The Practice of Law as Response to God’s Call

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INTRODUCTION

My writing in recent years has explored the question of what Catholic social thought and Catholic legal theory add to our consideration of various legal questions. That project proceeds from the premise that faith and religion are not to be relegated to church on Sunday (or temple on Saturday, or other equivalents); rather, faith and religion are relevant to our actions in the world. In the words of the Congregation for the Doctrine of the Faith,1 “There cannot be two parallel lives in [a Catholic’s] existence: on the one hand, the so-called ‘spiritual life,’ with its values and demands; and on the other, the so-called ‘secular’ life, that is, life in a family, at work, in social responsibilities, and in the responsibilities of public life and in culture.”2 As I have observed elsewhere, “Catholicism is an ‘incarnational faith’ that sees God in everything, and the Gospel is a living message, intended to be infused into the reality of the world in which we live.”3


When the subject is the practice of law, or, indeed, any kind of work, the faith perspective is very different from the secular one. The secular world tends to think of work narrowly. Work is typically viewed as separate from our spiritual life (whatever form that spirituality takes). However, the calling of all Catholics is to transform the world into the Kingdom of God.4 That means that work is not separate from who we are as human beings. Rather, work is how we participate in the act of creation and how we fulfill the reality of our creation in the image of God. Thus legal practice, like all human work, is a religious calling, a vocation.

Section I of this Article will focus on work as a calling. Although I refer in my title to the practice of law as a response to God’s call, I suggest that even those who are uncomfortable with the use of religious language can share a notion of law as a calling. Section II will address the need to discern one’s place in the legal profession. Implicit in the notion of a calling is that our professional decisions are not merely internally driven, but are in response to an action from a God who calls to us. That reality demands an active reflectiveness about who we are meant to be as lawyers. Finally, Section III will identify some particular influences on the practice of law that proceed from a Catholic religious perspective (the perspective out of which I operate).

I. WORK AS A CALLING

Most of us must make a living; we do not have the option of choosing whether or not to work. But it matters tremendously how you see work. Work provides us with the financial means to pay the rent or the mortgage and to meet our other financial responsibilities. But is that all it does? Most working people spend a significant portion of their lives—of the hours in each week—working. So it matters a lot how one answers the question: Is work purely instrumental—simply a means to a paycheck? Or is it something more? Is work simply something that provides the means to acquire material things? Or is it a means by which one can make a difference in the world? Is work about something small? Or is it about the life of the world?

Sikh, for example, explains that being a good Sikh “requires followers not to study the religion’s teaching in isolation, but rather to observe its beliefs ‘in whatever you are doing while you are leading your life.’” Jenny B. Davis, A Spirited Practice: Combining Law with Religion is Work—but Worth It, Texas Lawyer, May 5, 2008, at 1, available at http://www.law.com/jsp/bx/PubArticleTX.jsp?id=900005634696.

4. “[T]he Kingdom of justice and peace and concern which Jesus announced [is] not an abstraction; it [has] to be built right into the dilemmas and ambiguities of marketplace realities.” Thomas F. McKenna, Vincent de Paul: A Saint Who God His Worlds Togethcr, 16 J. BUS. ETHICS 299, 305 (1997).
The secular world tends to think of work narrowly. Work is viewed as separate from our spiritual life (whatever form that spirituality takes),\(^5\) such that the holiness of work is often overlooked and our secular work lives are viewed as somehow being apart from the rest of us.\(^6\) “A great many of our business, organizational, and university leaders are rooted in this separation, this splitting off of people’s souls and their need for meaning from the workplace.”

That view is inconsistent with the Catholic vision, which is an integrative one. In the words of Stefan Cardinal Wyszynski, “The aim of [a right understanding of work] is to achieve a real integration of work (which is a part of our life) into the fullness of that life, so that work is no longer something cut off from the rest but is something that forms a harmonious whole with it.”\(^8\)

Work has been an important theme in Catholic thought since the end of the nineteenth century. Pope Leo XIII devoted a major encyclical to the issue of human work in 1891, and labor themes are significant in a number of writings of Pope John Paul II,\(^9\) as well as in many of his homi-

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5. Stefan Cardinal Wyszynski, All You Who Labor: Work and the Sanctification of Daily Life 28 (Sofia Inst. Press 1995) (lamenting that the truth that work is one of the means of our spiritual progress “is almost completely forgotten today”).

