the prophets, acting as "prosecutors," sent what amounts to an oral "demand letter" to Israel, reminding the people of their obligations under the covenant with Yahweh, followed by formal charges brought by YHWH for failure to heed the warning, with appropriate penalties.

Micah's career dates from the end of the eighth century BCE. Micah was a near-contemporary of Isaiah of Jerusalem and of the prophet Amos. He prophesied at the time of the Assyrian conquest of the northern kingdom, although his prophecies may not have been collected as a book for another hundred years or so.[67] Micah's era was much like ours: tremendous political instability, and great disparity in wealth between the well-to-do and the poor. The Assyrian threat, which ended in the destruction of Samaria and the siege of Jerusalem, lay imminent.

The three Judean kings mentioned in chapter 21, which help us date the book, had mixed careers on the throne. The first, Jotham, "did what was right in the eyes of the Lord" (2nd Chr 27:2), but "the people still followed corrupt practices." Jotham's successor, his son Ahaz, was one of Judah's worst kings. He chased after both foreign allies and their gods. Ahaz was succeeded by Hezekiah, portrayed in 2 Kings, 2 Chronicles, and Isaiah as one of Judah's greatest kings, both restoring covenant worship and saving Jerusalem from the Assyrians. Salvation, however, came at a price. Hezekiah's resistance to Assyria, which had made Judah something close to a vassal state when Hezekiah assumed the throne, imposed heavy financial burdens on the people of Judah. This economic suffering forms the backdrop for Micah's prophecy.

Micah, like Amos, is a social critic. Micah's "indictment" charges primarily financial crimes, specifically tied to the Israelites' forfeiture of their inherited properties.[69] The wealthy "covet fields and seize them, and houses, and take them. They defraud people of their homes, they rob them of their inheritance." Some of the behavior Micah condemns—covetousness and theft—violates the Decalogue. Other alleged crimes, notably fraud, come from Mosaic law, but not from the Decalogue.[71] Micah also denounces instances of greed that, strictly speaking, are legal: exercise of foreclosure rights or simply sharp business dealing. Indeed, if the heavy taxes were levied to fight off the Assyrian threat, a political realist would argue that this was sound statecraft. (Notice, again, the parallels to our own day.)

Micah sees all of these as a failure of *mispat*, "justice," which Koch calls "the preservation and promotion of institutional ordinances which are vitally necessary to the community."[73] The financial burdens under Hezekiah's generally sound rule result from his father Ahaz's unfaithfulness to YHWH and his flirtation with foreign powers. Therefore, restoring *mispat* requires not only that financial equity be reestablished, but that the wrongdoers be punished. Micah, when he talks about "justice," condemns this kind of behavior.

Micah's "indictment" of Israel alleges more than discrete violations of divine *mispat*. Micah "indicts the organization," as it were. YHWH made a deal with Israel and respected the bargain. Israel did not. In modern parlance, Micah calls Israel a RICO organization. It is in effect the reverse of a class action suit; the class here is unnamed defendants, not plaintiffs. When Micah calls Israel to answer, everyone is implicated, and consequently the earth itself must serve as the jury:

> **Hear what the Lord says: Rise, plead your case before the mountains, and let the hills hear your voice. Hear, you mountains, the controversy of the Lord, and you enduring foundations of the earth; for the Lord has a controversy with his people, and he will contend with Israel. "O my people, what have I done to you? In what have I wearied you? Answer me! For I brought you up from the land of Egypt and redeemed you from the house of slavery; and I sent before you Moses, Aaron, and Miriam. O my people, remember now what King Balak of Moab devised, what Balaam son of Beor answered him, and what happened from Shittim to Gilgal, that you may know the saving acts of the Lord."**

Israel doesn't deny the charges; it proposes restitution, a set of ascending "settlement offers," containing as they escalate more than a hint of cheekiness:

> **"With what shall I come before the Lord, and bow myself before God on high? Shall I come before him with burnt offerings, with calves a year old? Will the Lord be pleased with thousands of rams, with ten thousands of rivers of oil? Shall I give my firstborn for my transgression, the fruit of my body for the sin of my soul?"[75]**

Micah the prophet/prosecutor interrupts, with lines we all know by heart: "He has told you, O mortal, what is good; and what does the Lord require of you but to do justice, and to love mercy, and to walk humbly with your God?"

This verse is exceedingly familiar to us, in contexts from the sublime to the ordinary. But familiarity breeds, if not contempt, at least indifference. We miss how bewildering this command is. How are we to be both just and merciful? Justice, here, means legal justice. The context—a courtroom—proves that. There will be judgment. The "prosecutor" tells us what the crimes are: covetousness (:2), oppression (:2), cheating (:9), deception (:11), violence (:12), lying (:12), covenant unfaithfulness (:16), bribery (:3).[79]

Micah, however, goes on. We can hope that God's justice will be tempered with God's mercy:

> **Who is a God like you, pardoning iniquity and passing over the transgression of the remnant of your possession? He does not retain his anger forever, because he delights in showing clemency. He will again have compassion upon us; he will tread our iniquities under foot.**

But how do humans accomplish both justice and mercy? This conflict lies at the heart of a paradox central to Christian life in society. Berman, who spent a lifetime writing about the intersection of law and religion, says that "Christianity inherited from Judaism the belief in a God at once both a loving father and a righteous judge—a paradoxical God, who combines both mercy and justice."[81] Much of Berman's work investigates the ways in which Western legal systems have tried to solve this last paradox, and, forgetting the source of the paradox, now find themselves in crisis.

Micah helps us answer the question: Why does this paradox particularly trouble *Christian* lawyers? As we saw , there are several answers to that question, centering around the theories of "divine command," "divine imitation," and "natural law." Divine command theory holds that we are ordered to be both just and merciful. Divine imitation requires that we imitate Jesus, who is both just and merciful. Finally, we operate under a theory of natural, fundamental law that demands both strict justice and mercy.

Micah illustrates all of those. The *riv* trope inherently includes a divine command. When God entered into the Deuteronomic treaty with Moses, God commanded Israel to be both a just and a merciful people, a responsibility that Israel accepted, but then breached. Micah shows us what happens when Israel fails to heed that command.

In a more subtle way, Micah also has a divine imitation note. Micah's name is a variation of *mikaya*, meaning "who is like Yah?" That is, who is like God? The final chapter echoes that question: "Who is a God like you?" "No one" is the short answer to that question. But, the Christian obligation to imitate Jesus and the Jewish obligation to imitate YHWH, the heart of divine imitation theology, suggest "everyone, to the extent they can be." Micah's indictment of Israel alleges that Israel failed to follow YHWH's lead in honoring the covenant: YHWH was faithful to his promises to Israel, which answered with unfaithfulness. Finally, Micah also suggests that Israel's failures violate natural law, indeed the nature of reality. Nature itself sits to judge Israel. As it emerges, the punishment God imposes on Israel exquisitely fits the crime, by frustrating the offensive behavior itself: "You shall eat, but not be satisfied, and there shall be a gnawing hunger within you; you shall put away, but not save, and what you save, I will hand over to the sword. You shall sow, but not reap; you shall tread olives, but not anoint yourselves with oil; you shall tread grapes, but not drink wine." Nature has retaliated against the Israelites, who are now hoist on their own petard.

All three of these have the inherent paradox. If natural laws are foundational, how can two parts of the foundation contradict each other? How can we obey someone that issues contradictory commands, or imitate someone that perfectly embodies two contradictory qualities? We will come back to those questions time and again. The answer Micah gives is that YHWH wants us to rededicate our lives, not offer up ritual sacrifices.[83] In response to an offer of sacrifice, God commands a change in attitude. Israel, which has drifted away from its covenant, offers a cultic form of worship: false worship, because it starts out with material goods and ends up with an abomination (human sacrifice). YHWH asks instead for a different form of sacrifice: self-sacrifice. Israel needs to reform its heart. It needs to humble itself.

But the law expects lawyers to dedicate their professional lives to justice as defined by the law. How do we escape that dilemma? [2]

[2] Rentfro, D. L., & Stoddart, E. (2019). *The law of freedom: justice and mercy in the practice of law*. Eugene, Oregon: Cascade Books.

New Testament Reference: Early Court Administrator

Matthew Henry's Concise Commentary

Acts 19:32-41 - The Jews came forward in this tumult. Those who are thus careful to distinguish themselves from the servants of Christ now, and are afraid of being taken for them, shall have their doom accordingly in the great day. One, **having authority** (city clerk), at length stilled the noise. It is a very good rule at all times, both in private and public affairs, not to be hasty and rash in our motions, but to take time to consider; and always to keep our passions under check. We ought to be quiet, and do nothing rashly; to do nothing in haste, of which we may repent at leisure. The regular methods of the law ought always to stop popular tumults & in well-governed nations will do so. Most people stand in awe of men's judgments more than of the judgement of God. How well it were if we would thus quiet our disorderly appetites and passions, by considering the account we must shortly give to the Judge of heaven and earth! And see how the overruling providence of God keeps the public peace, by an unaccountable power over the spirits of men. Thus, the world is kept in some order, and men are held back from devouring each other. We can scarcely look around but we see men act like Demetrius and the workmen. It is as safe to contend with wild beasts as with men enraged by party zeal & disappointed covetousness, who think that all arguments are answered, when they have shown that they grow rich by practices which are opposed. Whatever side in religious disputes, or whatever name this spirit assumes, it is worldly, and should be discountenanced by all who regard truth and piety. And let us not be dismayed; the Lord on high is mightier than the noise of many waters; he can still the rage of the people. **[Descriptive]**

New Testament Reference: Early Court Trial Attorney

The name Tertullus in the Bible

There is only one man named Tertullus mentioned in the Bible. His services as a lawyer were acquired by the Jewish high priest Ananias in order to accuse Paul in the court of the Roman governor Felix (ACTS 24:1 and 24:2). Since we may expect that Ananias was an expert in Jewish law, Tertullus was surely a supposed expert in Roman law, who knew precisely which buttons to push, or so he thought. After some due puckering towards Felix, Tertullus started out by rattling off Paul's supposed violations of cardinal Roman edicts: he's promoting a sect that refuses partaking in the imperial cult (punishable by death), and he's desecrating local temples, which was against Rome's cardinal rule of religious tolerance. Paul, a towering intellect and thoroughly educated in a wide spectrum of topics and cultures, realized quickly that Tertullus was nothing but a bluffing amateur, and began his defense with fitting cheer (ACTS 24:10). Felix, knowing about The Way became frightened by Paul's words, hoped he would try to bribe himself out (ACTS 24:22, 24:26) and decided the favor of the Jewish elite was more preferable than the favor of YHWH, and kept Paul in jail (ACTS 24:27).

Etymology and meaning of the name Tertullus

The name Tertullus is a diminutive form of the name Tertius, which is a common adjective meaning Third, and names derived from numbers were very common in Roman times. The English language has no real facility to convey diminution so translating this name literally into English is difficult. But then as well as now, a diminutive doesn't exactly evoke reverence. The author of Acts obviously doesn't shy away from humor, and the character of Tertullus is clearly portrayed as an ignorant belter with little effect one way or the other. *– Internet Sourcing* **[Trial Lawyer @Negative Narrative]**

New Testament Reference: Early Court Legal Specialist

ZENAS ze' nəs (Ζηνᾶς, G2424, Titus 3:13. No doubt a shortened form of *Zenodoros*, "gift of Zeus"). A Christian missionary who worked with Titus on the Island of Crete, or who with Apollos was on a missionary journey for Paul and visited Crete.

Paul knew of this and directed Titus to send Zenas and Apollos on to him in Nicopolis speedily (*spoudaiōs*) with provisions and full equipment (Titus 3:13). No doubt he had a special need for Zenas' particular expertise since he is described as "Zenas the lawyer" (*nomikos*).

A *nomikos* was a learned man skilled in the interpretation of Roman or Jewish law. Most likely Zenas was an expert in the Jewish Torah. The vv. just preceding (Titus 3:9-11) speak of religious legal disputes. Jewish lawyers are mentioned in the gospels as men of high status, perhaps scribes or rabbis among the Pharisees and Sadducees. After Jesus had silenced the Sadducees, the Pharisees came together and "one of them, a lawyer" (*nomikos*), asked Jesus a bold question: "Teacher, which is the great commandment in the law?" (Matthew 22:34, 36; cf. Luke 10:25). In Luke 7:30 lawyers are mentioned again in association with the Pharisees: "the Pharisees and the lawyers rejected the purpose of God for themselves, not having been baptized by him." Jesus pronounces woes upon lawyers because of the legal burdens they placed upon the people (Luke 11:45-52).

All this would indicate that Zenas was a Jewish scholar and legal authority turned Hellenist who took a Gr. name when he was converted to Christianity. Some scholars believe that in view of the anti-Jewish sentiments expressed in the Pastoral Epistles (1 Tim 1:7ff.; Titus 1:10-14) he was a secular jurist, but the evidence in the gospels seems to point in the direction of a Jewish person. Paul received much assistance in his mission endeavors from Zenas and others like him. This could explain why Titus was to see that he was fitted and equipped for the journey in every way: "Do your best to speed Zenas the lawyer and Apollos on their way; see that they lack nothing" (Titus 3:13; cf. Rom 15:24; 1 Cor 16:6). It is possible they were carrying this very letter to Titus in Crete, but it seems such instructions would be given verbally rather than in a letter they were carrying. The passage illustrates vividly the Christian hospitality and obvious support the early churches gave to brethren and workers traveling from one church to another. The closing vv. of Titus indicate the variety and mobility of the early missionaries in the Pauline group. Zenas is mentioned in the Acts of Titus (5th cent.) and some say he wrote a Life of Titus. Late tradition says he became a bishop in Pal.in Lydda. **[SPECIALIST NICHE @APPROVED EXAMPLE]**

Bibliography D. Guthrie, *The Pastoral Epistles* (1957), 209-211; C. K. Barrett, *The Pastoral Epistles* (1963), 147, 148; J. H. D. Kelly, *The Pastoral Epistles* (1963), 256-259.

History Of The Trial Lawyer: Part 1

The First Lawyer Jokes Were From Ancient Greece & Rome

Indeed, many of jokes about lawyers which appear to have become popular in contemporary times are motivated by the same sentiments which appear in this quote from Jesus in the Bible. Lawyers continued to flourish in societies such as ancient Greece & Rome where the institution of the law was used as a method for unifying, regulating and maintain social order in societies which were becoming organized around foundations which are recognizable to modern lawyers. In Ancient Greece, the Athenian legal system, did allow for representation by others within courts. However, this was not done for financial reasons. Athens in this period was split into administrative regions called demes; each deme would recommend people for posts within the governmental system as administrators. It was therefore in the interests of the richer members of each deme to offer legal aid to the poor in order to gain popularity, and thereby a degree of influence in the city. At the same time, it provided good practice for the Athenian Assembly. As the entire citizen body was allowed to vote on every motion, skilled speakers could sway the voters, thus become de facto rulers despite having no actual power. Learning to persuade a jury was part of learning this skill. There was however a group of people that did make their living from the legal system. Logographers (from Greek logographoi) were professional speech writers, who would supply their client with a persuasive speech without the need for involving others. The main proponent of this whose works remain extant is Lysias, from whom we have 34 attested speeches, though it is uncertain how many were actually written by him. As with the other logographoi, Lysias was a metic, a rich foreigner allowed to live in Athens but not given full citizen rights.

This tradition was continued by Ancient Rome. A law enacted in 204 BC barred Roman advocates from taking fees, but the law was widely ignored. The ban on fees was abolished by Emperor Claudius, who legalized advocacy as a profession and allowed the Roman advocates to become the first lawyers who could practice openly, but he also imposed a fee ceiling of 10,000 sesterces. This was apparently not much money; the Satires of Juvenal complain that there was no money in working as an advocate. Like their Greek contemporaries, early Roman advocates were trained in rhetoric, not law, and the judges before whom they argued were also not law-trained.

The First Licensing Bar

But very early on, unlike Athens, Rome developed a class of specialists who were learned in the law, known as jurisconsults (iuris consulti). Jurisconsults were wealthy amateurs who dabbled in the law as an intellectual hobby; they did not make their primary living from it. They gave legal opinions (responsa) on legal issues to all comers (a practice known as publice respondere). Roman judges and governors would routinely consult with an advisory panel of jurisconsults before they rendered a decision, and advocates and ordinary people also went to jurisconsults for legal opinions.

Thus, t**he early legal profession was stratified with lawyers that specialized in the law and others that specialized in rhetoric** which meant that clients might have to visit two different lawyers to handle their case. But this specialization also meant that Roman laws became more precise since there was an entire class of people who focused on just studying and understanding the law.

As the legal profession continued to evolve and become more official in ancient Rome it also became highly regulated. There were many rules around being lawyers that controlled how much a lawyer could charge, where they could plead a case, and how they could become registered with the court or bar. Before this time, any ordinary citizen could call themselves an advocate (lawyer) but once the profession became more regulated, there was a very high standard to meet before being allowed to work as a lawyer, and the profession became only accessible to the higher classes.

Sidenote. In ancient Rome, notaries did not have any legal document management skills — in fact, they had no legal training and were barely literate. But they could draft wills, conveyances, and contracts cheaply. They were also known for drawing simple transactions in convoluted legal jargon as a way of making more money since they were paid by the line. – *Internet Sourcing*

History Of The Trial Lawyer: Part 2

The First Law School Was Medieval

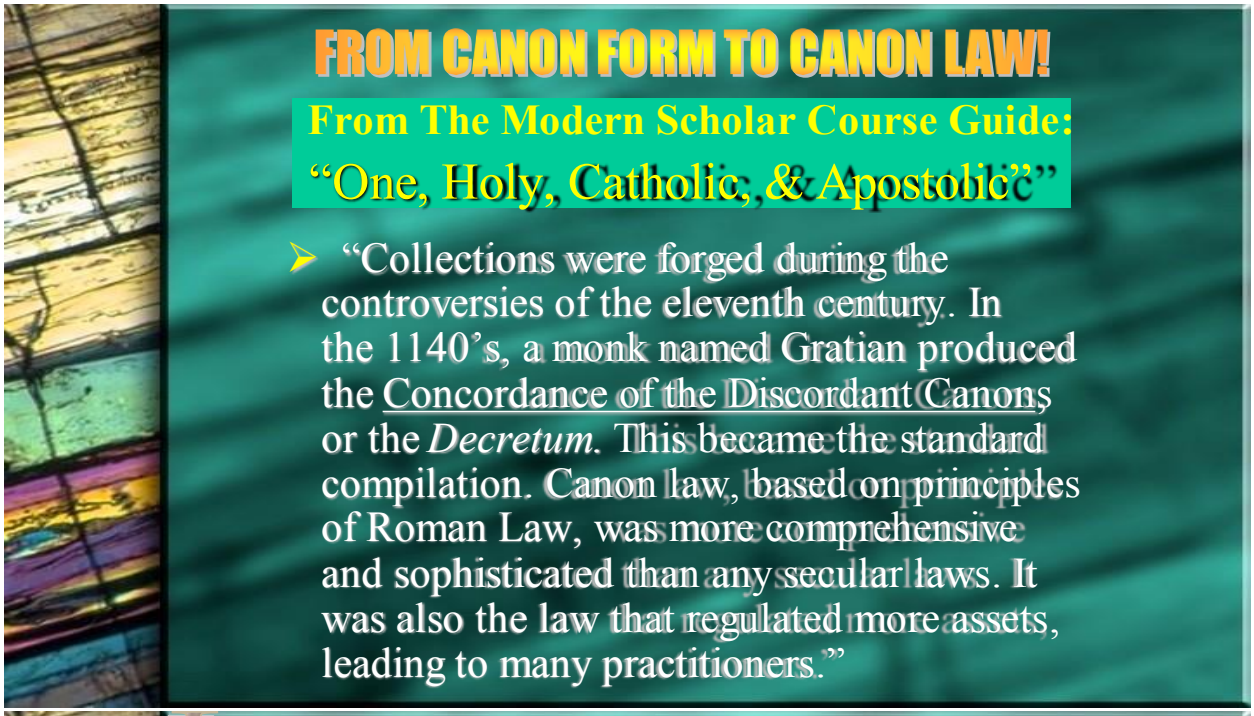
In the modern world, the first Law School was not opened until 1100 AD in Bologna, Italy. Although people were actively studying the written law since the BC era, it was the English King, Edward I in the late 1200s AD who spawned the earliest form of modern lawyers through legal reforms in England. These early lawyers were called 'barristers' and 'solicitors' and they represented 'for' and 'against' sides in legal disputes. An interesting note, the movie Braveheart was based on the story of King Edward I and William Wallace of Scotland in 1304. William Wallace wasn't allowed by King Edward to be represented by a lawyer.

