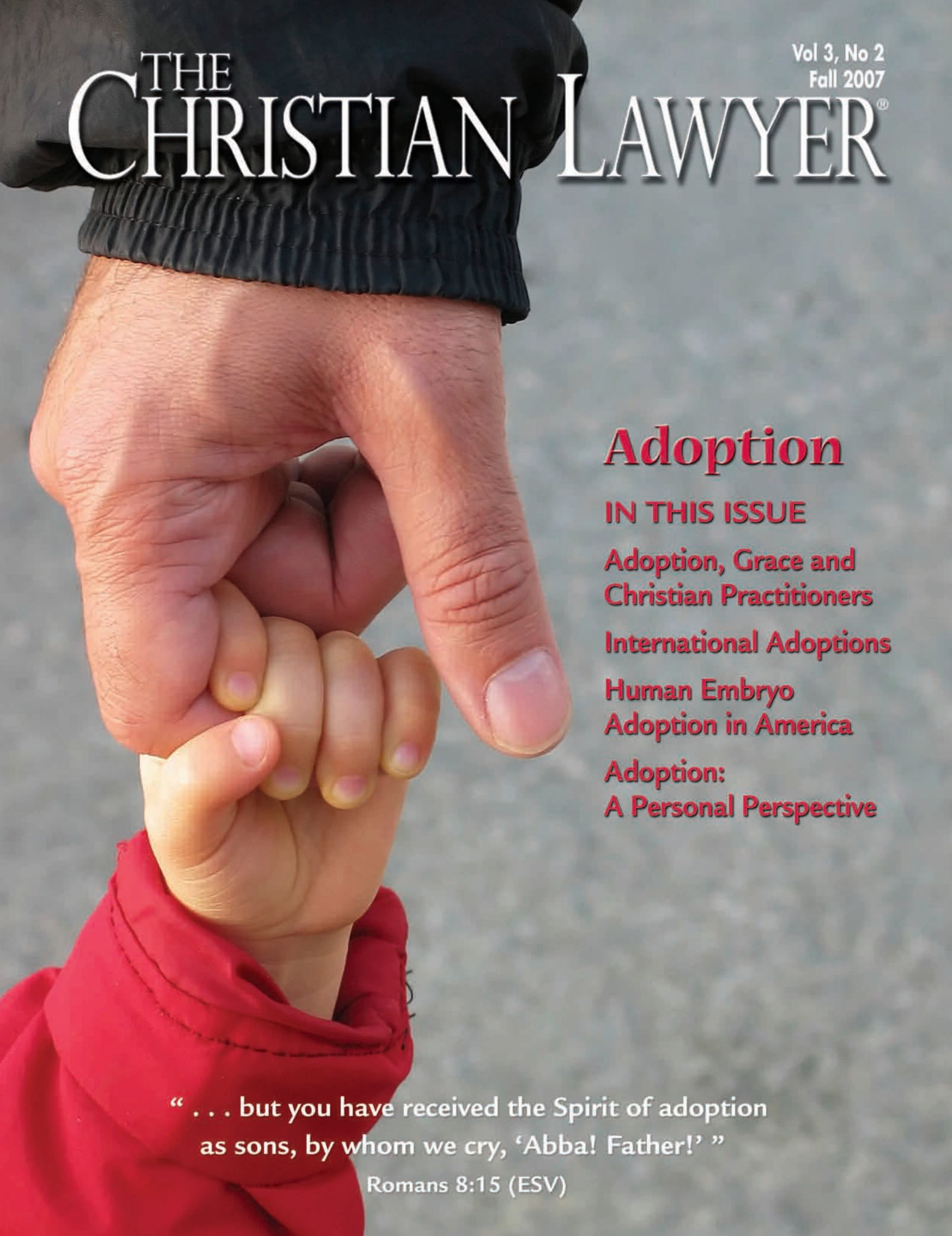
Vol 3, No 2
Fall 2007

THE CHRISTIAN LAWYER®



Adoption

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" . . . but you have received the Spirit of adoption as sons, by whom we cry, 'Abba! Father!' "

Romans 8:15 (ESV)

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Where Law and Mission Meet

Dean Kenneth W. Starr

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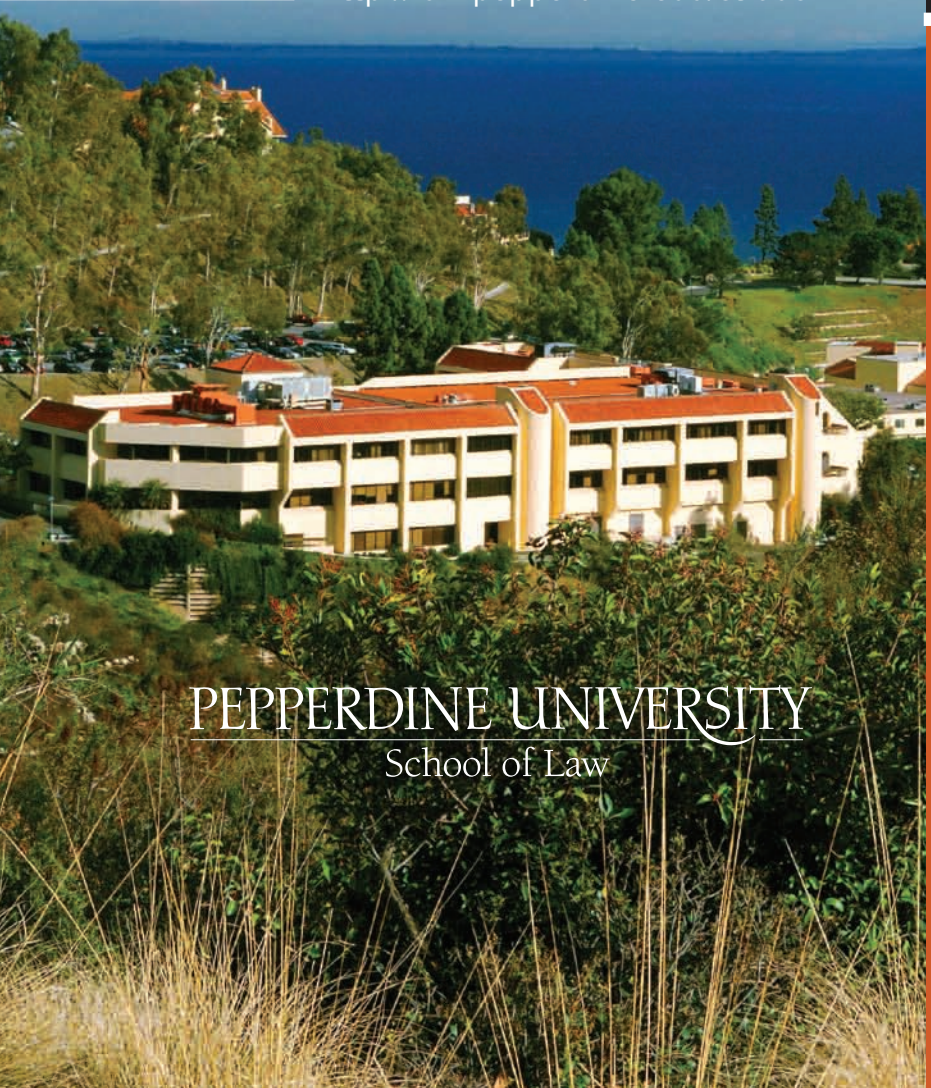

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School of Law

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IN THIS ISSUE

Samuel B. Casey
Executive Director
and CEO

Adoption and the Heart of God

I am a big fan of adoption. I was pretty lonely as an only child, five-years-old and going to the playground alone. So I asked Mom if it would be OK if she and Dad could get me a brother or sister. A year later, I was thrilled when my adopted sister Annie arrived in her bassinet. It got even better when my adopted sister Margaret arrived two years later. No one had adopted Meg because she had severely clubbed feet that needed surgery. A little surgery and she went on to be a fashion model. Annie was my "sidekick" growing up. She became an innkeeper and writer, and I still love to talk to her about her quirky story ideas most of which have something to do with our family. More recently, it was in Meg's home that our dying Mother received such tender hospice care and was able to breathe her last breath in her adopted daughter's loving arms. Surely, Scripture is correct when it reminds us that "children are a reward" (Ps. 127), not only for their dads and moms, but also for brothers like me.