6. In the words of one commentator, “in our culture the tendency has been to separate our sense of religious vocation from our professional practice: to separate the kind of life to which God calls us from the life demanded of us in our work.” Lee Hardy, A Larger Calling Still, 32 PEPP. L. REV. 383, 390 (2005). See also Anthony T. Kronman, Pepperdine Commencement Speech, 32 PEPP. L. REV. 439, 439 (2005) (noting that even “many men and women of genuine spirituality . . . view their work as something disconnected from their spiritual concerns,” seeing work simply as a way to make a living); Wanted: A Theology of Work, INITIATIVES (Nat’l Ctr. for the Laity, Chicago, IL), May 2007, at 1, available at http://www.catholiclabor.org/NCL%20initiative/May%2007.pdf (observing that “too many Christians regard their time on the job as tangential to the claims of their faith”).

Gaudium et Spes termed the “split between the faith which many profess and their daily lives” to be “among the more serious errors of our age.” SECOND VATICAN COUNCIL, GAUDIUM ET SPES: Pastoral Constitution on the Church in the Modern World ¶ 43 (1965) [hereinafter GAUDIUM ET SPES], available at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html.


8. Wyszynski, supra note 5, at 5.

lies and talks. Pope John Paul II expressed the Catholic vision of work simply and beautifully in a 1979 talk in Guadalajara. Work, he said, “must be considered a real vocation, a call from God to build a new world in which justice and brotherhood dwell, a foretaste of the kingdom of God."

A central theme in Catholic thought is work as participation in the creative action of God—in the work of creation itself—and, therefore, as means of sanctification. Work serves (or should serve) to facilitate and encourage the human person in becoming “fully human” and, therefore, receptive to the divine. Work experience plays a tremendously important part in bringing workers to the realization of the fullness of their existence and potential as a human person. In the words of one author, “Man, then, does not work because he does not have the wealth stored up to constantly be at rest; man works because his dignity is in creating... [M]an was created not simply for wages, but he was created to work. It is in work that man’s divine nature is displayed.”

This sense of work as participation in the act of creation, as a means for realizing our full potential as humans, comes from our creation in the image of God and the dignity of the human person. The purpose of work is to create and the purpose of creation is to actualize our potential as beings created in the image of God. Our divine nature is displayed in work.

Work as participation in the act of creation is not dependent on how highly we regard the work in a secular sense. Some work is more glamorous or seems more important than other work. Some work looks to us like mere drudgery. But it is not the nature of the particular job that gives work its dignity. Brother Lawrence, in the classic Christian text,

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11. Id. at 14 (excerpt from Pope John Paul II, Talk in Guadalajara, Mexico, Jan. 1979).
13. Randy Lee, Dorothy Day and Innovative Social Justice: A View from Inside the Box, 12 WM. & MARY J. WOMEN & L. 187, 201 (2005). See also Wyszyński, supra note 5, at 28 (man benefits from work “not because he gets his wages for his work, but because his work, which is bound inseparably with his person, shapes and develops his mind, will, feelings, various moral virtues and characteristics, as well as his physical and spiritual skills”).
15. That does not mean there are not types of work that are inconsistent with human dignity. The most obvious example is prostitution, which “does injury to the dignity of the person who engages in it, reducing the person to an instrument of sexual pleasure.” Catechism of the Catholic
If work is about actualizing our creation in the image of God, then inevitably work is not simply what we do, nor is it what we decide to do; rather, work is a calling. The best way to understand that is in terms of vocation. "Vocation" comes from the Latin word for call or calling ("vocare"). It implies that there is an action from God—a beckoning and calling from God to us. It implies an invitation, an opportunity to do something that has meaning beyond the self. Although the term was once understood to be reserved for priests, nuns, rabbis, etc., we now understand the idea of a "call" to refer to more than being drawn to some type of ordination. We now more rightly understand the concept of vocation as applying to everyone. After all, why would God not call everyone to contribute in his or her own way to the building of the Kingdom?

In a sense, we cannot deny God's action. We are called and we respond to the call by answering yes or no. To ignore it is to answer no. God calls each one of us to do some good in this world. We are called to be concerned for other human beings, to be instruments of God's love, peace and justice. We are put on earth to make a contribution, not simply to consume resources—to eat, breathe, and take up space. God designed each of us to make a difference with our lives. We are created to add to life on earth, not just to take from it.

