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# THE DISCERNMENT OF (THE LAW STUDENT'S) VOCATION IN LAW

David L. Gregory\*

## I.

DOES everyone have a vocation?<sup>1</sup> Does every lawyer have a vocation? If so, does every lawyer have a vocation to the practice of law? Does every law student have this or another vocation? (How) do law schools facilitate discernment of vocation to the law, for students, graduates, faculty, and administrators? Can law students or lawyers change vocation or have more than one vocation?

These are simple yet profound questions. One can be tempted to be cavalier to avoid serious consideration of these or any other fundamental questions. "Beats me!" could be the flippant, dodging response.

Fortunately, the participants in, and now the readers of, the proceedings of this wonderful interfaith conference are probably congenitally disinclined to dodge the core questions of epistemology, reason, and, ultimately, faith, and are regularly engaged in the arduous process of discernment and enhancement of vocation in law.

Does everyone have a vocation? Probably not. Jesus, speaking of the ministry, says that "many," not all, are "called," but "few" are chosen. For many complex economic, political, and social reasons, I doubt that more than a few persons genuinely discern and fulfill their particular vocations. In the capitalist political economies and especially in many economies afflicted by the false seductions of unbridled materialism, most tend to equate economic achievement with "success" and, unfortunately in many instances, with the easy realization of vocation. While vocation may indeed be realized in the capitalist,

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1. Because I am a practicing Roman Catholic, I prefer to use the term "vocation" as the terminology most consonant with my faith tradition. I appreciate and respect the term "calling," which is more common in other faith traditions. See Michael Novak, *Business as a Calling: Work and the Examined Life* (1996), which, although written from Novak's Catholic perspective, recognizes ecumenical terminology.

My faculty colleague Samuel J. Levine has eloquently addressed this issue from his perspective as an ordained Jewish rabbi, lawyer, and law professor. See Samuel J. Levine, *The Broad Life of the Jewish Lawyer: Integrating Spirituality, Scholarship and Profession*, 27 *Tex. Tech L. Rev.* 1199 (1996). Professor Milner Ball presents an equally thoughtful analysis from his perspective as a Christian Protestant minister, lawyer, and law professor. See Milner S. Ball, *A Meditation on Vocation, in Radical Christian and Exemplary Lawyer: Honoring William Stringfellow* (Andrew W. McThenia, Jr. ed., 1995).

economic arena,<sup>2</sup> economic considerations alone rarely, if ever, define or fully satisfy the essence of vocation.

Vocation is tangibly measured by love in dignified work. Love cannot be readily quantified in economic terms. We have been acculturated largely to avoid questions of vocation, of love, and of what constitutes dignified work. Not every job is a vocation; jobs may be means to, or diversions from, vocational ends. Some work/employment/occupations may even be antithetical to the realization of authentic vocation.

Throughout human history, including the present age, most of the world has never known dignified work. Brute toil, meaningless work, slavery, indentured servitude, or bare subsistence has been the experience of most of the world.<sup>3</sup> Lawyers of faith, in the vocation of law, are called to ameliorate this sad history. Contemporary discernment of vocation may be a privilege enjoyed primarily—though not exclusively—by persons with basic economic needs and human rights such as sufficient food, clothing, shelter, education, and civil rights already adequately met.

## II.

Vocation may have a prophetic dimension. For the most part, however, the prophets did not ecstatically or exuberantly embrace their vocations in instantaneous epiphanies. With few exceptions—such as Mary,<sup>4</sup> Mother of Jesus—most prophets initially resisted God's call.

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2. Novak, *supra* note 1.

3. See David L. Gregory, *Catholic Labor Theory and the Transformation of Work*, 45 Wash. & Lee L. Rev. 119, 119-20 (1988).

4. In Chapter 1, verse 38, of the Gospel according to Luke, Mary responds to the angel, "Behold, I am the handmaid of the Lord. May it be done to me according to your word." *Luke* 1:38 (The New American Bible 1987).

The text of the Magnificat is, of course, based upon the particular translation of the passage in *Luke*:

My soul proclaims the greatness of the Lord;  
 my spirit rejoices in God my Savior.  
 For he has looked upon his handmaid's lowliness;  
 behold, from now on will all ages call me blessed.  
 The Mighty One has done great things for me,  
 and holy is his name.  
 His mercy is from age to age  
 to those who fear him.  
 He has shown might with his arm,  
 dispersed the arrogant of mind and heart.  
 He has thrown down the rulers from their thrones  
 but lifted up the lowly.  
 The hungry he has filled up with good things;  
 the rich he has sent away empty.  
 He has helped Israel his servant,  
 remembering his mercy,  
 according to his promise to our fathers,  
 to Abraham and to his descendants forever.