Adoption also is close to the heart of God. Moses was effectively adopted and well-educated by Pharaoh's daughter so that he could deliver God's people out of slavery and into the law of God. Esther was adopted in childhood by her much older cousin Mordecai to be used by God to save her people. Joseph and Mary in their crisis pregnancy chose adoption, not stoning for Mary and pre-birth destruction for Jesus. Jesus was then raised to be a carpenter by his stepfather Joseph so that He could save us all. And John the Evangelist, by Jesus' dying words from the Cross, became Mary's adopted son and Jesus' brother. Small wonder then, as pointed out by Doug Donnelly in the first article in this issue, that the New Testament writings of John and Paul are especially "rich in references to adoption."

Adoption is the life-giving alternative for the biological parents who cannot raise the child themselves. To strengthen our commitment to adoption and encourage its availability, we are glad to announce that CLS is beginning to organize an Adoption Law section, headed up by the authors of the excellent adoption articles being published in this issue. Whether your professional or personal interest is private adoption, foster-care adoption, international adoption or even human embryo adoption, CLS is here to prayerfully help all children find a loving family where they can grow up in the love and admonition of the Lord.

The Christian Lawyer®

Fall 2007, Volume 3, No. 2

Editor-in-Chief & Publisher
David Nammo

Assistant Editors
Laura Nammo
Helen Hogye

Design & Production
Custom Designers, Inc.

Editorial Office
The Christian Lawyer
Christian Legal Society
8001 Braddock Rd, Suite 300
Springfield, VA 22151

Editorial E-Mail: **editor@clsnet.org**

Advertising Office
Ad Guidance, Inc.
8146 Blandsford Drive
Manassas, VA 20111
(703) 365-7411

Advertising E-mail:
info@adguidance.com

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CHRISTIAN LEGAL SOCIETY

The Christian Lawyer is a publication of the Christian Legal Society, 8001 Braddock Road, Suite 300, Springfield, VA 22151. Tel: (703) 642-1070; Fax: (703) 642-1075

The Christian Legal Society is a 501 (c)(3) nonprofit organization, gifts to which are deductible as charitable contributions for federal income tax purposes.

Adoption, Grace and Christian Practitioners

By Doug Donnelly

Christians should have the clearest understanding and appreciation of the concept of adoption. We are accepted into God's family not because of any virtue of our own, nor because of our works and accomplishments. Moreover, we are accepted without limitation or restriction and possess the fullest possible measure of all the rights and privileges of being one of God's children. Acceptance is purely a function of God's grace.

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Adoption, Grace and Christian Practitioners

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Adoption on the human level is very similar. An adopting parent accepts a child into his or her family as an act of grace. This is not to say that there is no expectation of a warm, fulfilling and rewarding parent-child relationship. Viewed from the eyes of the adopting parent, however, adoption is more about giving—the giving of love, companionship and the provision of one's material possessions—than it is about receiving. It is truly a function of grace.

There are a number of examples of adoption, or something akin to adoption, throughout the Bible. Moses was effectively adopted by Pharaoh's daughter; Esther was adopted in childhood by her much older cousin, Mordecai; and Jesus was raised by his stepfather, Joseph of Nazareth. Few would quarrel with the contention that these placements worked out quite well in the end.

The best Biblical description of *physical* adoption comes, ironically, not in an adoption at all, but rather in Ruth's promise to her mother-in-law, Naomi, in what we today might call an adult adoption: "I will go wherever you go and live wherever you live. Your people will be my people, and your God will be my God." (Ruth 1:16 NLT)

Although adoption is never specifically mentioned in the Old Testament, adoption imagery is frequently employed throughout the Bible. The writings of John and Paul are especially rich in references to adoption: "But to all who believed him and accepted him, he gave the power to become children of God." (John 1:12 NLT) "So you should not be like cowering, fearful slaves. You should behave instead like God's very own children, adopted into his family—calling him 'Father, dear Father.'… We, too, wait anxiously for that day when God will give us our full rights as his children…." (Romans 8:15, 23 NLT)

Perhaps the best summary of *spiritual* adoption is found in Galatians 4:3-7: "And that's the way it was with us before Christ came. We were slaves to the spiritual powers of this world. But when the right time came, God sent his Son…to buy freedom for us who were slaves to the law, so that he could adopt us as his very own children… Now you are no longer a slave but God's own child. And since you are his child, everything he has belongs to you." (NLT)

Adoption Law in Today's World

Adoption law is a uniquely fulfilling, challenging and rewarding area of practice. The opportunities to truly make a difference in the lives of one's clients are unsurpassed. In most types of legal endeavors, there is a winner and a loser, and there are victims who feel abused by "the system." In contrast, if an adoption lawyer is truly skillful at what he/she does, in an uncontested adoption there is no victim, no loser, and no downside. It is a win-win-win proposition. The birth mother wins by getting her future back, the adopting parents win by receiving the child of their dreams, and the child wins by becoming part of a loving family and living in a wonderful home.

Additionally, adoption is a much-neglected cure for many of the problems facing our society. A quick list of societal ills would include problems such as a soaring crime rate, gang warfare, drug addiction, the growing federal budget deficit, teen pregnancy, child abuse or neglect, a welfare system that risks bankrupting the country, and a foster care system that is on the verge of collapse from overuse.

Amazingly, adoption is a partial solution to many of these problems, and in some cases, adoption is a complete answer, as established by a number of studies compiled by the Family Research Council.

Poverty: Pregnancy out of wedlock is a near certain predictor of poverty. The one-parent family is six times more likely to be poor than the two-parent family. Children born outside of wedlock are three times more likely to depend on welfare themselves when they reach adulthood. Boys living in a single-parent family are twice as likely to father a child out of wedlock themselves.

Crime: More than seventy percent of all juveniles in state reform institutions come from fatherless homes. The relationship between crime and one-parent families is so powerful that in those cases the relationship between crime and race or poverty does not matter. The likelihood that a young male will engage in criminal activity doubles if he is raised without a father, and triples if he lives in a neighborhood with a high concentration of single-parent families.

Health: Teenage single-parent mothering is the single greatest contributor to low birth weight babies. Studies show that the high rate of out-of-wedlock births is the primary explanation for America's low international standing on measures of infant mortality. Children born out of wedlock are significantly more likely to experience abuse or neglect and are also more likely to experience impaired physical development and low cognitive and verbal development.

