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JACOB'S BLESSING, COOPERATIVE GRACE, AND PRACTICING LAW WITH A LIMP

JOHN M. A. DIPIPPA*

I. INTRODUCTION

How does a lawyer's religious beliefs affect the lawyer's practice? I will answer that question by reflecting on baseball players, wrestling with mysterious strangers, and practicing law with a limp. This essay is divided into four sections. First, I will share the story of baseball star Sandy Koufax's refusal to pitch on Yom Kippur. Second, I will present a brief theology of grace. Third, I will discuss the Genesis story of Jacob's wrestling match with the Angel. Finally, I will relate a personal experience from my own practice. In truth, each of these sections demonstrates the same theme: that God's grace is present in our everyday encounters and that it has the power to change who we are and what we do. These sections are like different lenses turned on the same specimen.¹

II. SANDY KOUFAX: A JEWISH PITCHER

In 1965, Los Angeles Dodgers baseball player Sandy Koufax was at the top of his game.² During the regular season he won 26 games and set

* Professor of Law, University of Arkansas at Little Rock. My wife, Karen DiPippa, has brought the presence of God into my life for 25 years and has played a special role in helping me develop my perspective on life and law. I owe her more than I can ever express.

¹ The method I will use to illustrate God's grace resembles the theological method of Bernard Lonergan. See, e.g., BERNARD J. F. LONERGAN, S.J., *METHOD IN THEOLOGY* (1972). An adaptation of Lonergan's theological method is used in the Loyola Institute for Ministry Extension Program (LIMEX) associated with Loyola University, New Orleans. See CHARLES WINTERS ET AL., *MINISTRY IN CONTEXTS: A METHODOLOGICAL INTRODUCTION* (1987). I developed parts of this paper while enrolled in the LIMEX program.

² This story is taken from Sanford Levinson, *Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity*, 14 *CARDOZO L. REV.* 1577 (1993). For the Koufax story and other baseball stories as they relate to legal practice, see Jack L. Sammons, *On Being a Good Christian and a Good Lawyer: God, Man, Law, Lawyering, Sandy Koufax, Roger Maris, Orel Hershisier, Looking at the Catcher, and Corked Bats in The Kingdom (with a Brief Guest Appearance by Ty Cobb)*, 27 *TEX. TECH L. REV.* 1319 (1996).

the major league record in strikeouts.³ He was the best left-handed pitcher of his time, and arguably, of all time.

The Dodgers won the National League pennant and met the Minnesota Twins in the 1965 World Series. The opening game was set for Sunday, October 6. Ordinarily, the star pitchers for both teams engage each other in this game. But October 6 was Yom Kippur, the holiest day of the Jewish year, and Sandy Koufax was Jewish. He refused to pitch.⁴

Koufax was a Jewish pitcher, but being a Jew did not make him pitch any differently. His curveball was devastating not because he was Jewish, but rather, because it curved wickedly. He pitched like a regular baseball player. His religious beliefs did not change the way he performed his role as a baseball player except in one respect: he recognized an ultimate authority in his life that “could, even in circumstances so weighty as the World Series, abrogate his ‘civilian’ identity as a key member of the Los Angeles Dodgers with obligations to his teammates.”⁵

The Koufax story puts the issue of what it means to be a lawyer with a serious religious commitment in perspective. To say that one is a Christian (or more specifically in my case a Catholic) lawyer is to say more than just that one is a lawyer who happens to be Catholic. There is a complex relationship between one’s religious identity and role and one’s professional identity and role.⁶

Few of us, however, are as prominent as Sandy Koufax. Moreover, rarely are we presented with a clear choice between our profession and our

³ See Levinson, *supra* note 2, at 1579-80.

⁴ See *id.* at 1580. The Dodgers lost that game but went on to win the World Series in seven games. See *id.* Koufax pitched the seventh game on three day’s rest. Pitchers usually take four days rest between starts. See *id.*

⁵ *Id.* at 1581.