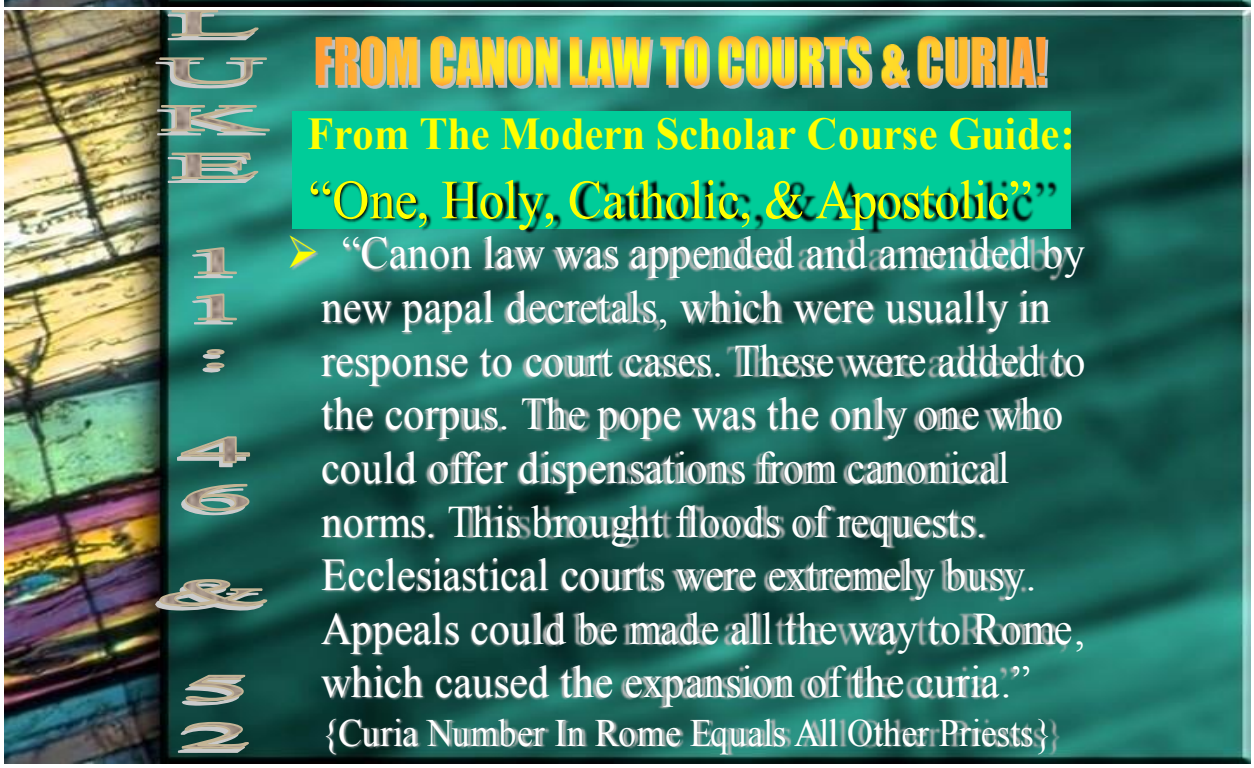
Legal Profession In The Middle Ages

Lawyers in medieval times found themselves struggling to make a living as the legal profession collapsed in the western world. But the profession did have a resurgence eventually but *mostly in a form that served the church and its laws*. And between 1190 & 1230 the state and the church doubled their efforts to control and regulate the profession. There was a strong push to professionalize the legal profession and make lawyers swear an oath before being allowed to practice law.

It's interesting to note that ancient lawyers in the middle-ages developed quite a **negative reputation** because there was excessive litigation during that time which was caused by a large number of lawyers who created extra litigation due to their incompetence or misconduct. To put it quite bluntly, lawyers were not trusted and their tight regulation was being pushed from various sectors of society. – *Internet Sourcing*

HRE TRIAL LAWYER: CHURCH

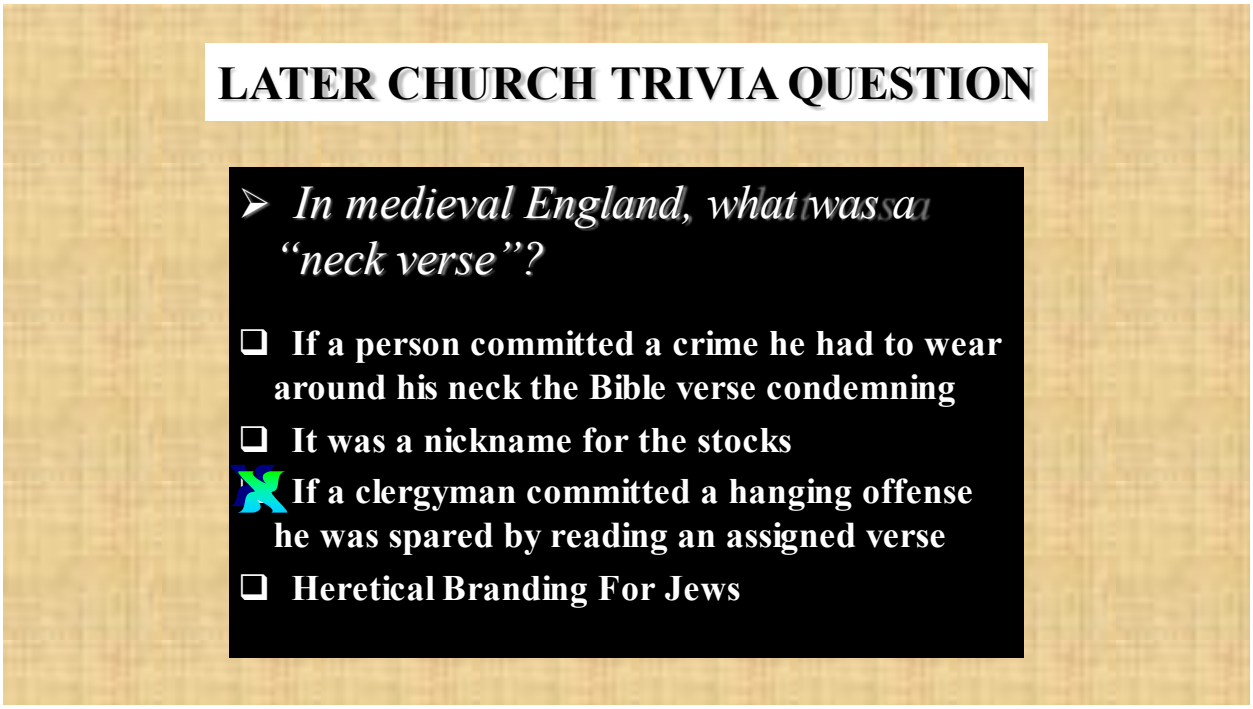


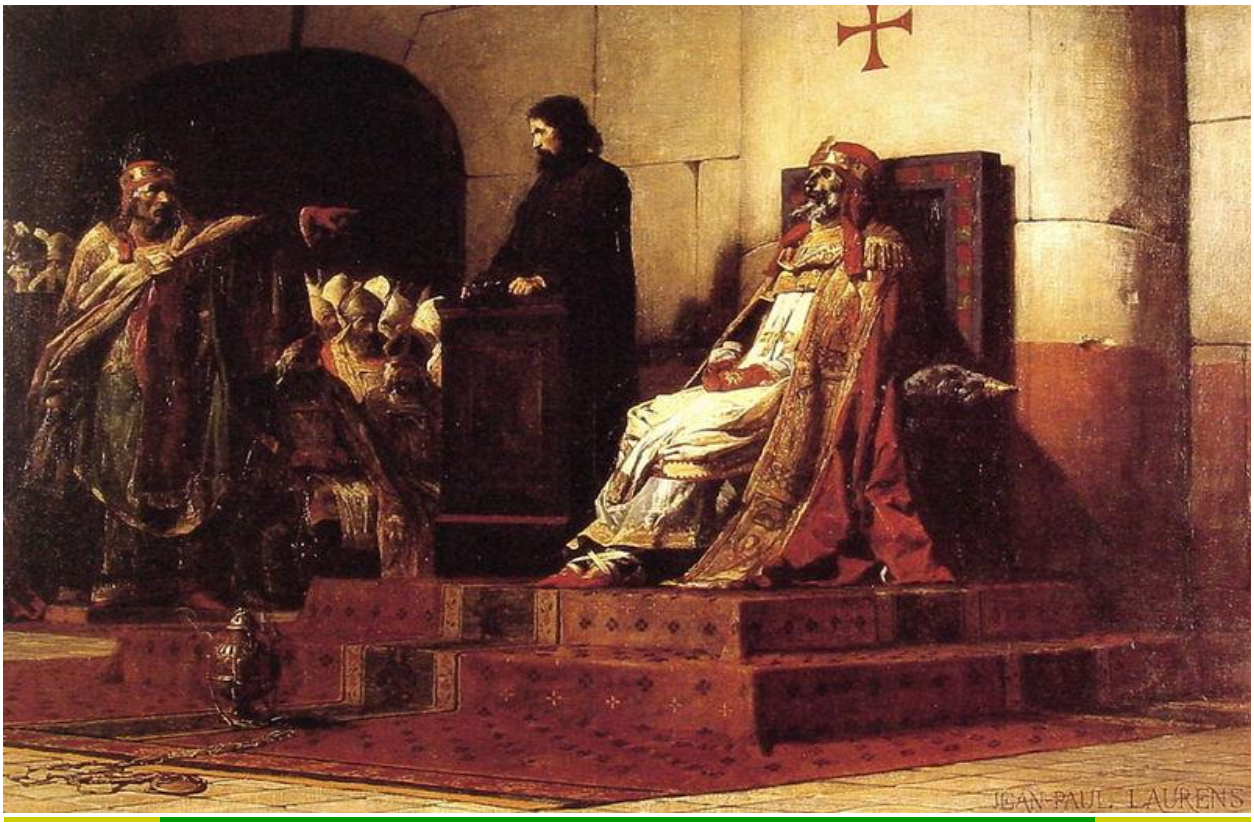


BENEFIT OF CLERGY - A LEGAL ANOMALY:

I. DEVELOPMENT OF BENEFIT OF CLERGY. Among the most prized privileges of the Medieval Church was benefit of clergy. This may be defined as an immunity by which clergymen accused of felony, could be tried only in their own courts. Not only did the ecclesiastical courts have exclusive jurisdiction in cases of offenses by clerks against criminal law, but also in all cases of offences by laymen against clerks. By this privilege the clergy acquired a peculiar sanctity which set them apart from the laity. The personal inviolability surrounding them gave them a great advantage in contests with civil authority and since the Church was held responsible only to divine law, it became almost independent of the civil power and in all differences with temporal rulers this privilege was of great value. This medieval custom was not established without a long and bitter struggle. It was not considered unreasonable that disputes between ecclesiastics should be settled by their bishops, and this was the established rule of the church from an early period. But the claim that the felonious clerk shouldn't be tried in a temporal court and that all disputes between laymen and ecclesiastics should be settled in church courts was not easily granted. Benefit of clergy had its origin in the high regard in which the Church and its officials were held by secular rulers. As early as 355 A. D., the Roman Emperor Constantius decreed that bishops could be tried only by bishops and later Justinian allowed the clergy the right to have episcopal judges, though he carefully reserved the power of disregarding the exemption: "nisi princeps jubeat. ' The early British Church presents one of the first instances of benefit of clergy. The Welsh canon laws of the seventh century provided that if a clerk sued a layman he was to bring his case before the secular court. But if the clerk was the defendant, the trial was to be held before the bishop, and if the clerk had been tried and convicted in an earlier trial he had to content himself with secular law. In the Frankish Kingdom laws were personal instead of territorial. The Franks, Romans, and Goths were allowed trial by their own code of laws, no matter how mixed the population, and so it was only natural that the clergy, as a separate class, should have the benefit of canon law. As early as 538 A. D., the Third Council of Orleans was able to enact a canon declaring that episcopal consent was necessary before a clerk could appear in a secular court either as plaintiff or defendant. The steady persistence of the Church, backed by the use of excommunication, succeeded to such an extent that by 1000 A.D. benefit of clergy was acknowledged by the laws of practically all nations of Europe. This privilege proved to be an injury to the community and a source of corruption to the clergy.

The clerk, while he might be exempted from secular law, was not exempted from committing secular crimes. The facility of escape in the ecclesiastical courts far exceeded that in the temporal courts for in the Church there was a fraternal spirit which made ecclesiastical judges very lenient toward accused clerks appearing before their courts. Moreover, the theory that degradation was the most heaviest punishment that the episcopal court could inflict and the rule that forbade the ecclesiastical judges to inflict the death penalty rendered the Church an asylum for those charged with crime. Nevertheless, benefit of clergy was an established institution in the middle-ages. There was much legislation to limit its scope but the privilege was not abolished until modern times. Established in a period when men could look to the Church alone for protection against violence, it remained after the formation of well-organized courts of justice. Its purpose was to give the Church protection from unjust and biased decisions of worldly judges, but in practice the benefit tended to evade justice and protect the enemies of society. So, throughout the Middle Ages, we find the State waging war against Church over the privilege of benefit of clergy. The struggle was bitterly fought on both sides and it was with great difficulty that the Church was forced to submit to the secular courts.





March 0f 896: The Synod Horrenda

Quoting Pages 19 - 20, The Bad Popes by E. R. Chamberlin

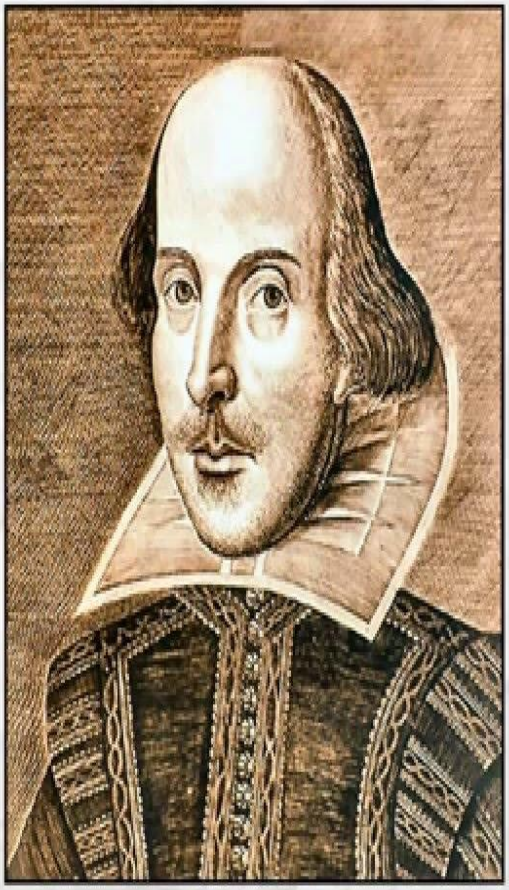
Said Of Author & Book By The Catholic World Magazine:

"John XII, the dissolute, satyr-like Roman prince; Benedict IX, who subjected the Papacy to its greatest indignity; Boniface VIII, ruthless in his insatiable hunger for absolute power; Urban VI, the wild man from Naples whose grotesque savageries widened the Great Schism; Alexander VI, who brought Borgia intrigues and debauchery to the See of Peter; Leo X, ruler of Rome at the height of its glory and corruption; Clement VII, the unskillful fox who brought ruin to the city and almost to sh Church. Seven different Popes, each of whom precipitated a crisis in the Church– they stole, plundered, gambled, killed, fornicated. …E. R. Chamberlin's in-depth approach adds much to the honesty of Church history and carries out Leo XIII's injunction at the opening of the Vatican archives to tell the truth." Cover Page Endorsement Along With Washington Post

"In that month(March) the triumphant faction, whose leader now ruled briefly as Pope Stephen VII, set in motion a solemn trial of the late Pope Formosus, quondam leader of the rival faction. The act of judgment was no mere formality. The corpse itself was dragged from the tomb where it had rested for eight months and, dressed again in its sacerdotal robes, was brought into the council chamber. There it was propped up in the throne that it had occupied in life while, in a parody of legal form, the 'trial' went its blasphemous way. The corpse was provided with a council, who wisely kept silent while Pope Stephen raved and screamed his insults at it."

HRE TRIAL LAWYER: STATE

"THE FIRST THING WE DO, LET'S KILL ALL THE LAWYERS."
HENRY VI, PT 2



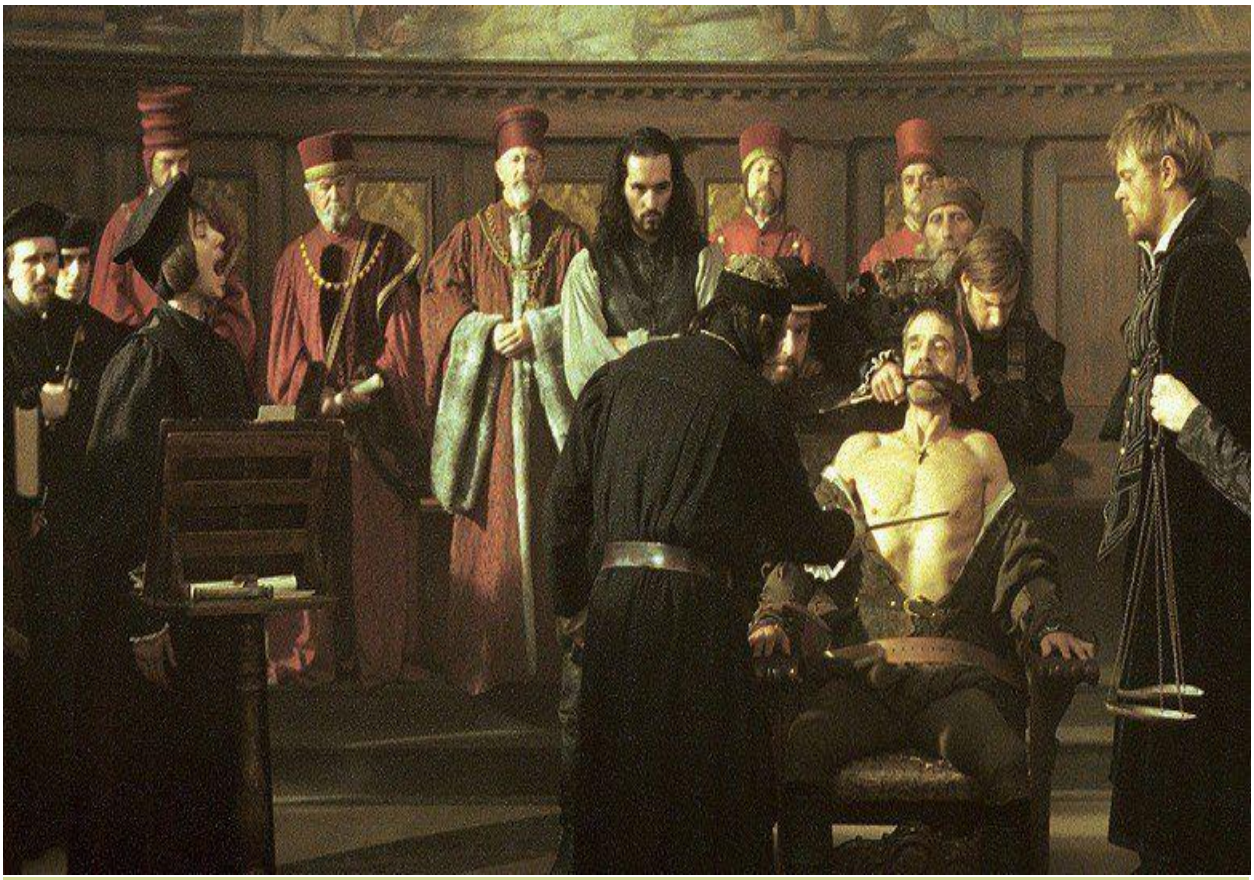

William Shakespeare's
The Merchant of Venice

SHYLOCKS ENEMIES

- Shylocks biggest enemy in ' The Merchant of Venice', is Antonio. Antonio is the Merchant of Venice who owns trading ships that are currently out at see when Bassonio gets a loan from Shylock, and put down Antonio's name as the loan's guarantor. Although Antonio refuses to apologize for his behaviour, Shylock acts agreeably and offers to lend Bassonio three thousand ducats with no interest. Shylock adds, however, that should the loan go unpaid, Shylock will be entitled to a pound of Antonio's own flesh. Despite Bassonio's warning, Antonio agrees.