Many people are uncomfortable using religious terms to think about who and what they are. Others may find the term "calling" to be an antiquated one that speaks to a world different from the one in which we live. But when you look at the secular language of self-knowledge, self-identity, self-fulfillment, and the pursuit of happiness, ask yourself whether it is so very different from the Catholic way of talking about work. I suspect that although the language is different and is expressed

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16. See Brother Lawrence, The Practice of the Presence of God (Scoll Publishing 2007) (1691). Brother Lawrence was a lay brother in a Carmelite monastery and was assigned to the kitchen. During the discussion period after my talk, someone asked, "Isn't some work just work?" It seems to me that, from a Catholic perspective, the answer to that question is clearly no. No matter how menial the work appears, there is a dignity in it, a participation in the creative act of God. This also means that work is not merely instrumental—not a necessary evil I undertake because I need to earn my daily bread. It is the work itself that has meaning.


18. Joseph G. Allegretti, The Lawyer's Calling: Christian Faith and Legal Practice 26 (1996) ("A profession is what one professes to be, but a vocation is what one is called to be, called to be by God."); Wyszynski, supra note 5, at 51 ("Man has to act according to God's plan; he has to perform what God has in mind for him.").

19. Allegretti, supra note 18, at 27 (discussing the shift from the medieval notion of monastic calling to the idea that any occupation can become a calling).
in amoral terms, we are talking about largely the same thing.\textsuperscript{20} As one author explains, "The rise of spirituality as a popular and meaningful concept in everyday usage is indicative of the new value placed on self-identify and self-fulfillment."\textsuperscript{21} The "religious concept of the soul" has been "reconfigured in post-modern culture through psychological discourses and self-help literature."\textsuperscript{22}

Therefore, although there are very practical concerns that affect how people think about work, work is still seen by people who may be very secular in their general orientation and who may resist language of religion and spirituality, as a means of self-fulfillment and self-identity. Moreover, self-fulfillment and self-identity mean more than simply personal satisfaction. Even when expressed in secular terms, many people express a need to balance individual self-fulfillment with something more—some sense of contributing to something beyond themselves.\textsuperscript{23}

II. DISCERNING ONE'S PLACE IN THE LEGAL PROFESSION

If our work is a calling, then the practice of law is a calling. And a calling invites a response. That means that there is a process of discernment both in determining that one belongs in the practice of law and in determining our place in the legal profession. We are all called, but we are each called to do something for which we were uniquely created. That is, we are all called by God, but each of us is individually called to participate in God's plan in a unique way. Therefore, each of us called to the practice of law must discern our place in the legal profession.

Note that I use the term "discernment" rather than "decision." Discernment implies something more than simply making up one's own mind. If work is a calling from beyond ourselves, then the response to that calling is not simply an internal process. Rather, it is a dialogic process with God.\textsuperscript{24} Discernment implies making decisions in covenant

\textsuperscript{21} Margaret Gibson, Memorialization and Immortality: Religion, Community and the Internet, in Popular Spiritualities: The Politics of Contemporary Enchantment 69 (Lynne Hume & Kathleen McPhillips eds., 2006).
\textsuperscript{22} Id.
\textsuperscript{23} Weiler & Schoonover, supra note 7, at 6.
\textsuperscript{24} During his recent visit to the U.S., Pope Benedict XVI made this point in a question and answer session with American Bishops. When asked about priestly vocations, he observed that "prayer is the first means by which we come to know the Lord's will for our lives. To the extent that we teach young people to pray, and to pray well, we will be cooperating with God's call. . . . Programs, plans, projects are necessary and have their place; but the discernment of a vocation is above all the fruit of an intimate dialogue between the Lord and his disciples. Young people, if they know how to pray, can be trusted to know what to do with God's call." Whispers in the Loggia,
with God, making decisions with God, and making decisions through the lens of God’s desire. And since God’s desire and our deepest desires are the same, discernment also involves getting in touch with our own deepest desires.25

Understanding law as a vocation has implications for what we are about in law school. Whether or not students conceive of it in this way, the reality is that law school is a three-year process of discernment of who and what the student will be in the legal profession. The implication is that those of us involved in legal academia need to continually ask ourselves: What are we doing to help students discern their place? So, for example:

- Are we attentive to signals that law school may not be the right place for a particular student because of his ability or inclination?26 Or does the desire to maximize tuition revenue cause us to ignore that possibility?