⁶ Levinson develops several models to describe the relationship between religious commitment and professional identity. They are 1) the Jewish Lawyer as the Intersection of Sets, *see id.* at 1585-90; 2) Jewish Lawyering as an Expression of Social and Political Solidarity, *see id.* at 1590-94; 3) Judaism Enters the Workplace (But Leaves the Internal Norms of Legal Practice Untouched), *see id.* at 1594-96; 4) the Jewish Lawyer as a Practitioner in Jewish Courts, *see id.* at 1596-1600; 5) Judaism as a Constitutive Aspect of the Practice of Law, *see id.* at 1600-11. For a similar typology from a Christian perspective, see JOSEPH G. ALLEGRETTI, *THE LAWYER’S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE* (1996). Allegretti adapts H. Richard Niebuhr’s work, *Christ Against Culture*, to the practice of law. His models are Christ Against the Code, *see id.* at 10-13; Christ in Harmony with the Code, *see id.* at 14-17, Christ in Tension with the Code, *see id.* at 17-20; and Christ Transforming the Code, *see id.* at 20-23. Both Levinson’s and Allegretti’s work have influenced my perspective, but to some extent, Allegretti is too “theological” and Levinson is too “professional.” However, this essay is not the place to develop my critique fully. The purpose of this essay is to discuss a “religious” experience that occurred in my “professional” life, and to offer my understanding of its meaning as Allegretti, Levinson, and others have helped me understand it. See also THOMAS L. SHAFFER, *ON BEING A CHRISTIAN AND A LAWYER: LAW FOR THE INNOCENT* (1981).

religion. Catholics are so thoroughly assimilated into American culture that there are few opportunities for overt conflict between our religious commitments and our professional duties.⁷ We can safely say that we too would have chosen the primacy of God's authority because it is unlikely that we will ever have to.⁸

III. AN AMATEUR THEOLOGY OF GRACE

Being a Catholic lawyer, like being a Jewish pitcher, requires one to recognize God's ultimate authority. It would be an incomplete picture of reality, however, if we only understood this statement in the context of conflicts between religious and professional obligations. It is not the infrequent conflict that defines us as Catholic lawyers. Rather, it is our constant openness to the sacramentality of the world.⁹ Humans are made "in the image and likeness of God,"¹⁰ and the world is filled with God's spirit.¹¹

⁷ Catholics may experience moments of tension when faced with decisions that contain moral dimensions, but usually the religious element is subordinated to the secular. For example, Levinson describes the "degradation ceremonies" that Catholic nominees to the Supreme Court must undergo whereby they pledge to decide abortion cases on the basis of the "law" as opposed to their consciences. See SANFORD LEVINSON, *CONSTITUTIONAL FAITH* 56 (1988). In a similar vein, Jack Sammons has written that ethics is descriptive. See Jack L. Sammons, *The Radical Ethics of Legal Rhetoricians*, 32 VAL. U. L. REV. 93 (1997). Following Alasdair MacIntyre, Sammons asserts that there is no privileged position outside of a practice from which to stand in judgment of it. Rather, the critique must come from within the practice itself. See *id.* at 93. For me, description is the first step in a cognitive process that requires multiple judgments from a variety of perspectives outside the practice itself. See BERNARD J. F. LONERGAN, S.J., *INSIGHT* 291 (1957) (description and explanation are fundamentally different processes: description is the "tweezers by which we hold things while explanations are being discovered or verified, applied or revised").

⁸ Cf. ALLEGRETTI, *supra* note 6, at 14 (describing the "Christ in Harmony with the Code" model and relating a story in which a lawyer asserts that he never had a conflict between his personal morality and his professional conduct). The inability to think that American culture may have multiple conflicts with mainstream Christian belief may account for the Supreme Court's treatment of Free Exercise claims, see *Employment Div., Dep't of Human Resources of Or. v. Smith*, 494 U.S. 872, 884-85 (1990) (stating the compelling interest test is inappropriate in Free Exercise cases) and the Religious Freedom Restoration Act. See *City of Boerne v. Flores*, 521 U.S. 507 (1997) (finding the Religious Freedom Restoration Act beyond the scope of Congress' 14th Amendment power to "enforce" the amendment's guarantees).

⁹ See THE SECOND VATICAN COUNCIL, *PASTORAL CONSTITUTION ON THE CHURCH IN THE MODERN WORLD* § 34 [hereinafter *PASTORAL CONSTITUTION*]; see also BERNARD COOKE, *SACRAMENTS AND SACRAMENTILITY* 2 (1983) (explaining that Sacrament "touches everything in our life that is distinctively human. [P]eople [cannot] thoroughly understand what it means to be Christian if they do not understand the fundamental sacramentality of their human and Christian lives.").

¹⁰ PAULIST PRESS, *CATECHISM OF THE CATHOLIC CHURCH* § 1700 (1994) [hereinafter "CATECHISM"]; see also COOKE, *supra* note 9, at 238 ("Grace is the transformation of human persons under the impact of God's loving self-gift in Christ.").