When they came to final acceptance of vocation, it was usually after long and painful periods of rigorous discernment like Saint Augustine of Hippo.<sup>5</sup> In the earthly realm, prophets usually meet terrible, bloody martyrdom (e.g., John the Baptist, the Apostles). One hopes that the discernment and fulfillment of genuine vocation does not necessarily entail such dramatic miseries.

If vocation necessarily entails a prophetic dimension and similarly prophetic paths, rigors, and grim, bloody temporal ends, then few indeed have vocations. Logically, of course, if every person has a vocation that necessarily involves the prophetic, and if prophets are, by definition, the rare and vocal exceptions to the cultural and social norms, then virtually no one has a vocation because only few are called to prophesy. Whew!

In considerably less apocalyptic, transcendent terms, I am not sure that every vocation necessarily entails such overt prophetic dimensions. Few have the vocation of prophet per se; many more have vocations other than prophecy. I do suspect, however, that the discernment and actualization of authentic vocation may, more often than not, reflect experiences at least broadly analogous to the experiences of the prophets. Most vocations probably are neither easily discerned or realized.

### III.

It is often said that lawyers are called "to speak truth to power."<sup>6</sup> Among lawyers, "speaking truth to power" is usually effortless, as fellow legal elites talk efficiently among one another.<sup>7</sup> But, on occasion, lawyers do indeed "speak truth to power"—a process which involves hostile power that may demand from these zealous advocates their very lives. Consider for example, Henry VIII's murder of Saint Thomas More, the Catholic Church's patron saint of lawyers. Interestingly, Thomas was martyred, not primarily for incendiary rhetoric against King Henry's heresy, but rather for his eloquent and largely silent solitary witness against the state evil that Henry VIII personified.<sup>8</sup>

How do lawyers, professors, and law students stand in witness today? Hopefully, we need not emulate Saint Thomas More's martyr-

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*Luke 1:46-55* (The New American Bible 1987).

5. See generally Saint Augustine, *Confessions* (D.M. Rogers ed., Sclar Press 1972) (1620) (chronicling years of profligate resistance to God's call).

6. See Anita Hill, *Speaking Truth to Power* (1997). I am intrigued as to the genesis of this pithy phrase. Some attribute it to Hans Morgenthau. Through the deanships of Harry Wellington (1975-1985) and Guido Calabresi (1985-1994), this was the de facto motto of the Yale Law School, and I suspect, of many other law schools, that was taken to heart by students, faculty, and graduates.

7. How lawyers talk when non-lawyers are absent, however, is a separate, interesting question. See Lawrence Joseph, *Lawyerland* (1997).

8. See Richard Marius, *Thomas More* (1985).

dom to fulfill our vocations in the law. Several law students at this conference were present in assigned clerical capacities, as computerized note-taking scribes. Otherwise, law student conference participants were very few in number. It would have been interesting to recruit a broad spectrum of law students as active participants to the conference from among, say, a just-concluded professional responsibility multi-state bar examination.

While I cannot speak for contemporary law students—other than to say that I too was a law student once and, I believe, forever because all lawyers are called to life-long study—I doubt that the law schools invariably are shining exemplars facilitating the discernment of vocation.<sup>9</sup> Rather, I contend that there is significant dissonance between law schools and law practice. Levels of dissatisfaction with the practice of law are distressingly high, even among the most powerful partners of the elite law firms.<sup>10</sup> Among the swelling ranks of unemployed recent law school graduates, the cynicism may be pervasive, because the bureaucracy of legal education—built and maintained on enormous law school tuition indebtedness—has seemingly conspired to preclude a significant percentage of law school graduates from the vocation of the practice of law.<sup>11</sup>

Furthermore, I certainly do not believe that every law student is called to the law. Many law students mortgage their families' middle-class futures for a multiplicity of reasons—to postpone "life," to fulfill parental expectations, and/or because medicine or the computer industry offered even less palatable career prospects. Many law students who have considered their motivations may place aspirations for economic viability/survivability and future prosperity at the forefront of their considerations.

To its credit, the legal profession is increasingly conscious of these manifest problems, and is attempting valiantly to articulate tangible agenda, such as the MacCrate Report, to bridge the gap between law

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9. At least the religiously-affiliated law schools should, for example, provide physical spaces reserved for prayer and worship. Alas, many of the supposedly religiously-affiliated law schools utterly fail to do so. See generally, David L. Gregory, *Where To Pray? A Survey Regarding Prayer Rooms In A.B.A. Accredited, Religiously Affiliated Law Schools*, 1993 BYU L. Rev. 1287.