- Are we encouraging the best students to get judicial clerkships and high-paying jobs in large law firms simply because high numbers in those areas is a signal of a successful law school? Or are we engaging in open and ongoing dialogue designed to help students discern their best fit in the legal profession?

- Have we set up the financial structure of the law school so that income is the only criteria a severely debt-laden student can afford to take into account in determining what job to accept? Or are we providing options such as loan-repayment programs that allow students to take lower paying jobs that may be a better fit for the student?

- And, perhaps a more difficult question, but one demanded by my characterization of law as a religious calling, do we directly


26. As a subset of this question, we might also ask whether we are alert to behaviors that might indicate a particular student will have difficulties with a character exam or later in the profession. Studies of medical school students, for example, have found that behavior during medical school—such as poor reliability and responsibility, poor initiative and motivation—were a good predictor of later disciplinary actions against such individuals. See Maxine A. Papadakis, Carol S. Hodgson, Arianne Tcherani & Neil D. Kohatsu, Unprofessional Behavior in Medical School is Associated with Subsequent Disciplinary Action by a State Medical Board, 79 ACAD. MED. 244 (2004); Arianne Tcherani, Carol S. Hodgson, Mary Banach & Maxine A. Papadakis, Domains of Unprofessional Behavior During Medical School Associated with Future Disciplinary Action by a State Medical Board, 80 ACAD. MED. 517 (Supp. 2005); David T. Stern, Alice Z. Frohna & Larry D. Gruppen, The Prediction of Professional Behaviour, 39 MED. EDUC. 75 (2005).
or indirectly convey to students that faith and religion are out of bounds in the academy and the legal profession? Or do we encourage their holistic growth and convey by who and what we are that their faith matters to who they are as professional persons? In short, are we helping students develop a moral compass?

This last point is more important now than ever. Research indicates that young people are increasingly more concerned with security than with developing a meaningful philosophy of life. Thus, it is important for us to examine whether we signal to students the importance of developing a coherent notion of their place in the world, or whether we fail to challenge their more limited goals and concerns.

I am not arguing for taking away student autonomy; ultimately, the decision as to their place within the law, or fit in the law at all, is for the student to make. But I am suggesting that, as legal educators, we have an obligation to help guide student discernment. We cannot be thinking about simply what is good for oneself as a professor or what is good for the school as an institution. We must be focusing on the needs of the student.

The University of St. Thomas School of Law, where I now teach, strives to do just that. It is committed to “graduating lawyers who view their professional lives as a calling or vocation.” We have an explicitly faith-based mission that seeks to foster a “vocation-based” culture and understanding of success, and that encourages students to explore the relationship between their faith and their life in the law. However, even schools without our faith-based mission have the same obligation to

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27. J.H. Pryor et al., UCLA Higher Education Research Institute, The American Freshman: Forty Year Trends 33 (2007) (reporting that “[t]he percentage who report that ‘developing a meaningful philosophy of life’ is a ‘very important’ or ‘essential’ personal goal declined steadily from 1967 at 85.8 percent to an all-time low of 39.3 percent in 2003”).

28. As Pat Brown points out in his contribution to this symposium, “[o]ur notions of professionalism and ethics within the practice of law do not spring into being ex nihilo; they are formed (and . . . partly deformed) when we are socialized and acculturated into the law as law students.” Patrick Brown, Ethics as Self-Transcendence: Legal, Education, Faith, and an Ethos of Justice, 32 Seattle U. L. Rev. 293, 295 (2009). Professor Brown correctly points out that courses in professional responsibility are not enough to accomplish this task. Id. at 295–296.


31. In the retreats and other programs of spiritual formation I offer at St. Thomas, I do not think of what I do in terms of “vocational discernment” in a narrow sense of that term. Rather, I conceive of my task as helping students, and other members of the community, deepen their personal relationship with God—helping them to fall more deeply in love with God. Everything else flows out of the depth of that relationship.
help students discern their role in the legal profession. Preparing students for the legal profession means more than simply teaching them law and legal theory. It also means doing more than preparing people to use law merely as a means to earn a comfortable living.

Even outside of the process of legal education, everyone who is part of this profession needs to discern her place as a lawyer. If we did not do it while we were in law school, at some point we each need to ask ourselves: Who am I in this profession? Why am I here? What is the task to which I have been appointed? While I won’t attempt a comprehensive mode of engaging in that discernment process, let me share some thoughts.