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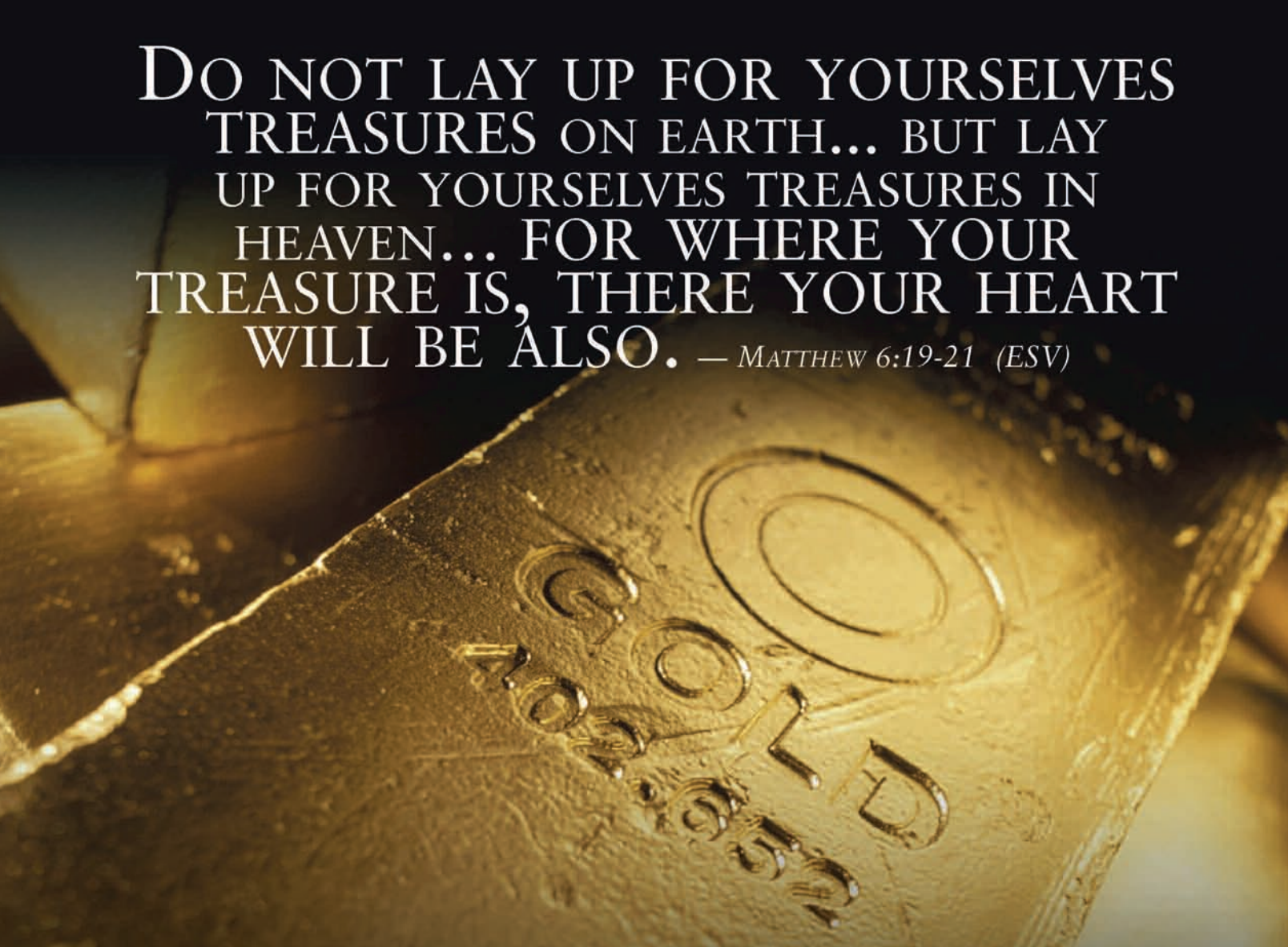
Do not lay up for yourselves treasures on earth... but lay up for yourselves treasures in heaven... for where your treasure is, there your heart will be also. — *Matthew 6:19-21 (ESV)*



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— *II Corinthians 9:11 (NIV)*

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PRESBYTERIAN CHURCH IN AMERICA FOUNDATION

Stewardship Service Providers You Can Trust.

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Education: Children from fatherless homes have lower educational aspirations and a lower level of educational achievements than do children from two-parent households.

Adoption law also offers unique opportunities for ministry and service. I once appeared on a radio talk show and, the next day, received a telephone call from a woman who gave her name as Tammy. She stated that she was pregnant, unmarried, and had an appointment for the following day to have an abortion. She had, however, been so moved by what she had just heard on the radio that she had decided to cancel that abortion appointment and wanted me to assist with the placement of her unborn child for adoption. She selected a highly qualified adopting family and placed her child up for adoption at birth. A picture of Tammy, taken at the hospital, holding her newborn baby, is hanging on the wall in my office to serve as a constant reminder that every telephone call may be literally a matter of life and death to the caller or the caller's child. This is an enormous and humbling responsibility. This responsibility should by necessity keep counsel on their knees, constantly praying for wisdom, compassion, and the opportunity to be a blessing to all those they encounter.

Education

The need for adoption education and support is particularly acute in the churches. One study by a group calling itself "The Center for Reason" found in the year 2000 that the abortion rate among those describing themselves as "Christian" was comparable to the national average. The rate of abortions amongst those describing themselves as "Catholic" was even higher than the national average. Although the methodology of this study, and the apparent bias of the researchers, makes these findings questionable, the study nonetheless serves to underscore the need for adoption education in the churches.

Unfortunately, many pastors are not trained on how to deal with unplanned pregnancies, and the resources available to those facing a crisis pregnancy are often inadequate. This can have disastrous consequences for the parties. Consider the following true story:

Sara (not her real name) was 19 years old, unmarried, pregnant, frightened and confused. She attended her local community college on a part-time basis, and worked part-time as a waitress. The father of her expected child was a mere acquaintance, and was never even Sara's boyfriend. They had been together socially a few times, and once when they were alone together, matters had progressed and a pregnancy resulted. When Sara learned that she was pregnant, she told the father and advised him that she was interested in placing the child up for adoption. His reply was that he wanted custody of the child so that he and his current girlfriend could raise the child together. Sara did not consider that option acceptable, and committed herself to make an adoption plan for her child. A month prior to Sara's due date, the father filed a lawsuit seeking custody of the child, and he even persuaded the local court to issue an *ex parte* restraining order against the placement of the child for adoption. The issuance of such an order without notice to Sara was a violation of state law.

Sara's pastor referred her to the local crisis pregnancy center ("CPC") which in turn referred her to a local Christian attorney who had little or no adoption experience. The attorney, who charged her $200 for the consultation, advised her to marry the father. When she protested that marriage was not an option, the lawyer accused her of acting selfishly, and insisted that only a marriage could protect the child's interests. Apparently, the fact that the father had no interest in marrying Sara did not register with the attorney, and he was unable or unwilling to discuss adoption with her.

Acting on her own, Sara found an adoption agency in an adjacent county, and that agency referred her to an experienced Christian adoption lawyer. Her new lawyer was able to persuade the court to dissolve the improperly-issued temporary restraining order, and filed a countersuit seeking the termination of the father's parental rights. Sara gave birth to a healthy child and placed the child with a well-qualified adopting family. After Sara prevailed in several pretrial and procedural motions, the father reluctantly acknowledged that adoption was probably best for the child, and the court ultimately terminated his parental rights.

This real case serves to underscore the critical role of properly-trained legal counsel in assuring the welfare of the parties involved in an adoption. Education is a must. Additionally, pastors, counselors, crisis pregnancy center staff and volunteers, and other attorneys need to have a resource for help and guidance, as well as someone to whom they can refer a client dealing with these issues. Moreover, it should be a resource who is highly competent and ethical.