10. See Chris Klein, *Big-Firm Partners: Profession Sinking*, Nat'l L.J., May 26, 1997, at A1 (discussing surveyed partners at the nation's 125 largest law firms who enjoy practice, but not the stress that accompanies contemporary law practice); see also Chris Klein, *How Happy Is Your Lateral?* Nat'l L.J., June 2, 1997, at A6 (reporting a survey aimed at rating the satisfaction of lawyers who switch firms). The stress begins with law school. See Suzanne C. Segerstrom, *Perceptions of Stress and Control in the First Semester of Law School*, 32 Willamette L. Rev. 593 (1996).

11. Patricia G. Barnes, *Cutting Classes: Many Law Schools are Shrinking Along with the Job Market*, A.B.A. J., Dec. 1995, at 26; David Barringer, *The Standby Generation*, A.B.A. J., June 1996, at 80; Mike France, *'Glory Years' Are Gone: Fewer Grads Get Traditional Legal Jobs*, Nat'l L.J., July 17, 1995, at A16; Hope Viner Samborn, *Post-Law School Job May Be as Paralegal*, A.B.A. J., Mar. 1995, at 14.

school and law practice.<sup>12</sup> Much remains to be done, however, to lessen substantially the divide between legal education and the practice of law, and to ensure fuller, meaningful employment for law school graduates. This symposium, for example, is one significant step toward heightening awareness.

One ramification, albeit indirectly, of these many tensions is that many law students often come to realize, unfortunately with understandable bitterness, that they do not have vocations to the law. By the process of ruthless market elimination, therefore, many law students will not come to the vocation of the law. Vocation, after all, may consist, at least in part, of the elimination of other alternatives, of other vocations. Saint Francis of Assisi was called to be a monk, but had previously been engaged in the life of a wealthy medieval aristocrat; so too, Saint Ignatius Loyola. Discernment of vocation often requires the elimination of other alternatives, perhaps in some truncated sense, of prior incipient, not-fully-formed vocations. For example, I initially was engaged in the process of discerning whether I had the vocation to the Roman Catholic priesthood. I engaged in the discernment process from junior high school, culminating in four years of college seminary. I have since realized my vocation to teach as an academic lawyer, of which the prior process was a necessary, indispensable component part. Hopefully, many law students who are not in fact called to vocation in the law will benefit from a similar process. Law school and even years of law practice may, often largely implicitly, demonstrate to the discerning law student and to the accomplished but perhaps unfulfilled lawyer that their true and ultimate vocation lies elsewhere. Thus, in the best of circumstances, these law students and lawyers, equipped with often superb technical skills and artistic creativity in law, will use their legal training even if only implicitly or subconsciously in the realization of their true and ultimate vocations other than the law.

Unfortunately, however, the process of discernment of true vocation among law students and lawyers may not always end well. Bitterness and disillusionment of spirit are steep prices paid by many disappointed law students and lawyers. Worse, many truly called to the vocation of the law may never have the realistic opportunities, through the misallocation and market oversupply of lawyers, to come to their authentic vocation in the law. This may be the most fundamental challenge facing the legal profession and, most immediately, law schools and legal education. The profession and law schools must more effectively facilitate the discernment and the realization of the vocation of the law for all those genuinely called.

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12. American Bar Association Section of Legal Education and Admissions to the Bar, *Legal Education and Professional Development—An Educational Continuum* (1992).

This conference implicitly incorporated some of these themes. Some of the working groups more consciously and vigorously wrestled with these issues and their possible myriad ramifications. Alas, the near absence of law students as active participants, other than in the ancillary roles of the computerized note-taking scribes, created an eerie vacuum. Those most immediately engaged in the discernment of vocation to law—that is, the law students—were glaringly conspicuous by their absence, albeit through no fault of their own. Law students would have much of great worth and wisdom to say about the central theme of the conference—the role of religion in the work of the lawyer and law student. To work in the law with religious consciousness necessarily implicates the fundamental question of vocation in law, a question that law students should especially and immediately be engaged in answering. As these questions are faced in conversation,<sup>13</sup> through vehicles such as this conference, as well as in solitude, virtue and vocation can be better realized.<sup>14</sup>

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13. See Gregory A. Kalscheur, *Law School as a Culture of Conversation: Re-imagining Legal Education as a Process of Conversion to the Demands of Authentic Conversation*, 28 Loyola U. Chi. L.J. 333 (1996).

14. See generally Robert Araujo, *The Virtuous Lawyer: Paradigm and Possibility*, 50 SMU L. Rev. 433 (1997) (examining many of these themes from perspectives of ethics and virtue in both philosophical and legal frameworks).