First, no one else can provide the answers for one’s own life. There is no external substitute for a deep examination of what one’s inner voice is saying. No external determination of path can answer the questions: What is life-giving for me? Where does my energy flow most naturally? What are my values, and how does a particular path accord with those values?  

This is an important point to underscore because “organizational success criteria have a seductive habit of becoming group norms (and unconsciously assumed personal success criteria)” by which we measure ourselves. A decision not to follow those norms will be challenged and criticized. So, for example, if a law student has good grades and a position on Law Review, the student is “supposed to” clerk. A decision not to do so will be frowned upon by many. As a result, discernment requires courage.

I am not suggesting that one should not take advice from others. Indeed, advice and feedback from others is an important element of the discernment process. But external advice “can neither supersede nor supplant the kind of self-intimacy that allows us to encounter the guiding presence of God within.”

Second, treating the discernment process seriously requires paying careful attention to motives and to why one is making certain choices. Does one’s attraction to a large firm stem from a sense that a high-paying

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32. See Weiler and Schoenover, supra note 7, at 30–32 (discussing the myth that “[s]omeone else has the answers for my life”).

33. Id. at 33.

34. This was certainly my own experience. As Editor-in-Chief of the NYU Law Review, the assumption was that I would clerk. I determined that clerking was not the right thing for me to do after law school, and so I went directly into practice. I did not enter the teaching market for almost fourteen years after I graduated from law school and, yet in virtually every interview I had to answer the question, “Why didn’t you clerk?” It is clear that for many the response that clerking was not the right thing for me to do at the time was not a sufficient response.

job is a sign of great achievement? Is a particular choice attractive because of how it allows one to further God’s plan or because it strokes the ego? If discernment is about discovering how God is calling me, then I have to separate out any ego motive. In short: It is about God, not about me.

Third, discernment of place in the legal process requires letting go of a “need to see immediate fruits of success” in one’s endeavors. I think there is a temptation to say, “If I’m following God’s will, things should work out well,” by which we really mean, “I should be successful in what I’m doing.” The reality is that we don’t always or immediately get to see the positive impact of what we do, and so our focus cannot be on the bottom line. We can’t necessarily look to outward success as a sign that we have discerned well. Sometimes what we are called to do is to witness in a way that will not succeed in the short run.

Fourth, and related to the third, it is often the case that answering God’s call costs. Again, the tendency is to think, “If I’ve responded to God’s call it should be easy.” Lamentably, it doesn’t always work that way. I may discern that God wants me to do a particular task that will cause personal upheaval, that will change my life in ways that make me uncomfortable. So difficulty and personal discomfort are not necessarily reliable signs in the discernment process.

Finally, discernment of vocation is not a one-shot deal, but a lifelong process. We need to have sensitivity to the fact that God may have different plans for us at different times. That can be difficult because it means that the best one can ever say is, “I am where I am supposed to be right now, but I need to be open to the fact that God may want me to do something else at a different time.” This is important to keep in mind because we often have a tendency to stick to our prior decisions, making it easy to ignore signs that it is time to move on. Change is never easy.

As I hope these brief comments suggest, discernment is an active process. It is not sitting back and letting God do all the work. Discern-

36. “The vast majority of law students—at least the vast majority of those attending the most prestigious schools (or getting good grades at the less prestigious schools)—want to work in big firms. And the reason they want to work in big firms is that big firms pay the most.” Patrick J. Schiltz, On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, 52 VAND. L. REV. 871, 896–97 (1999). Schiltz explains that the drive for money is less the money itself than the fact that money is a sign of success. Id. at 905–06.

37. During the discussion following my paper presentation at the March 7 Symposium, someone suggested that students cannot really know what legal practice is like “until they get there.” There is some truth to that statement. But that does not minimize the importance of the fact that students need to carefully discern, before they get there, what “there” they are headed for and that part of our task is helping them learn a process of discernment that will aid them throughout their lives.
ment is about a combination of self-determination and a willingness to be led by the Spirit. We need to personally discover our passions and our desires, and decide how we will live them out in the world. But we do that with a willingness to be led by the Spirit, with an openness to God’s influence as we make our decisions.

