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Christians
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**The Witness of a Christian Lawyer in
the Business World**

by Kate McKenzie-Bridle

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Christians *in the* Workplace

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Introduction

When I had been practising as an idealistic young lawyer for only a matter of months, eagerly attempting to put my faith and work together, I came across a businessman, known as a Christian, who appeared to be doing the exact opposite. This man attended church on Sunday but during the week carried on a dual operation as car salesman and financier. Invariably his clientele were people who could not obtain loans elsewhere in order to purchase vehicles. He charged exorbitant rates of interest and if his clients were late in making their loan repayments additional fees were charged. Unable to meet their commitments, clients' vehicles would be repossessed and the businessman would pursue the client for any outstanding balance. I was

For me, melding my faith and my practice as a lawyer was something I had striven for from the outset of my studies. My father and Atticus Finch, the lawyer and father created by Harper Lee in "To Kill a Mocking Bird", were my role models. I recall writing an article for the Christian Union whilst I was at university on why I was studying law. In that article I quoted a passage from Micah 6:8 "the Lord God has told us what is right and what he demands: see that justice is done, let mercy be your first concern, and humbly obey your God". Although my father was a lawyer, nevertheless it was this desire to "do justly", which were also the words of my secondary school motto, which inspired me to study Law.

As I progressed through my studies I was clear that I did not want to work for a big corporation whose enforcement of long working hours and apparent lack of the pursuit of justice did not appeal to me. In some sneaking way I was also worried that I would not be good enough to work for one of those firms, so I had my heart set on working in a small office, preferably focusing on litigation work in such a way that I would be helping people. I was idealistic but at that stage I did not know how idealistic. I was soon to find out.

I entered the world of practice in a medium sized firm with Christian partners, which I enjoyed and where I not only gained legal skills and knowledge, but also became wiser. However I was somewhat disillusioned with the firm as in my idealism I expected there to be a stated policy of taking up pro bono cases and/or those where important legal principles were at stake; that the firm would be charging much less than other firms and also be active in law reform and in ensuring legal services were provided to all. Added to this I took issue with the amount the legal profession charged and with lawyers' concern over the "bottom line".

From what I could ascertain, the partners' Christian witness seemed to consist of operating with integrity and honesty¹. In the legal community the firm was known as the "God squad " a term not used without some derision, yet at the same time the partners were respected in the areas in which they practised and set a good example amongst their peers. Despite my rather zealous views I appreciated the family feeling in the firm and I admired those I worked with for their skills, wisdom and integrity. Employees who had worked elsewhere compared it favourably with other firms in terms of communication between the partners and staff and in terms of the quality of work carried out.

I see now that they were just like any other firm struggling to make ends meet and needing to market themselves in a changing world. In order to do so they had to focus on the areas of legal practice that were more remunerative. I recall a strategic planning meeting where there was general agreement that the firm should no longer carry out criminal work as it was

lawyer could realistically outwork his or her faith. What should be the characteristics of the Christian lawyer seeking to witness to his or her faith in the legal world? Is it possible to run a profitable business and also carry out, for instance, pro bono work and run test cases? It is these issues which I wish to explore further in this essay.

The Secular Ideal - the Lawyer-Statesman

In his book "The Lost Lawyer", Antony Kronman laments the recent loss of the "lawyer-statesman"² from the American legal scene which, he argues, from the inception of the United States had been for lawyers the prominent ideal. The lawyer-statesman was a skilled advocate, proficient in the law but most importantly prudent and wise, making time to deliberate over clients' cases. The lawyer-statesman was highly public-spirited - serving the public good, promoting the integrity of the legal system, advocating for his or her client yet at the same time having broader interests in view, representing worthy causes and clients and encouraging law reform. Paramount, however, was the lawyer-statesman's careful judgement and deliberative wisdom born of experience in and respect for both the law and life itself. This practical wisdom, Kronman argues, is the hallmark of the legal professional, the special characteristic that distinguishes the lawyer from the doctor, the teacher, or the sociologist. To the lawyer-statesman legal skills are more than an instrument for obtaining the end goal of money, success or even the public good. Rather the lawyer-statesman finds value in the work itself - it is a vocation or calling.