¹¹ See CATECHISM, *supra* note 10, § 703 ("The Word of God and his Breath are at the origin

People, their relationships, and their institutions are made holy by God's constant grace.¹² By engaging the world fully, that is, by participating fully in the social institutions in which we find ourselves, we carry out God's plan of salvation.¹³ But how do we know when we must recognize God's primacy? How do we see the image from its reflection? How do we discern the divine image in a world marred by sin?

The transforming character of grace is the key. Grace is the self-communication by which God transforms the human person.¹⁴ This communication elevates the person "above and beyond any claims or longings [he] might possess" and "effects a transformation of the very being of the creature."¹⁵ "Grace modifies the heart and mind, the imagination and the feelings" so that the graced person becomes a kind of "transcription of revelation itself."¹⁶ This personal change is the image of Jesus' resurrection in which "[t]he claim is of a transformation, a breakthrough, to a wholly new mode of existence."¹⁷

While the event of grace truly transforms the human, it may not come "in one lump" but rather "in time, leaving room for us to continue to change as we follow in the footsteps of the incarnate Lord."¹⁸ People respond to the offer of grace through culture and the temporal order.

Culture and grace ... are ineluctably intertwined. Culture, as the glory, sin and terrifying ambiguity of the human project, is the most public way in which the human creature responds to, rejects, toys with or flees from the divine offer of conversion and completion. The goodness of the project as human, and the perversion of the project as sin, both come to light as real goodness and deathly sin only through God's self communication.¹⁹

Grace is both a personal liberation from sin, nature, fear, and death and a liberation for love, neighbor, God, and culture.²⁰ It is a "freshly

of the being and life of every creature.").

¹² See PASTORAL CONSTITUTION OF THE CHURCH, *supra* note 9, at § 32 (stating that Jesus "sanctified those human ties" basic to all social institutions).

¹³ See *id.* at § 34 (explaining that men and women can look upon their work as a prolongation of the Creator's work when they provide for themselves and their families in such a way as to benefit their fellow man).

¹⁴ See HANS URS VON BALTHASAR, *THE THEOLOGY OF KARL BARTH* 273 (1971) ("God's activity touches man's being and transforms it, so that it then can reach his consciousness and summon him to faith.").

¹⁵ *Id.* at 367.

¹⁶ AIDAN NICHOLS, O.P., *THE SHAPE OF CATHOLIC THEOLOGY* 245 (1991).

¹⁷ MONIKA K. HELLWIG, *JESUS: THE COMPASSION OF GOD* 103 (1983).

¹⁸ VON BALTHASAR, *supra* note 14, at 378.

¹⁹ BRIAN O. McDERMOTT, S.J., *WHAT ARE THEY SAYING ABOUT THE GRACE OF CHRIST?* 11 (1984).

²⁰ See ROGER HAIGHT, *THE EXPERIENCE AND LANGUAGE OF GRACE* 154-160 (1979).

minted love for self, God and others.”²¹ Like a parable, grace allows a person to see what was always there in other people and to see the culture in a sharper, clearer light.²²

There can be no real distinction between “what a person is and what a person does.”²³ The person must cooperate with the offer of grace and its transformative power in some way.²⁴ The inner transformation that grace effects demonstrates itself in the activities of the person. Grace breaks out in the world through the actions of individual persons.²⁵ It is always played out within a cultural context that is both graced and sinful. In this sense, cooperative grace becomes the visible, public effect of human freedom.²⁶

Personal achievement or social reconstruction, however, “[w]hatever their occasion, sophistication, and affecting power to exalt, [are] essentially affairs of the self.”²⁷ The exalted moments of life, the epiphanies, the great victories over oppression are only hints of the divine glory. As Von Balthasar points out, God is revealed indirectly, “in disguises, as it were; that is, in a way that is fundamentally different and dissimilar to the way objects confined to this world are given to us.”²⁸ Human trust and acceptance are partial expressions of the divine acceptance, which is “utterly reliable.”²⁹

IV. WRESTLING WITH STRANGERS: JACOB AND THE ANGEL

Grace is transformative. The opportunity for grace is present at all times in our engagements with the people around us.³⁰ All of this is to say

²¹ MCDERMOTT, *supra* note 19, at 14.

²² See PETER L. BERGER, *A FAR GLORY* 14 (1992) (describing the liberation as a transcendence, emphasizing the “alienness of the Christian message [which] breaks into human reality like an intruder”); see also JOHN D. CROSSAN, *IN PARABLES* (1984).