III. CATHOLIC INFLUENCES ON THE LEGAL PRACTITIONER

As the foregoing discernment discussion suggests, I proceed from the premise that our lives belong to God and that doing God’s work is our fundamental task in this world. That means living an integrated life: a life in which one’s faith affects every aspect and a life with no separation between the spiritual and the secular.

The need to live an integrated life means that faith doesn’t just have a lot to do with discerning our place in the legal profession. It also has a lot to do with how we practice in whatever venue we have discerned as our place. That is, seeing legal work as a calling requires that a lawyer will “necessarily confront the moral dimensions of her work.”38 Therefore, the question is not do religious values matter, but how.

Bringing a moral dimension to legal work is not always easy. The culture of the legal profession can be hostile to personal values. “The system does not want you to apply the same values in the workplace that you do outside of work . . . it wants you to replace those values with the system’s values.”39 This means that one must approach legal practice with a firm recognition of one’s dependence on God and a conviction of the centrality and importance of one’s faith to one’s life. Without that firm recognition and conviction, it will be impossible to remain anchored when faced with the pressures practicing law brings to bear on young lawyers.

Several principles flowing from a Catholic religious perspective have relevance to the practice of law. I am not necessarily claiming that these are unique to the Catholic religion; similar principles can be found in other of the world’s major faith traditions.40 I speak in terms of Catholic influences simply because that is my own faith.

38 Allegritti, supra note 18, at 34.
39 Schiltz, supra note 36, at 912 (emphasis added).
40 For example, I discuss the fact that other religions share a Catholic vision of the relation of human beings to each other in Susan J. Stabile, Using Religion to Promote Corporate Responsibility, 39 Wake Forest L. Rev. 839, 847–52 (2004).
A. Obligation to Promote the Common Good.

Promotion of the common good is a central principle of Catholic thought. From a Catholic perspective, the common good must be the primary orientation of society—every human institution, and each one of us as individuals, has an obligation to contribute to the common good so that human life can flourish. This means that a lawyer “must bring concern for the common good to bear on [her] legal work”—must “search out and highlight the practical opportunities in which [she] may incorporate ethical and moral considerations.”

Some argue that “[s]ince the lawyer is engaged in the implementation of the values of others—a client or a government agency or the general society—he need not be concerned directly with value questions.” However, a commitment to the common good requires, at a minimum, that a lawyer has an obligation to truth and justice that is not satisfied by merely assuming that the adversarial system will unfailingly guarantee that truth and justice prevail. More robustly, a commitment to the common good implies a rejection of the “traditional view” that if “conduct by the lawyer is lawful, then it is morally justifiable, even if the same conduct by a layperson is morally unacceptable, and even if the client’s goals or means are morally unacceptable.” As my colleague Rob Vischer has argued, a lawyer should engage his clients on moral terms.

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41. Pontifical Council for Justice and Peace, Compendium of the Social Doctrine of the Church ¶ 160 (2004), available at http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html [hereinafter Compendium] (identifying the common good as one of the “permanent principles of the Church’s social doctrine”). Gaudium et Spes defines the common good as “the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment.” Gaudium et Spes, supra note 6, ¶ 26.


45. Lawyers play many roles, such as officer of the court, fiduciary of his client, etc. The lawyer’s role in a particular case may impact how the lawyer’s obligation to truth and justice play out. But in no role can the lawyer simply ignore the values questions that arise.


B. Client Relationship of Covenant, Not Contract

There are two primary paradigms through which we can view human relationships: covenant and contract. These two paradigms proceed from very different views of the human person and adopt different views about the nature of obligations between persons.

The model of covenant proceeds from a vision of the human person as "constituted by relation, first to God as Creator, and then to all human beings who make up the network (past, present, and future) within which the person exists." Covenant permeates the relationship between God and humans and then becomes the paradigm for all human relationship. One author calls the account of the creation of man and woman, and their relation to each other, "the account, not of the contract, but of mutual recognition, the narration, not of the agreement, but of the covenant between those who become aware of their human identity.

The model of contract proceeds from a very different vision of the human person—an image of the human person as self-existent and autonomous. The human person is not only viewed as independent and separate from others, but to the extent that the existence of God or some other Ultimate Reality is acknowledged, the individual is viewed as separate from that God/Ultimate Reality.

