

1999

A Lawyer's Mischellany: Scriptural Resources For Christian Lawyers

Joseph Allegretti

Follow this and additional works at: <https://ir.lawnet.fordham.edu/ulj>

 Part of the [Other Law Commons](#)

Recommended Citation

Joseph Allegretti, *A Lawyer's Mischellany: Scriptural Resources For Christian Lawyers*, 26 Fordham Urb. L.J. 1183 (1999).
Available at: <https://ir.lawnet.fordham.edu/ulj/vol26/iss4/10>

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Urban Law Journal by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

A LAWYER'S MISCELLANY: SCRIPTURAL RESOURCES FOR CHRISTIAN LAWYERS

*Joseph Allegretti**

Over the last few years, I have had the good fortune to talk with many lawyers about their faith and their work.¹ Our conversations have taken place in law schools, law offices, churches, retreat houses, private homes, over the phone and even during radio call-in shows. I am often asked: Where do I turn for spiritual sustenance? What are some resources that help bridge the gap between what I do as a lawyer and what I profess as a Christian?

There are no simple answers to these questions. The influences on each one of us are too broad and diverse to be neatly catalogued. I take my spiritual sustenance wherever I can find it. I am a Christian, however, and look first to my own tradition. I turn to Scripture; the works of Christian theologians like Augustine, Aquinas, Luther and Calvin; the encyclicals of popes and the pastoral letters of bishops; modern theologians like Paul Tillich, Karl Rahner, Stanley Hauerwas, Gustavo Gutierrez, the Niebuhr brothers, Reinhold and H. Richard; classics of Christian spirituality like the writings of Julian of Norwich, the Rule of St. Benedict, and the legends surrounding St. Francis of Assisi; and twentieth century spiritual writers such as Thomas Merton and Henri Nouwen. But I also have turned repeatedly to the wisdom of non-Christian writers like Martin Buber, Abraham Heschel and Thich Nhat Hanh, as well as the spiritual insights of poets and novelists like Dante, Rilke, T.S. Eliot, Graham Greene, Tolstoy and Dostoevski. The list could go on and on.

Rather than try to explain all that, I sometimes share with lawyers a few of my favorite Scriptural passages that seem particularly relevant to the life and work of Christian lawyers, and, I hope, to lawyers of other religious traditions as well. Lawyers have told me that these resources are helpful.

* A.A. and Ethel Yossem Professor of Legal Ethics, Creighton University School of Law; B.A., Colgate University, 1974; J.D., Harvard Law School, 1977; M. Div., Yale Divinity School, 1989.

1. I have been given this opportunity because of the publication of a book on faith and lawyering, JOSEPH ALLEGRETTI, *THE LAWYER'S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE* (1996).

So, with that in mind, I have selected a dozen passages from Scripture — I could have chosen more or less, but a dozen has a nice Biblical ring to it — and set them out below. Some are from the Hebrew Scriptures, some from the New Testament. After each quotation, I have included a few comments to spark further reflection.²

You might think of these references as bread for your spiritual journey. If some or all of these nourish you as they have me, that is all for the good. If not, I urge you to compile your own lawyer's miscellany to fit your life and situation.³

I. Isaiah, Chapter 1, Verses 10-17⁴

Hear the word of the Lord,
 you rulers of Sodom!
 Listen to the teaching of our God,
 you people of Gomorrah!
 What to me is the multitude of your sacrifices?
 says the Lord;
 I have had enough of burnt offerings of rams
 and the fat of fed beasts;
 I do not delight in the blood of bulls
 or of lambs, or of goats.
 When you come to appear before me,
 who asked this from your hand?
 Trample my courts no more;
 bringing offerings is futile;
 incense is an abomination to me.

2. I am not doing a scholarly exegesis of these passages, so I am not concerned here with questions of authorship, dating, social context, intended audience, etc. To do justice to Scripture, of course, those historical/critical/literary questions need to be addressed. The more we know about the original purpose and setting of a passage, the less likely we will be to distort its meaning to fit our current beliefs and biases. On the other hand, there is a temptation to spend so much time reading *about* Scripture that we never actually get around to reading Scripture itself. Therefore, I think it is worth the risk to present these passages unencumbered by scholarly apparatus, and let them speak for themselves, speak to each of us. Exegesis can come later.