²³ HAIGHT, *supra* note 20, at 171.

²⁴ See HELLWIG, *supra* note 17, at 108 (“To be a follower of Jesus means . . . to enter by compassion into his experience [a]nd it means . . . to enter with him into the suffering and the hope of all human persons.”).

²⁵ See HAIGHT, *supra* note 20, at 170.

²⁶ See *id.*

²⁷ MILNER S. BALL, *THE WORD AND THE LAW* 81 (1993).

²⁸ VON BALTHASAR, *supra* note 14, at 49.

²⁹ MCDERMOTT, *supra* note 19, at 13.

³⁰ See BALL, *supra* note 27, at 7-33, in which he describes seven lawyers’ law practices as indicative of the reality of The Word, *i.e.*, that which accomplishes what it says. To me, these stories illustrate the cooperative merging of the human and the divine. Ball describes my understanding well when he says that traditional Thomist theology suggests that “the divine and the human are interdependent. For example, the soul is open to grace; or divine grace perfects human freedom, and human freedom cooperates with and supplements divine grace.” *Id.* at 103. Ball, on the other hand, uses Karl Barth’s theological perspective:

Barth always insisted that theology must reflect the central Christological priority: In

that our relationship with the world is complicated and ambiguous. In a world marred by sin, both personal and social, it becomes difficult to know when the image we see is God's or our own. There is no template that can clearly identify the good from the bad, the graced from the sinful. In fact, they exist side-by-side in ways that make it difficult to tell one from the other. I think the story of Jacob's struggle with the mysterious stranger illustrates how our encounters with God can occur when we least expect them, and how our struggle with God can transform us if we are willing to become fully engaged with our life and the lives of the people around us.

The biblical text reads:

In the course of that night, however, Jacob arose, took his two wives, with the two maidservants and his eleven children, and crossed the ford of the Jabbok. After he had taken them across the stream and had brought over all his possessions, Jacob was left there alone. Then some man wrestled with him until the break of dawn. When the man saw that he could not prevail over him, he struck Jacob's hip at its socket, so that the hip socket was wrenched as they wrestled. The man then said, "Let me go, for it is daybreak." But Jacob said, "I will not let you go until you bless me." "What is your name?" the man asked. He answered, "Jacob." Then the man said, "You shall no longer be spoken of as Jacob, but as Israel, because you have contended with divine and human beings and have prevailed." Jacob then asked him, "Do tell me your name, please." He answered, "Why should you want to know my name?" With that, he bade him farewell. Jacob named the place Peniel, "Because I have seen God face to face," he said, "yet my life has been spared."

At sunrise, as he left Penuel, Jacob limped along because of his hip. That is why, to this day, the Israelites do not eat the sciatic muscle that is on the hip socket, inasmuch as Jacob's hip socket was struck at the sciatic muscle.³¹

In the story, Jacob refused to release his hold until the mysterious stranger blessed him.³² This part of the story echoes Jacob's birth where the twins, Jacob and Esau, "jostled each other" in their mother's womb.³³

the relationship between God and us, God is radically precedent. . . . Barth believed it profoundly wrong to think that personal encounter with God is somehow a given of human nature, as though grace actuates an inherent human possibility. . . .

. . . .
 . . . That God, the prior, omnipotent, and wholly other, engenders a relationship with humans in which he is mightily sovereign, and yet humans find themselves liberated and their integrity established, is the mystery of His self-revelation.

Id. at 103-104.

³¹ *Genesis* 32:23-33.

³² *See Genesis* 32:27.

³³ *See Genesis* 25:22.

At birth, Jacob emerged clutching Esau's heel.³⁴ Both the jostling and the clutching echo two important elements of Jacob's encounter with the mysterious stranger.³⁵

First, Jacob's conflict with the stranger is not out of character. Jacob engaged in trickery and deceit to acquire his father's blessing,³⁶ his wives,³⁷ and his father-in-law's goods.³⁸ It is easy to lose sight of God amidst Jacob's "jungle of unedifying manifestations of human nature."³⁹ Nevertheless, God was at work in Jacob's life even when Jacob was not aware of it. In the climactic struggle at the river, Jacob, who stole his first blessing, received a final, more profound blessing: the ancestry of an entire people. Jacob's perseverance and determination won this blessing of "more life."⁴⁰

At the same time, Jacob's struggle with the angel is a commentary on the human spirit. Jacob's struggle is the "first deed of historical rank, the first authentic human act."⁴¹ Jacob, perhaps foolishly, engages the unknown. Once engaged, he can do nothing more than hold on and try to wring what little benefit there may be from the encounter. Before this Jacob has been able to escape tight situations through the use of cleverness and trickery. Now he is locked in a life and death struggle and his cunning is no help to him.