The Pound of Flesh

- Two of the play's closest relationship
- Remind of rigidity of Shyolck's world
- Near the heart



es

The Quality Of Mercy

The quality of mercy is not strain'd.
It droppeth as the gentle rain from heaven
Upon the place beneath. It is twice blest:
It blesseth him that gives, and him that takes.

'Tis mightiest in the mightiest; it becomes
The throned monarch better than his crown.
His scepter shows the force of temporal power,
The attribute to awe and majesty,

Wherein doth sit the dread and fear of kings;
But mercy is above this sceptered sway;
It is enthroned in the heart of kings;
It is an attribute to God himself;

And earthly power doth then show likest God's
When mercy seasons justice.

William Shakespeare

Conflicts of Law and Equity in The Merchant of Venice

By Rick Laws

William Carlos Williams once said that "Shakespeare is the greatest university of them all" (qtd. in Kornstein xiii). This is especially true with respect to the law: a dedicated scholar can discover a wealth of information on legal issues in Shakespeare's works. Measure for Measure and The Merchant of Venice are, of course, explicitly "legal" in content, but more than twenty of the plays have some form of trial scene (Kornstein xii). Virtually all of the plays are tangentially concerned with some aspect of the law; at the very least, Shakespeare uses complex legal jargon to elicit a laugh.

It is therefore not surprising that the interdisciplinary study of law and Shakespeare has grown into a fully recognized field, with major law schools offering advanced degrees. Such interdisciplinary examination has opened for us a new vista of understanding. The Merchant of Venice "has spawned more commentary by lawyers than any other Shakespeare play" (Kornstein 66). One can easily find a discussion of every legal concept raised in the course of the play (White 111-46), a detailed legal dissection of the trial scene in Act IV (Keeton 132-50), and even an imaginary appellate strategy on behalf of Shylock (Kornstein 83-85).

The link between Shakespeare and the law is not new; even a casual perusal of the literature will show that scholars have long realized that the legal discourse can lead to a better understanding of Shakespeare's works. I submit, however, that the converse is also true: that the study of Shakespeare can lead to a deeper understanding of the fundamental nature of law.

The play The Merchant of Venice has a great deal to offer in the course of a reading. **The action of the play is more concerned with contract law, but issues of standing, moiety, precedent, and conveyance are also raised.** At the most fundamental level, though, the trial scene in Act IV illustrates the conflict between equity and the strict construction of the law.

Equity, in the legal sense, is "justice according to principles of fairness and not strictly according to formulated law" (Gilbert 103). Law and fairness are set at extreme ends of some continuum of justice, and are exclusive. The definition implies that one can have justice according to "fairness," or justice according to "formulated law." Yet if law is not inherently fair, if there is need for a concept of equity, how can the law be said to be fulfilling its purpose?

When Shakespeare wrote The Merchant of Venice, there were actually separate courts in England for the administration of law and of equity. One appealed to the Court of Common Law to seek redress under codified law, or to the Court of Equity to avail oneself of the judgment of men. The two spheres were kept strictly separate, and it was not until the reign of James I that courts of law began to consider principles of equity in the resolution of disputes (Keeton 136-37). In such a system, the terms of forfeiture of a bond, like the one sealed between Shylock & Antonio, fell under the purview of the Courts of Common Law. These courts, in the sixteenth century, relied upon strict construction; that is to say, a literal reading of applicable law and the instruments made to employ such law. A contract, like the one made between Shylock and Antonio, was "fully enforceable at law" (Keeton 136).

This means that any penalty stipulated in the contract would be automatically awarded if the contract were not strictly upheld. A delay in repayment of even a single hour would result in any forfeiture that the debtor had agreed to pay. **It is this notion of "fully enforceable" contract that leads Portia to proclaim initially that "lawfully by this [contract] the Jew may claim/A pound of flesh" (IV.i.229-30).**

The dichotomy between law and equity, between strict construction and principles of fairness, is evident in Shylock's initial proclamations. The law is on his side & he knows it. **When he states, "I stand here for law" (IV.i.142), & "I crave the law" (IV.i.204), these terms are meant in binary opposition to equity. Shylock seeks a justice based upon vengeance, not *fairness*.** He comes armed with a contract strictly enforceable and clings tenaciously to the most literal interpretation possible. It is evident that Shylock intends to wield the law as a weapon against Antonio; **when Portia pleads with him to have a doctor stand by to save Antonio's life, Shylock obstinately refuses on the grounds that "'Tis not in the bond"** (IV.i.260).

In contrast to Shylock's reliance upon strict construction, Portia urges the consideration of principles of equity. She delivers a passionate speech on the need for considerations of humanity in the adminisration of the law:

> **Though justice be thy plea, consider this,**
>
> **That in the course of justice none of us**
>
> **Should see salvation. We do pray for mercy,**
>
> **And that same prayer doth teach us all to render**
>
> **The deeds of mercy (IV.i.196-200).**

Mercy, or the imposition of basic principles of fairness upon the strict letter of the law, lies at the heart of equity. Portia's famous speech on the qualities of mercy attributes this human capacity in mankind to a higher, divinely inspired form of law:

> **The quality of mercy is not strained.**
> **It droppeth as the gentle rain from heaven**
> **Upon the place beneath. It is twice blest;**
> **It blesseth him that gives and him that takes.**
> **. . . It is an attribute to God himself;**
> **And earthly power doth then show likest God's**
> **When mercy seasons justice (IV.i.182-95).**

Shylock soon learns, of course, that strict construction is a double-edged sword. When her appeal to equity fails in the force of Shylock's lust for vengeance, Portia must retreat to the battlefield of law, and here the moneylender is undone. Shylock's defeat on a legal technicality makes for good drama, but the legalities are based on a false premise, and even here the effects of equity in consideration of law can be seen… **Shylock is awarded his pound of flesh, but is enjoined from taking any of the accompanying blood; since he cannot take the one without spilling the other, he is forced to abjure his forfeiture.**

It is a tenet of common law, however, that any granted right must also entail any incidental powers necessary to its exercise. One jurist has likened Portia's winning argument to a judge granting an easement but denying the right to leave footprints on the ground, since the subsidiary right is not expressly granted in the contract (White 142n1).

Shylock comes to court to seek redress for default of a loan; he leaves the trial bereft of all of his property, stripped of his lifelong faith, and very nearly sentenced to death. The punishment of Shylock offends a cultural sensibility that cannot be denied, and political correctness forces us to decry its insinuations even as we applaud its syntax.

The Merchant of Venice is, at its heart, a skillful examination of the tension between law and equity. In the 1980 BBC production, Shylock enters the courtroom carrying a balance, a bit of stage direction that does not appear in the play script (IV.i.15sd). **Of course, the obvious inference is he intends to use the scales to weigh out his forfeiture, a pound of Antonio's flesh. Yet the scales have long stood as a symbol of justice; Homer's Iliad may be the first use of this symbol (XXII.249, for example), or it may be even older. If we view the two scales as representing law on one side, and fairness on the other, the point at which they balance is equity. When strict adherence to the law outweighs basic principles of fairness, there can be no justice.**

- *Rick Laws*

An ancient conflict between strict law (including rigorous enforcement of contract rights) and common compassion lies behind these examples. The accounts of Samuel Johnson's long friendship with James Boswell contain not one but two discussions of this conflict. The first-in-time anecdote, from the *Life of Johnson*, occurs soon after Boswell becomes a lawyer. Boswell asks Johnson a question that all new lawyers ask sooner or later: "What do you think of supporting a cause which you know to be bad?" Johnson gives what today would still be the conventional answer:

> Sir, you do not know it to be good or bad till the Judge determines it. I have said that you are to state facts fairly; so that your thinking, or what you call knowing, a cause to be bad, must be from reasoning, must be from your supposing your arguments to be weak and inconclusive. But, Sir, that is not enough. An argument which does not convince yourself, may convince the Judge to whom you urge it; and if it does convince him, why, then, Sir, you are wrong, and he is right. It is his business to judge; and you are not to be confident in your own opinion that a cause is bad, but to say all you can for your client, and then hear the Judge's opinion.

By "bad," Boswell means "dubious" or "legally uncertain," in the same way that trial lawyers today refer to having a good case or a bad case. Johnson's reply reminds Boswell of the roles the participants play in litigation. Advocates advocate, he says, and judges judge. Every law student hears this at some point in his or her first year of school. The *Tour to the Hebrides* tells of a second interchange that occurred roughly five years later. Sir William Forbes, a friend of Boswell's, suggests that "an honest lawyer should never undertake a cause which he was satisfied was not a *just* one." Johnson replies:

> A lawyer has no business with the justice or injustice of the cause which he undertakes, unless his client asks his opinion, and then he is bound to give it honestly. The justice or injustice of the cause is to be decided by the judge. Consider, sir; what is the purpose of courts of justice? It is, that every man may have his cause fairly tried, by men appointed to try causes . . . If lawyers were to undertake no causes till they were sure they were just, a man might be precluded altogether from a trial of his claim, though, were it judicially examined, it might be found a very just claim.

In truth, Johnson makes two distinguishable points, because Boswell and Forbes had different concerns. Boswell's worry was the appropriateness of arguing a dubious *legal* point. Legal ethics deal with that concern extensively. Lawyers are perfectly free to argue a case that, to all appearances, has the law against it. We do this in several ways. We distinguish our facts from precedent that seems on point. We argue that a statute doesn't apply, or that another statute contradicts the first, or (in a contract case) that the document is ambiguous. In a pinch, we contend that unfavorable precedent should be overruled, or a statute declared invalid. Johnson's advice to the fledgling lawyer that the court, not the advocate, determines the legal sufficiency of a claim is spot on.

Forbes, however, raises a different topic: the morality of bringing an action that could yield an *unfair*, *harsh*, or *inequitable* result—one, in other words, that violates *primary* justice. Johnson, immensely intelligent, would have perceived the distinction, and his response shows it. It would have made no sense to say that a lawyer should keep to himself his opinion about the *legal* viability of a claim. What is legal advice if not that? Rather, Johnson tells Forbes that the lawyer may form an opinion about the decency, we might call it, of the client's case, but that he should only offer it if asked. Johnson also tells Forbes that the lawyer should bring the claim regardless of its intrinsic morality.

For the moment, though, let's think about the underlying assumptions behind Johnson's statement. Johnson would vest the judge with the power, indeed the obligation, to address both the legal validity and the justness of a claim. At his time, Johnson's view was the orthodox one. For most of Western history, in fact, courts have passed on the justness of a claim as well as its legal soundness. This practice was based in part on the received wisdom that certain moral truths were objectively true, and any law that violated those truths was invalid or, at a minimum, worthy of neglect by the judge when the application of the law led to a result that violated these fundamental truths.

By the end of the eighteenth century, however, legal scholars and philosophers began to question the court's right to pass moral judgment on a legal claim. For the moment, let us briefly note two things. First, several legal movements, most notably utilitarianism and legal positivism, promoted the idea that law and morality had nothing to do with each other. Second, and related to the first, the public has become increasingly suspicious of what lawyers call "judicial discretion." The conflict between strict enforcement and compassion vexes Christian lawyers even more, because of mercy's centrality to Christianity.

The conflict between law and morality troubles the Christian lawyer in at least three ways. First, many Christians subscribe to the "divine command" theory of ethics. Morality consists in following God's commands, no more and no less. There have been centuries of debate about whether moral rules are good because God orders them, or whether God orders them because they are independently good. (This is the famous "Euthyphro" dilemma, from the Socratic dialogue of the same name.) Christian theories of God call this dilemma false, because not even an omnipotent God could order something contrary to his wholly good omnibenevolent nature. God being essentially good, his commands can no more be evil than a triangle can have four sides.

The second might be called the divine imitation model. Christianity being unique in having an embodied divinity, divine imitation is a specifically christological model. It looks beyond the teachings to the life of Jesus as a moral exemplar. We must read the Gospels as biography, and view Jesus as as much a moral paradigm as a moral teacher. Christ was humble and merciful, and therefore so should we be. Jesus was holy, and we should imitate his holiness. Most importantly, Jesus was "radically inclusive," forgiving sinners and even inviting them into his company. So, the argument goes, should we.

A third, completely different, collision between the problem and Christian belief comes out of the "natural law" theory. John Carnes defines natural law so: "A natural law theory holds that the fundamental principles of morality and legality, and hence of society, are rooted in the nature of the universe, and more specifically, in the nature of man himself, that they are 'rational,' and that they are universal and eternal."[19] Hugo Grotius, sometimes called the "father of natural law," believed that natural law was consistent with Christianity, and in fact was based in Christian truth, which, as he saw it, was the source of all truth about the world. According to Grotius, however, "the law of nature is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of nature, God." In other words, natural law, based on right human reason, would be true for and available to anyone, even non-theists. As a result, Protestants have frequently objected to natural law theories, which hold that natural law is available to all, because that seems to place Scripture in an inferior position behind nature (and reason) as a source of divine truth. Natural law, as a strictly legal theory, no longer holds much sway in the age of legal positivism, because it cannot be "verified."

In holding that there exists a law higher than positive law, obligates a lawyer (whose professional duties are bound up in human positive law) to choose. If natural law emanates from God's reason, a lawyer that chooses statutory over natural law violates divine reason.

Nevertheless, Johnson tells Forbes that a lawyer should keep his moral opinions to himself, and to ignore them when deciding whether to take a case. It reminds us of **J. P. Morgan's famous line: "I don't know as I want a lawyer to tell me what I cannot do. I hire him to tell how to do what I want to do."** Except, in this case, we worry about "should not" rather than "cannot" do. **Does this mean faithful Christians cannot be good lawyers? No**; a "solution" to this seemingly irresolvable dilemma exists, one with a long theological history but one that has been forgotten of late. The theory of *equity*, an old-fashioned legal concept, finds its roots deep in theological soil. Johnson's confidence that the court would concern itself with the justness of the claim rested in the historically strong commitment to equity in the English legal system.

"Equity" in the law carries philosophical, substantive, and procedural connotations. It also has a theological meaning. When I use "equity" as a legal term, I borrow Blackstone's definition, which he borrowed from Hugo Grotius: "the correction of that wherein the law (by reason of its universality) is deficient."[25] When I use it as a theological term, I refer to a personal quality that values the moral over the legal.

Mercy, although fundamental, is not the only value that demands our moral allegiance. Christianity strongly emphasizes the importance of law, including the enforcement of promises and the punishment of wrongdoing. Equity, which sees itself threatened by several elements of modern legal theory and practice, serves to promote a balance between strict justice and compassion, which in turn diminishes the intensity of ethical challenges for lawyers. Less equity, less true justice, and more ethical problems for lawyers and judges. And, despite T. S. Eliot's warning that Dr. Johnson is "a dangerous person to disagree with,"[29] I hope to show that **the only way a Christian lawyer can confront the Dilemma is by making the justice or injustice of the client's cause the lawyer's business also, regardless of whether the client asks**.[3]

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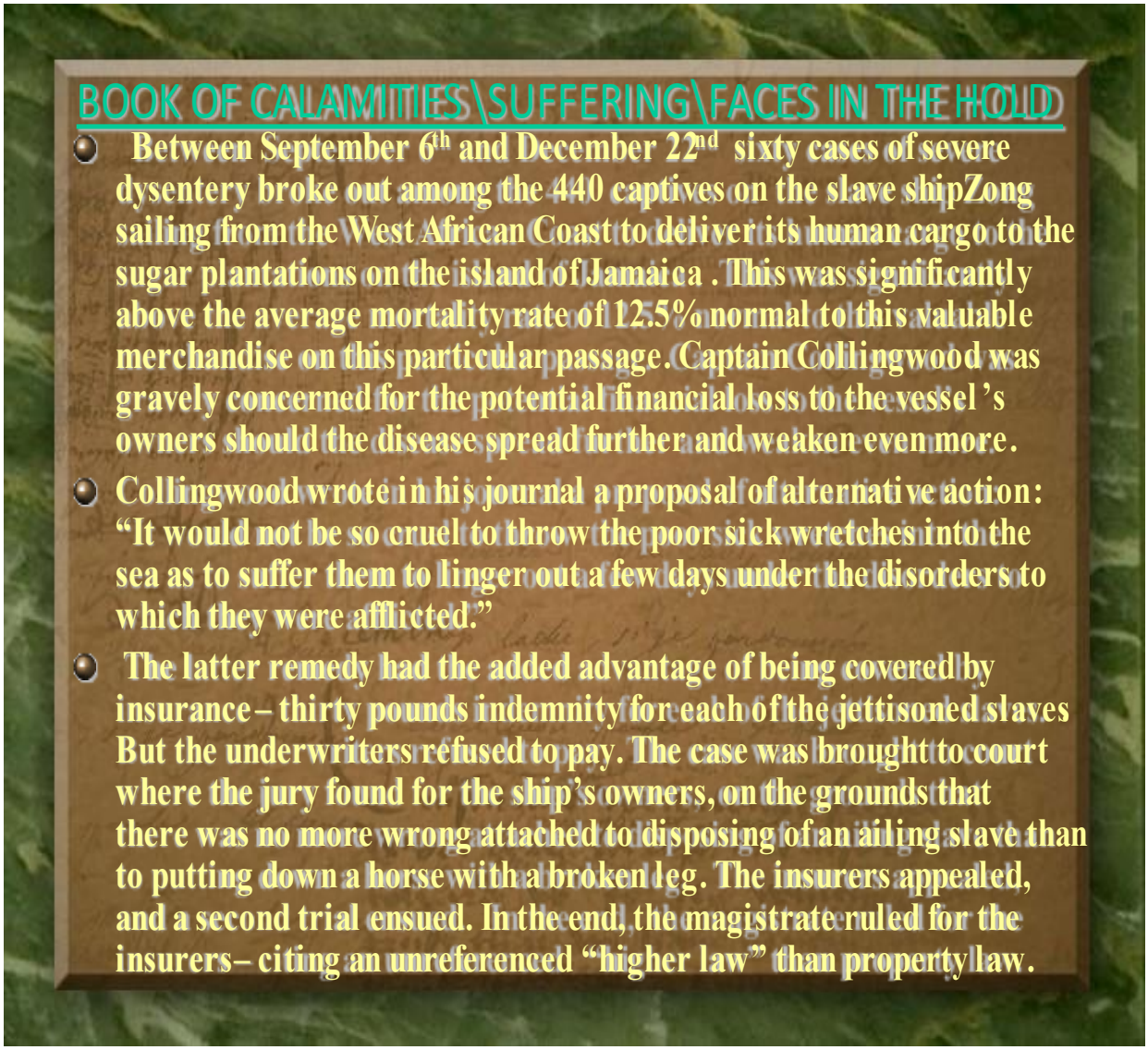
[3] Rentfro, D. L., & Stoddart, E. (2019). *The law of freedom: justice and mercy in the practice of law*. Eugene, Oregon: Cascade Books.