Adoption Practice

An adoption practice is not for everyone. If practiced ethically, it generally does not pay as well as many other areas of specialization. It requires interpersonal and counseling skills far beyond those possessed by most attorneys, and a good

UNFORTUNATELY, MANY PASTORS ARE NOT TRAINED ON HOW TO DEAL WITH UNPLANNED PREGNANCIES, AND THE RESOURCES AVAILABLE TO THOSE FACING A CRISIS PREGNANCY ARE OFTEN INADEQUATE.

working understanding of psychological principles is a must. An adoption practice also sometimes requires the skills of a litigator, as in the example of Sara's case. Adoption lawyers have to be accessible to their clients at all hours of the day or night, and must often be on-call, much like an obstetrician, which can make it difficult to take a vacation or have an active social life. As a result, almost all adoption lawyers are either solo practitioners or practice in very small firms. Nonetheless, most adoption lawyers consider the rewards well-worth these disadvantages and find job satisfaction in building families and helping children.

As Christian attorneys, we all strive to integrate our faith into our practice, for if our faith is genuine, it should make a profound difference in the way we practice our profession. There are many ways to integrate a Christian worldview into a law practice, but adoption law provides unparalleled opportunities to be dispensers of, and witnesses to, grace.

The ability to take two separate tragedies—an unplanned pregnancy on the one hand, and a couple grieving over an infertility problem on the other—and combine them in such a way as to solve both problems simultaneously is exciting beyond words. The birth mother makes a painful but heroic decision and is granted the strength to see the decision through, and the adopting parents accept a child into their home and bestow on that child their name, their material possessions and the fullest measure of their love and affection.

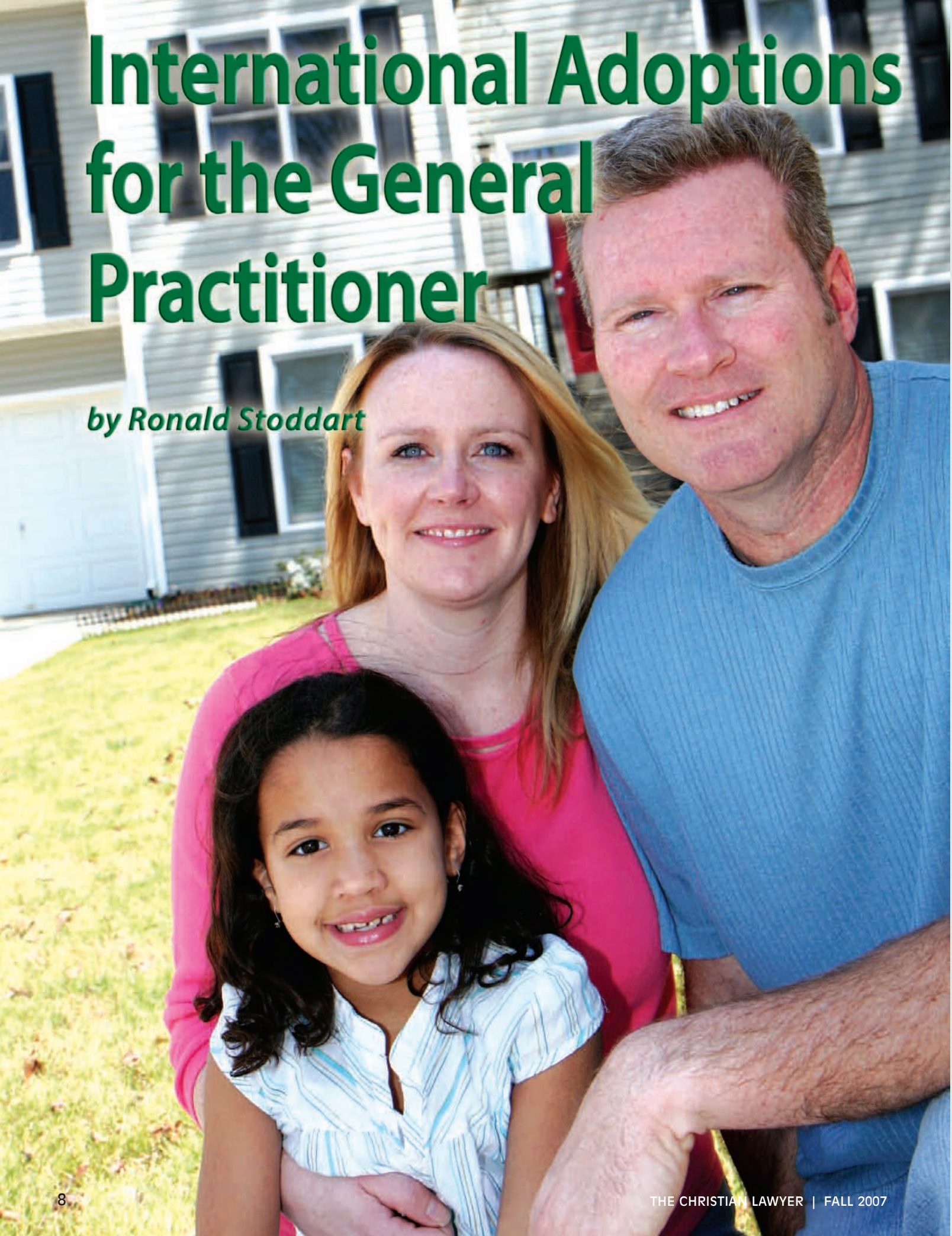
Birth mothers and adopting parents, through teamwork of a most magnificent kind, give birth and raise a human being with a soul and personality, in a way which neither could have accomplished without the other. There is no greater human example of grace, and adoption lawyers get to witness this miracle on an almost daily basis.

Doug Donnelly is a solo practitioner in Santa Barbara, California, and has been practicing adoption law for over 28 years. He and his wife Gail are the proud parents of two adult adopted daughters. He is a past president of the Academy of California Adoption Lawyers, a charter member of the American Academy of Adoption Attorneys.

Recognizing that adoption represents unique ministry opportunities and challenges, Doug joined with a handful of other adoption lawyers to start the Adoption Law Section of the Christian Legal Society. The proposed purposes of the section include outreach and equipping of churches, pastors, and Crisis Pregnancy Centers to deal with unplanned pregnancies, promotion of professional excellence, and fellowship and networking of Christian adoption specialists. Stay tuned for more information on this new practice section soon.

International Adoptions for the General Practitioner

by Ronald Stoddart



The number of children adopted each year by U.S. citizens from foreign countries has tripled since 1990 to a high of over 22,000 in 2005. Without belaboring the reasons why so many families are going overseas to adopt when there are hundreds of thousands of children in the domestic foster care system, it is important to understand the basics of international adoption when it is reaching into the homes of so many American families.

The primary countries for international adoptions since 1990 have been Korea, China and Russia. The number of adoptions from the lead country each year has increased from 2,620 (Korea) in 1990 to 7,906 (China) in 2005. Russia was the leading country from 1997 to 1999 with over 4,000 adoptions per year. International adoptions in general were down about 10% in 2006 from the prior year.[1]

So why should you know something about international adoption? Do any of the following questions sound familiar?

- "Mr. Corazon is on line two and would like to speak to you about adopting his sister-in-law's daughter from the Philippines."
- "We know of a woman from Mexico who is in the United States and is pregnant. She would like to place her child with us for adoption. Is this an international adoption?"
- "My wife is from Armenia. Is it possible to adopt a child from there?"
- "We have been waiting two years to adopt domestically and now see many celebrities adopting overseas. Would this be a good way for me to adopt?"