Second, by holding on to the angel, Jacob is transformed into Israel, the father of a nation.⁴² The old Jacob, cunning and clever, is replaced by the new, wise Jacob. Indeed, he is even warmly welcomed home by his

³⁴ See *Genesis* 25:26.

³⁵ Indeed, the popular etymology of Jacob's name is related to his clutching. "The root, 'qb' means heel and is found in Arabic and Assyrian as well as Hebrew." 2 THE INTERNATIONAL STANDARD BIBLE ENCYCLOPEDIA 948 (Geoffrey W. Bromiley et al. eds., William B. Eerdmans Publ'g Co. 1915) [hereinafter BIBLE ENCYCLOPEDIA]; see also WATSON E. MILLS, MERCER DICTIONARY OF THE BIBLE 424 (1990). It may also be related to Jacob's "overtaking" of the blessing meant for Esau. The name derives from a simple verb which means "to follow closely." BIBLE ENCYCLOPEDIA, *supra*, at 948.

³⁶ See *Genesis* 27:1-41 (noting that Jacob and Rebekah deceived Isaac into giving Jacob, instead of Esau, Isaac's blessing).

³⁷ See *Genesis* 29:15-30 (explaining that Jacob, after having been deceived into consummating a marriage with his intended bride's sister Leah, agreed to remain married to Leah for another week so that he could consummate marriage with her sister Rachel).

³⁸ See *Genesis* 30:25-43, 31:1-21 (explaining that Jacob tricked his father-in-law, Laban, into giving him the largest share of his flocks in payment for his labor and then "hoodwink[ed] Laban . . . by not telling him of his intended flight").

³⁹ 1 GERHARD VON RAD, OLD TESTAMENT THEOLOGY 171 (D.M.G. Stalker trans., 1962).

⁴⁰ THE BOOK OF J 219 (David Rosenberg trans., 1990).

⁴¹ RUDOLPH J. SIEBERT, JACOB & JESUS: RECENT MARXIST READINGS OF THE BIBLE, THE BIBLE AND LIBERATION: POLITICAL AND SOCIAL HERMENEUTICS 501 (1983).

⁴² See *Genesis* 32:29 ("Then the man said, 'You shall no longer be spoken of as Jacob, but as Israel, because you have contended with divine and human beings and have prevailed.'").

brother, Esau, from whom he had stolen his father's blessing.⁴³ Jacob views his relationship with Esau in a new light immediately after his contest at the River Jabbok. Before the river encounter, Jacob feared Esau.⁴⁴ He seemed to want to bargain with him for his safety.⁴⁵ When Jacob heard that Esau was sending a delegation of four hundred men to meet him, he became very frightened.⁴⁶ He divided his company up to protect his wives and children and sent a large number of his livestock to Esau, presumably to appease his wrath.⁴⁷ Jacob confronted the angel at the river crossing immediately after he put the plan into effect.⁴⁸

After the encounter with the angel, Jacob and Esau meet and Esau warmly welcomes Jacob home.⁴⁹ In addition to his warm welcome, Esau refuses to accept the offer of livestock.⁵⁰ Jacob insists saying, "If you will do me the favor, please accept this gift from me, since to come into your presence is for me like coming into the presence of God, now that you have accepted me so kindly."⁵¹ Jacob not only recognized the presence of God in his struggle with the angel, but also began to see God in the faces of the people around him.

Jacob's encounter with the angel also changed him physically. He now walks with a limp that seems to symbolize the extent of his inner transformation. Jacob's laming was the price he paid to secure the blessing and acquire his transformed identity.⁵² The laming also signifies the new reality under which Jacob now must operate. Jacob, now Israel, can no longer lie, cheat, or steal to achieve his personal aims. He can no longer see the world from his narrow, selfish perspective. Now he must rely on his moral authority to craft a world for an entire people. He will necessar-

⁴³ See *Genesis* 33:1-11 (describing the meeting between Jacob and Esau after Jacob's meeting with the mysterious stranger).

⁴⁴ See *Genesis* 32:4-13 (detailing Jacob's prayer for protection from Esau, as well as his attempt to gain favor with Esau by sending a message to him).