3. I tried to write my reflections like a traditional law review article. I did, I really did. I tried to be cool, detached. Lots of footnotes. But when I read over my reflections, I got nothing from them. No bread for my spiritual journey. And if they left me hungry, what was the point of sharing them? How could they nourish anyone else? So I rewrote my reflections in a more personal, informal manner. From the heart, I hope, rather than the head. Now, when I read them, they do speak to me, which means there is at least some chance they will speak to you.

4. All Biblical quotations are from the New Revised Standard Version, unless stated to the contrary.

New moon and sabbath and calling of convocation—

I cannot endure solemn assemblies with iniquity.

Your new moons and your appointed festivals

my soul hates;

they have become a burden to me,

I am weary of bearing them.

When you stretch out your hands,

I will hide my eyes from you;

even though you make many prayers,

I will not listen;

your hands are full of blood.

Wash yourselves; make yourselves clean;

remove the evil of your doings

from before my eyes;

cease to do evil,

learn to do good;

seek justice,

rescue the oppressed;

defend the orphan,

plead for the widow.

How easy it is to forget what is truly important. How easy it is to fall into the trap of believing that attendance at church fulfills the requirements of my faith, while working for justice is something extra, the icing on the cake. This passage reminds me that what I do outside of church is just as important (no, more important) as what I do inside. Lawyers are good with words. I can talk eloquently about justice. But do I live it? As a lawyer, and a human being, my actions count for more than my flowery words. But do my actions promote justice or preserve injustice, subvert oppression or sustain it? When was the last time I defended the orphan or pleaded for the widow?

II. Jeremiah, Chapter 22, Verses 15-16

Did not your father eat and drink
and do justice and righteousness?

Then it was well with him.

He judged the cause of the poor and needy;
then it was well.

Is not this to know me?
says the Lord.

If I want to know God, and I think I do, what is required of me? Prayer, solitude, meditation? Liturgy, community, sacraments? All are helpful, perhaps even necessary, but the prophets empha-

size something else. Micah says that God expects me to do justice, love kindness and walk humbly with my God.⁵ Jeremiah puts it more succinctly. If I want to truly know God, the only thing that is needed is justice for the poor and the needy. That is not, however, how I spend most of my time, at work or at home. I wonder how serious I am about knowing God. Maybe religion asks more of me than I am willing to give.

III. First Kings, Chapter 3, Verses 16-28

Later, two women who were prostitutes came to the king and stood before him. The one woman said, "Please, my lord, this woman and I live in the same house; and I gave birth while she was in the house. Then on the third day after I gave birth, this woman also gave birth. We were together; there was no one else with us in the house, only the two of us were in the house. Then this woman's son died in the night, because she lay on him. She got up in the middle of the night and took my son from beside me while your servant slept. She laid him at her breast, and laid her dead son at my breast. When I rose in the morning to nurse my son, I saw that he was dead; but when I looked at him closely in the morning, clearly it was not the son I had borne." But the other woman said, "No, the living son is mine, and the dead son is yours." The first said, "No, the dead son is yours, and the living son is mine." So they argued before the king.

Then the king said, "The one says, 'This is my son that is alive, and your son is dead'; while the other says, 'Not so! Your son is dead, and my son is the living one.'" So the king said, "Bring me a sword," and they brought a sword before the king.

The king said, "Divide the living boy in two; then give half to the one, and half to the other." But the woman whose son was alive said to the king — because compassion for her son burned within her — "Please, my lord, give her the living boy; certainly do not kill him!" The other said, "It shall be neither mine nor yours; divide it." Then the king responded: "Give the first woman the living boy; do not kill him. She is his mother." All Israel heard of the judgment that the king had rendered; and they stood in awe of the king, because they perceived that the wisdom of God was in him, to execute justice.