These different underlying visions of the human person produce very different models. The contract model is a product of the individualist, autonomous model of the human person. If each person is autonomous, she has no preexisting obligations and is free to take on whatever


49. FRANCIS MARTIN, THE FEMINIST QUESTION: FEMINIST THEOLOGY IN THE LIGHT OF CHRISTIAN TRADITION xvi (1994) (calling this notion "relationalism" and contrasting it with "individualism," defined as "considering the human being to be constituted and endowed with rights prior to any relationship"). See also SUSAN PACE HAMILL, AN ARGUMENT FOR TAX REFORM BASED ON JUDAIC-CHRISTIAN ETHICS, 54 ALA. L. REV. 1, 52 (2002) (noting the inseparable link between a proper relationship to God and a proper relationship to all other humans). The belief that "the ultimate foundation of existence is a relationship" that flows from Christian belief in a Triune God. "To be created in the image of God thus points to an understanding of the human person as a fundamentally social and relational being, not as an isolated individual." TIMOTHY J. CUSICK, MANAGEMENT, LABOR, AND THE DEVELOPMENT OF THE HUMAN PERSON: INSIGHTS FROM THE COMPLIENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH, REV. BUS., Spring 2006, at 20–21.

50. Examples include God's covenant with Noah after the flood; God's covenant with Abraham that Abraham's descendants would be numerous and God would give them Israel as possession; God's covenant with Israel at Mt. Sinai; and God's covenant granting Israel to David. See GENESIS 9; GENESIS 12:1-9; EXODUS 19-20; 2 SAMUEL 7:1-29. And we find the new covenant with Jesus described in, e.g., LUKE 22:20 and HEBREWS 8:8.

51. CORTINA, supra note 48, at 7 (emphasis in original).


53. See STABILE, supra note 40, at 855–57.
obligations the person freely chooses, based on her assessment of her own self-interest. Because, by definition, the only obligations that exist derive from contract, “[w]hoever signs a contract can free oneself from it as soon as it ceases to interest them and is possible to do so, a case which tends to arise precisely in difficult times.”

In contrast, the covenant model is one of obligation and continued loyalty. Covenant obligations inhere in our relationship as human persons and do not depend on contract. Covenant implies that respect, mutuality, and love are obligations that arise, not by virtue of contract, but by virtue of our being human and existing in dependence on each other. That covenant obligations inhere in our relationship as human persons also means that, unlike contracts, covenants cannot be broken. We can sin against a covenant; we can act in a way untrue to a covenant; but we cannot break it.

Although there is, of course, a contractual element to the relationship between lawyer and client, Catholic thought invites us to think about the relationship as we do all human relationships: as relationships of covenant. Doing so makes an enormous difference. As Joseph Allegretti explains,

The entire lawyer-client relationship rests on a new foundation. No longer does a “case” walk into my office—a tort case or a divorce case or a property case. Instead, a person enters my life, a person who seeks my help, a person whom I recognize as already in relation to me because I know both of us to be children of God whose common destiny is forged in our encounter with each other.

Allegretti discusses several implications of this view, including the fact that it imposes on the lawyer a broader obligation than that imposed by mere contract, and that it frees the lawyer to raise moral issues with the client. It also obligates the lawyer to think of what is best for the client, which may not be what is best for the lawyer’s business.

54. See Todd David Whitmore, Catholic Social Teaching: Starting with the Common Good, in LIVING THE CATHOLIC SOCIAL TRADITION 59, 60–61 (Kathleen Maas Weigert & Alexia K. Kelley eds., 2005) (describing the notion of autonomous individuals who “freely—that is, without encumbrance or coercion—form ‘contracts’ to associate with each other because it is in each of their best interests,” as the classical liberal view).
55. CORTINA, supra note 48, at 7.
56. See id. at 7 (observing that “the covenant is maintained by means of a personally assumed internalised sense of identity, loyalty, obligation and reciprocity”) (emphasis in original).
57. ALLEGRETTI, supra note 18, at 43 (emphasis in original).
58. Id. at 45–50.
59. One non-Catholic lawyer gives the example of a client seeking to hire her firm to file for divorce on the client’s behalf. She noticed that any mention of his wife would bring tears to his eyes. This prompted her to suggest that the client go home and spend some time working on his marriage and return if he still wanted to file papers. She did hear back from him, letting her know
C. Dignity of the Human Person

Fundamental to Catholic thought is the recognition of the inviolable dignity of the human person—the notion that each person, regardless of race, sex, age, national origin, religion, sexual orientation, employment or economic status, health, intelligence, achievement or any other differentiating characteristic—has a dignity and is worthy of respect. The basis for asserting the dignity of the human person is the belief that each human being is created in the image of God, and that in every person there exists “the living image of God.” From the principle of dignity of the human person flows the principle of respect for human life: the idea that every person, from the moment of conception to natural death, has a right to life consistent with their human dignity.