⁴⁵ See *Genesis* 32:4-6; *Genesis* 33:8-11 (describing the message and gifts sent to Esau by Jacob).

⁴⁶ See *Genesis* 32:7-8.

⁴⁷ See *Genesis* 32:8-22 (describing Jacob's prayer for God's protection, and his plan to appease Esau).

⁴⁸ See generally *Genesis* 32:23-32 (describing Jacob's confrontation with the angel).

⁴⁹ See *Genesis* 33:1-4 (describing how "Esau ran to meet him, embraced him, and flinging himself on his neck, kissed him as he wept").

⁵⁰ See *Genesis* 33:8-9.

⁵¹ *Genesis* 33:10. Interestingly, Jacob engages in one last bit of trickery. He tricks Esau into thinking that he will follow him to Esau's home at Seir, but instead takes his family to Succoth. See *Genesis* 33: 12-17.

⁵² Cf. THEODOR H. GASTER, *MYTH, LEGEND, AND CUSTOM IN THE OLD TESTAMENT* 210-212 (1969) (the blessing was a "conferment of . . . special superhuman 'nature' inherent in gods and demons and by them bestowed on men and objects which they favour").

ily see the events in his life through his new identity and from this new standpoint.

Jacob's transformation into Israel is more than a moral and political change, however. After being touched by God, Jacob's life and person are re-formed.⁵³ In fact, it would not be an exaggeration to say that after the struggle at the river Jabbok God remained with Jacob in a special way. The stranger gives Jacob the name "Israel" because Jacob had " 'contended with divine and human beings' and prevailed."⁵⁴ The Hebrew word used here (*yisrael*) includes the theophoric element "el" as the object of the verb, which is an unusual construction.⁵⁵ Jacob now literally carries the name of God with him. Moreover, Israel is derived from the verb, *sarah*, i.e., to "contend with."⁵⁶ Although this derivation suggests that the name relates only to a struggle with God, adding the phrase "and human beings" enlarged its interpretation to show that Jacob would prevail over both other gods and peoples.⁵⁷ David Rosenberg's translation captures this sense: "Not anymore Jacob, heel-clutcher, will be said in your name; instead, Israel, God-clutcher, because you have held on among gods unnamed as well as men, and you have overcome."⁵⁸

Jacob's change, from the heel-clutcher to the God-clutcher, signifies the transformation about to take place in Jacob's life.⁵⁹ The elements from which his new name was fashioned literally describes the new reality in Jacob's life. No longer holding on to others and their possession, he now need only cling to God. And God will always be with him.

⁵³ I use Gregory Wolfe's meaning of "reform" which he borrowed from G. K. Chesterton: True reform . . . involves a return to *form*. Only in subjecting oneself to the rigors of the original form - a term that reminds us of something ordered, coherent, and specific - can the detritus of time and human folly be washed away and vitality return. . . . By returning to the original form from the standpoint of the present, the resulting reform might well take on a radically different path when compared with the immediate past. In other words, the return to form may yield results that are startling but that remain true both to the distant past and to the conditions of the present.

2 GREGORY WOLFE, *THE CATHOLIC WRITER* 15 (Ralph McInerney ed., 1991).

⁵⁴ *Genesis* 32:29.

⁵⁵ See 1 *THE JEROME BIBLICAL COMMENTARY* 34 (Raymond E. Brown et al. eds., 1968) (noting that the construction is unusual within the context of names).

⁵⁶ *Id.*

⁵⁷ See *id.* (stating that "[t]he name is given an enlarged interpretation ('and men') to indicate the struggles of Jacob . . . that will result in victory").

⁵⁸ *THE BOOK OF J*, *supra* note 40, at 218.

⁵⁹ See EDWARD P. BLAIR, *THE ILLUSTRATED BIBLE HANDBOOK* 108 (1987).

V. HOW I WRESTLED WITH A CLIENT AND CAME TO PRACTICE LAW WITH A LIMP

Jacob's story of secular engagement, moral turmoil, and personal transformation helped me to understand an experience I had when I was in practice. As I now understand, I entered this experience clutching myself and I left clutching God.

I practiced with a Legal Services Office for nearly six years. I was self-consciously a crusader. I wanted to change the world, rid the poor of oppression, and reform the law. Late one afternoon, a potential client called our office. As per our procedure, our receptionist asked that she set up an appointment several weeks later. The client insisted on speaking to someone immediately because she had an emergency. Having heard this claim before, our receptionist tried to get the caller to comply with our system. The caller persisted and, finally, the receptionist sent the call to me.