History Of The Trial Lawyer: Part 3

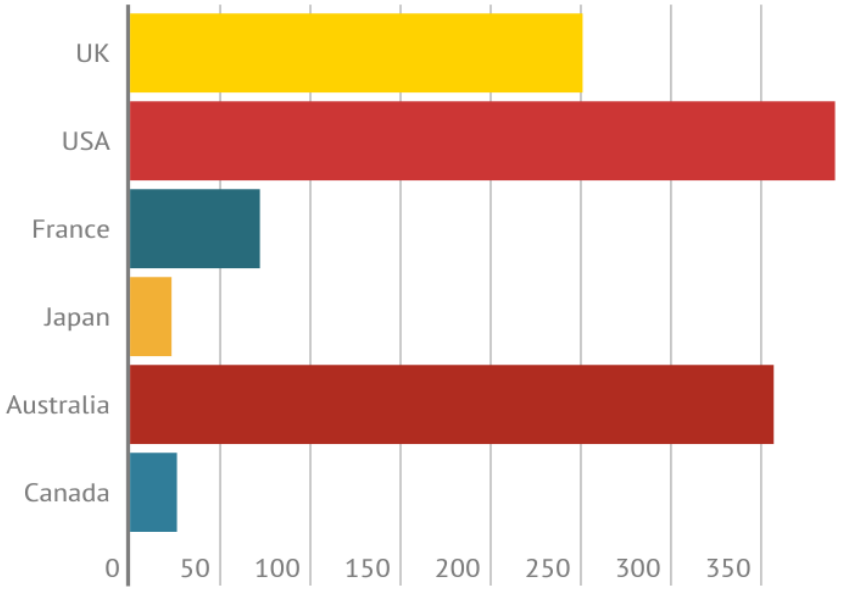
American History of Lawyers

When did lawyers first start practicing in the United States?
It's important to understand that the history of attorneys is filled with changes and fluctuations. In order for a society to need lawyers, there must be a certain level of advancement. This means the first lawyers didn't immediately appear in the Americas when the British colonies were established. And many people in the early colonies were hostile to lawyers, even more hostile than the people were in Europe. Some colonies outlawed lawyers and where lawyers were allowed to practice, they were tightly regulated and allowed to charge only a small fee. As the colonies began to thrive financially the need for lawyers grew but most lawyers were untrained and a client was simply taking a risk on the quality of a lawyer they hired. In Massachusetts, there was not any special training required to be a lawyer until 1761 when the bar formed an association & required that lawyers have seven years training before they could practice law. The bar also established professional ethics that all lawyers were required to follow.

Eventually, the prejudices against lawyers started to fall away and the legal profession began to gain respect and power. Twenty-five of the fifty-six men who signed the Declaration of Independence were lawyers. Lawyers were being trained in courts and eventually after the American Revolution, bars were established across the country and the education of lawyers became formalized. Centuries before legal practice software was around, the first law degree granted in the United States of America was a Bachelor of Law in 1793 by the College of William & Mary. The degree was called an L.B. & eventually was called an LLB. In the 1850s many small law schools were established by lawyers in the United States paving the way for aspiring lawyers to get the education they needed to practice. – *Internet Sourcing*


BOOK OF CALAMITIES\SUFFERING\FACES IN THE HOLD
Between September 6th and December 22nd sixty cases of severe dysentery broke out among the 440 captives on the slave shipZong sailing from the West African Coast to deliver its human cargo to the sugar plantations on the island of Jamaica . This was significantly above the average mortality rate of 12.5% normal to this valuable merchandise on this particular passage. Captain Collingwood was gravely concerned for the potential financial loss to the vessel's owners should the disease spread further and weaken even more.
Collingwood wrote in his journal a proposal of alternative action: "It would not be so cruel to throw the poor sick wretches into the sea as to suffer them to linger out a few days under the disorders to which they were afflicted."
The latter remedy had the added advantage of being covered by insurance – thirty pounds indemnity for each of the jettisoned slaves But the underwriters refused to pay. The case was brought to court where the jury found for the ship's owners, on the grounds that there was no more wrong attached to disposing of an ailing slave than to putting down a horse with a broken leg. The insurers appealed, and a second trial ensued. In the end, the magistrate ruled for the insurers– citing an unreferenced "higher law" than property law.

Number of lawyers per capita



How Our Legal System Creates the Lawyer's Dilemma

Before we start our discussion of equity, let's first examine how legal theory, legal training, and rules of professional conduct in the United States all create ethical dilemmas for lawyers.

The turn of the nineteenth century saw the rise of a philosophical movement, along with a substantially related legal theory. The philosophy was utilitarianism; legal positivism was the legal theory. Utilitarianism is the best-known of a group of moral philosophies under the heading "consequentialism." **Consequentialist** theories judge actions solely by the good they cause or the evil they avoid. "The ends justify the means" is a serviceable, albeit a bit cheeky, *precis* of consequentialism. The theory considered the great antithesis of consequentialism is "deontological," or rule-based, morality. **Deontological** theories break down further into "duty-based" and "rights-based" theories. Deontological models judge actions not by their consequences, but by whether they accord with agreed-upon rules of conduct, fulfill duties the actor owes others, or honor the basic rights of other persons.

A third category, **"virtue-based"** theories, judge actions according to broad standards of virtue (such as honesty or bravery). Something is ethical if it is the type of thing that an ethical person would do.

Virtue-based ethics are more subtle than deontological, because they recognize unavoidable conflicts between moral rules. Virtue ethics are said to be founded on what the Greeks called phronesis—practical wisdom.

Utilitarianism judges both actions and beliefs by how—i.e., to what extent—they promote good states of being, such as happiness, and eliminate bad states, notably suffering: hence, by their *utility*. Utilitarianism qualifies as an ethical system, in the common-sense meaning, because it is impartial; everyone's well-being counts the same.

Utilitarianism was not strictly a legal theory, but it did have legal reform as one of its goals. First, it calls into question whether there is a moral obligation to follow the law if doing so causes pain. Second, it suggests that the laws should be appraised by how useful they are. That the application of a rule might trigger a harsh or painful result in an individual case was irrelevant if it generally led to the greater overall good, by increasing the excess of happiness versus sorrow; in fact, such individual pain was to be expected.

At more or less the same time that utilitarianism emerged as a philosophy, legal positivism, which was specifically jurisprudential, also served to diminish the significance of moral norms for the legal system. Legal positivism is a descendant of utilitarianism; A law's *morality* was irrelevant to the question of its *validity.*

I suspect that most lawyers today would accept this view, sometimes called "soft positivism." In the United States, the highest criterion for evaluating the validity of a law is itself another body of law: the United States Constitution. A valid law cannot violate a provision of the Constitution.

Later varieties of legal positivism progressed beyond the premise that a law's *validity* does not depend on its ethics, to the more aggressive claim that, ethics being a private affair, ethical questions are irrelevant to the *prudence* or *wisdom* of a law. The privatization of morality had been a philosophical debate for a couple of centuries; Thomas Hobbes and David Hume (who strenuously argued that "is" should be distinguished from "ought") were central participants. It was only in the nineteenth and into the twentieth century, however, that such theories began to have significant practical impacts on the way lawmakers (and judges) look at law.

Oliver Wendell Holmes also wrote two of the most influential texts in the history of American legal theory. First, there was *The Common Law* (1881), which contains his famous line **"the life of the law has not been logic; it has been experience."** Sixteen years later came "The Path of the Law," which formulated his famous "prediction theory": from a client's perspective, **the question of whether an act is illegal is whether, given all the circumstances, he will be punished if he commits it.** From the Holmesian view, the speed limit is whatever traffic police will enforce, so that in vast stretches of the American West at certain times of the day there is no illegal speed. Later in the century this idea took hold under the name **"legal realism."**

The morality of a law was none of a judge's business. The relation (if any) between act and moral obligation, he said, was a question for philosophy, not law. No wonder, then, that H. L. Mencken once said that Holmes was much more interested in the rights of lawmakers than the rights of man.[42]

While Dr. Johnson assumed that a judge had the authority to rule on the morality of a case, as law divorced itself from morality, a judge's ability to rule on the fairness of an action diminished also. One cannot help noting that, in each of the examples in the previous paragraph, the trial judge's lack of ability to intervene harms the less powerful side of the transaction: the criminal defendant, the borrower, the consumer.

More recently, the "law and economics" model - sometimes referred to as the "Chicago School" - revives utilitarianism under another name, by attempting to quantify the merits and flaws of all social policies according to predictions of economic cost versus benefit. The law and economics theory in its more modest form applied the criteria of economic efficiency to certain discrete bodies of law, notably antitrust. Antitrust laws govern economic activity, and so it makes sense that economic effects should be the standard by which one evaluates them. Since wealth maximization, shocking as this may seem, is occasionally amoral, the potential for conflict between a lawyer's legal duties and moral choices increases.

Legal positivism and law and economics theory are only two manifestations of an even larger phenomenon. The twentieth century witnessed the growth of the **"instrumental" view of the law**, something that has been called the **"ordinary religion of the law school classroom."** The instrumental view turns law from a way of *being* to a method of *doing*. Utilitarianism and law and economic theories are instrumentalist. Rather than either reflecting who we are as a society, or defining who we are, they see law as a way of achieving some other social policy.

Much high-visibility litigation is exceedingly instrumental. We seem to care much more about the social implications of the result than its impact on the actual litigants.

Lawyers that represent public interest groups or practice public interest class action litigation seldom have an identifiable person as the effective client.[50] There may be discrete groups of persons that suffer individual injuries through broad brush executive orders. The work of representing those individuals is grubby, underpaid, and largely invisible. The publicized litigation, such as class action, tends to look more like legislation than dispute resolution.

The instrumental view that I am concerned with - which creates the most moral dilemma - concerns the use of the law as a tool—that is, an instrument—to get a client what the client wants. It values law only as a means to an end. This type of instrumental view attaches long before an actual client with an individual problem walks through the door.

A new lawyer learns, and then in his professional oath swears, to become an instrument for achieving his client's goals. In the process, the lawyer sublimates his own goals, desires, and—most significantly for our purposes—his beliefs, to his client's.

No doubt, lawyering inherently contains this instrumentalist aspect. A lawyer has **fiduciary duties** towards her client, obligating her to put her client's interests above, not merely equal to, her own. Attorney-client is not the only **fiduciary relationship**. Trustor/trustee/beneficiary is the classic one. The relationship between corporate directors and stockholders is another. Those relationships all require the fiduciary's subordination of personal business or financial interests to those of his principal.[52] Lawyers, however, owe clients more than their financial loyalty, because clients have more than financial goals, and even achieving financial goals can have extra-financial impacts on third parties. **All of that brings ethical baggage along.** Therefore, a lawyer seemingly must ignore his own moral views of how others should be treated in favor of his client's interests.

That alone would be enough of a challenge. In fact, however, the modern rules create a **tripartite relationship** by focusing on the lawyer's role as an **"officer of the court"** as well as her relationship with her client. The lawyer's power to act for her clients comes from the state, so, the way the state sees it, the state can reasonably **demand that the lawyer's power be used to advance** the goals of the legal system, indeed the **larger interests of the state.**

The rules of professional conduct aim to resolve the conflict between the client and the legal system, by saying that there are some things a lawyer can refuse to do in service of his client. Still others go to a lawyer's basic rights; for instance, **a lawyer loses some of her full First Amendment rights** to comment about pending cases, or (in court) **to express her opinion that her client tells the truth, or the opposing party fabricates.**

The rules recognize that an adversarial system depends on effective and vigorous representation of all viewpoints within the bounds of the law.[54] Various reasons are advanced for the advocacy system. At certain times and places, it has been thought a civilized alternative to gunfights or swordplay. Truth, as defined by the state [is the goal]. By that, I mean that the state sets the parameters of the inquiry, by defining what is or is not a contract, or good cause, or unconscionable. Caught between that obligation and the duty to pursue the right, as defined by the client's wishes, **there is little room for the good, as defined by the lawyer's morals. Thus, lawyers find themselves obligated to do that which both law and Scripture tell them they cannot—serve two masters, the client and the law.**

The morality of pursuing a small claim that is financially trivial to a wealthy creditor but would devastate an indigent debtor is a different matter, one for which theories of the majesty of the law or the dignity of contract provide little solace. Once again, the Rules are of little help. They do provide that a lawyer may withdraw from representation if "the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement."[58] But if the client is in the right legally, then a feeling of repugnance suggests a fundamental disagreement, not with the client, but with the law itself.

All lawyers feel that conflict. The Christian lawyer, however, has an additional burden. The ethical conflict is more than a straightforward conflict between personal mores and legal expectations, serious though those are. Christianity calls its followers to act as God's agents in the world.[60] The Christian lawyer, then, finds himself involved in a *triple* agency: the state, the client, and the gospel. Some have wondered whether one can even be a Christian and a lawyer. Professor Joseph Allegretti said that was an open question, and that at best one is a Christian first, and a lawyer second.

When duties of religion and law conflict, the obligations of religious conscience come first. But how do we know when they really conflict? A lawyer *could* conclude that our legal system is simply a tool for the rich and powerful, or for the state itself, and that the Dilemma is unavoidable and irreconcilable. That lawyer needs a career change: perhaps a practice dedicated solely to cases and clients that align with the lawyer's morals: representing the underprivileged or indigent in a free legal services NGO, for example. Moreover, taking this attitude would abandon the practice field to non-theists, something unpleasant to contemplate.

Alternatively, a lawyer could also conclude that there is simply no place for religious ethics in legal ethics, the two being separate fields of concern. Joseph Allegretti analyzes this position at length, and finds it wanting.[62] He says that "Christian lawyers want not only to obey their profession's codes of conduct, but to live in harmony with their own deepest values." Allegretti writes:

> Consider a divorce case. A "good lawyer" is expected to fight vigorously for her client's right to custody of the children. But what if the client is a bad or an abusive parent? The Christian lawyer cannot ignore the wishes and well-being of the children whose interests are at stake. Or consider a corporation that is engaged in an activity that is legal but harmful to society. The "good lawyer" is free to devote herself unreservedly to her client's interests, but the Christian lawyer must also consider the injury being done to the common good.[64]

Indeed. Those examples, unfortunately, do more to highlight than to resolve the problem. **The divorce case may be the "exception that proves the rule."** The court is mandated to look out for the best interests of the children. That is contrary to the normal case, where the court's job is to be the neutral referee. The divorce lawyer can have some confidence in the court to reach the right result.

In the second case, the "amoral corporation," on the other hand, positivism tells us that the law itself defines the public good. The lawyer that refuses to defend the corporation because of a differing opinion about the public good neglects his obligation to his client and to the law. The conflict there is not between law and morals, but between different conceptions of what is moral.

We are all familiar with failures of this kind: the nineteenth-century slave trade, or twentieth-century apartheid. The only proper course for the Christian lawyer asked to defend those abominations was to withdraw. Most cases, however, are more ambiguous. How about representing tobacco companies? The government could—ban smoking. But it has not. There are libertarian and constitutional arguments against government intervention, even if you disagree with them, you must confess that serious people take seriously.

Most lawyers have some belief that the law is a social good (whether because they see it, on religious grounds, as an expression of fundamental human rights, or as simply the way in which society is properly ordered.) The real question is how to handle the cases that challenge that belief, or that invoke a higher good. For lawyers that stay in practice, this dilemma will sooner or later be insoluble, unless the system both promotes respect for the law and recognizes values outside of law. Because the lawyer's obligations to his client come subject to his duties to the court, his fiduciary act of subordination, his "humbling" himself, is to a system with the potential for the application of a higher law. Moreover, it constitutes an act of trust by the lawyer: trust in the court to make a just decision.[4]

[4] Rentfro, D. L., & Stoddart, E. (2019). *The law of freedom: justice and mercy in the practice of law*. Eugene, Oregon: Cascade Books.

Principle 1: Conflicting Laws

Approach:

- Ask whether the laws really conflict or whether they can be harmonized
- If they truly conflict, determine which law takes priority and why (for example, a provision of the US Constitution takes precedence over a local zoning ordinance)

Strategy: prioritize

Principle 2: Ambiguous Laws

Approach:

- For truth seekers—resolve ambiguity by discerning the intent of the originator of the law (God, legislature, etc.)
- For ideologues—ignore context and history of law and twist the law to fit one's ideology

Strategy: harmonize by using intent to eliminate ambiguity

Principle 3: Harsh Result of Law

Approach:

- Determine whether law as applied is socially counter-productive
- If it is, mediate law's effect through pardon, commutation, amendment, or procedural challenge

Strategy: humanize

With these three simple principles and God's overarching commands listed in Matthew 22:36–40 in mind, we will consider three instances which apply these principles to help others see the true meaning of God's Law, to do good to others, and to honor God.

Our first example, from Mark 2:23–27, shows Jesus functioning, in effect, as a defense lawyer-advocate for His students:

One Sabbath Jesus was going through the grainfields, and as his disciples walked along, they began to pick some heads of grain. The Pharisees said to him, "Look, why are they doing what is unlawful on the Sabbath?"

He answered, "Have you never read what David did when he and his companions were hungry and in need? In the days of Abiathar the high priest, he entered the house of God and ate the consecrated bread, which is lawful only for priests to eat. And he also gave some to his companions."

Then he said to them, “The Sabbath was made for man, not man for the Sabbath.” (Mark 2:23–27)

In defending His disciples, Jesus applies the first two of the above principles. First, He addressed the apparent conflict (Principle 1) between the fourth commandment establishing the Sabbath and the Pharisaic traditions that sharply restricted human activity on the Sabbath. Jesus implicitly asserts the primacy of Exodus 20:8 (the Sabbath command) over those Pharisaic traditions. He prioritized. He also implicitly asserted that if there was any question of whether the Pharisaic traditions conflicted with Exodus 20:8 (Principle 2), the question was best resolved by considering the purpose of the law (to give man rest, not more burdens) and the character of God the Lawmaker (who is gracious and encouraging, not tyrannical). He harmonized.

In our second example, Jesus addresses a rabbinical debate over marriage and divorce, and Deuteronomy 24:1 in particular: “If a man marries a woman who becomes displeasing to him because he finds something indecent about her, and he writes her a certificate of divorce, gives it to her and sends her from his house [and she marries another man, the first husband may not subsequently remarry her].” Rabbis argued over the meaning of “becomes displeasing” and “finds something indecent.” One rabbinic school of interpretation held that if a woman did something equivalent to burning the toast or forgetting to pay the phone bill, then her husband could send her away because she was “displeasing.” Of course, this interpretation would leave women subject to arbitrary harsh treatment by their husbands and thus in great danger. The school of “law professor” understood “becomes displeasing” and “finds something indecent about her” as a euphemism for adultery.

With that background information, consider how Jesus answered the question in Matthew 19 posed by other law professors:

“Is it lawful for a man to divorce his wife for any and every reason?”

“Haven’t you read,” he replied, “that at the beginning the Creator ‘made them male and female,’ and said, ‘For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh’? So, they are no longer two, but one flesh. Therefore, what God has joined together, let no one separate.”

“Why then,” they asked, “did Moses command that a man give his wife a certificate of divorce and send her away?”