From a Catholic perspective, lawyers, like all human beings, have an obligation to act consistent with the dignity of the human person. Although this is not the venue in which to fully explore all of the ways that might play out for a lawyer, let me identify a couple of things that the obligation to promote the dignity of the human person suggests.

First, a lawyer has to consider his behavior in litigation. Lawyers are obligated to aggressively defend their clients. However, zeal for the client should not cause the lawyer to engage in the kind of hardball tactics that potentially rob an adversary of his dignity. The most obvious example that comes to mind is the old tactic of attacking rape victims in the name of defending those accused of rape, to effectively violate them again on the witness stand.

The pressures inherent in a litigation context encourage behavior that is questionable from a moral perspective. As one lawyer observed, “there are all kinds of pressures on you to do what everybody else does, but you have this internal compass guiding you to want to do the right thing, and sometimes that can be a disadvantage, especially in litigation.”

Second, a lawyer may have to refrain from taking on certain representations where the aim of the client is precisely a harm to someone else’s right to life. This does not mean a lawyer cannot, consistent with Catholic principles, defend a guilty client. The premise of our adversary legal system is that everyone requires competent representation. More-

that things were going well at home. She says, “Of course, we are practicing law and giving legal advice, and this needs money coming in, but at some level the spirituality that comes from religion has you step out of the business situation to determine, ‘Is this best for the client?’” Davis, supra note 3.

60. See Gaudium et Spes, supra note 6, ¶ 26.
61. See Compendium, supra note 41, ¶ 105.
63. Davis, supra note 3.
over, the only way to protect the innocent against coercive state power is to afford all individuals the right to have the state prove their guilt. But participating in another individual’s efforts to harm a third party’s life is another matter.

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Notwithstanding the doubts of some people, it is possible to be a good lawyer while still living up to Christian principles.64 Joseph Allegretti ends his book, The Lawyer’s Calling, with a statement of what it means for him to approach work as a Christian. It is a statement that captures well the influences of Catholicism on the practice of law.

I try to approach my work not just as a career but as a calling: I seek to be both companion and prophet to my clients; I recognize an obligation to work for justice for my clients and for society; I see myself not as a hired gun but as a healer of human conflict; I am 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.65

IV. CONCLUSION

Although I have focused this Article on individual discernment and vocation, much of what I have said about the nature of work as a calling, and the implications for individuals of viewing the practice of law in that way, also has consequences for how we think of the legal profession itself. To think of work as a calling invites us to think more broadly about the role of the legal profession as a whole, not only about one’s own place within that profession. Arguably, a broader consideration of the role of the profession ought to precede the question of how an individual fits into the profession.

The legal profession has to be more than simply a means of providing some portion of society with the ability to earn a (quite) comfortable living. Equally, it has to be more than the means by which we provide assistance to others who want to make large amounts of money through the efforts of legal counsel. Rather, the legal profession plays a role in the promotion of the common good, in the creative work of—to go back

64. Some people are skeptical, for example, that corporate lawyers can act ethically. I am not alone in my conviction that the answer is yes—that one can engage in the practice of law in any area in a way that comports with religious values. See, e.g., CAN A GOOD CHRISTIAN BE A GOOD LAWYER (Thomas E. Baker & Timothy W. Floyd eds., 1997); Amelia J. Uelmen, One Case at a Time: On Being a Catholic Lawyer, in PROFESSIONS OF FAITH: LIVING AND WORKING AS A CATHOLIC 55–66 (James Martin, S.J. & Jeremy Langford eds., 2002).
65. Allegretti, supra note 18, at 126–27.
to Pope John Paul's expression—"build[ing] a new world in which jus-
tice and brotherhood dwell; a foretaste of the kingdom of God."66  Hope-
fully, my effort here to explore the issue of individual discernment and 
vocation will invite more consideration of the role of the legal profession 
as a whole.

66. See DROEL, supra note 10, at 14 (excerpt from Pope John Paul II, Talk in Guadalajara, 
Mexico, Jan. 1979).