These are but a few of the typical questions that you may be asked by clients, even though you may not hold yourself out to be an expert on adoption, let alone international adoption. Although a little knowledge may be dangerous, it is important to at least have a framework in which to evaluate questions and direct your clients for answers. So let's take a look at the framework first, and then look at the answers to those questions.

Legal Requirements

Families adopting from a foreign country must generally meet three sets of requirements: 1) the laws of their state of residence; 2) the U.S. immigration laws; and 3) the adoption laws of the foreign country.

The first hurdle usually arises from a state's "pre-adoption" requirements, which most states have, that must be met by adopting families. With rare exceptions, this requirement is satisfied by the family completing a homestudy by an agency (or independent social worker in a few states) that is licensed to conduct international homestudies. Especially in the case of international adoptions, the homestudy is a critical component of the process. Most experts contend that an international homestudy is 20% screening and 80% education and preparation. Issues such as the risk of fetal alcohol exposure and the effects of institutionalization on a child's development and ability to bond and attach must be addressed in the homestudy educational component. A homestudy usually has to be completed within one year of the family adopting from a foreign country. Finding a good adoption agency can be a challenge. Although it is no guarantee that the agency is worth your recommendation, most of the better agencies belong to the Joint Council on International Children's Services (www.jcics.org) and/or the National Council for Adoption (www.AdoptionCouncil.org).

THE FIRST HURDLE USUALLY ARISES FROM A STATE'S "PRE-ADOPTION" REQUIREMENTS, WHICH MOST STATES HAVE, THAT MUST BE MET BY ADOPTING FAMILIES.

The second set of requirements that must be met are those of the U.S. government. This is important if the adopting family desires to bring their child back to the United States under an immigrant visa (typically an IR-3 or IR-4 visa). In most circumstances, a family adopting internationally will first complete a homestudy and then file a form I-600A (Application for Advance Processing of Orphan Petition) which approves the "family" for bringing a qualified adopted child into the United States. This petition is filed with the CIS (Citizen and Immigrant Services) Department of Homeland Security (the old INS Department). The U.S. Department of State has very good web sites explaining international adoption and is a must-read for attorneys and adopting families.[2]

The third set of legal requirements a family must meet is the laws of the foreign country from which they are adopting.[3] As you can imagine, the laws of foreign countries will vary greatly, but generally fall into two categories – judicial or administrative approval of adoptions. Russia, for example, requires the family to attend a court hearing at which time a judge makes a decision as to whether to approve the adoption. In China, the provincial Notarial Offices, which are administered by the Ministry of Justice, issue the final adoption certificate. Each country will have its own requirements for which children are eligible for international adoption, eligibility requirements for adopting parents and a list of documents (usually called a dossier) which the adopting family must provide during the adoption process. Some countries allow children to be preidentified, while others restrict the process of referring a child to a specific government office. Caution: Just because a child is eligible for international adoption does not mean the child will be eligible for an immigrant visa to enter the United States.

Once the child has been adopted (or a family has been given official guardianship in some cases), the family will take the child to the appropriate U.S. Embassy and file a

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form I-600 (Petition to Classify Orphan as Immediate Relative). This is the time when the U.S. government will determine whether the child meets the definition of an "orphan."[4] There may be nothing to prevent a family from adopting a child in a foreign country, but they must always be concerned about whether their adopted child will meet the requirements to immigrate to the United States. The problem in this area usually occurs when someone is adopting a relative or adopting directly from an individual rather than through the country's normal child welfare system. The I-600 must be filed before the child's 16th birthday, unless siblings are being adopted and one sibling is under 16 and the oldest is under 18. In the case of an independently identified child, questions regarding the child's eligibility should be thoroughly investigated prior to adopting.

When both parents have personally met the child before the adoption is completed, an IR-3 visa is issued, and the child automatically becomes a U.S. citizen upon entry into the United States. Otherwise, an IR-4 visa is issued, and the family must either adopt or re-adopt the child in the United States to qualify the child for citizenship.

The Hague Convention

It is important to know that in March 1994, the United States signed the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. This international treaty was intended to protect children from abduction, exploitation and other forms of trafficking and abuse. Congress passed implementing legislation (the Intercountry Adoption Act or IAA) in October 2000 naming the Department of State as the "Central Authority" for the United States. After a lengthy comment period, the Department of State issued final regulations in February 2006 authorizing two accrediting entities (the Council on Accreditation and the Colorado Department of Social Services) to begin accrediting agencies and persons. It is anticipated that the initial list of accredited agencies and persons will be published in the Spring of 2008, at which time Hague compliance will be required.

Although the Convention only applies to adoptions done between member countries, it is expected that the procedures used will be widely followed. You should be sure that your clients determine whether their agency is in the process of gaining Hague Accreditation.

The Practical and the Obscure

Finally, let's take a practical look at those questions that might be familiar to you:

1. *"Mr. Corazon is on line two and would like to speak to you about adopting his sister-in-law's daughter from the Philippines."*

This is a very common type of inquiry. The most significant issue raised is whether the child would meet the definition of an "orphan" in order to be eligible for immigration to the United States under an orphan petition. It would be important to determine the age of the child (if the child is adopted alone after their 16th birthday, it is unlikely they would qualify) and who currently has custody of the child. If the child's parents are still living it would be necessary to prove that they are incapable of caring for the child. The fact that they are poor, according to our standards, is not sufficient.

2. *"We know of a woman from Mexico who is in the United States and is pregnant. She would like to place her child with us for adoption. Is this an international adoption?"*

An international adoption occurs when the child is not in the United States. In this

It is important to know that in March 1994, the United States signed the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

situation, if the child is born in the United States, it would be a domestic adoption. There would certainly be an issue of how to deal with the rights of the biological father, depending on where he is located – but that would not change the character of the adoption.

In a similar situation, if a mother and child from another country were in the United States, the mother could place the child in a domestic adoption. It would, however, be necessary to then address the child's legal residence status.

3. *"My wife is from Armenia. Is it possible to adopt a child from there?"*

You should refer your client to the State Department's web site on international adoption.[5] Frequently the adopting parents' heritage is an important factor in being allowed to adopt from a country. For instance, a family who is ethnically Chinese will be able to adopt much more quickly from China.

4. *"We have been waiting two years to adopt domestically and now see many celebrities adopting overseas. Would this be a good way for me to adopt?"*

International adoption has become very popular, but it is a very complex way of building a family. It is important to encourage families to investigate the alternatives carefully before making a decision with such life-long consequences. There is considerable information available on the internet, and you can refer your clients to an adoption agency that has experience in the country where the family desires to adopt. Questions about the racial and ethnic background of the child that would meet the family's criteria would be important factors in considering different countries.

Thousands of children from ages 1 to 15 have been successfully adopted internationally. Like biological children, they prove to be a gift from God, and, just like other children, their teenage years prove that parenting is not for the faint of heart.

1 http://travel.state.gov/family/adoption/stats/stats_451.html

2 http://travel.state.gov/family/adoption/info/info_458.html

3 http://travel.state.gov/family/adoption/country/country_369.html

4 http://149.101.23.2/graphics/lawsregs/handbook/adopt_book.pdf

5 http://travel.state.gov/family/adoption/intercountry/intercountry_473.html

Ron Stoddart has practiced adoption law for over 20 years and for the past 12 years has been the Executive Director of Nightlight Christian Adoptions. While maintaining the agency's domestic adoptions, Ron developed an international adoption program which includes Russia, China, Taiwan, Kyrgyzstan and Kazakhstan. In 1997, Ron's involvement in pro-life issues led Nightlight to initiate the first embryo adoption program called Snowflakes®. Ron and his wife, Linda, have four children, including one adopted domestically and one adopted from Russia.