Kronman paints a disheartening picture of the loss of this ideal in legal education, and amongst lawyers and judges. He points to this demise of the lawyer-statesman ideal amongst lawyers beginning with the establishment of in-house corporate legal divisions. This led to the breakdown of the solicitor-client relationship which used to encompass both the routine and extraordinary matters. Now the relationship, as well as being more infrequent, is confined to extraordinary problems.

Without the ongoing relationship the lawyer is less able to accurately advise the client of what would be in its best interests. Instead the client comes to the lawyer for his or her specialist knowledge in a certain area of the law. Therefore firms have begun to specialise and consequently grown larger, in order to incorporate many individuals with different specialisations.

Specialisation has meant that each lawyer now only retains a small portion of the knowledge that lawyers of former years would have had. Once again this makes him or her unable to

Also as a result of specialisation the opportunity for deliberation and the growth of wisdom, which is a key characteristic of the lawyer-statesman, has been reduced. Kronman notes that it would still be possible to build up this body of wisdom from life experiences, from reading, and from interacting with others, but due to the longer hours being worked there is now less and less time available for any pastimes that would enable either fulfilment or the growth of such wisdom. All that the lawyer has time for now is replenishment - of sleep, of food - and for entertainment.

Alongside this development, as work itself has become more routine and less fulfilling, the profit motive has arisen as the be all and end all of work. This in turn has led to longer working hours.

Kronman argues that we need to return to the ideal of the lawyer-statesman and regain the wisdom, public spiritedness and deliberative skills of former years, to turn away from specialisation and the over-bearing profit motive. However Kronman is not optimistic that this will occur. The only hope he sees for the ideal is for individuals here and there to attempt to act in this way, or for an individual to set up practice in a smaller community without the pressure of competition from the larger firms. A small firm attempting to outlive the ideal yet at the same time having to compete with large firms for clients will inevitably, despite an idealistic beginning, lead to that firm folding or being swallowed by a competitor. At all costs, he says, avoid the corporate firm.

The Lawyer-Statesman and the (New Zealand) Lawyer

Fortunately for Christians I do not think that things are as grim as Kronman paints. And fortunately for me as a New Zealander, I do not think that the New Zealand legal scene has quite reached the state he describes, although in the large firms and cities the breakdown described by Kronman is more evident. On the whole, though, there is more freedom to have a general legal practice which was the broadbase of experience I built up, gaining the knowledge and opportunities to become wiser, along the lines Kronman describes. In contrast, I remember on one occasion having a case with a lawyer who was a partner from a large firm in another city. Upon hearing that my areas of practice covered family, criminal and civil litigation and a smattering of other things

she patronisingly commented that I had "such a very general practice". I imagine that her total area of experience was limited to the law of guarantees and perhaps even to one small part of this field. I also suspect that her client in that case - a bank - was her only client. The case itself involved an elderly woman who was suffering from a serious illness and who had, after being inappropriately advised, agreed to guarantee a family business in which she had had no

It also appears that some New Zealand judges, in any event, are not impressed by this kind of specialisation, as I recall, on a social occasion speaking with a judge who regretted that lawyers no longer have the broad base of experience which they had in previous years and which he himself had found invaluable as a judge. He appreciated having, in the advocates who appeared before him, people who could intelligently grasp and address the implications of their case to related areas of the law.

In respect to the profit motive, Grant Illingworth, writing about the New Zealand legal scene, comments that "there has been a move away from the traditional concept of the law as a profession to an acceptance that practitioners are really just running businesses and are subject to the same economic imperatives as other business people : the dollar rules." [1997]

The driving motive of profit as fulfilment is not confined to the law. Robert Bellah quoted in Laura Nash's book "Believers in Business", contended in his book "Habits of the Heart", that many people today express a strong identification with their work only inasmuch as it brings material goods and success. "The tasks themselves or the social groups at work provide no source of fulfilment. What counts is a person's position of responsibility and how much money they make" [p68; 1994]. He goes on to say that fewer people past the age of 40 are finding that career and success provide a satisfactory indication of their "real" identity.

Finding Fulfilment and Meaning in Work

In contrast I believe it is possible for Christians to find fulfilment in their work beyond just a profit motive - either by experiencing a specific call to their work or viewing their work as an act of service to God. From Laura Nash's interviews of evangelical businessmen she established that most of these men managed, on the one hand, to find fulfilment in their work whilst at the same time viewing their work as having little consequence. This, Nash identifies, is a spiritual paradox - work represents an incompleteness of these men's relationship with God yet at the same time it is a carrying out of God's willed order. It is grace which holds these two conflicts together. In other words if these men were to lose everything it would not be the end of the world.

