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# THE PROFESSION OF RELIGION AND LAW

*Ted Dotts\**

My position as pastor among the United Methodist Christians earned me an invitation to this Symposium. Having the privilege of listening to the insights, remarks and questions of the various panelists and the audience's response to them forced me to reevaluate my profession and, particularly, my role as a spiritual guide. Spiritual guides hear the spirits of persons, conferences and institutions. These *spirits* are essentially what motivate us and keep us going.

One spirit of the conference appeared in the oft-repeated allegations that lawyers, usually in large firms, "are dying here." That spirit incited my mothering capacity and charged my savior pose. As a pastor, I invest life in the dying every day, often as a mother-like savior, especially for those who die alone. Why not rush to mother and save these lawyers who "are dying here?"

Strong powers, like mothering and saving, seduce the professional to do what cannot be done. To rebut that spell, Hippocrates (c.460 - 377 B.C.) taught the would-be-doctors at his school to withdraw from dying patients. If the physician could not cure, then he suggested that they get out of the way. Let mothers or saviors take over, but not the physicians. In short, he preached that professionals should not be doing what they have not been trained to do. That philosophy had the effect of restraining me from coming to the assistance of the lawyers and scholars who repeated the phrase "we are dying here." They were not pleading for a mother or savior and they were not reaching for a pastor. In reality, some attendees from other religions do not use pastors or understand the pastoral role. The temptation to focus on the spirit in "we are dying here" died.

With death, comes loss and emptiness. If my ability to mother and save was stifled, where would that leave me? What would become of my role? I am a professional and, by virtue of that, favor the distant, unnameable and even impossible spirits dimly sounding beneath the surface of loss and emptiness. Moreover, as a professional, the easily noticeable spirit is suspect given its ability to hide mystery. Mystery to the spirit is too important to ignore or pervert

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by turning it into an explanation. I would not settle my thinking on the contention that lawyers today "are dying," although that assertion intrigued me immensely. Rather, as a spiritual guide, I was compelled to go for what was least obvious: waiting.

I did not wait long, however. Midway through the conference, one scholar-lawyer requested a definition of the terms "religion," "law" and "profession." The spirit of that question aroused a second dimension of my profession: my role as a theologian. Theologians use words like carpenters use tools, wood, nails and blueprints. The word theology itself literally means words about God or, as some like to put it, words about ultimate reality. Of course, when materialism rules, words are heard as rigid entities rather than as dynamic approximations. (How odd to find rigidity in an age supposedly bent on nihilism and relativism.). Words enslaved to rigidity exclude people: "You don't believe as I do! You are unsafe for the community. Get out. Die." Words liberated by dynamic approximation include people through conversation (*conversari*), which means to keep company with.

The scholar-lawyer's request for definitions presented a theologian's delight, namely conversation. Nevertheless, the request got a feeble response from presenters and attendees. Apparently there was not enough of the theologian in the professionals. That was regrettable, as our membership included Christians, Jews, Tibetan Buddhists, Muslims, atheists, agnostics, skeptics and humanists. Certainly that request could have generated a grand conversation. Perhaps such a feeble response was due to the unidentified assumption that *religion needs to be kept private to keep things tranquil*.

The foregoing assumption is wrong, if for no other reason than that it takes different words from different people to loosen the dynamism of change. Change requires a loosened dynamic. Words loosen what change requires. The etymology of the word private (*privare*) takes us back to robbery. Privacy connotes an image of pirates dividing their spoils. But, if humans had stayed with tranquility, no one would have invented the plow or raised interest enough to ask about the mold that became penicillin. Moreover, if people remain content believing in misguided and mistaken stereotypes (such as Christians killing each other over beliefs and Muslims being terrorists) that deserves attention. Privacy and tranquility, however, fall far short of achieving change. Loosening words might effect change.

Even now the scholar-lawyer's request for loosening words about profession, religion and law intrigues me. His request bespeaks a mystery more important than "we are dying here." Perhaps conventional good manners operated from the false safety in pop wisdom that says, "don't speak of religion or politics." Nevertheless, true professionals should not quit thinking when requests stretch beyond conventional sanctions. Or, as Stephen Carter, the last lecturer, argued, Christians and maybe all religious folk are at their religious best when they resist the ruts of convention. The very terms easily accustomed to easy reception in the culture demand defining.

### I. Professional

The role of the professional deserves particular attention. The professional bears the power to bid forth—to announce, command, tell, declare and make aware. The etymology of "bid forth" from the Hebrew and Indo European roots gives the meaning *to make aware by announcement*. Although etymological work is necessary, alone it is insufficient. We must turn to the stories of theologians to complete the approximations of words etymologically achieved.

Once upon a time, a People lived a long way from water with dangers completely surrounding all sources. Accordingly, the People bid forth some of their own to get water. This assumption of risk was thought by some to be a role imposed by the community; however, others believed that the community only passed along what God told them to do. At any rate, those who were assigned the role of getting water essentially assumed the role of a professional.

Like professionals in the legal world, those who accepted the challenge were rewarded. At the same time, those who refused to go continued at home with the People. Those who agreed to risk the danger of hauling water trained with those who had gone before them, while, from the safety of high cliffs, the People observed. When the haulers returned, the old ones critiqued them to point out strengths and weaknesses. If the haulers acted foolishly, they got punished; if they acted wisely, they got a higher reward. It was in this context that the professionals were regulated.