Like typical advocates, the first lawyer says one thing, the second lawyer says something else, and on and on they argue. It is only

5. *Micah* 6:8 (stating "[h]e has told you, O mortal, what is good; and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with *your* God?").

after the first lawyer breaks free from the adversarial mind-set that the truth can emerge. This lawyer wants to win, but not at any cost. What is most important is that the baby *live*, not that the baby live with her. As such, she makes a place in the courtroom for caring and compassion alongside the pursuit of rights and principles. According to her terms, compassion is the route to justice. The second lawyer, on the other hand, takes the adversarial ethic to its logical extreme. She demands mathematical fairness despite its inhumanity. In her eyes, half of a baby is better than no baby at all. The pursuit of rights has turned her into a moral monster. The question is: Which one of these litigators do I resemble the most? Which approach do courts and clients, not to mention codes of ethics, expect of me?⁶

IV. Deuteronomy, Chapter 10, Verses 18-19

[God] who executes justice for the orphan and the widow, and . . . loves the strangers, providing them food and clothing. You shall also love the stranger, for you were strangers in the land of Egypt.

Lawyers have an innate tendency to sharply separate love and justice. Justice is a matter of fair procedures fairly applied. Love is something else, something for the home, for family and friends, but certainly not for the courts. We deal justice, not love. Love is a four-letter word, never to be used in law offices, or courtrooms or law review articles. But apparently God sees things differently. Love and justice are inextricably entangled — to do justice is to love, and to love is to render justice. Where does this leave me, as a lawyer? Is it possible to approach my work as an instrument of love? Is it not only possible, but necessary? What would have to change?

V. Gospel of Matthew, Chapter 5, Verses 38-41, 43

[Jesus said], “You have heard that it was said, ‘An eye for an eye and a tooth for a tooth.’ But I say to you, Do not resist an evildoer. But if anyone strikes you on the right cheek, turn the other also; and if anyone wants to sue you and take your coat, give your cloak as well; and if anyone forces you to go one mile, go also the second mile.

6. I examined the story of Solomon and the two prostitutes in detail in Joseph Allegretti, *Rights, Rules, Relationships: The Wisdom of Solomon and the Ethics of Lawyers*, 25 CREIGHTON L. REV. 1119 (1992).

“You have heard that it was said, ‘You shall love your neighbor and hate your enemy.’ But I say to you, Love your enemies and pray for those who persecute you”

I hate this passage. Christianity would be so much easier if not for the Sermon on the Mount. Jesus leaves no doubt and no legal wriggling room — compassion must replace aggression and reconciliation must take the place of legal vindication. If I was to take these words seriously, how would it effect my dealings with clients and adversaries? I wonder whether I am too quick to counsel litigation, too prone to encourage conflict, too slow to invite healing, too reluctant to foster reconciliation. If Christians are to be people of self-sacrificial love, then what does this mean for me, a Christian who happens to be an attorney? How can I square the Sermon on the Mount with my work as a lawyer?

VI. Gospel of Mark, Chapter 12, Verse 17⁷

Jesus said to them, “Give to Caesar the things that are Caesar’s, and to God the things that are God’s.”

Here is the tough question: Whom do I serve? Whom do I worship? Let’s face it, I serve many masters — clients, courts, my profession and the legal system. Not to mention money (didn’t Jesus say something about that too, something about serving God and money?⁸), status and success. It’s okay to give these things their due. But not everything is for them. *Not everything is for Caesar.* A line must be drawn. Only what is not for God is for Caesar. It is easy to get it backwards — this is for me, my career and my client, and whatever remains is for God. But Jesus says to me, “Put first things first.” Whatever I put before God . . . well, that is my god.

VII. Gospel of Luke, Chapter 10, Verses 25-37

Just then a lawyer⁹ stood up to test Jesus. “Teacher,” he said, “what must I do to inherit eternal life?” [Jesus] said to him,

7. This translation is taken from the Revised Standard Version (the New Revised substitutes “emperor” for “Caesar” and “render” for “give”).

