

# The Practice of Holiness and the Practice of Law: Are they mutually exclusive?

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It should not come as a surprise to suggest that we live in a rather litigious society. What is it about our society that leads to this? Why do people run to lawyers and judges to resolve their disputes? How might we as Christians counter this cultural trend?

## **Contributing Factors to a Rights-Based Culture**

There are several factors that support the resolution of conflict through litigation. First, we live in an increasingly secular culture, which means that God and His laws are no longer supreme. Despite this, people still want to believe in a higher power, and they want to be able to turn to an objective standard outside of themselves when things go wrong. In our society, this higher power and the objective standard are the courts and the law.

Second, Professor David Wells has argued that we as a society have lost the capacity to understand ourselves as moral beings. As such, he argues, "Responsibility for much of life [has been] handed over to the government, and private life [has become] dominated by the belief that each citizen [has] the unencumbered right to individual autonomy." Wells states, "What was once an open space between law and freedom, one governed by character and truth, is now deserted, so law must now do what character has abandoned." The law has become our conscience and the courts have become our higher power.

Third, we live in a very individualistic culture and in such cultures, individuals are willing to assert their rights over and against the group. Dr. Jonathan Raymond argues that "The culture of individualism glorifies the drive for and preoccupation with personal prosperity, materialistic gain, personal freedoms without obligations, and one's general wellbeing at the expense of others. It reflects competition against others and a preoccupation with 'me' and 'mine' and with 'us' and 'ours.'"

Fourth, we live in a very rights-based society and rights is largely the language of lawyers and judges. In his book entitled *The Rights Revolution*, Michael Ignatieff, argues that "rights talk has transformed how we think about ourselves as citizens, as men and women, and as parents."

Finally, we live in a very fragmented society. As Dr. Jonathon Raymond states "Globally, we witness fragmentation of a world immersed in legal conflict and litigation in the courts, families locked in conflict, between-group stereotyping, racism and discrimination, harassment, abuse, and violence across lines of gender, age, occupation and faith." Domestically, Quebec holds the constant

threat of succession over our heads, aboriginal peoples still live with the scars of decades of abuse at the hands of both the Church and the State, marriages break down at record rates and families are being torn apart almost daily.

### **How has our culture affected the Church?**

We would be naïve to think that the broader culture has not affected the Church. Without engaging in an exhaustive analysis of the extent to which the Church has been affected by the broader culture, I would like to make four observations.

First, in recent years, there have been more lawsuits against religious institutions. Second, there are more lawsuits against religious leaders. Third, there are more lawsuits between believers. Finally, as a result of the trends in our society, and the courts' willingness to hold churches liable for the actions of their members, churches have begun to second guess their actions and are afraid to engage in important ministries for fear they will be held liable for their actions.

How might we as Christians seek to counter these cultural trends? What, if anything, might our faith traditions have to say about how we handle conflict?

### **Holiness and Legal Issues**

One of the most important observations we can make is that legal issues are fundamentally about relationships. Legal issues may arise at the beginning of a relationship, when parties are articulating their rights, obligations and expectations. They may also arise upon breakdown of a relationship, when parties are looking to punish one another or to go their separate ways.

While there are several ways to define the concept of holiness, I have chosen a definition offered in *Salvation Story*, *The Salvation Army's Handbook of Doctrine*. It defines holiness as "a radical ethic of love" in which we "treat all our relationships as holy covenants." Perhaps more than anything else, a Christian perspective on the law reminds us that through the saving work of Christ and our reconciliation with God, we can be reconciled to one another. We do not need to live as isolated individuals with a wall of rights to protect us. We don't need to live in alienation from fellow human beings. The concept of holiness stresses the importance of a radical ethic of love, in which we humbly serve God and humankind.

### **How do we counter the cultural trends?**

In seeking to counter the culture trends, we must recognize the inherent limitations of the law. Speaking in the context of families, Michael Ignatieff points out that "rights talk doesn't begin to capture the web of love and trust that makes real families work." He states, "Trying to capture these values in the language of rights only makes for confusion. It doesn't make any sense to talk about kids enjoying a right to love.... love isn't a juridical thing. It's not an enforceable duty or even an obligation."

Second, we must make a commitment to personal holiness. Each one of us must strive for personal holiness, that perfect love of God and neighbour that does no harm. We must echo the prayer of the Psalmist who prayed “Search me, O God, and know my heart; test me and know my anxious thoughts. See if there is any offensive way in me, and lead me in the way everlasting.”

Third, we must make a commitment to institutional holiness. We should attempt to root out sin and evil within our institutions and make a corporate commitment to holiness. We cannot turn a blind eye to the wrongs and injustices we see within, nor should we hide behind the “corporate veil.”

Fourth, we must practice humility. We must be willing to admit that we may be wrong or that in some cases, we are wrong. We must also be willing to make amends. One lawyer has argued that if the United Church of Canada had issued an apology for the abuse perpetrated against aboriginals in the residential schools, it might have been legally liable for that abuse and forced into bankruptcy, but it would have emerged a much stronger organization, and one that had spiritual integrity. How do we approach the resolution of legal disputes? Are we prepared to admit when we are wrong?

Fifth, we must be willing to compromise. Too often people become entrenched in their positions and are not willing to compromise. They fight their battles on principle and they are not willing to back down. Speaking about the rights revolution within our society, Michael Ignatieff points out that an assertion of one’s rights is not usually an invitation to compromise. He states, “Give me right rights’ is not an invitation to compromise. It’s a demand for unconditional surrender.”

As we reflect on the intersection between holiness and the law, perhaps we should meditate on the words of the Apostle Paul, who stated, “The very fact that you have lawsuits among you means you have been completely defeated already. Why not rather be wronged? Why not rather be cheated? Instead, you yourselves cheat and do wrong, and you do this to your brothers.”

1. David F. Wells, *Losing Our Virtue: Why the Church Must Recover its Moral Vision* (Grand Rapids: Wm. B. Eerdmans Publishing Company, 1998) at 9.
2. *Ibid.*, at 63.
3. Dr. Jonathan Raymond, “Creating Christian Community in a Fragmented World,” The Salvation Army International Theology and Ethics Symposium, at 5.
4. Michael Ignatieff, *The Rights Revolution*, (Toronto: Anansi, 2000) at 1.
5. *Supra*, note ii.
6. *Supra*, note iii at 21.
7. *Ibid.*
8. Psalm 139, NIV, (Grand Rapids: Zondervan Publishing House, 1994).
9. *Supra*, note iv at 17.
10. I Corinthians 6:7-9, NIV, (Grand Rapids: Zondervan Publishing House, 1994).