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Report of Working Group #3

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REPORT OF WORKING GROUP #3

*Stacy R. Horth-Neubert**

This deck was stacked. From the beginning it was clear that the group assembled to discuss the issue of law as a calling was entirely made up of persons of faith. Indeed, the universe of faiths in this room was even more narrow than that: everyone seemed comfortable identifying themselves as generally either Jewish or as some denomination of Christian (although there was some Buddhist influence at play, as well). God—or at least “morality”—was destined to triumph in this crowd.

But the conversation that took place among our diverse group of clergy members, religious leaders, law professors, and practicing members of the legal community, should be familiar to anyone drawn to a legal career by motives other than money or lack of direction. We discussed professionalism, role models, practices and virtues, craft and character. The themes here were broader than religion and faith in God, and they all can be linked back to the secular moral foothold of the legal profession: Justice.

As a group we first attempted to discern the meaning of the word “calling” or “call” as used in Professor Floyd’s paper. The precise meaning of the term was debated, and perhaps was never fully agreed upon. The term is not neutral, and some of us expressed the view that using this terminology may isolate people who do not feel “called.” Nevertheless, there was something close to a consensus among the group members that we each felt some sort of compulsion to do God’s work in the world, in whatever our chosen occupations. Thus, to the question of whether lawyers are “called” to the profession, we answered “yes,” at least for some lawyers.

The next challenge was to determine what exactly these attorneys are called to do. Many of the lawyers in the room had done legal work for the poor in an effort to fulfill their “calling.” But we were not satisfied that representation of the poor is the only type of legal work available to a lawyer who is “called.” In order to fulfill her calling, the lawyer need not practice a particular sort of law, but we felt she must not separate her “call” from her “profession,” her craft from her character. And she must never become complacent: attorneys

* J.D. Candidate, May 1998, Fordham University School of Law. In this paper I will, in general, speak for the working group using personal pronouns. It is not my intent to signal universal agreement among the members of the group on all—or any—of this topics we discussed. This paper is simply my personal impression of the opinions and feelings of the group *as a whole*. Assertions in this paper should not be taken to represent the views of any particular member of the group—indeed, I myself do not subscribe to all of the views I attribute to the group as a unit.

must continually question whether the work they do every day fulfills their moral commitments.

How are lawyers to know if they are getting it right, if they are answering their call? This question lead us to explore the concept of role models in the legal professions, and in the world as a whole. Here we had differing ideas regarding where we should look for our role models. To history? To fiction? To our profession? To our religions? To our religious communities? Although we found them in vastly different places, each of us could point to role models that have influenced where we are in our professions, our faiths, our lives.

Closely related to the topic of role models was the question of what virtues these figures should model. In order to discern these values, we felt strongly that attorneys, like everyone else, need a community to struggle with concerning moral questions. The precise contours of the community may be unimportant so long as it has certain characteristics that ensure it fosters the moral development of its members: it must be small to be safe, diverse to be accurate, supportive to be successful. The accountability that communities foster is the key to their influence.

Through every topic of discussion, one theme was recurring: What role do and should law schools play in instilling and nurturing a sense of call in future lawyers? Do students come to law schools with a fixed and immutable sense of morality? Are they adequately equipped with the academic and spiritual tools they need to assess and to acquire morality? The law professors among us had differing views on these issues, as did all the members of the group. Perhaps this lack of unanimity simply mirrors the discordant views among law schools generally; clearly, it highlights an area where more discussion is necessary.

Finally, we spent a good deal of time discussing whether a model rule should be drafted stating that attorneys are morally accountable for their actions. We discussed the risk that such a rule could be used to punish unpopular people or opinions—a risk that ABA history has proven is real. Many of us expressed skepticism that such a model rule would have any real impact on lawyers' behavior. We debated whether this model rule would conflict with the lawyer's obligation to be a zealous advocate for her clients. In the end, we concluded that an aspirational rule would at least put the issue on the table, would stimulate discussion, and would set a tone that morality is not absent from the legal profession. A model rule would be taught in law school legal ethics classes. It might even bring about the creation of the communities we had determined were necessary to cultivate faith.

This conference was about faith in lawyering; perhaps a more secular name would have been more readily acceptable to the secular profession of the law. But, as this group's discussion illustrates, another name for "faith" here might be "morality." Morality, whether secular

or parochial, is the source of all laws. And it is the essence of Justice. Whether or not any particular attorney feels she has personally been "called," if the profession is to continue to account for itself by claiming to strive for Justice, the moral root of this word must constantly be explored. As one person in the group stated, doing the right thing does not require a calling card.

Notes & Observations