I took the call reluctantly. It was late and I was busy with "important" matters involving a Medicaid class action lawsuit involving 40,000 potential class members.⁶⁰ The caller told me that she had not received her welfare check that month. When she called the Welfare Department, she learned that she was no longer eligible for welfare, and, therefore, would no longer be receiving a monthly check. Welfare law was my specialty and I began to advise her about the appeal process, which, if we were successful, might restore her benefits in about six weeks.

Upon hearing this, the caller said, "Who will feed my children tonight? I have no food, no money, no car. Who will feed my children tonight?" As I had done dozens of times before, I explained that some local churches gave food to people in her situation. She bluntly reminded me that those churches were over fifteen miles away from her home and, in any event, she had no transportation. I suggested that she try to borrow a car from her friends or from her family, but neither of these options would work for her. Finally, out of frustration, I agreed to bring a food basket to her house.

I grumbled on my way to the church to pick up the food and all the way to her house. I told myself that I would never take one of these "emergency" calls again. It interrupted my important work and made me late for dinner with my own family. I tried to soothe my annoyance by convincing myself that I was doing a "good work."

⁶⁰ The case involved the state's failure to provide rural Medicaid recipients transportation to medical providers. The parties eventually settled the case.

I arrived at her house intending to drop the basket off and leave. I did not expect gratitude. My clients rarely thanked me. She had been so demanding on the phone that I expected even less from her in person. When I arrived she warmly greeted me and invited me in and she asked me to stay for dinner. She did not want me to make the fifteen mile return trip without eating. I refused the first offer and squirmed toward the door. She insisted that if I could not stay for dinner at least I could have a drink of iced tea. Again I refused but yet again she persisted. Finally, I agreed to take the tea. I felt put upon and harried but I believed that the only way I could ever leave was to quickly drink the tea and then leave. I reluctantly sat at her kitchen table and talked with her and her children. As we talked I kept fighting the impulse to leave. As I stayed my irritation gave way to a calm and my pride gave way to relaxation. Somewhere in the middle of this conversation, I ceased being irritated and simply began to enjoy her family's company. After I finished my tea, I excused myself and said good bye.

Even though I could not identify precisely what happened, I knew I left her house a different person than the one I was when I arrived. I now realize that I had been wrestling with God. I went to her house thinking I was doing something only for her. I left her house touched by God's grace.⁶¹ Her example of selfless concern permanently changed my perspective on the practice of law. The roles of lawyer and client dissolved as grace burst forth into the world. I thought I was the servant. Instead, I was being served.

Her case did not change the legal system.⁶² She was still poor the next morning and I was still a lawyer. But her children had been fed — by a lawyer! And I, her lawyer, had been fed by her unfailing generosity. In those moments I re-formed my image of the practice of law. It did not happen in a flash. Rather, it was like Jacob hanging on to the stranger's leg until he received his blessing *and* his laming. Jacob left the river crossing with a limp, a new name, and an uncertain future.⁶³ His transformation equipped him to confront the reality that lay ahead of him as it occurred but did not give him the power to predict either the events or his reaction to

⁶¹ See COOKE, *supra* note 9, at 7 (“‘Grace’ is something to be lived creatively” and not “passively received.”)

⁶² Her case had another unusual aspect: the Welfare Department admitted their mistake and awarded her benefits without a hearing! I had absolutely nothing to do with the outcome. I made one or two phone calls informing the case worker of my involvement. In fact, I was surprised by their reaction because 1) they usually fought me tooth and nail on these cases, and 2) I thought my client had a weak case.

⁶³ See *Genesis* 32:23-32.

them.⁶⁴

In much the same way, my encounter that evening transformed me and my practice. From that point forward my clients' needs, and not my reformist ideology took precedence. My clients were no longer the means to accomplish my vision of a just society. Law reform still mattered and I still pursued those cases.⁶⁵ However, the difference was from that point on I engaged each client personally. I listened more to clients and talked less. I recognized an "overarching obligation" to the actual persons I represented that transcended the obligations to my ideology. My limp, as it were, caused me to focus more on the human beings coming into my office and less on the abstract justice I thought I was pursuing for them. As Bernard Cooke says, "[t]o live this way - alert, aware, concerned and loving and open to others, free and self-determining - does not come easily. It is a challenge, a task to be undertaken, *a price we have to pay for being truly human.*"⁶⁶