THE FROZEN WAITING TO BE CHOSEN: HUMAN EMBRYO ADOPTION IN AMERICA

By Samuel B. Casey

Adoption conjures up images of small children finding a couple to call their mom and dad or a couple with infertility problems looking for a child as in need of a home as they are in need of someone to love. Technology now conjures a unique and amazing third picture into view – frozen embryos stored in nitrogen tanks waiting to be "donated" or "placed for adoption" by their biological parents with an adoptive couple willing to "thaw," implant and give birth to these children just as if they had conceived them themselves.

Families across the country are now adopting frozen human embryos, or "snowflakes," left over from other couples' attempts to conceive through *in vitro* fertilization.[1] The term "snowflake" was selected by Christian Legal Society (CLS) member Ron Stoddart, founder of the pioneering human embryo adoption agency Nightlight Christian Adoptions, because each human embryo is a unique child of God who, when frozen, looks like a "snowflake" under the microscope.

Hannah Strege, now 8 years old, is the first "snowflake" baby. I first met Hannah and her adoptive mom, Marlene, when CLS helped prepare their testimony before Congress in 2001. I met the first "snowflake" twin baby boys, Mark and Luke Borden, and their parents John and Lucinda Borden at the same time.[2] CLS assisted adoptive "snowflake" parents, like the Streges and the Bordens, as they successfully urged Congress in 2001-2002 to annually appropriate the funding needed for the *Embryo Adoption Awareness Campaign* to inform the American public about the availability of human embryo adoption.[3] Indeed, all of us at CLS who were there that day will never forget John Borden rising to address the Congressional proponents of destructive human embryo research and asking the listening members of Congress: *"Which of my sons would you choose to kill?"*

Indeed, as John Borden's testimony highlighted that day, human embryo adoption remains a dramatic side story to the intense debate surrounding the more than 400,000 frozen but "unchosen" human embryos in the U.S. currently sitting in the refrigerators of America's more than 300 fertility clinics. While no state laws prohibit human embryo adoption, nine states currently ban destructive embryo research (LA, ME, MI, MN, ND, PA, RI, SD and IN) and five states affirmatively encourage it (CA, MA, IA, MD and NJ).

Nationally, federal funding for destructive human embryo experimentation is currently banned by the so-called Dickey Amendment, authored by former CLS member and Arkansas Congressman Jay Dickey and re-enacted by Congress every year since 1995.[4] In 1999, CLS began working from Congress to the courts to establish the human embryo's humanity after the Clinton Administration announced its intention to "re-interpret" and effectively ignore the Dickey Amendment in order to seek federal funding for embryonic stem cell research that necessarily kills living human embryos. In March 2001, relying on the Dickey Amendment and representing Nightlight Christian Adoptions, CLS was able to enjoin federal funding of destructive human embryonic research until President Bush on August 9, 2001, issued his Executive Order banning the practice.

Since 1998, when Dr. James Thomson at the University of Wisconsin developed a way to isolate and grow embryonic stem cells, there has been a new component to the nation's moral discussion about when life begins. Derived from human embryos, embryonic stem cells can theoretically divide indefinitely and develop into specialized human cells to act as a repair system for the body. This stem cell research, however, would require the destruction of living human embryos in the research process, and that is the crux of the current stem cell debate: Do we destroy embryonic human beings to look for ways to save older human beings? Or, perhaps these words of CLS member Professor Robert George are more accurate description of the humanity of the human embryo deserving of our special respect:

The being that is now you or me is the same being that was once an adolescent, and before that a toddler, and before that an infant, and before that a fetus, and before that an embryo. To have destroyed the being that is you or me at any of these stages would have been to destroy you or me.

There are more than 10 million infertile couples in the U.S. In the last decade the infertility industry has grown from about 30 to over 300 clinics earning revenues in excess of 1 billion dollars.[5] It is estimated that 11-25% of couples who experience difficulty conceiving or carrying a pregnancy to term consider adoption. The National Adoption Information Clearinghouse reports that about 200,000 couples are actively seeking to adopt each year. It is estimated that in the U.S. in 2007 about 1% of the live births (or more than 42,000 infants) will be born as a result of IVF – about the same number that will be available through traditional unrelated infant adoption. At the same time, more than 400,000 human embryos are now frozen, suspended in liquid nitrogen tanks on the premises of IVF clinics (with more than 19,000 frozen embryos estimated to be added to each year).

While many proponents of embryonic stem cell research claim that these 400,000 frozen embryos are "unwanted leftovers" that ought to be used for research, the facts prove otherwise. According to the most definitive 2003 Rand Corporation study, only 2.8% (or about 11,000) of the frozen embryos are "designated for research" by their biological parents, 88.2% are designated by the biological families for their own "family-building," 2.3% (or about 9,200) for donation or "adoption by others," 2.2% are to be "discarded," and 4.5% (or about

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FAMILIES ACROSS THE COUNTRY ARE NOW ADOPTING FROZEN HUMAN EMBRYOS, OR "SNOWFLAKES," LEFT OVER FROM OTHER COUPLES' ATTEMPTS TO CONCEIVE THROUGH IN VITRO FERTILIZATION.[1]

THE FROZEN WAITING TO BE CHOSEN: HUMAN EMBRYO ADOPTION IN AMERICA
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of "lost contact with biological 'patients,' patient death, abandonment or divorce." Thus, aside from the unethical nature of destructive human embryo research, there are not even enough human embryos designated for research to create the number of genetically diverse stem cell lines demanded by embryonic research proponents. More-over, there is no evidence that destructive human embryo research will lead to any of the promised or desired cures. In fact, while ethical adult stem cell research that poses no harm to its subjects has been shown to lead to more than 70 medical cures, destructive human embryo research has not led to a single cure.[6]

Moreover, while there are pages of adoption laws on the books in each state, only nine states (LA, NM, FL, PA, KY, KS,VA, NH, CA) have enacted some legislation relating to IVF and only three of these states (LA, NM, FL) regulate the disposition of the embryo in any way. Consequently, in most states the fate of most frozen embryos is left unpredictably open-ended and undecided.

The only federal law related to artificial reproductive technologies, like IVF, is the Fertility Clinic Success Rate and Certification Act of 1992. It neither governs nor regulates the disposition of frozen embryos. Nor are there any federal court cases establishing federal law on the subject of frozen embryos.

Since 1978 when the first IVF baby, Louise Brown, was born in Great Britain, courts have also decided issues related to frozen human embryos in cases such as *Del Zios v. Columbia Presbyterian Med. Ctr.*, *York v. Jones*, *Davis v. Davis* and *Kass v. Kass.*[7] In addition to these mostly appellate court decisions, there are at least three other trial court decisions, with others pending on appeal, that suggest the need for state legislative action. At present, the general trend has been for the courts to side with the party seeking the destruction of the human embryos either on contractual grounds or on the ground that the interest in avoiding procreation trumps all other asserted interests, including the state's interest in protecting human life and the parties' contractual rights.