8. See *Matthew* 6:24.

9. I cannot resist including a little historical background. In the parallel passage from the Gospel of Matthew, the questioner of Jesus is one of the Pharisees, a lawyer; in the Gospel of Mark, the questioner is a scribe. The relationship between lawyers and scribes at the time is unclear. The Greek word for lawyer is “used in the Gospels of Matthew and Luke for a certain portion of the Jewish leadership portrayed as hostile to Jesus. There is not enough information to determine the role of these lawyers in first-century CE Roman Palestine. Doubtless, they were literate officials in or

“What is written in the law? What do you read there?” He answered, “You shall love the Lord your God with all your heart, and with all your soul, and with all your strength, and with all your mind; and your neighbor as yourself.” And [Jesus] said to him, “You have given the right answer; do this, and you will live.”

But wanting to justify himself, he asked Jesus, “And who is my neighbor?” Jesus replied, “A man was going down from Jerusalem to Jericho, and fell into the hands of robbers, who stripped him, beat him, and went away, leaving him half dead. Now by chance a priest was going down that road; and when he saw him, he passed by on the other side. So likewise a Levite, when he came to the place and saw him, passed by on the other side. But a Samaritan while traveling came near him; and when he saw him, he was moved with pity. He went to him and bandaged his wounds, having poured oil and wine on them. Then he put him on his own animal, brought him to an inn, and took care of him. The next day he took out two denarii, gave them to the innkeeper, and said, ‘Take care of him; and when I come back, I will repay you whatever more you spend.’ Which of these three, do you think, was a neighbor to the man who fell into the hands of the robbers?” He said, “The one who showed him mercy.” Jesus said to him, “Go and do likewise.”

It comes as no surprise that a wise-talking, quick-thinking lawyer asked Jesus this question. He was someone so clever, with an equal desire to be perceived as clever, that he'd lost sight of the forest for the trees. I notice that Jesus never really answers the lawyer's tricky question, but forces the lawyer — forces me — to decide who is the neighbor. Jesus essentially says: “OK, wise guy, you tell me, who is your neighbor? You think you know the answer? Then get going and do likewise.” Yet, as lawyers, we are often too busy, too preoccupied, too involved with “important” business to notice our neighbors in need. Very often I ignore the opportunities for service and compassion that are right in front of me. I brush by the panhandler as I rush to my office. I fidget uncomfortably and stare out the window when a client breaks into tears. And I spend the day wondering why I feel so spiritually bereft and bored by my work.

around the corridors of power in the colonial setting of the Greek East” *OXFORD COMPANION TO THE BIBLE* 427 (Bruce Metzger & Brian Coogan eds., 1993). In the New Testament, scribes seem to function as lawyers, judges, and legal counselors. They are often shown arguing with Jesus over legal matters (for example, dietary and purity laws). *See id.* at 684-685.

VIII. Gospel of Luke, Chapter 11, Verses 37-48, 52¹⁰

When [Jesus] was speaking, a Pharisee invited him to dine with him; so he went in and took his place at table. The Pharisee was amazed to see that he did not first wash before dinner. Then the Lord said to him, "Now you Pharisees clean the outside of the cup and of the dish, but inside you are full of greed and wickedness. You fools! Did not the one who made the outside make the inside also? So give for alms those things that are within; and see, everything will be clean for you.

"But woe to you Pharisees! For you tithe mint and rue and herbs of all kinds, and neglect justice and the love of God; it is these you ought to have practiced, without neglecting the others. Woe to you Pharisees! For you love to have the seat of honor in the synagogues and to be greeted with respect in the market-places. Woe to you! For you are like unmarked graves, and people walk over them without realizing it."

One of the lawyers¹¹ answered him, "Teacher, when you say these things, you insult us too." And he said, "Woe also to you lawyers! For you load people with burdens hard to bear, and you yourselves do not lift a finger to ease them. Woe to you! For you build the tombs of the prophets whom your ancestors killed. So you are witnesses and approve of the deeds of your ancestors; for they killed them [the prophets], and you build their tombs Woe to you lawyers! For you have taken away the key of knowledge; you did not enter yourselves, and you hindered those who were entering."