Jesus replied, “Moses permitted you to divorce your wives because your hearts were hard. But it was not this way from the beginning. I tell you that anyone who divorces his wife, except for sexual immorality, and marries another woman commits adultery.” (vv. 3–9)

In this scenario, Jesus resolves the ambiguity in Deuteronomy 24:1. (I believe God gave some ambiguous laws and other ambiguous Scriptures for the same reason—so we could learn to apply unambiguous laws and truths in godly ways.) Jesus explains that the divorce law must be understood in light of the broader context of Scripture:

- Principle 1: Yeshua first teaches the fundamental importance of marriage as an institution created by God. Jesus prioritized.
- Principle 2: To resolve the scriptural ambiguity, Jesus addresses man’s fallenness /sinfulness/hardness-of-heart in context with the purposes of God, the merciful Lawgiver (see Ex. 34:5–7). Jesus harmonized.
- Principle 3: Using the first two principles, Jesus mediated the harsh result of putting the woman on the street. Jesus humanized.

Our final example shows the time Jesus functioned perhaps most memorably as both a defense attorney and a judge, when He was confronted with a woman who merited death by stoning according to the Torah:

At dawn he appeared again in the temple courts, where all the people gathered around him, and he sat down to teach them. The teachers of the law and the Pharisees brought in a woman caught in adultery. They made her stand before the group and said to Jesus, “Teacher, this woman was caught in the act of adultery. In the Law Moses commanded us to stone such women. Now what do you say?” They were using this question as a trap, in order to have a basis for accusing him.

But Jesus bent down and started to write on the ground with his finger. When they kept on questioning him, he straightened up and said to them, “Let any one of you who is without sin be the first to throw a stone at her.” Again, he stooped down and wrote on the ground.

At this, those who heard began to go away one at a time, the older ones first, until only Jesus was left, with the woman still standing there. Jesus straightened up and asked her, "Woman, where are they? Has no one condemned you?"

"No one, sir," she said.

"Then neither do I condemn you," Jesus declared. "Go now and leave your life of sin." (John 8:2–11)

In John 8, no conflict of law (Principle 1) or ambiguity (Principal 2) exists, but the application of the law would have a harsh result (Principal 3). In fact, the teachers of the Law and the Pharisees were trying to trap Jesus. For they brought only the woman forward when the Law commands that both the adulterous man and woman should be put to death (Lev. 20:10; Deut. 22:22). Because of their motives, they were probably malicious witnesses, as referenced in Deuteronomy 19:16–19, and therefore incurred upon themselves the punishment of death by stoning. Thus, Jesus as a legal defender/advocate leads the woman's accusers to disqualify themselves as witnesses. Then, speaking in a judicial manner, He pardons her.[5]

[5] Mauck, J. J. W., & Nammo, J. D. (2017). *Jesus in the courtroom: how believers can engage the legal system for the good of his world*. Chicago, IL: Moody Publishers.

ETHICAL RESOLUTION MODELING

The Lawyer's Calling: Christian Faith & Legal Practice by Joseph Allegretti

The standard vision [of the Lawyer's Code] rests on the idea that in an adversary system of justice, such as found in the United States, a lawyer's primary responsibility is to represent his client to the best of his ability and leave questions of "truth" and "justice" to others. A lawyer is the champion of his client. This means that a lawyer should not let his own moral scruples influence his work on behalf of clients. It is none of the lawyer's business whether his client's goal is good or bad, as long as it is legal. Like the proverbial hired gun of the old west, the lawyer brackets his own moral values and serves as the amoral instrument of his client. This standard vision operates both inside and outside of the courtroom. A trial is seen almost as a sporting event, where the two lawyers face off against each other, while a neutral umpire or referee (the judge and jury) enforces the rules to ensure that neither party obtains an unfair advantage. In the same way, outside of the courtroom the lawyer functions as a neutral counselor to his clients. He is hired to give legal, not moral, advice. His job is to plan a transaction, negotiate a deal, or explain the scope and limits of the law. He should not let his own values interfere with his work but should discover what his client wants done and then do it.

We can summarize the standard vision in a phrase: The lawyer is the neutral partisan of his client.' He is neutral, in that he does not let his personal values affect his actions for clients; and he is partisan, in that he does whatever he can to achieve his client's objectives, whatever they might be, limited only by the law itself. All lawyers are heavily influenced by this dominant paradigm.

This is what the law schools teach & what the adversary system presupposes. Some lawyers rebel against it, but none can escape its force. For most lawyers, it is like the air they breathe: invisible, taken for granted, but indispensable to their daily lives. Most importantly, this standard vision seems to provide a ready and (some believe) complete defense to criticisms of a lawyer's work: How can a lawyer defend the "guilty"? How can a lawyer help a client avoid paying taxes or evade environmental regulations? How can a lawyer engage in conduct that non-lawyers condemn as immoral, such as deceiving an opponent in negotiations or cross-examining a truthful witness to make him look like a liar?

MODEL ONE: CHRIST AGAINST THE CODE

Let us consider four contrasting approaches to the Code. Remember that no one model captures all of reality. No lawyer fits snugly into just one category. Still, lawyers do have varied self-understandings, even if they are rarely articulated, and my proposed typology does illuminate the differing options open to Christian lawyers. My first model is an adaptation of "Christ Against Culture." The first letter of John is used as an example of this type. This epistle contains some of the most beautiful exhortations to love found anywhere in the bible. God is love, says the writer, and everyone who loves is begotten of God. Since God has so loved us, we must love each other. "God is love, and those who abide in love abide in God, and God abides in them" (1st John 4:16). At the same time, however, 1st John views the secular world as a sinful place under the domination of the powers of evil. It must be rejected for the sake of Christ. "Do not love the world or the things in the world. The love of the Father is not in those who love the world; for all that is in the world... comes not from the Father but from the world" (1st John 2:15-16). Each Christian is confronted with a stark choice: You are either for Jesus or for the secular world. It is black/white, either/or. A similar distrust of the secular realm can be found in certain strands of monasticism. Some members of [Ana-Baptist] groups like the Mennonites, Amish, and Shakers might fit within this category as well.

At first glance, this model might not seem to have anything to do with contemporary American lawyers. Almost by definition, those who practice law in a secular legal system can hardly be said to have renounced the world for Christ. Yet there is a way in which such thinking does influence Christian lawyers, sometimes even leading them to abandon law as a career. Applied to the legal profession, I will call this Model One, or, adapting theological language, Christ Against the Code.

There are several ways in which Model One might exert a subtle influence on practicing lawyers. First, there is a movement among some evangelical Christians, including lawyers, to establish "Christian tribunals," divorced from the normal legal process, where Christians can bring their disputes with each other for mediation and fraternal correction. A number of Christian mediation services have sprung up around the country.

Those who support the Christian mediation movement are not as radical in their distrust of the law, but they too are influenced by Model One thinking. There is something unseemly and not-quite-right about the practice of law. Christians should not be taking their disputes to the secular courts, and by extension Christians should not be the lawyers bringing such cases.

Second, some lawyers admit to a vague and unsettling worry that their work runs contrary to their faith. Lawyers and law students tell of the tension they experience between the Code and their religious values and commitments. Few if any of them will abandon the practice of law, but the very fact that they are wrestling with such doubts and worries suggests that they too feel the pull of Model One. Even if a lawyer's self-image is not affected by such thinking, the same cannot be said of the wider culture. Law students and lawyers are often accosted by friends or cocktail party acquaintances who find the practice of law morally objectionable. As we all know, there is an entire subset of cruel and biting humor that goes by the name of "lawyer jokes." Now we must ask: What are the strengths and weaknesses of this model? Must Christians take such a negative view of the secular legal system and the work of lawyers?

Those who renounce secular society make an even more serious error. They forget that God is at work redeeming all of creation, not only individuals or tiny communities of the righteous, and so there is no place that is beyond the reach of God's loving grace. For Christians there can be no neat division between the things of God and the things of the world, no sharp line between the realm of the sacred and the profane, because Christ came "to reconcile to himself all things, whether on earth or in heaven, by making peace through the blood of his cross" (Colossians 1:20). In short, God can be found and followed not just in the church or the commune, but on our streets, in our homes, at our workplaces-even even in our courthouses!

As Christians we are called to be disciples of Christ in and to the world. Jesus tells us, "You are the light of the world.... [L] et your light shine before others, so that they may see your good works and give glory to [God] in heaven" (Matthew 5:15-16). This is the profound truth that Model One ignores.

Model One plays a lesser but not insignificant role, functioning as a cautionary note for lawyers.

Popular Lawyer Jokes

Q: What's the difference between a lawyer and a liar?
A: The pronunciation.

How does an attorney sleep? Well, first he lies on one side, then he lies on the other.

A lawyer opened the door of his BMW, when suddenly a car came along and hit the door, ripping it off completely. When the police arrived at the scene, the lawyer was complaining bitterly about the damage to his precious BMW…

"Officer, look what they've done to my Beemer!" he whined.

"You lawyers are so materialistic, you make me sick!" retorted the officer, "You're so worried about your stupid BMW, that you didn't even notice that your left arm was ripped off!"

"OMG" replied the lawyer, finally noticing the bloody left shoulder where his arm once was, "Where's my Rolex!"…

A rabbi, a Hindu, and a lawyer are in a car that breaks down in the countryside one evening. They walk to a nearby farm and the farmer tells them it's too late for a tow truck but he has only two extra beds and one of them will have to sleep in the barn. The Hindu says, "I'm humble, I'll sleep in the barn." But minutes later he returns and knocks on the door and says, "There is a cow in the barn. It's against my beliefs to sleep in the same building as a cow." So the rabbi says, "It's okay, I'll sleep in the barn." But soon, he is back knocking on the door as well, saying, "There is a pig in the barn, and I cannot shelter in a building with a pig." So the lawyer is forced to sleep in the barn. Shortly, there is another knock on the door and the farmer sighs and answers it. It's the pig and the cow…

As a lawyer woke up in the hospital after surgery he asked, "Why are all the blinds drawn in here?" The nurse answered, "There's a fire across the street and we didn't want you to think the operation had been a failure"…

An attorney was working late one night in his office when, suddenly, Satan appeared before him. The Devil made him an offer. “I will make it so you win every case that you try for the rest of your life. Your clients will worship you, your colleagues will be in awe, and you will make enormous amounts of money. But, in return, you must give me your soul, your wife’s soul, the souls of your children, your parents, grandparents, and those of all the your friends.” The lawyer thought about it for a moment, then asked, “But what’s the catch?”

An old, stingy lawyer was dying and was determined to prove wrong the old saying; “You can’t take it with you.” He told his wife to go down to the bank and withdraw enough money to fill two pillowcases. His plan: Put the bags directly over his bed and when he died grab them on his way up to heaven. One day the old ambulance chaser died. When his wife was up cleaning in the attic one day, she came across the forgotten pillowcases. She then said to herself, “That old fool. I knew he should have had me put them in the basement!”

A mother and a daughter are visiting a deceased family member in a graveyard. On the way out the daughter asks why they bury two people in one grave. The mother asks her daughter why she says that and the daughter replies, “Well, that gravestone says ‘Here lays a lawyer and an honest man.'”

A famous lawyer, who had been a public defender for years, dies. He finds himself standing at the back of an enormous queue outside the gates of Heaven. The queue before him is enormous. The number of people who die in a single day appalls him. He can barely see St. Peter sitting up on a podium outside the gates with a large book. Every now and then St Peter glances down the queue to see how he is going. Suddenly he catches the eye of the lawyer. He looks very surprised. He jumps down from the podium and comes running along the line until slightly out of breath he arrives beside the lawyer. He embraces him. He pulls him out of the queue and motions for him to come to the front of the queue. Another person questions what is happening and another angel speaks to the person. Word is passed along the queue and the lawyer is surprised, as people start nodding and clapping. He becomes embarrassed by all the attention and asks St Peter why he is getting the special attention.

St Peter stops suddenly and looks concerned. “You are a lawyer aren’t you?’

“Yes” the lawyer replies. “Does this happen to all lawyers in heaven?”

“Oh, no,” said St Peter. “It’s just you are the first one to ever get here.”

CS196900

"I HOPE YOU'RE NOT A LAWYER OR A POLITICIAN. WE'RE TRYING TO DIVERSIFY DOWN HERE."

CS301408

"And having an old, dear friend appear before this court makes it necessary to recuse myself, gentlemen."

Two lawyers walking through the woods spotted a vicious-looking bear. The first lawyer immediately opened his briefcase, pulled out a pair of sneakers and started putting them on.

The second lawyer looked at him and said, "You're crazy! You'll never be able to outrun that bear!"

"I don't have to," the first lawyer calmly replied.

"I only have to outrun you."

MODEL TWO: CHRIST IN HARMONY WITH THE CODE

If the first model rejects the secular world on behalf of Christ, the second model is the mirror image. In this way of thinking, what's called the Christ of Culture, there is no perceived tension between the gospel and the world. Christian values are thought to be identical with the highest aspirations of secular culture.' In this model, "Jesus often appears as a great hero of human culture history; his life and teachings are regarded as the greatest human achievement; in him, it is believed, the aspirations of men toward their values are brought to a point of culmination; he confirms what is best in the past, and guides the process of civilization to its proper goal."" In the life and teaching of Jesus we glimpse the goal toward which the secular world is advancing. When applied to the legal profession, I call the analogous mode of thinking Model Two, or Christ in Harmony with the Code. Adherents of Model Two include those who envision no possible conflict between their lives as Christians and their work as lawyers. These are lawyers who consider themselves bound only by the Code.

I recall a prominent big-city lawyer I met when I was in law school. Timidly, I asked him whether he felt any misgivings when he did something for a client that violated his personal morals. He stared back at me, perplexed, and said, "It's never happened." I gave him an example we had discussed in class-you are a lawyer who knows a witness for the other side is telling the truth, but you try to make him look like a liar. Does that raise any problems? "No," he said slowly, as if talking to a simple-minded child. "That's my job. I'm hired to win." Lawyers who adopt this model are often surprised and even a bit insulted when I ask them: Do you find it hard to be a Christian and a lawyer? Do you experience any tensions between your Christian values and your professional life? Some respond angrily: What are you suggesting? How dare you imply that being a lawyer is somehow anti-Christian! Christian! You wouldn't ask these questions of a doctor, a banker, or a plumber, would you?" The reactions of such lawyers reveal their allegiance to Model Two because they refuse even to consider the possibility that the gospel might be relevant to their work and might place some kind of limits on the Code. No one can be sure how many Christian lawyers fit into one category or another. No surveys have been taken, no polls conducted. As I was at pains to say earlier, these models are not rigid all-or-nothing categories.

Many lawyers display behavior consistent with several models. Nevertheless, on the basis of my dealings with thousands of law students and lawyers, I am certain that Model Two represents an important strand in the self-understanding of many, perhaps most, lawyers. This is hardly surprising.

Although Americans love to criticize politicians, they have a deep & abiding loyalty to the democratic ideals on which this country is founded. The adversary system is part and parcel of our democratic institutions. The Constitution itself contains the guarantees of trial by jury and assistance of counsel. It is natural for American lawyers, who are taught to honor the adversary system above all else, to embrace the Code almost as an expression of divine intent.

<u>The Compartmentalized Life.</u> What are the strengths and weaknesses of Model Two? As noted, this way of thinking reminds us that the world is the arena in which God's power and grace are being realized: "Jesus is the savior, not of a selected little band of saints, but of the world." This model recognizes that God is at work within culture and institutions as well as individuals. The identification of the gospel message with the highest ideals of civilization has undoubtedly contributed to the efforts to create a more just & humane world. Likewise, when applied to lawyers, Model Two has certain real benefits. By freeing lawyers from doubts about their representation, it permits them to focus with confidence on their duty to their clients. This in turn opens the door to a relationship with clients in which both parties can learn from each other and grow together. In this way, the lawyer might truly come to be a friend and companion of his client. Still, there are major problems with this model. Its most serious weakness is the way it identifies the gospel with the values of secular culture. The temptation is to blunt the radical message of the gospel and domesticate its counter-cultural thrust. Jesus becomes a great moral teacher, but the scandal of the cross and the mystery of the resurrection are given short-shrift. Sin as a reality, sin that taints each of us and all of our actions and social structures, sin that cannot be overcome by any of our feeble efforts but only by the Anointed One who takes our place and dies for us-there is no place for such an unwelcome truth in the Christ of Culture model. When that happens, our Christian values cease to serve as a check upon the distorted values and vain aspirations of secular society.

There are similar risks for the lawyer who lives his life in accord with Model Two. For such a lawyer, the Code constitutes the boundaries of his moral universe. As long as the Code permits him to represent a certain client or adopt a certain tactic, there are no moral questions to be raised. There is only one master at work: What the Code says he can do, he can do; what it says he must do, he must do.

In the words of the noted legal scholar Richard Wasserstrom, the lawyer comes to see himself merely as an "amoral technician."" This leads to a compartmentalization of life: It is as if the lawyer is one person at church on Sunday and another person at work on Monday. There is no awareness that God may call us to something more or different than the Code. The end result of Model Two thinking can be a collapse of the lawyer's moral universe, a dilution of his Christian values… Loyalty to the Code so far qualifies loyalty to Christ that he is abandoned in favor of an idol called by his name. Or, to put it more bluntly, the Code itself is invested with ultimate meaning at work, and by conferring infinite value upon a finite creation, the lawyer transforms the Code into an idol. I suspect that if we want to understand the reason for lawyer-baiting, lawyer jokes, and the low public esteem of lawyers, we need look no further than here. Beneath the anger and the cynicism directed at lawyers lies the public's recognition that many lawyers have abdicated moral and religious responsibility for their actions. The public understands that too many lawyers see themselves as amoral technicians who act one way at work and another way at home. And the public doesn't like it. Our assessment of Model Two does not do justice to the richness of the Christian message, the demands of the gospel, or the challenges and opportunities open to the Christian lawyer.

MODEL THREE: CHRIST IN TENSION WITH THE CODE

I have called our first two models the mirror image of each other. This is accurate, but there is another way in which they betray a curious similarity. Neither has anything to contribute to the Christian lawyer struggling to bring his Christian values into the workplace. The first says, in effect, "Do not bother. It's not possible!" The second says, "Why bother? Just follow the Code!"

Both models adopt an either/or approach to the problem of reconciling Christ and the Code, with the first rejecting the Code unequivocally and the second accepting the Code unreservedly. But can a Christian integrate his beliefs with his work? Can he render to the Code what is the Code's, and to God what is God's? This is the central issue that our next model begins to confront.

Christ and Culture in Paradox. The adherents of this model are called dualists, for they recognize that Christians owe their "obedience to two authorities who do not agree yet must both be obeyed." Unlike those who adopt the first model, these persons reject the idea of a firm barrier between Christ and secular culture, but they do not agree with the second model either, because they deny that Christian values are tantamount to the ideals of secular society. According to the dualist model, Christians inhabit two worlds, a private realm in which they relate to God as individuals and are bound by the teachings and example of Christ, and a public sphere where they live and work and must make accommodations to the sinfulness of the human condition.

Christ and culture are in conflict, yet each must be obeyed. The Christian inhabits two worlds, subject to two inconsistent moralities. Among Christian thinkers, we see for example, Luther "establishes a sharp opposition between what the Christian does as a private person and a Christian and what he does and has to do in fulfilling the responsibility of his office in behalf of those who have been entrusted to his care."" This is what has come to be known as Luther's "theology of the two kingdoms."" When applied to the legal profession, I call this way of thinking Model Three, or Christ in Tension with the Code. This group includes many of the lawyers who do not fit comfortably within Model Two and who are sensitive to the possible tension between their Christian values and their work. These are lawyers who have thought long and hard about the relation between Christ and the Code. They are even willing to concede that as lawyers they sometimes engage in conduct that a non-lawyer (and their own personal values) would condemn. In this way, they reject the underlying presuppositions of Model Two. The lawyer in Model Two knows that he can be both a good lawyer and a good Christian while the lawyer in Model Three hopes that it is possible to be both but fears that it is not – not the lawyer who spends his weekends as a church deacon and who said, "I've got to do something on the weekend to make up for what I do during the week."