The cases essentially turn on two points: 1) the legal status of the frozen embryo; and 2) whether this status should be determined by the gamete providers as a matter of private contractual law or by the state as a matter of public policy, particularly when the gamete providers disagree, die, divorce or are otherwise unavailable. Regarding the status of the frozen embryo, there are four basic theories: 1) the *Human Life* theory; 2) the *Pure Property* theory; 3) the *Special Status* theory; and 4) the *Constitutional Rights* theory. Each theory has its proponents and critics.[8]

Those who hold that the embryo is a living human being seek protective legislation like the laws of Louisiana and New Mexico permitting "prenatal adoption" of frozen embryos and prohibiting the intentional destruction of human embryos. Such proponents also support judicial application of the "best interests of the child" standard for determining which of the gamete providers ought to have custody of the frozen embryos, regardless of any written agreements the gamete providers may have to destroy or donate the embryos for destructive research. Based upon Dr. Jerome LeJeune's expert genetics testimony calling human embryos "early human beings" and "tiny persons," and equating the destruction of a frozen embryo with death from a "concentration can," the trial court in the *Davis v. Davis* case adopted the *Human Life* theory and gave custody to the mother who wished to preserve the lives of her frozen embryos over her husband's desire to destroy them because they had subsequently been divorced.

Those who hold that frozen embryos are "pure property" generally support legislation that (a) affirms the gamete providers' joint decisional authority over their frozen embryos, with or without a pre-conception agreement; (b) requires them to enter an agreement providing for the broad range of dispositional alternatives, including destruction, storage, donation for research and donation to another infertile couple; and (c) ensures the enforceability of such prior directives. In the absence of prior agreement, such "pure property" proponents generally assert that courts should prohibit use of frozen embryos by either party without the consent of the other. Such a *Pure Property* theory was the approach taken by the Tennessee Court of Appeals in *Davis v. Davis* in reversing the trial court decision.

Those who hold the *Special Status* theory take an intermediate view between the *Pure Property* theory and the *Human Life* theory. The frozen embryo

is not given the full status afforded a human being, but is not considered pure property either. According to this theory, the embryo is given greater respect than human tissue because of its potential life. Proponents of this theory respect the embryo as a "symbol of human life." The American Fertility Society has adopted this position. The *Special Status* theory was the approach adopted by the Tennessee Supreme Court in affirming the result, if not the reasoning, of the Tennessee Court of Appeals in *Davis v. Davis*.

The *Constitutional Rights* theory is based upon analogies to distinguishable Supreme Court "right to privacy" decisions protecting abortion and contraception. These decisions assert that the unborn have no constitutionally protectible right to life, and that a gamete provider does have a right "not to procreate." This trumps any constitutional, statutory or contractual rights or rights against the destruction of a human embryo prior to implantation that the state or any other gamete provider may assert.

Dr. Jerome Lejeune said it best before the trial court in *Davis v. Davis* – the human embryo is a human being. In the true words of the trial court's opinion in *Davis v. Davis,* based on that compelling testimony:

[C]ryogenically preserved embryos are human beings…. human embryos are not property. Human life begins at conception. Mr and Mrs. Davis have produced human beings, in vitro, to be known as their child or children. For domestic relations purposes, no public policy prevents the continuing development of the common law as it applies to…human beings existing as embryos, in vitro, in this domestic relation case. The common law doctrine of parens patriae ["the power of the sovereign to watch over the interests of those incapable of protecting themselves"] controls children, in vitro. It is to the manifest best interests of the child or children, in vitro, that they be available for implantation. It serves the best interests of the child or children, in vitro, for their mother…to be permitted the opportunity to bring them to term through implantation.

As the legal status of human embryos wanders in limbo, hundreds of thousands of frozen embryos wait for their biological parents to either implant them or donate them for adoption by another loving couple. Nightlight Adoption's "Snowflakes" Frozen Embryo Adoption Project has now matched 320 genetic/donor parents with about 221 adoptive families resulting in the birth of 147 children to 109 families, with 18 more children on the way to 13 mothers.

Once a year for the past three years President Bush has invited these "snowflake" moms, dads and children to a White House ceremony. All of the families are a living testimony to the humanity of the human embryo and the love of adoptive parents. Most recently, when President Bush again vetoed a bill that would have funded destructive embryonic research, he said every "snowflake" mom and dad, whether they were the biological parents who had chosen life by donating their frozen embryos or the parents who had adopted them, "answers the call to ensure that our society's most vulnerable members are protected and defended at every stage of life." Adoption at every level saves a life, even the ones who are difficult to see.

1 Embryo adoption is less expensive than other fertility options. A full *in*

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vitro process, a procedure that some insurance companies will not cover, can easily exceed $20,000. On the other hand, embryo adoption typically costs less than $10,000, with many of the costs currently qualifying for the federal adoption tax credit.

2 Marlene Strege's testimony is at *www.stemcellresearch.org/testimony/strege.htm*. Lucinda Borden's testimony is at *http://www.stemcellresearch.org/testimony/borden.htm*. For Hannah Strege's story in her own words, *see* Family Research Counsel's brochure, Embryo Adoption in the Words of Their Parents (*http://downloads.frc.org/13-AUG-07__EF06K29_1746876.pdf*).

3 For information on the Embryo Adoption Awareness Campaign *see* www.embryoadoption.org/. Biological and adoptive parents interested in human embryo adoption can also obtain additional information from Nightlight Christian Adoptions (www.nightlight.org/snowflake adoption.htm), the National Embryo Donation Center (www.embryodonation.org/), Embryos Alive (www.embryosalive.com) and Miracles Waiting (www.miracleswaiting.org).

4 The Dickey Amendment language was added to each of the Labor, HHS, and Education appropriations Acts for FY1997 through FY2006.

5 An endocrinologist who for the convenience of his or her patients engages in the practice of creating and freezing more human embryos than his patients can currently implant can customarily earn more than $1,000,000 per year, but far less than that amount when he or she does not offer such human embryo cryo-preservation services. Human embryos that are not immediately implanted will die if they are not cryo-preserved. "Not all embryos survive the freeze-thaw process. A 50% survival rate is considered reasonable. After the thaw, embryos retaining 50% or more of the cells they had before freezing are cultured and placed back in the uterus via a tube inserted in the cervix. The number returned varies with the desires of the patient under the guidelines of age categories; under 35 years old, up to four embryos, 35 years and older, up to six embryos. National statistics for women 39 or less is 27% per embryo transfer, for women over 39, 14% per embryo transfer. Delivery rates will be lower due to miscarriage." IVF Phoenix Infertility Information Booklet, *http://www.ihr.com/fertbook/treatment.htm.* Overall, "there is less than a 10% chance of creating a live birth from a frozen embryo." *See* Michelle F. Sublett, *Not Frozen Embryos: What are They and How should the Law Treat Them*, 38 Clev.St.L.Rev. 585, 593 (1990).

6 As a founding member of the national bio-ethics coalition DO NO HARM: Americans for Research Ethics, CLS supports adult stem cell research. For complete information on the progress and advantages of adult stem cell research over destructive human embryo research, see www.stemcellresearch.org.

7 For a complete discussion of this issue and a review of the cited cases, *see* Samuel B. Casey, *How the Law will Shape Our Life and Death Decision: The Case of the Human Embryo* in Bio-Engagement: Making a Christian Difference in Bioethics Today (ed. Nigel M. de S. Cameron et al.) (Eerdmans 2000) at 143.

8 For a discussion of why destructive human embryo research violates standard human subject experimentation rules, *see* Samuel B. Casey and Nathan A Adams, IV, Specially Respecting the Living Human Embryo by Adhering to Standard Human Subject Experimentation Rules, 2 Yale J. Health Policy L. & Ethics 111 (2001).