I know that the lawyers back then were not the same as lawyers are today. It is not even clear whether the word "lawyer" should be used for the scribes of Jesus's time.¹² Still, when I read what Jesus says about lawyers, I squirm in discomfort. How often do I put burdens on others that I do not impose on myself? How often do I make things harder and more complex than they have to be, in order to justify my professional role and professional fees? How

10. I had grave doubts about including this passage because of its harsh criticism of the Pharisees. Too often Christians have used passages like this to justify attacks on the Jewish people. I know that some of my Jewish friends cringe whenever Christians start quoting Jesus or St. Paul about the "Jews" or the "Pharisees." We need to remember that the writers of the New Testament "manifest little accurate and consistent knowledge" about the Pharisees and other Jewish groups of the time of Jesus. HARPERCOLLINS BIBLE DICTIONARY 842 (Paul J. Achtemeier ed., 1996). I hope that in this case no affront will be taken, for my purpose in quoting this passage is not to characterize or judge the Pharisees, but only to spark self-reflection among lawyers, particularly Christian lawyers.

11. *See supra* note 9.

12. *Id.*

often do I hold the key to knowledge, power and justice — a key that I do not share, but hoard, parceling it little by little, or handing it out only to those who'll pay for it? How often do I attend to trivialities while neglecting the important things in life like justice and the love of God?

**IX. First Letter of Paul to the Corinthians,
Chapter 6, Verses 1-8**

When any of you has a grievance against another, do you dare to take it to court before the unrighteous, instead of taking it before the saints? Do you not know that the saints will judge the world? And if the world is to be judged by you, are you incompetent to try trivial cases? Do you not know that we are to judge angels — to say nothing of ordinary matters? If you have ordinary cases, then, do you appoint as judges those who have no standing in the church? I say this to your shame. Can it be that there is no one among you wise enough to decide between one believer and another, but a believer goes to court against a believer — and before unbelievers at that?

In fact, to have lawsuits at all with one another is already a defeat for you. Why not rather be wronged? Why not rather be defrauded? But you yourselves wrong and defraud — and believe that.

Paul cannot be talking to me, can he? He was speaking to a different situation, right? His words can't have meaning today, can they? What if they do? What if his message of pro-reconciliation and anti-litigation still speaks to us today, especially to those of us who are lawyers.¹³ How would that effect the way I do my job, the way I talk to clients? That is a tough question, to be sure, but Paul doesn't stop there. He has another question for me that is even tougher. Why retaliate at all, he asks? Why not turn the other cheek? Paul has not forgotten the Sermon on the Mount, even if I have. Why not suffer injury? Why not allow myself — I wonder what this could mean for my client — to be wronged rather than compound the wrong by invoking the coercive power of the state? Paul's question seems absurd. He does not understand lawyers or what we do — or does he?

13. See Joseph Allegretti, *"In All This Love Will Be The Best Guide": John Calvin On The Christian's Resort To The Secular Legal System*, 9 J. L. & RELIGION 1 (1991) (finding that John Calvin taught that "no method of resolving disputes is acceptable to Christians if it erodes the bonds of love between the parties").

X. Acts of the Apostles, Chapter 5, Verse 29

But Peter and the apostles answered, "We must obey God rather than any human authority."

As lawyers, we spend our lives living by the law, interpreting it, enforcing it, learning how to sail within its limits and up to its borders. Law is the clay we use to make our pottery, the paint we use to paint our pictures. We love it and we hate it and sometimes we make it into a kind of god, giving it our ultimate devotion. We cannot imagine any authority higher than the law. We forget what even a child knows — not all law is equal. After all, law can only be as good as the people who make and enforce it (St. Thomas Aquinas knew this; so did St. Thomas More). If push comes to shove, and I have to choose, who is my god? Is the law my god? Or is God my god?