The lawyer in Model Three knows no way to bring the two realms of Christ and the Code together. His only way out of the impasse is to adopt his own version of "two kingdoms" thinking. But while Luther took great pains to maintain that the realms of God and culture were not totally separate and that the Christian must affirm both in a single allegiance, the lawyer who adopts dualistic thinking is likely to compartmentalize his life. Emotionally and psychologically, it is easier to separate the two spheres of life than to hold them together in some sort of precarious equilibrium. As a result, when the lawyer is at home he tries to live out his Christian values, but when at work he looks to the Code. Thus, despite the theological differences between Models Two and Three, the practical effect of adopting one or the other mindset is similar. In both cases, questions such as "How can you represent that client?" or "How can you do that for a client?" are rebuffed with the response, "I was only doing my job." In both cases, a wall is built between home and work.

The real difference between the models comes more at the emotional and psychological levels, because the lawyer who adopts Model Three must live with the unsettling realization that his work is divorced from and something antithetical to his deepest personal and religious values.

A Moral Schizophrenia

Those who live according to this model see themselves as living two lives: governed by the gospel while at home and secular values while in the public realm of work, politics, and economics.

There is little incentive to try to transform society and institutions to conform to the gospel. At work the status quo reigns. Christ is the door to everything except the office or the factory. There the dog-eat-dog mentality or the I'm – only – following – the – rules excuse holds sway. They ignore the radical edge of the gospel that judges all earthly institutions as needing reform.

Such a schizophrenic life is inherently unstable. Something has to give, and it comes as a surprise that if a lawyer takes positions at odds with his personal values, over time those values will change to comport with public behavior, Model Three slides slowly and imperceptibly, into Model Two.

Taken to the extreme, the lawyer's role can absorb his whole personality. In their inability or unwellness to integrate their personal and professional lives they may fine the latter gobbling up the former.

MODEL FOUR: CHRIST TRANSFORMING THE CODE

This model also realizes the culture is sinful, but acknowledges that Christians have obligations to wider society. This model is hopeful. The gospel is seen penetrating all life, converting both individuals and institutions.

Our three prior models, despite their substantial differences, have one critical point in common: they undermine the connection between a lawyer's faith-life and work-life.

For Model One, there is an unbridgeable gap between Christian values and the Code. For Model Two, there is no gap at all, with the result that the lawyer's religious values provide no independent counter-weight to his professional obligations. In Model Three, there is the recognition that the Christian is subject to both Christ and the Code, but this results in the compartmentalization of life, with Christ the Lord of the personal sphere and the Code dominant while at work.

In sharp contrast, Model Four insists that a lawyer's faith is relevant to his work, Christ and the Code are related. Model Four asserts that Christ is Lord of all, even the legal profession, and that Christians are called to serve Christ in all life, even their life as professionals. It rejects the artificial separation of life into private and public spheres, with faith-commitments relevant only in the private.

The task of the Christian lawyer, then, is to bring his religious values into the workplace, with the hope and trust that God will work through him to revitalize and transform his life as a lawyer, his profession, and ultimately the wider community as well.

For such a lawyer, the Code cannot be the sole guide to the moral life. The lawyer is not an amoral technician or a hired gun. He cannot avoid moral responsibility for his actions by appealing to the Code or to his professional role. He is a moral agent whose actions have consequences for which he is accountable, not just to himself and to others, but ultimately to God.

Rather than compartmentalize his life into neat pigeon-holes, the lawyer who embraces Model Four seeks to live an integrated life!

** Breaking Down The Walls **

Admittedly, there is a problem with this model. Critics have long commented on the slipperiness of terms like *transformation* and *conversion* – Its scope is unclear, it's implications uncertain. Most lawyers, even Christians, see their religious values as irrelevant to their work or as providing only vague and minimal guidance (don't lie, don't cheat). Others admit to a certain disgust about some of the things they do, but feel they have no choice but to swallow their doubts and follow the Code… They persist in the illusion that what happens during that [occupational] time is somehow irrelevant to their spiritual life. This is a recipe for spiritual and moral suicide!

In short, the first step for lawyers is to break down the walls that have compartmentalized their lives. They must come to appreciate and affirm that God is the God of the whole week - at church, at home, at work, and at play!

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THE CHRISTIAN LAWYER: DEFENDING APPARENTLY GUILTY DEFENDANTS AND USING DECEPTIVE COURTROOM STRATEGIES AND TACTICS

AN EVANGELICAL BIBLICAL VIEW*

*John W. Stanford***

I. INTRODUCTION

How can you defend a criminal defendant when you know he is guilty?

How can you be so deceptive in the courtroom?

These are two of the most burning questions asked of lawyers.

The first question assumes that the "criminal defendant" is "guilty" and then assumes the lawyer's actual knowledge of guilt. The second question assumes that, regardless of morality, "lawyers do whatever it takes to win." Most of us have learned from experience that it avails very little to argue the impropriety of these assumptions.

No matter how these questions come, the obvious moral issues are "How can you actually try to get a horrible criminal off just to commit a crime again?," and "How can you not be fully truthful and honest in the courtroom?" These two questions and related moral issues are especially serious for Christian lawyers who are trying to present an upright moral image and a testimony of religious faith. This essay addresses issues faced by all lawyers, answering them from a Christian perspective.[1] As

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* My objective in this statement is simply to clarify the viewpoint from which I speak and write and certainly not to create controversy. I fully recognize the risk of disclosing my religious persuasion at the beginning of this paper, that is, the risk of preconceptions discouraging some from reading further. Considering there are those who will stop reading here, however, I hope an equal or greater number will be curious enough to continue. There is a crying need for a different view in the world and in professional writing. I would characterize my Christian persuasion as accepting the Old and New Testaments as the Word of God, literally true, powerful, fruitful, internally consistent, and understandable through revelation by the Holy Spirit. I simply ask that you read with an open mind and permit the Holy Spirit to speak to you and form His views in your heart.

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[1] In this essay, I shall assume that we recognize the Holy Bible as the Word of God and our basis for Christian life. If that premise is contested, then an entirely different discussion would be necessary.

QUESTION ONE: DEFENDING THE APPARENTLY GUILTY

Let us consider our first topic question involving the defense of a criminally-accused person known or believed to be guilty. The world's system not only permits but also strongly encourages lawyers to conduct such representation. But should a Christian lawyer take on the defense of such a person?

When seeking to resolve many modern questions of morality, we have difficulty finding specific biblical rules or examples. We search and search and then rely on some analogy or theological interpretation of the Bible, prayerfully seeking revelation from the Holy Spirit.

In regard to this first topic question, we should consider the Gospel of John where Jesus defends the woman taken in adultery. Jesus and everyone else knew she was guilty. The accusers sought to tempt Jesus, just as lawyers frequently are asked similar questions in a tempting manner, seeking to entrap them. Jesus' answer may well be the very foundational statement for the most common criminal defense strategy. In the case of the adulterous woman, Jesus did not defend the woman on the merits; rather, He tried the accusers: "He that is without sin among you, let him first cast a stone at her." When no evidence was presented, Jesus dismissed the case & then gave significant instruction to the accused: "Neither do I condemn thee: go, and sin no more."

Even today, defense lawyers do not really try only the guilt or innocence of the accused. Instead, criminal defense lawyers will point the finger of guilt in some other direction, if possible. Of course, we understand the defense's purpose is to raise reasonable doubt in the minds of the jurors. Relating this Scripture to modern day, the troublesome questions are: "Why would Jesus do that?" and "How does that affect me?"

The Concept Of God's Total Justice. The action, the potential court judgment, and even loss of property are ways in which God may get the defendant's attention. We must understand that God's justice is His total justice, not necessarily what the world may perceive to be the immediate justice of the case.

As Christian trial lawyers, we practice our profession in the world's system with the supernatural advantage of the wisdom and knowledge provided by the Holy Spirit [revealed scriptures]. We may represent guilty and innocent persons accused of horrible acts, despite severe criticism from individuals in the community and even in our churches.

QUESTION TWO: STRATEGIES AND TACTICS

Having insight from the answers to the first topic question, let us consider the second, more general topic question concerning deceptive trial strategies and tactics. First, we will explore the place of truth and justice in the trial. Second, we will determine a Christian's role in that process.

Except for the unusual case of dishonest jurors, most of us believe trial juries generally want to do what is "right" and give the parties a fair trial. Probably the most we can expect from jurors is that they will rely on their natural belief of what is right. The trial lawyer's job as an advocate is to persuade the jury of the client's position within the bounds of the law and ethics of the profession.

We understand that the ethics of the profession place upon the trial lawyer no ethical duty to seek truth, but the lawyer is affirmatively forbidden to do a number of specific things that would work to defeat truth, such as present false evidence, misrepresent law to the tribunal, or misrepresent fact. We hear judges and lawyers speak of trying to get to the "truth" in any particular case as if we could discover what really happened or find absolute truth. In the courtroom, any "fact" presented is only secondary evidence of what witnesses remember of their sensory perceptions, assuming truthful intent. The assumed "truth" then, in any trial is not necessarily what happened; rather, it is, and must be, only what is implicit in the jury's verdict. It is all based upon what the jury *believes* what the witnesses *believe* they saw or heard. In any trial, we may never really know what truly and actually happened.

Since there is no ethical duty to seek the truth, then the trial lawyer's job as an advocate must be to present the known information in the very best light for his client in an effort to win over the jury. The problem is then, however, that there are two or more sides presenting the "truth" from their client's perspective.

How then can Christians operate as lawyers in a system like this in the jury system? How can we seek less than the absolute truth? We are working in a legal system shrouded in the language of absolute truth, but does not always fully honor that concept in attacking the opponent's "truth," in accepting secondary evidence, and in leaving the final determination of guilt to 6 or 12 jurors. Unlike the natural person, the Christian lawyer's understanding of truth is not just a philosophical concept. But, how's this helpful to me in the courtroom? In Scripture, Jesus has not spoken specifically about being a lawyer in the courtroom and certainly has not spoken about what we should do in any particular case.

That being our identity and place of being, how do we then work in the world, and especially in the legal system? It seems that we must operate in the natural simply because we work in the world with natural people (non-Christians) as well as with other Christians. When working in the courtroom, we must assume we have natural people on the jury or at least one natural person whom we dare not to offend. Therefore, it would not be effective to read Scripture or to speak of Spiritual things to the jury. Paul explained the futility of sharing Scriptural truths to non-Christians in 1 Corinthians: "But the natural man receiveth not the things of the Spirit of God: for they are foolishness unto him: neither can he know them, because they are spiritually discerned." So then, how do Christians speak and work in the world? Clearly, we must speak of natural things with natural terms and natural logic, all directed toward natural persuasion, again because we probably have natural jurors or a natural judge. Once we accept employment in any legal case with His approval or direction, we are in the world's system with a righteous task.

This representation will then be seeking a righteous result, because God's direction makes it righteous. In saying this, of course, we seem to equate immediately the client's cause (right or wrong under natural man's standards) to a righteous cause (under God's standards), because it is our continued obedience to God's directions that makes our actions righteous. God's greater purpose in the matter subsumes the worldly legal process and makes the entire matter righteous, regardless of how it appears to the world. This is a major step or even a leap of faith. Its validity depends on our position of oneness with the Father and the Son. We dare not fool ourselves: God requires the Christian lawyer to obey the rules of the profession. For every lawyer, the rules of professional responsibility require that we zealously represent our client to the full extent of the law. We must clearly understand that we are not talking about whether we can or cannot break the rules of legal ethics. The answer to that question is a resounding "no, we cannot." We are talking about the strategies and tactics that are either specifically or tacitly permitted by the rules of the profession. We are talking about any number of actions that might be ethically ambiguous or even believed morally wrong by lawyers and non-lawyers alike.

In answering the second topic question, let us consider four specific examples of trial tactics and strategies. In so doing, we should remember the differences between God's righteousness and man's "rightness." We will again see that obedience to God and seeking His "righteousness" provide new ways to consider the many versions of man's "rightness."

Our four examples will be:

A. using a cross-examination strategy to trap a witness;
B. trying some other person or issue other than the defendant's guilt;
C. cross-examining a "truthful" witness to destroy his credibility; and
D. arguing "innocence" to a jury for a believed "guilty" defendant.

We will look at each of these from the viewpoint of a natural lawyer and a spiritual Christian lawyer, not necessarily to determine their course of action but their source of decision-making.

A. Using a Cross-Examination Strategy to Trap a Witness

During a trial, assume we believe the opponent's witness is lying or careless with the truth. May we use a cross-examiner's strategy to trap the witness? For instance, may we ask the witness a series of simple single-fact leading questions that take him down an unsuspected path to a point where his admissions seem to contradict his prior testimony, or where they seem to support the cross-examiner's theory? May we then refrain from asking the ultimate question that would permit an explanation, and thereby avoid contradiction of the impression created, and thereby also permit a strong closing argument when the witness can no longer respond? This question will be answered in conjunction with the next question in subsection B.

B. Trying Another Person or Issue Other Than the Defendant's Guilt

May we, as defense lawyers, with truthful but perhaps insufficient facts, pursue diversion strategies by trying other issues, or implicating other persons as suspicious actors, or blaming "poorly managed" or even "corrupt" law enforcement systems, all with the purpose of creating reasonable doubt about the defendant's guilt? This and the foregoing issue are substantially the same as the general trial strategy found in the earlier discussion of defending the guilty defendant. Here, however, **our question involves *how* to defend rather than *whether* to defend.**

We will first attempt to answer these two questions and then look at the remaining two examples. Both of these recognized strategies and tactics of the world's system take advantage of an impression created by half-truths without knowing the full truth of the particular matter.

Would using these techniques ever be within God's will for us in any trial? If we do not use the tools of the legal system to which He has called us, not only will our client go to prison or lose his life or property, but, more seriously, we will miss God's purpose and perhaps His plan for this client whom He has brought to us. The great and joyous irony of this is that God's plan for our client may actually be imprisonment, or the loss of property, or even salvation before the death penalty. But we cannot know that purpose in advance. By not knowing, God thus permits us to provide the zealous advocacy required by the system and still accomplish His purpose.

As we grapple with these principles, we are of course dealing with the issue of truthfulness. This struggle requires us to examine Scripture's call to truthfulness. As we read Scripture, it seems that the duty of truth is always present when not dealing with an enemy. Thus, we are told to speak truth to one another, that is, to our fellow believers, to neighbors, and to those with whom we have ongoing relationships. We must speak truthfully when and where the hearer is entitled to hear the truth. As children of God, I believe that we usually are to speak truth to all, *unless we know in our hearts that there is a righteous reason to do otherwise*.

Walking into a courtroom today, it is easy to think that surely the fear of God is not in this place, but the Christian lawyer is both in the natural courtroom and in the Kingdom of God. Jesus has promised that He is always with us. We must pray for the judge, jurors, opposing counsel, opposing parties, our client, and ourselves. During a trial, we may not have time for quiet moments of Bible study and prayer, but we do know that He is there with us to work His will. The Christian lawyer must operate in the "natural" when facing these natural fact-finders, while simultaneously operating in the "spiritual" with the mind of Christ. This is a fantastic understanding of spiritual and natural man in the conflicts of the courtroom & a striking picture of our place in the world and in God's Kingdom.

As Christian trial lawyers, we first recognize that in these considerations we are always involved in an adversary proceeding – we are on one side of a contested disagreement and always facing opponents. Within the bounds of professional ethics and the law, the Christian trial lawyer must zealously represent his client and his side of the case.

In the courtroom the Christian advocate faces opponents who will try to take his client's property, freedom, or even his life. God has called him to that position, and certainly he is in as serious a position as we have seen in the Scriptures described previously. The attorney must use the strategies and tactics permitted in the adversary system. He must use the skills of an advocate.

In a criminal trial, defense counsel has the duty, among others, to require that the prosecution prove every element of the charges beyond every reasonable doubt. In so doing, he must also present any other reasonable explanation of the event that may exonerate his client. He must present any evidence that suggests some other person is guilty or some other explanation exists.

C. Cross-Examining a 'Truthful" Witness to Destroy His Credibility

We must be very cautious when working to solve improbable & overly simplistic hypothetical questions. Just as in the old legal proverb, "bad cases make bad law," so also bad hypotheticals produce bad conclusions. Also, when we use the words "ethics" or "ethical," we should limit those words to legal ethics as set forth in rules of professional responsibility. These terms should be distinguished from moral considerations. Many of the ethical rules of the profession are simply amoral.

In cross-examining a truthful witness, the real moral problem arises when the witness has personal traits of weakness and could suffer personal embarrassment as a result of the cross-examination. Such personal traits include: advanced age, fear of some condition, timidity, fear of the courtroom, being overly cautious, easily confused, or easily prodded to anger or to exaggeration.

There has been considerable debate on these type ethical issues. Both natural and Christian lawyers certainly must obey the ethical rules of the profession. For most jurisdictions, these rules are stated in the American Bar Association's Model Rules of Professional Conduct. Under the Model Rules, a lawyer should not ethically pursue this type of cross-examination if the only purpose is to embarrass, delay, or to burden the witness. Thus, if there is any other legitimate purpose, the lawyer may cross-examine on a personal trait of the witness, regardless of the effect on the witness. This practice seems to be acceptable in the profession. Some lawyers, however, have serious moral concerns about the effect of a distasteful cross-examination on the witness, as well as on the jury. It also prompts or exacerbates outside observers' perceptions that lawyers possess few moral principles.

Cross-examining a witness "believed to be truthful" is perhaps one of these overly simplistic hypothetical situations. But, in any event, let us assume the witness's harmful testimony against the defendant is truthful. Regardless of the lawyer's belief, it is his responsibility to his client to recognize the possibility that the testimony may in fact be untruthful. The lawyer usually has no actual knowledge and can judge based only on the words of others and the demeanor of the witness. The "truthful" testimony may actually be based on faulty perception or recollection or bias or prejudice. So, regardless of belief about veracity, there may well be ethical and strategic reasons to test the witness. In these instances, the lawyer must do so and even attempt to discredit the witness's credibility.

Some personal traits of weakness can possibly raise doubt and place in issue the witness's actual knowledge. On the other hand, some of personal traits may only shape the efficacy of the witness's demeanor on the witness stand or just personally embarrass the witness. Therefore, questions about knowledge-related personal traits might be acceptable cross-examination, while questions about demeanor-related personal traits may be unnecessary, improper, and even morally wrong.

In considering these demeanor-related factors, however, the advocate's determination of purpose is to be determined from his own perspective rather than that of the witness. There is no ethical violation of Model Rule 4.4 if the lawyer has a substantial valid purpose, even if such a witness is personally affected.

How does our professional reputation enter into this analysis - does it even matter what the general public thinks of our actions? Loyal and zealous representation of the client requires the client's interest to come first. At the same time, the lawyer is not required to press for every advantage that might be realized for a client & must exercise discretion in consultation with the client. The lawyer cannot always find definitive answers in the Model Rules; he must resolve some issues through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Model Rules.

How is the lawyer to balance these concerns, assuming his belief in the truthfulness of the witness and that the only apparent source of cross-examination is the personal traits of the witness? Let us consider this dilemma from the viewpoints of natural man and spiritual man.

For natural man: In considering the nature of the harmful testimony, natural man's wisdom begins with Model Rule 4.4 & deciding whether there is a cross-examination "purpose" other than to embarrass, delay, or burden the witness. We must again assume the questioning can only make the witness look bad on the witness stand, and further assume we cannot cloud his knowledge of facts (again we can see the difficulty of "hypotheticals"). Is it proper to make the jury dislike the witness, even if we cannot budge him from the facts? Assuming that we have some ammunition, how do we know what we should do?

If there actually were a trait that could diminish the effect of knowledge, natural man would probably consider that the lawyer's duty to his client requires cross-examination. But this pursuit might well be questioned & require consultation with the client, if the relevant information would also be extremely embarrassing or harmful to the witness. Obviously, the natural man will be forced to make a decision, either consciously or subconsciously. For some, it will seem quite simple–zealously represent the client. For others, the decision to cross-examine is more difficult, requiring considerable discretion and consultation with the client.