When the water haulers returned from their excursions, they were exhausted and unable to apportion the water to the People. Another role needed to be created in order to ration the water. Obviously the task of rationing the water required special knowledge and attention to such facts as who was sick, pregnant or used

water for religious rituals for the whole community. Moreover, there were concerns as to who needed water to go on forays for food. The professional came to be seen as a holder of specialized knowledge.

As the rationing of water grew more and more difficult, in light of the varying needs of the People, conflicts arose. Again, the People met and bid forth advocates to help determine how best to serve the needs of all the people. It was in this context that the professional came to be seen as an ethical person who does what is good for the community. These advocates, in turn, bid forth witnesses, to bid forth discovery processes, to bid forth institutions and procedures and to bid forth juries charged to bid forth final decisions. It follows that professionals came to assume a number of roles and, in so doing, were regulated accordingly. Whatever special skills each possessed, however, it was certain that each was fit for the role for which they were bid forth. As professionals, they were people with knowledge, strength, ethics and training.

Collectively, the professionals assumed power—power to act and power to bid forth. The common expression for emergent power is the phrase “to be able.” I prefer the phrase “means to act.” Power is the means to act. The means to act emerges from relationship. As I hear often: *When two people agree, you got power.* Religion and law are but two of the many powers that exist.

## II. Religion

Religion is the power to relate. That definition may affront the many who know the ins and outs of tomes defining religion. However, one story that illuminates the definition of religion resides in the history of Roman armor.<sup>1</sup> Once upon a time, some genius founded a power that made the already formidable Roman army almost undefeatable. He saw how soldiers in ranks for battle, standing close together, hurled their two seven-foot javelins (the *pilum*) at the enemy shields. The javelins penetrated the shield enough to hold fast and disable the enemy shield by weighing it down and away from the enemy’s body. This had the effect of tripping their companions. After throwing the javelins to disable the enemy shields, the Roman soldiers then advanced in tight formation with *round* shields held before them. The Roman soldiers

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1. Walter Wink, *The Language of Power in the New Testament*, in NAMING THE POWERS 86-87 (Fortress Press 1984).

used short swords in close quarters, thrust under the round shields of their enemies.

In observing all of this, someone realized that it was crucial for the Roman soldiers to stand close together, to stay closely related. He elongated the round shield to make a shield (the *scutum*) that covered two-thirds of the bearer's body and one-third of the soldier's body on the left. This made the soldiers dependent on one another, thereby enhancing their formation. Soldiers standing in such relationship protected each other. That protection, in turn, enhanced the powers necessary to victory.

This story serves as a means to understand religion as a power to relate. To relate is to be with. To be with is to release the power to survive and to flourish. To survive and to flourish is to live well, even happily. Some powers go against surviving and flourishing, like cancer cells that gobble up too much in the desire to grow, like egos generating prestige to feed on adoration, like ends narrowed to sensual gratification (the *fleshly* in biblical language). As fallen folks, we need the power to regulate. In the terms of the story of Roman armor, we need to elongate our round shields so that our neighbor protects us. When those with round shields refuse to give them up for the elongated shields, professionals are called upon to exert their power to influence and coerce.

### III. Law

Law is the power to regulate. The word regulate comes from the Hebrew *rakea*, meaning to stretch things out in order to get a framework for relating or for being with. The following story a Muslim lawyer told me of one particular religious influence on her as a child in a Muslim culture demonstrates how law serves as the framework for religion – the power to relate.

The lawyer explained that marriage in Muslim culture is a contract and not, as she discovered in this culture, a sacrament. When people marry in her religion, they are bound by a contract. Such contracts contain agreements concerning money, child-rearing and who will do what chores. Because it is believed that the preservation of marriage contracts serves the Muslim rule, they are not to be broken. When this lawyer entered law school, however, she gained a far different view on the regulation of contracts. After having completed a course in contract law, she was convinced that this culture makes contracts to break them.

Had I the opportunity to discuss with her the dynamics of this obvious contradiction in her life, I certainly would have asked how

she relates to the two different forms law takes. In other words, how does she reconcile her own culture's conception of a marriage contract with terms not to be broken and this culture's common practice of breaking contracts? After all, she practices law here, but her religion is Muslim. How does she handle that contradiction?

I suppose she might begin with her religion, which, in turn, will call her to relationship. In this way, religion will form and shape her visible living, thereby enabling her to find a way to relate the two ways of law. As a religious person, she will probably not dump one and exclude the other. Rather, as a religious person, a person in the reality of being with, she most likely will find a way to transfigure both frameworks and initiate a new creation — a creation as new and genius-like as the elongated shield.

As a Christian, I do not know how she and other Muslims will do this. They and other religious people will do it. They will do it as religious people, not as people afraid that religion will erase tranquility or that religion has little good to offer. Like it or not, we are all religious. Like it or not, our religion brings us all to the table, because religion is the power to relate and without relation we die. To be is to be with. Like it or not, law sets up the table, shows where to sit, when to eat and provides codes for civility. Without law we do not perfect or enjoy the relations we need.

Religion and law are givens of human living. The question is not whether to have one or the other. The question is how we live with these realities?

*Christmastide 1998*