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THE 95 THESES: LEGAL RESEARCH IN THE INTERNET AGE

Amy E. Sloan*

Martin Luther is largely credited with starting the Protestant Reformation in 1517 with *The 95 Theses*, his work challenging the Catholic Church's practice of selling indulgences. The Reformation had many causes, but the invention of the printing press was a primary catalyst for change. The printing press made the Bible and other forms of religious literature available to a much wider audience than had previously had access to this information.¹

Legal research does not rise to the level of a religious experience. With apologies to Luther, however, I offer the following thesis about legal research today: The availability of legal information on the Internet has led to the law's equivalent of the Protestant Reformation. As legal information has become available to more people, legal research and the roles of lawyers have been transforming as well.

Prior to the Reformation, the Catholic Church was the largest and most powerful religious entity in Europe. At that time, the laity did not have direct access to the Bible. Most could not read; the Bible was printed in Latin; and printed books were hard to come by. Access to God was through the Pope and priests as his agents acting as intermediaries who told people what the Bible said and what God required of them.

Challenges to the Catholic Church had arisen before the Reformation but had not gained widespread acceptance for a

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1. For information on the Protestant Reformation and the role of the printing press, see Mark U. Edwards, Jr., *PRINTING, PROPAGANDA, AND MARTIN LUTHER* (1994); 2 Elizabeth L. Einstein, *THE PRINTING PRESS AS AN AGENT OF CHANGE: COMMUNICATIONS AND CULTURAL TRANSFORMATIONS IN EARLY-MODERN EUROPE* (1979); and Jared Rubin, *The Printing Press, Reformation, and Legitimization* (2015), available at http://web.stanford.edu/dept/islamic_studies/cgi-bin/web/wp-content/uploads/2012/03/rubin.pdf.

number of reasons. One reason was the difficulty of disseminating information widely. The printing press changed this. The ability to print books gave more people direct access to the Bible, especially as Bibles began to be printed in the vernacular and as literacy increased. Reformers encouraged people to read and interpret the Bible for themselves, to base their faith on “scripture alone,” and not on the glosses and interpretations of others.

Legal information is undergoing a similar shift. Before the advent of the Internet, few people had direct access to the law. The law was published in books in law libraries to which few people had access. As law became available electronically, it was through commercial services—primarily Lexis and Westlaw—that charged users for access to information. Because few people had direct access to the law, lawyers, as secular high priests, acted as intermediaries who told people what the law said and what it required of them.

The Internet has given the public free and direct access to the law. Courts, legislatures, and administrative agencies that promulgate primary authority now make that authority available to the public on the Internet. Anyone can find, read, and interpret the law for himself or herself without a lawyer.

Although the Protestant reformers emphasized “scripture alone,” the difficulty of interpreting scripture quickly presented a problem. The very reformers who encouraged the laity to reject others’ glosses on Biblical text were soon frustrated when people interpreted the Bible differently than the reformers did. The reformers began issuing their own expositions to help ensure that the laity accepted the “true” interpretation of scripture (i.e., the reformers’ interpretations). Religious scholars were concerned that people would make poor decisions based on their misunderstandings of scripture, with eternal consequences. Conflicts among various interpretations—each claiming to be authoritative—abounded.

The same problem exists with legal information on the Internet. Many primary and secondary authorities are available to the public, but the difficulty of interpreting the law persists. Some members of the public are able to read and understand the law without the help of a lawyer. But many cannot, and they may make poor decisions based on their misunderstandings of the law. With massive amounts of secondary authority available on the

Internet, individuals without legal training may have difficulty distinguishing sound from unsound interpretations of the law.

The fact that the legal canon is more diffuse than the Christian canon adds to the difficulty of interpreting law. “Scripture,” which the Protestant reformers understood to be the text of the Christian Bible, is static and is collected in a single document. “Law” is ever-changing and is promulgated in multiple forms by multiple actors. Some sources, such as non-precedential opinions, operate in a netherworld between authoritative and advisory. The complexity of determining what constitutes the legal canon makes interpreting the law difficult for the public.

In the religious context, the difficulty of interpretation is one reason why priests and other religious authorities have remained relevant even as the Bible has become available to the public, although their roles in society have changed. Similarly, lawyers remain relevant as guides through the law, although their roles in society are also changing as the Internet transforms the law into an easily accessible resource.

The parallels between the Protestant Reformation and the changes in legal culture occasioned by the Internet naturally have their limits. In religious matters, a “true” or “correct” interpretation of “God’s word” cannot finally be determined on this plane except by faith. The law, as a product of secular society, can be authoritatively interpreted by secular actors. Nevertheless, in both religious and legal contexts, the accessibility of information plays a critical role. Making information that was previously accessible only to a privileged elite available to the general public has enormous consequences. In the Protestant Reformation, it led to the splintering of the church into a number of different denominations. In the law, the consequences are just beginning to unfold.