For spiritual man: All the natural man's considerations are present, especially those involving the Model Rules. Discretionary decisions include consultation with the client, but spiritual man must go much further. Once again, we are back to discussion about representing a guilty person and the tactics and strategies accompanying such a case.

D. Arguing "Innocence" to the Jury for Believed "Guilty" Defendant

Arguments, asserting innocence contrary to private belief are again overly simplistic hypothetical situations. In every trial, the opening statement and closing argument must always be based on admissible evidence or the absence of evidence. The case of absolute proof of guilt is unlikely, even though possible. It is difficult to assume overwhelming evidence of guilt without *any* contrary evidence, great weakness in the prosecution's evidence or witnesses, possibility of blaming other persons or events, or a reasonable doubt argument. But if none of these defenses were available, how would a defense lawyer argue to the jury?

Of course, the lawyer can never argue a personal belief or opinion of innocence. He can, however, argue innocence based on the evidence. As a realistic and practical matter, the defense lawyer cannot zealously represent the client if he is going to look and sound ridiculous to the jury. If there is absolutely nothing to argue, then perhaps the lawyer says nothing or very little, but the possibility of such a case is so remote that trying to hypothesize some argument is impossible.

The quandary emerges when there is legitimate evidence that can be argued in defense, but the defendant has admitted guilt to the lawyer or when the lawyer personally believes the evidence showing guilt. As we noted above, the lawyer can never argue a personal belief or opinion of innocence, but must always argue what the evidence demonstrates. A lawyer could make the argument of innocence if it is supported by any admissible evidence or the absence of evidence. How can a lawyer in good conscience with this admission of guilt or with this personal belief stand before a jury and argue that the evidence demonstrates innocence? At trial, it may be extremely difficult because the lawyer must project a belief of innocence. The jury will not believe the defendant is innocent unless it perceives that the lawyer also believes him so. Many lawyers will be able to make the argument and project a false enthusiasm for the defense. Regardless of the lawyer's appearance, zealous representation would seem to require an argument be made with as much enthusiasm as possible, even if the argument is simply the failure of the government to prove its case. In searching for answers and as discussed earlier, we must remember we are never dealing with absolute fact, that is, we are always presenting evidence to fact-finders. As we have recognized, in the courtroom, any "fact" is only the secondary evidence of what the witnesses remember of their sensory perceptions.

My conclusion to our second topic question is that a Christian lawyer not only may, but sometimes must, use deceptive strategies & tactics when pursuing a righteous cause and faced with a person or persons who do not deserve the truth. We also must be willing to make the argument permitted by the evidence regardless of personal belief. God will accomplish His purpose through our obedience or in spite of our disobedience. These strategies may be used to the extent permitted by the world's system, limited by our heart's direction.

Thomas Shaffer asks the question, "Is it possible to be a Christian and a lawyer?"

His answer is that it is only possible "if the question remains unsettled-so that the tentative nature of the answer is itself an admonition to attempt in the practice of law more than the practice itself, the conventional professionalism of it, can bear."' Can a Christian be a lawyer? On one level, of course, the question is nonsensical. When we survey the United States, we see thousands of lawyers, hundreds of thousands, who profess the Christian faith. We know empirically that a Christian can be a lawyer.

On another level, however, the question is more difficult than it first appears. Can a Christian be a lawyer while remaining true to her Christian values? Some answer with a resounding "no," those that fall into the model I have termed Christ Against the Code. Others answer the question with a defensive how-dare-you "yes," those within the category I call Christ in Harmony with the Code. Both extremes fail to take the question seriously, so they have little to contribute to those of us who want to bring together our life as a Christian and our life as a lawyer. Other lawyers try to have their cake and eat it too, voting "yes" with one hand and "no" with the other-those who fit the model of Christ in Tension with the Code.

The Transformist Model takes Shaffer's question the most seriously. It recognizes that there is often a gap between our faith and our work, so that the two seem to inhabit separate worlds with little influence upon each other. It admits that the gospel can sometimes stand in tension with the practice & profession of law. Our challenge, then, is one of balance, of integration. It is a matter of religion, for the original meaning of the word is to tie or bind together. Religion is what ties our life together, gives it backbone, substance, meaning. The question is whether we will allow our deepest values and commitments to really influence our daily life. The sage message sage has been that faith & work belong together & cross-fertilization is better than rigid separation. I have spoken of the dangers of compartmentalizing our lives. I recognize, of course, that a certain compartmentalization is necessary in the modern world. While at work I concentrate on my work, and while playing with my children I try to keep the focus on my children. But the compartmentalization I decry is of a more sinister sort. It is the type that builds walls between the parts of our lives, walls without doors or windows, so that we become not one person with many roles and responsibilities, but several different persons depending upon the specific role and function we fulfill.

It is this type of compartmentalization that leads to the all-too-common common occurrence of devout church-going believers who leave their religious values at the church building and who cannot fathom how or why their Christian values might influence their relationships with clients, colleagues, leagues, money, or time. On the other hand, if I begin to bring my religious values with me into the workplace, a curious thing happens. My work is placed in a wider, deeper frame of meaning. No longer am I a lawyer who happens to be a Christian on Sunday, but a follower of Christ who is trying to live out my Christian calling within my role as a lawyer. It is a small shift, just a rearrangement of a few words, to move from a lawyer who is a Christian to a Christian who is a lawyer, but in that small shift a whole new way of looking at work emerges, as I open myself to the transforming forming power of the gospel.

As I dismantle the walls that have divided up my life, I become increasingly attentive to the presence of God and the opportunities for ministry in my daily life and work. I still have many roles to play - I am a spouse, perhaps, and a parent, among other things - but wherever I am & whatever I do, I am one person, not several, struggling to be faithful to God, making mistakes and falling into sin, but redeemed by God's grace, and striving to live out the gospel values of love, forgiveness, and justice. And so, I am not first of all a lawyer, spouse, friend, or parent. First of all, I am a disciple of Christ. My ultimate allegiance is not to the things of this world, but to the one true God who transcends all earthly loyalties. Remembering this, I try to **approach my work not just as a career but as a calling**; I recognize an obligation to work for justice for my clients & for society; **I see myself not as a hired gun but as a healer of human conflict**; I am also concerned for the effects of my actions upon third persons and opponents - I do these things not only because they are right in and of themselves, although they are, but because they are indispensable threads in the warp and the woof of the life I am weaving.

What, then, is the lawyer's calling? Perhaps it is simply to acknowledge that our work has spiritual significance, that we are called to serve God & each other in everything we do, not only at work, to be sure, but here as everywhere else. To build a bridge over the chasm that for too long has separated our faith and our work. We will never succeed completely. There will always be an irreducible tension between our faith and our work. God is with us and with God’s grace we will begin to see our work as a spiritual journey rich in opportunities for serving God & neighbor. This is our goal!

Joseph G. Allegretti. The Lawyer's Calling: Christian Faith and Legal Practice (Kindle Locations 1839-1842). Kindle Edition.

Role Conflict & Integrated Personality

Role Conflict:

Role conflict is the psychological stress created when persons do not filter roles (personal role-conflict), when relevant others disagree with the individual about his or her role (intra role-conflict), or when several different roles make mutually exclusive demands on an individual (intra role conflict).

Role Conflict is a social-psychological concept used to investigate and explain individual's experiences of competing or conflicting demands. A social group, as already observed, carries on its life smoothly and harmoniously to the extent that roles are clearly assigned and each member accepts and fulfills the assigned role according to expectations.

In actual practice, however, we find that there is doubt or disagreement as to what behavior is expected in a given role and sometimes an individual resents the role assigned to him and fails to live up-to the expectations. Consequently, there is much of group tension and conflict.

In a simple culturally homogeneous and relatively stationary society, there may be comparatively less role conflicts. **But in a complex and heterogeneous social system as ours the role conflicts have increased leading to more and more group tensions.**

In the family, in the industry, in the Government, in the politics, everywhere tension is on the increase. An individual has to play different roles in different groups. His role as the head of the family may come into conflict with his role as a doctor or lawyer. He may at times be asked to sacrifice his obligations.

Conflict of roles arises when one has to perform number of roles or the roles of several actors are ill-defined, or when one feels that the role assigned to one is not in agreement with his status. It is inevitable in complex and heterogeneous society. The possibility of conflict of role, in a simple society, is less but it exists, all the same.

It has often given rise to conflict of roles causing mental turmoil and social maladjustment. Of course, the growing social complexities have intensified the conflict of roles. **A busy lawyer may fail in his ascribed roles.**

The first systematic treatise of role conflict was presented by Robert Kahn and his associates in their book Organization Stress: Studies in Role conflict and Ambiguity (1964). According to Kahn et. al. in individuals have jobs or functions, (i.e. roles) that typically depend on a steady exchange of role-relevant information with others.

According to Kahn, role conflict (specially sent role conflict) occurs in three forms: (1) inter sender conflict occurs when incompatible expectations or demands are communicated by two or more members of a role set; (2) inter sender conflict occur when; incompatible expectations or demands are communicated by a single member of a role set; (3) inter role conflict occurs when incompatible expectations and/or demands are communicated by members of different role set.

Whereas each of these three forms involves conflict between multiple expectations or demands, it is possible for a single demand to conflict with the focal individuals personal beliefs or preferences. **In other words, person-role conflict occurs when an expectation or demand by a member of a role set is incompatible with the focal person's own beliefs.**

Mechanisms for Dealing with Role Conflict:

Individuals confronted with unwelcome or incompatible expectations with role conflict find themselves in stressful circumstances. They are pulled in differing directions by opposing forces. How do people deal with such circumstances?

One approach for dealing with conflicting expectations is compartmentalization. Individuals subdivide their lives so to speak, and within a given context act in accordance with the dictates of one role while ignoring the other. In a word, individuals temporarily abdicate one of the conflicting roles; they wall themselves off from it.

Role conflict may be handled through a hierarchy of obligations. Individuals interacting with one another usually recognize that certain obligations take precedence over others.

Still another mode of individual resolution takes the form of reducing dependence on the group or role partner supporting one of the expectations. Individuals achieve this by leaving the group by redefining its value to them or by making it irrelevant to the conflict situation.

It does not imply that the role conflict is common and that the multiplicity of roles cannot be performed. If it were so the social system will break down. There are obviously the ways to eliminate the conflict of roles. **A simple device is to relinquish one of two conflicting roles.** A judge who finds that he has been assigned a case in which he has some stake is expected to withdraw himself from it.

Another option is to **rationalize and compartmentalize the roles**. This may be done **in terms of value and time**. One may fix priority and time for the performance of the task. One has to seek equilibrium in the conflict of roles. – *Internet Sourcing*

Law Of Diminishing Returns:
Dysfunctional Compartmentalization

MODERN LIVING WITH MULTIPLE RELATIONSHIPS

Compartmentalization: The Solution & The Problem

Compartmentalization is a defense mechanism used to avoid cognitive dissonance, or the mental discomfort and anxiety caused by a person's having conflicting values, cognitions, emotions, beliefs, etc. within themselves.

Compartmentalization allows these conflicting ideas to co-exist by inhibiting direct or explicit acknowledgement and interaction between separate compartmentalized self-states.

Social identity

Conflicting social identities may be dealt with by compartmentalizing them and dealing with each only in a context-dependent way.

Emotional Detachment & Compartmentalization

Most psychological disciplines agree that an integrated personality structure is indicative of mental health, meaning of course that a fragmented personality structure is indicative of dysfunction. Take for example the greedy businessman who spends his week low balling, manipulating, conning, glorying in doing anything and everything under the sun necessary for material gain, who then attends church on Sunday where he sincerely believes he is a Christian, where he listens with rapt attention to Bible readings and homilies that stress generosity and brotherhood and spiritual wealth as more important than material wealth.

This type of compartmentalization might help him function well in two disparate worlds but it's also going to create conflict at the deeper level of his psyche, conflict that will slowly bubble up and manifest in troubled personal relationships. But looking from the psychological perspective it's quite clear that his symptoms are the result of holding simultaneous competing norms and values around how to think, feel, and be in the world. In the argument outlined above his compartmentalization is bad and **only through integrating those disparate ways of thinking and instead deciding upon a set of values that will guide behaviors regardless of change in environment will those symptoms of mental illness disappear.**

"In order to live with integrity, we must stop fragmenting and compartmentalizing our lives. Every aspect of our lives is connected to every other aspect of our lives."

* *

Multiple Relationships Versus Multiple Personalities

According to the compartmentalization model of self structure (Showers & Zeigler-Hill), some individuals conceptualize their positive & negative characteristics as segregated from one another, called evaluative compartmentalization. For example, they might associate their social and family lives with positive qualities, but associate their work and recreational lives with negative characteristics. In contrast, other individuals conceptualize their positive and negative characteristics as related to one another rather than isolated from each other, called evaluative integration. They might feel relate their work, school, and social lives all to both positive and negative characteristics. The extent to which individuals compartmentalize rather than integrate affects many properties of their mood, emotions, and self-esteem. In general, compartmentalized self structures correspond to increased variability in mood and self-esteem.

Overview of splitting

Self compartmentalization is conceptually related to splitting. Splitting refers to the tendency of some individuals to perceive themselves--or some other person--as either entirely good or entirely bad at some time. That is, when individuals manifest signs of splitting, they can't appreciate that some human could exhibit both desirable and undesirable qualities simultaneously (Akhtar & Byrne, 1983 & Kernberg, 1976).

To clarify, everyone demonstrates both desirable and undesirable traits. Some people learn to accept their desirable and undesirable traits & they recognize they can show both sets of traits. Other people never learn to accept or integrate their desirable and undesirable traits. Instead, they embrace only their desirable traits.

Self complexity and spillover amplification

When participants specify the traits that pertain to various aspects of their lives, other measures, in addition to self-compartmentalization, can be derived. Perhaps the most renowned and informative measure is called self complexity (Atsushi, 1999 & Linville). In essence, self-complexity refers to the extent to which individuals feel their traits vary across the different aspects of their lives. Participants who apply the same traits to most of the aspects or **domains** are deemed to exhibit low self complexity. Participants who apply different traits to each aspect are deemed to exhibit high self complexity (Rafaeli-Mor, Gotlib, & Revelle, 1999

A key finding is that self complexity in individuals enhances the stability of their emotional. When self complexity is elevated, individuals become less distressed in response to negative feedback & less excited in response to positive feedback. Their mood also tends to be more consistent across time (for reviews see McConnell, Strain, Brown, & Rydell, 2009).

According to self-complexity theory (Linville, 1985), if self complexity is high, feedback that demonstrates that individuals are deficient on some trait are germane to only one aspect. The other aspects, which are unrelated to this trait, remain intact. In contrast, if self complexity is low, the same feedback is often applicable to many aspects. Individuals might feel they are inadequate on many aspects, undermining their self-esteem and mood.

These findings have culminated in the spillover amplification hypothesis. According to this hypothesis, individuals who exhibit low complexity, and thus are more sensitive to the environment, will show elevated wellbeing in supportive contexts and impaired wellbeing in unsupportive contexts (McConnell, Strain, Brown, & Rydell, 2009 & see also McConnell, Renaud, Dean, Green, Lamoreaux, Hall, & Rydell, 2005).

Consistent with this proposition, McConnell, Strain, Brown, and Rydell (2009) showed that individuals low in complexity demonstrated a more intact wellbeing--as gauged by self-esteem, depression, or illness--than individuals high in complexity in favorable contexts.

Social identity complexity

Unlike self-complexity, social identity complexity refers to the extent to which the various social identities of individuals--that is, the groups to which they belong--diverge from one another (Roccas & Brewer, 2002). To illustrate, most people belong to several groups, such as a football team, a workgroup, an ethnicity, and so forth. For some people, these groups overlap: that is, members of one of these groups tend to be members of other groups, referred to as low social identity complexity. For other people, these groups do not overlap, referred to as high social identity complexity.

Furthermore, according to Miller, Brewer, and Arbuckle (2009), people are more likely to become members, or perceive themselves as members, of diverse groups if they embrace ambiguity, complexity, and careful thought. – *Internet Sourcing*

"We should "liken all scriptures unto us … for our profit and learning." Danger lurks when we try to divide ourselves with such expressions as "my private life" or even "my best behavior." If one tries to segment his or her life into such separate compartments, one will never rise to the full stature of one's personal integrity—never to become all that his or her true self could be."

– **Russell M. Nelson,** **Accomplishing the Impossible: What God Does, What We Can Do**

The Spectrum of Spiritual Schizophrenia

MULTIPLE RELATIONSHIPS

MULTIPLE PERSONALITIES

MULTIDIMENSIONAL

FROM A COGNITIVE COMPARTMENTALIZATION TO CHARACTERISTIC CHRISTIAN NON-CORRELATION

1) INSIDE GOD'S SPIRITUAL UNIVERSE YOU CANNOT TAKE A VACATION FROM YOUR CHRISTIAN VOCATION.

2) YOU CAN'T BE A DIFFERENT PERSON TO DIFFERENT PEOPLE; YOUR PUBLIC PERSONA MUST MATCH YOUR PRIVATE IDENTITY.

3) YOUR WORKLIFE & ECONOMIC MAN MUST MESH WITH YOUR SOCIAL LIFE & YOUR SOCIAL MAN MUST TOTALLY BLEND WITH YOUR FAMILY LIFE & YOUR FAMILY MAN MUST HARMONY WITH YOUR CHURCH LIFE & YOUR SPIRITUAL MAN.

Questions I Asked Three Faithful Christian Lawyers:

Everyone contemplating a particular career path makes a tentative assessment as to their probable success - preferring to thrive rather than just survive professionally. In my opinion, shared by many other Christians - being a Christian lawyer is especially challenging.

Question - What advice can you give a young person in order to minimize tension between their profession of faith and their legal profession by way of the Model Code of Professional Responsibilities and the Model Rules of Professional Conduct.

Question: Since 1st Corinthians Chapter 6 seems to set a reluctant tone as to the adversarial system back then - that we still share basic elements of now - is the answer in legal specialization rather than courtroom skill? The negative example of Trial Lawyer Tertullus in Acts 24:1 and the Approved Example of Legal Specialist Zenas in Titus 3:13 come to mind.

Question: Do some Legal Specialties require an almost impossible low "bar"? For example, is it possible to be both a practicing Christian and a practicing attorney by focusing one's legal career on a purely instrumental view of the law and also make a decent living at the same time as a divorce lawyer?

Question: Which specializations in civil and criminal law are the better fit with an integrated authentic versus compartmentalized compromised Christianity?

Question: From your experience, what accommodations of strategy and tactics have proven the most successful in order to avoid likely tensions of Christian conscience and career pitfalls by recognizing a higher standard than the code?

Kevin Clark: Christian Lawyer & Gospel Preacher

SUMMARY & CONCLUSION

Essential Meaning of *oxymoron*

: a combination of words that have opposite or very different meanings. The phrase "cruel kindness" is an *oxymoron*.

Summary. Is "Christian Lawyer" An Oxymoron?

Ancient History Points In The Right Direction:
Tethered/Untethered Scribes Were Early-Stage
Lawyers of Organizational Specialization –
Personal Expertise – Independent Niche.

Scripture Reinforces With Approved Example:
Legal Specialist Zenas Essential @Titus 3: 13

Modern Culture @Multiple Role Complicates:
Compartmentalizing Woes @Multiple-Identity
Personal Integrity & Christian Authenticity Is
Maintained Observing God's Higher Standard

Our Conclusion is Logical & Biblically Sound; The Answer To Our Question Is Simple:

Q: IS CHRISTIAN LAWYER AN OXYMORON?

THE ANSWER: ABSOLUTELY NOT!

Addendum: Christian Lawyer Q & A Results

Q & A Results From Kevin Clark As Follows – Thanks Kevin Clark:

Everyone contemplating a particular career path makes an assessment of their probable success - preferring to thrive rather than just survive. In my opinion, shared by many other Christians - being a Christian lawyer is especially challenging. *Question* - What advice can you give a young person in order to minimize tension between their profession of faith and their legal profession by way of the Model Code of Professional Responsibilities & the Model Rules of Professional Conduct.