Whereas for many non-Christians working is a way of "saving oneself" arguably Christians do not need this form of reassurance, already having a secure identity through God's love in Jesus. (In practice, however, Christians are often just as inclined to want to save themselves through what they do). Increasingly, however, even in the secular world, as Kronman, Bellah and

God. Pierce, writing the foreword in Droel's book "The Spirituality of Work: Lawyers", summarises the notion of calling helpfully:

"truly meaningful work encompasses three ideas: work is meaningful when it provides some economic security and some individual fulfilment; work is meaningful when a person's gifts are matched to a community's needs; work is meaningful when it is a response to some call or invitation from a higher power."

Nash identified a number of other factors, from interviewing the businessmen, relating to their expression of faith in their work - they were not drawn primarily by a profit motive; they were mainly involved in businesses where they were creating or serving; they worked hard, with self restraint and discipline (examples of the Protestant work ethic) but approached their employees, their colleagues and competitors relationally and intuitively. These businessmen identified the need for constant and daily struggle in order to meld faith and business and that the process of struggle needed to be accompanied by prayer and dialogue. The challenge, she concluded, for evangelicalism, as evidenced by the remarks of the businessmen, "is to recognise the creative and integrating possibilities of faith even in the hard nosed world of business" [p 277, Nash; 1994].

Principles to Act upon and Characteristics to Nurture

It is that challenge, which Nash identifies, with which Christian lawyers, along with others in business, are called to grapple. What might be the defining characteristics and principles? Droel argues that "spirituality of work encompasses the lawyer's response to the task at hand - when that lawyer responds professionally, with wholeness, compassion, dedication, knowledge, excellence, and a passion for justice" [p14, *ibid.*].

As well as professional competence there are also fundamental principles which the lawyer can be guided by. It should not be a surprise to us that the principles upon which many aspects of the law or even of good business practice are founded are Christian in origin. Nash identifies the intersection of her interviewee's business practices with the latest management theories: "quality, spirit, relationships, the empowerment of all individuals, and the expectation of fluctuating performance over the long-term" [p 270, *ibid.*].

Similarly there are Christian principles which are still evident in the law - many of these are found in the context of commercial law. Whilst, Peter McKenzie argues, there has been an erosion of Christian principles in the area of family law and in the respect for life, "in the

consideration...the client is expected to feel truly privileged to be represented by a Star" [p 4, Illingworth; 1997]. The contrast is that shown to us in Christ's example and he calls us to "serve others in a spirit of love and in this way [participate] in his ministry of healing and reconciliation" [p 18, McKenzie; *ibid.*]. And as well as serving clients, those in leadership in law firms would do well to adhere to De Pree's definition of servant leadership: "liberating people to do what is required of them in the most effective and humane way possible" [p xix; 1987].

Also inherent in the practice of law is that of advocacy - representation of others' interests. This ideal of advocacy or intercession is well supported in the Bible. Jesus' example is of course primary - both in taking our place in front of God and his continuing intercession on behalf of his people. The Christian criminal lawyer is familiar with the question of how they can defend a guilty person. Apart from the answer that everyone is entitled to a fair trial and is innocent until proven guilty, we, as Christians, should know better than anyone else what it means as guilty people to be represented by one who is fully aware of our guilt. Illingworth says:

"Fortunately, the intercessory aspect of defence counsel's role is not quite so demanding. So far I have not had a judge tell me that I have to pay the client's fine or do the client's time. But there is a real sense in which an advocate identifies with an accused person and sometimes one almost feels that one has *become* the accused for a period of time. Certainly, there is often a strong feeling of carrying another person's burden" [p 5; *ibid.*].

In my time practising I found that how much money a person had would determine what quality of representation they received from their lawyer. For instance clients who could not afford to pay would receive Government funded legal assistance and have lawyers assigned to their case. A number of lawyers I came across did the bare minimum possible, as the remuneration they received was not very substantial. I recall that in order to represent the client effectively I needed to spend more time than the legal aid committee would pay for, which meant a significant proportion of unpaid work was carried out on these assignments. These people deserved to be represented in the same way as anybody else, yet it was not a cost-effective decision. What was the right thing to have done?