XI. Gospel of Matthew, Chapter 18, Verses 15-21

[Jesus said], "If another member of the church sins against you, go and point out the fault when the two of you are alone. If the member listens to you, you have regained that one. But if you are not listened to, take one or two others along with you, so that every word may be confirmed by the evidence of two or three witnesses. If the member refuses to listen to them, tell it to the church; and if the offender refuses to listen even to the church, let such a one be to you as a Gentile and a tax collector

.....
Then Peter came and said to him, "Lord, if another member of the church sins against me, how often shall I forgive? As many as seven times?" Jesus said to him, "Not seven times, but, I tell you, seventy-seven times."

The idea here is revolutionary, at least to lawyers. If I am wronged by someone, I should go to that person for redress. If that fails, I should take it up with my neighbors, my community or my church. I should try to work it out without invoking the terrible grinding machinery of justice. There is a harsh edge to Jesus's teaching. If the other guy does not want to listen, give him the cold shoulder and show him the door. Jesus essentially seems to be saying that we should treat those who wrong us like enemies. But I cannot be too smug about that. I am supposed to love my enemies, not hate them. So, in the end, I am brought back to the Sermon on the Mount. Forgive him, forgive him, forgive him again. Not once or twice or seven times, but without limit. But, what would such a

mentality do to our legal system or my work as a lawyer? Would it put me — would it put us all — out of business?

XII. Gospel of Matthew, Chapter 25, Verses 31-46

[Jesus said:] “When the Son of man comes in his glory, and all the angels with him, then he will sit on his throne of his glory. All the nations will be gathered before him, and he will separate people one from another as a shepherd separates the sheep from the goats, and he will put the sheep at his right hand and the goats at his left. Then the king will say to those at his right hand, ‘Come, you that are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world; for I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited me.’ Then the righteous will answer him, ‘Lord, when was it that we saw you hungry And the king will answer them, ‘Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me.’ Then he will say to those at his left hand, ‘You that are accursed, depart from me into the eternal fire prepared for the devil and his angels; for I was hungry and you gave me no food, I was thirsty and you gave me nothing to drink, I was a stranger and you did not welcome me, naked and you did not give me clothing, sick and in prison and you did not visit me.’ Then they also will answer, ‘Lord, when was it that we saw you hungry Then he will answer them, ‘Truly I tell you, just as you did not do it to one of the least of these, you did not do it to me. And these will go away into eternal punishment, but the righteous into eternal life.”

Sometimes, when I wake up in the middle of the night, this passage grabs me by the throat and will not let go. It sends a shiver down my spine worse than my worst nightmare. This is not really how I will be judged, is it? It seems too simple, too clear, too unequivocal. If I will be judged, judged by this simple test, how will I fare? *Often often often goes the stranger in the Christ's guise*, says an old Celtic prayer hanging above my desk. I believe that, but do I live it? I talk and write about mercy and love, but I avoid the sick and the imprisoned. I switch channels when another telethon comes on. I send a few dollars to feed the hungry, but hardly notice the soup kitchen I pass each day on the way to work. As a lawyer, I spend most of my time with people who dress well, live in nice neighborhoods and take their kids to Disneyworld. Sure, they

suffer, all people do, but I cannot kid myself — the least of my brothers and sisters are not my clients, and are not my worry. What will I say when asked to account for my work? When asked to account for my life?

* * *

These are tough passages, at least the way I read them. They are challenging and humbling. Which is fine. Lawyers like myself need to be challenged. We certainly can stand a little humbling. These passages are *prophetic* in the way my old seminary teacher described a prophet: “A true prophet afflicts the comfortable.”

But a prophet does more than afflict. As my teacher also said, “A true prophet not only afflicts the comfortable but comforts the afflicted.” After a good dose of affliction, lawyers like me need some comforting. When we get discouraged and fearful, when it seems that God asks of us more than we can do, it helps to remember Jesus’s words to his disciples: “For human beings it is impossible, but for God all things are possible.”¹⁴ Which is good news — Good News indeed.¹⁵

14. *Matthew* 19:26. This translation is taken from the New American Bible (the New Revised Standard uses “mortals” for “human beings”).

15. The word we translate as “Gospel” means “good news” in Greek. See HARPERCOLLINS BIBLE DICTIONARY, *supra* note 10, at 385.