1. Be well-grounded in the faith before embarking on a legal education.

This piece of advice has very little to do with any ethical responsibilities owed by a lawyer to the bar and his clients. However, as a Christian advising other Christians, I feel compelled to caution those entertaining the possibility of a legal career. Law school is not for the faint of heart when it comes to a Christian's convictions about the faith. If my law school experience is any indication, you will be challenged to rethink the fundamentals of the faith and the Biblical worldview in which you have been instructed. I found these challenges to be exhilarating and instrumental to my spiritual growth in Christ. However, I approached those challenges from the background of having been inundated with Biblical truth almost from the womb. I was blessed with Christian parents who raised my younger brother and me in the training and admonition of the Lord. I also had the enduring benefit of being trained by seasoned warriors of the faith in the small, rural congregation in East Tennessee in which I was raised. Despite having assembled with many congregations of the Lord's people, I still think that the per capita Bible knowledge of the members of my home congregation far exceeded most, if not all, of the congregations with which I have assembled since leaving the Knoxville area. That background meant that the questions posed to me about the faith did not trouble me or result in some existential crisis. Now, that doesn't mean that I always had the answers to the questions posed. However, I knew where to go for the answers to questions that could and should be answered (as we all know, skeptics often ask some things that fall into the realm of the secret things of God and therefore warrant no answer because none can be given by a human mind).

If you are not well-grounded in the fundamentals of the faith, I can see how the law school experience, which includes informal discussions about life and worldviews with fellow students at lunch, in the law school's hallways, in your peers' apartment, and elsewhere, could shake one's faith in a Biblical worldview. So, unless you have spent a significant amount of time studying and meditating upon basic questions like – (a) why do you believe in the existence of God? (b) why do you believe that the Bible is the inspired Word of God? (c) why do you believe that Jesus is the Son of God? (d) why do you believe that Jesus rose from the dead – then law school may not be the place for you.

Along with that piece of advice, I also strongly encourage any Christian contemplating going to law school to select one near which a strong, faithful congregation of the Lord's people assembles. Those strong saints will help that law student remain well-grounded in the faith while continuing his/her legal studies.

2. Recognize that there is likely a Christian ceiling in your chosen profession.

I think this principle holds true well beyond the legal profession. However, I know from personal experience that it is especially true in the practice of law. Generally speaking, and I admit that there are some exceptions to this proposed rule, there is only so far you will go in the practice of law because of the demands of the faith. In other words, as a Christian, there are lines you cannot cross, time you cannot spend, tactics you cannot employ, and places you cannot (or should not) go that will limit how "far you go" within the profession. I am not saying that a Christian lawyer will starve or be unable to feed his family. However, in all likelihood, you will not fully realize your "potential" in the profession (from a worldly point of view) if you are serious about your spiritual obligations and responsibilities. In other words, you cannot be the best lawyer you can be; rather, you can be the best lawyer you can be who is also, in my case, a husband, a father, a son, a member of a local congregation, a Bible class teacher, and a preacher. Those other endeavors will necessarily limit how much time and energy you invest in your career and that is as it should be. If you appreciate that likely reality at the beginning of the journey, then I think it is much easier to enjoy the practice of law while you pursue your true calling – to seek and save that which is lost and, as Paul advised Timothy, keep yourself in the saved category in the process.

3. Be careful about the amount of debt you incur.

If you incur a significant amount of debt by taking out large loans, that assumption of debt will limit your job choices upon graduation. Depending upon the amount of debt you have assumed, you may have little choice but to look for high-paying jobs in some of the more lucrative markets. While such options may be fine if you can find work that can be done within the parameters of Christianity and that you enjoy, a high debt load puts a lot of pressure on you to find a job to service that debt and, if found, to maintain that job until your debt is paid. That situation could make it more difficult to walk away from a job you deem inconsistent with the demands of the Christian faith.

4. Live within your means.

Related to No. 3 above, be sure to live within your means. Live in such a way that it will be easier to walk away from the hand that feeds you if doing so becomes necessary to maintain your integrity as a servant of Christ. I do not mean to suggest that most legal jobs will create insurmountable ethical or moral challenges. However, you should plan around that possibility to make it easier to do the right thing if you reach an impasse between your livelihood and your faith.

5. Only make arguments and take positions consistent with the governing law and known facts.

I offer this advice more as a litigator than a transactional lawyer. However, I cannot imagine that the advice would be any less beneficial to other practice areas of the law. Many people have a perception of lawyers as liars who are more interested in spin that benefits their clients than the truth. As a result, some have reached the conclusion that it would be very difficult to be a lawyer and simultaneously be devoted to the pursuit of truth. I think the opposite is true. The relentless quest for truth that all Christians should embrace should make you a better counselor and advocate for your client than those less devoted to truth. I carefully research and analyze the governing case law to make sure that I never make legal arguments to judges that are unsupported by the law. Likewise, I devote significant time to reviewing the evidence developed in my cases to also make sure that I don't advance factual arguments that are unsupported by the existing evidentiary record. I think that slavish adherence to truth makes one a better lawyer. A litigator's stock in trade is his/her reputation.

If one makes a habit of stretching the truth about the governing law and/or the operative facts, it will not take long before other lawyers in your respective bar and the judges before whom you practice will perceive you as playing fast and loose with the truth. As I have heard several judges say during speeches and CLE seminars, judges talk and taking ethical shortcuts is the quickest way to ruin your reputation before the judges in the jurisdiction in which you regularly practice. I also know that lawyers have long memories so the principle of reaping what you sow is especially true in the practice of law.

6. Make a commitment now to faithfully assemble with the saints.

When I first decided to go to law school, I remember sharing that intention with Christians at other congregations I visited (in response to their inquiries). Too often, when I mentioned my plan to attend law school, I heard stories of lawyers in those congregations who weren't very faithful in their assembling with their local congregations. I heard that comment so often that my reaction was to promise myself that I would instead faithfully attend church services and Bible studies. That can be a tough commitment to keep, both in law school and especially in the practice of law. However, you must make that commitment at the outset of your journey and see it through no matter how awkward or uncomfortable it may be to adhere to that commitment.

Question: Since 1st Corinthians 6 seems to set a reluctant tone as the adversarial system back then - that we still share elements of now - is the answer in legal specialization rather than courtroom skill? The negative example of Trial Lawyer Tertullus in Acts 24:1 and the Approved Example of Zenas in Titus 3:13 come to mind.

I don't think I Corinthians 6 is necessarily condemning or criticizing an adversarial system of resolving disputes. What I Corinthians 6 is condemning is brethren going before secular courts and secular authorities to resolve disputes among them. It is an embarrassment that does much harm to the cause of Christ for brothers and sisters to Christ to air their problems and grievances before civil government instead of resolving those issues among themselves or with the assistance of fellow Christians. It also doesn't make much sense for citizens of a spiritual kingdom to appeal to a secular kingdom for help in resolving what ultimately are spiritual problems (even if they take the form of secular issues on a surface level).

And, while Paul did write that it would be better for a brother in Christ to allow himself to be wronged before taking the step of initiating litigation in civil courts, he did not say that is the only God-approved option for resolving disputes or problems between brethren. In verse 5 (NKJV), Paul asks: "Is it so, that there is not a wise man among you, not even one, who will be able to judge between his brethren?" With that rhetorical question, Paul is not saying to each brother involved in the underlying dispute that he needs to get over it and move on with his life. Rather, he is saying that it would be permissible for the disputing brethren to take that dispute to a fellow Christian in whom both parties have confidence for his judgment about that dispute. Whether in secular court or before a wise fellow Christian, there is still an adversarial aspect to the dispute (one brother has one position and the other brother has another position). In fact, there must be some adversarial aspect of an issue between brethren for there to be a need for a wise man or arbitrator to decide the issue.

Accordingly, I don't see anything about I Corinthians 6 that speaks to the use of an adversarial civil dispute system by two non-Christians or by a Christian and a non-Christian. Rather, it rightfully condemns the use of such a system by brethren having issues with each other.

I also think we need to be careful about drawing from I Corinthians 6 some denunciation of the use of any adversarial system of dispute resolution. I cannot help but think about how the Apostle Paul handled himself within one of those adversarial systems of dispute resolution (though I recognize that those proceedings were more akin to a criminal prosecution due to the nature of the state's involvement). Acts 24, which you referenced in your e-mail below, is a good example of this point. Like Jesus, Paul could have elected to keep his mouth shut in his defense and let the process play out without significant input from him. While we know that God had plans for Paul to go to Rome and providentially arranged for that to happen, we don't read anywhere in the Book of Acts or elsewhere that God directed Paul to offer a robust defense of his innocence in court. Yet, that is exactly what he did. Moreover, a careful analysis of Paul's words shows that he went beyond simply asserting his innocence. He made legal arguments about the deficiency of the case presented by Tertullus and the Jews who had hired him to prosecute their false claims against Paul. For example, in Acts 24:17-21, Paul says that the Jews currently prosecuting claims against him did not have firsthand knowledge of some of their accusations. He notes that the Jews from Asia who found Paul in the temple had not bothered to join the prosecution (vs. 18-19). If he had done something contrary to the law in the temple, Paul says that the Jews who were eyewitnesses of his conduct in the temple should have been present before Governor Felix (vs. 19). The Jews before Felix had no personal knowledge of what Paul did or didn't do in the temple and, as a result, they had no standing or credibility to prosecute those claims. He then goes on to say that the only thing the prosecuting Jews could properly address in this setting was his statements before the council about the resurrection of the dead (20-21). Paul notes that these prosecuting Jews could do so because they were present to hear firsthand that statement (though, as he had previously noted, there was no daylight between that statement and the Old Law these Jews professed to follow).

I don't know how we can describe this interaction between Paul, Felix, and the prosecuting Jews as anything but adversarial (and Paul willingly participated in that process, not only to profess his innocence of the charges, but to also point out deficiencies in the prosecution).

The negative view in which we hold Tertullus was a product of his own bad lawyering. As Paul noted in his defense, Tertullus made unsupported and false statements. Before taking the Jews' case, Tertullus should have done more due diligence about the basis for that case or, if he knew that their allegations were unsupported, he should not have taken it. So, I think Tertullus is an example of bad and possibly unethical lawyering (depending on how much he knew about the lack of merit of the Jews' case at the time). I don't think we use the negative light in which Tertullus is held because of his bad lawyering to be an indictment of an adversarial system of dispute resolution, including the very system that ultimately led to Paul going to Rome as God intended (though I recognize that God's use of a thing, situation, or person does not mean He approves of that thing, situation or person – the Pharoah in Exodus and the Assyrians being prime examples of that phenomenon).

So, I don't think we can use I Corinthians 6 or Acts 24 to draw conclusions about which paths in the law are permissible for Christians and which are not permissible (other than to say that Christian lawyers should not take on civil cases prosecuted by brethren against brethren and that Christian litigators and trial lawyers should carefully do their homework before making assertions in court and only take positions that are supported by the facts and governing law).

Question: Are Some Specialties an almost impossible low "bar"? Could a lawyer be both a practicing Christian and a practicing attorney by focusing on an instrumental view of the law and make a decent living as a divorce lawyer?

While I cannot speak personally to much outside of my own experience as a civil defense litigator, I perceive that all areas of law are not equal when it comes to the difficulty they can create for those seeking to act consistently with the demands of one's faith. For example, I do think it would be very difficult to devote one's entire practice to family law, which would include legal counseling and representation for issues related to marriage and divorce. For example, I personally would not feel comfortable advising a person who has no Scriptural grounds to pursue a divorce or representing a party pursuing a divorce when that party has no Biblical right to a divorce.

While I am sure there are arguments to be made that one is just acting within a man-made, and therefore less-than-perfect, system of justice and not necessarily acting on one's own convictions about God's law, I just would not want to facilitate or enable one to obtain a divorce when God's law does not allow such action.

Of course, one answer to this concern is that the private attorney has the discretion whether to take on certain cases. So, a family law attorney who is also a Christian could decide not to take on any cases where he would be advancing positions on divorce that are inconsistent with God's law on marriage and divorce. While I think that observation is true, **I prefer not to practice in an area where the likelihood of conflicts between man's law and God's law are seemingly so high.**

Having said all of this, I stop short of saying it would be impossible for a faithful Christian to practice family law. In fact, I have known of some Christians who, from all outward appearances, appear to be doing so (though I admit I have not questioned them extensively about how they deal with challenges unique to their legal specialty). In fact, I know of situations in which having a Christian lawyer with expertise in family law was extremely helpful. For example, I know of one such lawyer who was able to convince the guilty party to admit in writing that adultery was the reason for the dissolution of his marriage. So, the sister who put this brother away has a divorce decree that states unequivocally that she put away her unfaithful former spouse for the cause of adultery – something almost unheard of in modern jurisprudence. That only happened because that Christian lawyer was very familiar with God's law and knew how important it was to the sister to have express justification to dissolve the marriage in the sight of God.

I think that criminal law is another area that can take a toll on all lawyers emotionally and mentally, but especially Christian lawyers. From what I have heard (and I admit that I have virtually no experience in this area of the law), even lawyers who abide within the bounds of ethics and governing law can still have some second thoughts about their life's work to the extent that it results in no or less jail time for their clients, especially if those clients later use that freedom to perpetrate crimes against others. However, I do want to challenge one prevalent false impression out there. When questions are raised about ethical problems in criminal law, everyone seems to focus on the difficulties of representing someone who committed the crime (or is suspected to have done so). However, I think there are just as many potential ethical pitfalls on the prosecutor's side of the aisle. I am just as concerned about overzealous prosecutors bending the law and withholding evidence to secure wrongful convictions of the innocent as I would be about zealous defense lawyers manipulating procedural law to keep their clients from facing the legal consequences of their actions.

Notwithstanding these thoughts, I think you should first consult with Christian lawyers who practice in these areas before taking my perceptions as gospel truth. I have practiced law as a civil defense litigator representing insurance companies, banks, product manufacturers, and other businesses when they are sued in civil courts. Accordingly, that is what I know. I have not practiced law in the arenas of family law or criminal law, so I have far less credibility in opining on the challenges of those areas of the law.

Question: Which specializations in civil and criminal law are the better fit with an integrated & authentic versus compartmentalized Christianity?

From what I have observed and experienced, I know that it is possible to integrate your obligations to God and to the state in the arena of civil litigation. However, I don't want to say that the same cannot be done in other areas, such as criminal law and family law.

Question: From your experience, what accommodations of strategy and tactics have proven successful in order to avoid tensions of Christian conscience and the code?

I think I have already touched on the approach I would advocate to avoid tensions of Christian conscience and the code. I think a good working knowledge of both laws (God's and man's) is essential. A Christian lawyer also should frequently examine whether he/she is still within in the faith, as II Cor. 13:5 advises all Christians to do. That examination should be conducted objectively, using the correct standard of God's Word, not our own rationalizations and excuses. But, at the same time, conduct that examination based upon the *actual* Word of God, not the brethren's perceptions of that Word or their opinions of the Word (though see below for some nuance on that point).

Remember what is most important – fidelity to God and saving souls – is essential to integrating your faith into the practice of law, as it is in doing that in any occupation.

Watch your influence. **There may be cases in which you could represent your client fairly, honestly, truthfully, and properly, but doing so may compromise your influence: (a) in spreading the gospel among some who become aware of that representation; and/or (b) in edifying the saints. Be cognizant of those potential tradeoffs and go deeper than a superficial analysis of whether you can take on the representation in good conscience. Surely, none of us would want to do anything that would hinder our work as a soul-winner or a soul-edifier for Jesus.**

Avoid the temptation to win at all costs. **As I have often been reminded and have reminded other young attorneys, as lawyers, we don't make the facts or the law. All we do is make the best arguments that can be made based on the developed facts and governing law. And, if that is not enough to win the day for your client, so be it.**

Bro. Clark Kindly Refutes My Basic Premise

I don't see any innate or inherent tension between my work as a civil defense litigator and my walk with Christ. I view what I do for businesses and individuals as providing assistance in the resolution of disputes. In fact, the overwhelming majority of civil cases filed and those I handle result in a settlement, meaning that the two parties have reached agreement on how to resolve their disputes. Of course, before reaching that state, there is an inherent adversarial aspect of civil litigation. Moreover, if a case goes to trial – an experience I have had on several occasions – that venue is aptly named an arena by some as the two sides are fighting to convince the decision-maker, whether that is a jury or the judge, that their position about the dispute is the correct one. However, I don't think the adversarial nature of a dispute or the resolution of that dispute necessarily makes the litigation process antithetical to Biblical principles (more on that point below in response to Question No. 2).

As you no doubt know from your research for your article, much of American common law was borrowed from British law (though it obviously has been substantially tweaked since the birth of this country). That British law, in turn, was based in large part on Roman law – the same legal system which the Apostle Paul skillfully navigated in his trials recorded in the Book of Acts.

While there are always aspects of the law that I believe could be improved or tweaked for society's betterment, I am not aware of any aspect of the State and Federal law under which I operate that is, by its very nature, antithetical to binding Biblical principles (to date, subjects such as abortion and gay marriage have played no role in my civil law practice).

For example, some may take issue with the concept of a statute of limitations, which places a limit on how long one has to pursue a potential civil cause of action against a defendant (though the statutes of limitations are also present in criminal law as well). Critics might say that such limits allow a wrongdoer to get away with inflicting harm on others, whether intentionally or negligently, with impunity. However, the law imposes a burden on the victims of the tortious conduct of others to look out for their own interests and to do so in a timely fashion. You cannot sit on your hands after having been allegedly wronged or harmed and do nothing for years and years, as memories fade, witnesses die or otherwise become unavailable, and evidence is lost. It would not be fair to require an individual or a business to defend something that happened 20 years ago when, in all likelihood, the means to ascertain exactly what happened has diminished, if not disappeared altogether. Accordingly, I have no problem with the concept of a statute of limitations and, in fact, would take issue with a civil dispute resolution system that did not feature such limits.

Similarly, some people take issue with the evidentiary rules and the fact that otherwise telling evidence can be kept out of the courtroom due to concerns over how that evidence was obtained or its reliability. Again, there are sound public policy reasons and concepts of fairness that support such rules. As an African-American and a student of legal history, I am keenly aware of what injustices can be inflicted on our citizens when there are no guardrails on the evidence that can be presented in our courts of law. We are not dispensing divine justice, which would be all-knowing and infallible. Rather, we are mankind and, knowing the well-established failings and propensities of human nature, we in America have developed a system of criminal and civil justice that we think gives us the best opportunity to achieve justice to the extent that such can be rendered by human beings.

I think there is much to be said about the rule of law that is alive and well in this country (albeit not perfectly). Think about the alternatives to dispute resolution if we did not have a well-established legal system available to all citizens to handle and address their disputes with others. All you need to do is turn on television news, open your hard copy newspaper, or peruse the Internet.

Disputes like the ones we routinely handle calmly, civilly, and fairly in our legal system here are too often resolved with violence, hatred, and anger in many less developed countries across the world (though I recognize that my characterization of American civil litigation does not hold true in all cases, especially as to the attitudes of the litigants).

Moreover, legal systems are a part of governments which we know from Rom 13:1-7 are established by God (though that does not mean that God approves of all governments and all legal systems or that He will not hold those governments accountable). God imposed a legal system on the children of Israel and requires Christians to abide by the laws of the state, including its legal system, unless compliance with that law and the law of God is impossible (the Acts 5:29 exception).

So, that is a very long-winded way of saying that I see no daylight between my obligations to God and my work as a civil defense litigator. That does not mean that there are not challenges to serving God as a lawyer. That also does not mean that there are no unique challenges to serving God as an attorney (the amount of time it takes to practice law would be at the top of any list of challenges for me). But that is much different from saying that there is some inherent tension between an occupation (in my case, a civil defense lawyer) and my service to God. The former I see. The latter I do not.