The image of the wise lawyer, who deliberates and counsels clients, is one that Kronman paints. I believe this is also an ideal with Biblical roots and one that Christians should be striving to fulfil. On many occasions my supervising partner applied his wisdom both to the

The role of Counsellor too is a biblical one. In many ways the wisdom dispensed by my employer was carried out as Counsellor. As Grant Illingworth says:

"[I]n my experience, clients regularly seek guidance on a whole range of topics usually, but not always, related to the case being handled. It is a great gift to be able to dispense wise counsel in these situations, but as lawyers we receive no formal training for that task and, frankly, not all of us are good at it. It is, in my view, an enormous advantage in these situations to have absorbed at least some of the wisdom of Scripture, to be tuned into that "still, small voice" and to be able to sense the "spiritual atmosphere" in the situation" [p 5, *ibid.*]

A sense of accountability is also important in a Christian Lawyers life and witness. Whilst one is accountable to one's client and to the court it is important to remember that we are accountable to God as stewards and trustees of our gifts and training. As noted by McKenzie : "This accountability goes deeper than the client. There may be times when the demands of the client must yield to the One to whom we are ultimately accountable" [p 18, *ibid.*]. Even in the secular situation Kronman has pointed out:

"[O]n the one hand [lawyers] are expected to be partisan champions of the clients' interests, and on the other, impartial officers of the court, duty-bound to uphold the law's integrity. When these allegiances conflict, a lawyer cannot fulfil all of his [or her] responsibilities at once. He [or she] must choose between them, and this creates the moral dilemma for the lawyer involved... a courageous lawyer is prepared to take risks for what he [or she] believes is right - to risk anger, contempt, and the lower income for the sake of the law's own good - and nothing can be a substitute for the fortitude this requires. But the more a lawyer values the well-being of the law, the more likely he [or she] is to be able to summon such courage when needed" [p 144, 145; *ibid.*].

I agree wholeheartedly with Kronman that the lawyer must be prepared to take these risks. But, contrary to him, I would argue that the more a lawyer values his or her relationship with God the more likely he or she is able to summon such courage when needed.

The pitfalls

One is unable to summon that courage as easily when one is motivated solely by profit. If one is dependent on a client's ongoing business or being pressured by colleagues or employers it will be hard to remain true to these ideals and accountable to God. That is not to say that

embezzled client money. In one such firm I know of, the partners, who were Christians, repaid each client but not without significant personal cost.

For myself the worst trap would be becoming too attached to the client. Kronman talks about a healthy solicitor-client relationship being one of both sympathy and detachment. I need the wisdom to learn about this kind of relationship as on many occasions I have found myself identifying too strongly with the client or getting overburdened with their concerns. One client for instance had three children, one a young baby, and was seeking an order of the court protecting her from a violent partner. She would ring constantly and I often found myself in the role of counsellor not only talking her through her wavering commitment to the legal proceedings but dealing with her regular requests for my advice on whether she should put her baby up for adoption. It was hard not to become emotionally involved. Also, as a young woman I think I was viewed as being sympathetic. Consequently clients felt free to unburden themselves of their mental and emotional angst associated with the problem requiring legal assistance. I took on personal responsibility for these issues, which of course was rather taxing. However, particularly difficult were the Christian clients, often vindictive, who expected you to share their point of view concerning their grievance and fight tooth and nail for them when in fact it was not appropriate to do so. I earned humiliating dressing down from a High Court Judge for too closely acting on the instructions of one of these clients.

Grant Illingworth puts a different light on the question of sympathy and detachment;

"Life as a criminal law advocate brings the practitioner into regular contact with people whose lives are full of dubious dealings. And there is sometimes a fine line between advocacy and complicity. So it is absolutely essential to learn to strike the right balance between intercessory identification and professional detachment... I do not mean that counsel should live in constant fear of becoming a co-conspirator with the client, although very rarely that might happen. The problem is more subtle than that. There is often a spiritual dimension - an invisible 'atmosphere' which surrounds the client and case... I firmly believe that the daily regeneration and spiritual cleansing which is available to the Christian lawyer through the atonement provides a vital advantage in this area of our professional lives" [p 6-7; *ibid.*].

Conclusion

It has been my dream to set up practice in the community and prove the ideal, embodying the characteristics described by Kronman and those Biblically informed. I believe these are the

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