It is difficult to precisely describe what happened to me because it was mostly an internal phenomenon. There was no obvious difference in the way I practiced law. The difference lay in the way I viewed my clients and my obligations to them.⁶⁷ Before that day, my clients were simply unavoidable means to my law reform ends. After that day, they were more than that. They became, I now know, the face of God. Just as Jacob saw the presence of God in the face of the mysterious stranger,⁶⁸ I saw the presence of God in my clients. That entitled them to a profound respect and attention that I had previously not accorded them. I began to realize that every client contact contained the opportunity to see the face of God and receive a blessing of more life.⁶⁹

⁶⁴ Bernard Cooke calls this a "'hermeneutic of experience', a set of principles and insights and critical judgments that equips us to interpret our experience in a more accurate and profound way." COOKE, *supra* note 9, at 31.

⁶⁵ Unfortunately, I didn't always get the result I wanted. *See, e.g., Mowbray v. Kozlowski*, 914 F.2d 593 (4th Cir. 1990) (reversing the District Court's judgment that the state used an improper methodology to calculate potential Medicaid recipients' assets).

⁶⁶ COOKE, *supra* note 9, at 11 (emphasis added).

⁶⁷ This is like the "hermeneutic of experience" described in the following passage:

All of us need to develop, as humans, a more adequate hermeneutic of experience, the ability to encounter openly whatever comes into our lives - people, happenings, personal pain or joy - and to "read" the encounter with insight and accuracy, so that the experience we have correlates with what is actually occurring.

COOKE, *supra* note 9, at 33.

⁶⁸ *See Genesis 32:31* (explaining that after his meeting with the stranger, Jacob said "I have seen God face to face").

⁶⁹ Although we are not exactly our experience, for us to exist as human means to experience. Central to our experience are the meanings that various happenings have for us. Occurrences can be more or less significant, and can be significant in many different ways. Awareness of the pres-

CONCLUSION

Finally, that story continues to influence me. Jacob's encounter with the angel provided the context in which he lived the rest of his life. The events that happened to him thereafter took on meaning in relation to his experience of coming face to face with God. In the same way my "wrestling match" with that client has become a kind of scripture which has provided context and meaning to the rest of my legal career.⁷⁰ It gives meaning to the work I do now as a law professor. I burn with a passion for the people touched by the law. I try to communicate that passion in the courses I teach. In a special way, that experience shapes the way I teach Constitutional Law, Legal Ethics, Interviewing and Counseling, and Dispute Resolution.

In addition, that story has become the touchstone for what being a Catholic lawyer means to me. By recognizing the "overarching obligations" our faith may impose on us, we become able to engage God at the moments of God's self-revelation. The world is filled with God's spirit and all of us, lawyers and clients, act with *and* are acted upon by that spirit.⁷¹ We encounter that spirit when we least expect it. Like Jacob, the moments of struggle may occur outside the public eye, as it was for me when I reluctantly took food to my client's house. And like Jacob, we may be ambushed by God at a moment when God is the farthest thing from our minds, as it was for me when I reluctantly sat at my client's kitchen table. Like Jacob, we do not know whether or not our struggles are with God. In Jacob's encounter on the banks of the Jabbok, he did not know he was confronted with a divine being until the encounter was over. Likewise, we do not know if the turmoil we feel is the result of God's presence or not. Like Jacob, we may know only after we have held on and demanded our blessing, as happened to me when I finally decided to accept the iced tea. But as the Jewish sage and Biblical Commentator Rashi said: "This is part of the ambiguity of man's meeting with God."⁷²

ence of a loving God gives a new and transforming meaning to all these occurrences; they become graced happenings. COOKE, *supra* note 9, at 233.

⁷⁰ Cf. COOKE, *supra* note 9, at 234 (suggesting that the experience of God's presence radically alters the way "one views and reacts to life" and "transforms our experience and our being as persons").

⁷¹ As Cooke has stated:

[W]hile God is distinct from us, the reality of divine self-giving happens within our consciousness through God's presence to each of us. God does not stand outside us and send graces to us; God dwells within us personally as a lover in the awareness of the beloved. God is "grace," the great grace, uncreated grace.

COOKE, *supra* note 9, at 232.

⁷² W. GUNTHER PLAUT, ED., THE TORAH: A MODERN COMMENTARY 222 (1987).

Recognizing the ultimate authority and radical presence of God leaves us vulnerable to personal change and transformation. Like Jacob, being a believer means that we may be “injured” in the struggle. Like Jacob, we may have to practice law with a limp.