Samuel B. Casey is CLS' Executive Director and Chief Executive Officer and Senior Counsel of CLS' affiliated public interest legal organization, Human Life Advocates and its related ***Law of Life Project.*** He served as co-counsel in *Nightlight Christian Adoption Agency et al. v. Thompson,* the settled action before the United States District Court for the District of Columbia in 2001 that - consistent with the policy announced by President Bush on August 9, 2001 - barred federal funding of stem cell research that requires the destruction of living human embryos.

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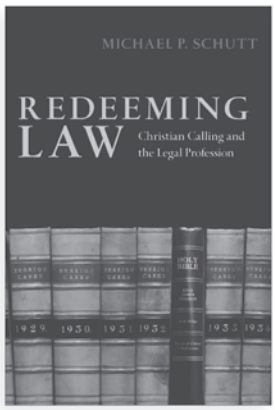

REDEEMING LAW
Christian Calling and the Legal Profession
Michael P. Schutt

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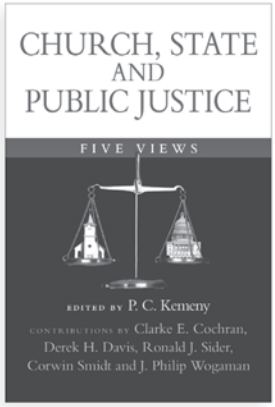

CHURCH, STATE AND PUBLIC JUSTICE: FIVE VIEWS
P. C. Kemeny, editor

Who is responsible for bringing about social justice? Five noted contributors write from their distinct traditions:

- **Clarke E. Cochran:** Catholic Perspective
- **Derek H. Davis:** Classical Separation Perspective
- **Ronald J. Sider:** Anabaptist Perspective
- **Corwin Smidt:** Principled Pluralist Perspective
- **J. Philip Wogaman:** Social Justice Perspective

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Adoption: A Personal Perspective

by Tim Blied

My First Steps

Looking back, it all started with a phone call from my pastor, Chuck Swindoll. It was 1982 and I was a (very) young and raw attorney just beginning my 3rd year of practice. I was an associate in a small law firm in Orange County, California. My fledgling practice consisted largely of the work assigned to me by the firm partners: mostly real estate matters, with a smattering of litigation and transactional business and corporate matters thrown in for good measure. For the most part I enjoyed practicing law, but I was struggling to integrate my Christian faith into my practice.

The reason Chuck called was to ask me to assist a young pastor and his wife, Steve and Cheryl, with an adoption. Steve and Cheryl lived in California. The pregnant young woman who had made a commitment to place her unborn child with them lived in Houston, Texas. This meant that my first adoption was an "interstate placement," bringing into play the laws of both Texas and California.

Although I did not know it at the time, by agreeing to help with this adoption I was embarking on a new area of practice – adoption law. In the course of assisting Steve and Cheryl with their adoption, I received a crash course in a variety of adoption concepts, including an appreciation for the role of the birthmother placing her child for adoption, the need for due diligence in dealing with the termination of the birthfather's parental rights, the need to be sensitive but objective in advising the emotionally-charged and legitimately-scared prospective adopting parents, and the overarching need to understand the minutiae that comprise adoption law.

From my present perspective, 25 years and several thousand adoptions later, it is clear that God called me to be an adoption attorney. I also handle estate planning, transactional business and corporate matters, but a considerable part of my legal practice these days is spent handling private adoptions, including both independent (where no adoption agency is involved) and agency adoptions. Along the way I have been threatened with bodily harm by more than one angry birthfather. I have visited more prisons than I care to remember to meet with incarcerated birthparents. I have increasingly grown to appreciate and admire the self-sacrificial love and courage exhibited by girls and women facing unplanned pregnancies who select adoption as the parenting plan for their child because they determine that it is in their child's best interests (not necessarily their own). I also have experienced the incredible sadness (thankfully only on very rare occasions) that results when an adoption is disrupted either by a contesting birthfather or by a birthmother who changes her mind and reclaims her child at a time when she can still legally do so. Most importantly, I have shared the sense of awe, joy and recognition of the active participation of God that accompanies a successful adoption placement.

I should also mention that my wife and I have also adopted twice, both times newborn baby girls, and experienced what it is like to be on the receiving end of an adoption. Our daughters are now both young adults. Adoption is part of their heritage. It has also become part of our family DNA.

I would also submit that adoption is rightfully part of the DNA of the Christian Legal Society. Adoption stands as one of two living alternatives to abortion. A decision by the birthmother to parent her child (as a single parent, or perhaps with the assistance of her family and/or the birthfather or his family) is the other principal living alternative to abortion.

Adoption Myths

I firmly believe that Christian attorneys who regularly practice in the area of adoption have an opportunity, as well as a duty, to educate others in the Christian community regarding adoption. Unfortunately, there are many myths floating around in general circulation regarding adoption that are untrue. For example, I have heard from a variety of sources, including newspapers and seminar speakers, that up to fifty percent of all private adoptions fail because the placing birthparent changes their mind. The reality is that 95 percent or more of private adoptions are successfully completed, provided that they are handled correctly, incorporating adequate counseling for the birthparent(s), as well as competent legal counsel to handle the legal aspects of the adoption.

Other adoption myths center on the motives of the placing birthparent, who is typically the birthmother. Crudely stated, the insinuation is that she must not care about her unborn child, otherwise she would not give him away. In reality, nothing could be further from the truth. A birthmother who does not care about her child would logically abort her child, rather than carry her child for 9 months, carefully consider the parenting options for her child (including parenting the child herself) and determine that adoption is the best parenting option for her child. That is a decision bathed in love for her unborn child, not disinterest.

Another adoption myth centers on the lack of children available for adoption, especially children placed at birth, coupled with the incredibly high costs involved in adopting. The thrust of this myth is that it is futile for the average middle-class family to contemplate adopting because they will never find a child to adopt and, even if they do, they could never afford to adopt. Again, the reality is far different from the myth. In my experience as an adoption attorney I have found that families who pursue adoption wholeheartedly do successfully adopt, and often go on to adopt additional children. Moreover, while every adoption is unique, the costs involved in one setting do not necessarily apply in another. Adoption is affordable. This is especially true in light of the federal adoption tax credit, which allows adopting parents to receive a credit against their federal taxes for the costs incurred in adopting, up to a set limit which is adjusted annually for inflation ($10,960.00 at present).

There is also a critical need for education within the Christian community, including attorneys, regarding the opportunities and challenges presented by public sector adoptions (working with children who are caught up in the juvenile court system through no fault of their own). However, that is a topic for another article.

Raising Up Adoption Attorneys

As my kids continually remind me, I am definitely getting older. My observation is that many other adoption attorneys I know throughout the nation are my contemporaries. What seems to be missing is a significant number of younger attorneys committing to make adoption an important ongoing segment of their practice. This trend needs to be addressed and, hopefully, reversed among Christian attorneys.

Perhaps part of the problem is that adoption, frankly, is not a hugely profitable area for attorneys, at least not among ethical adoption attorneys. Does it shock you to hear that there are unscrupulous attorneys and other profiteers in the area of adoption, just as in every other legal practice area?

In closing, I would argue that the area of adoption presents a tremendous opportunity for attorneys to actively incorporate their Christian beliefs and ministry into their law practice. In adoption you are dealing with individuals going through crisis settings. Birthparents (and their families) are dealing with unplanned pregnancies. Adoptive parents are often dealing with infertility issues and the fear of the unknown associated with adoption. A competent, caring Christian adoption attorney can, and should, combine his or her faith and legal practice in representing the various participants in an adoption setting. Every Christian adoption attorney I know, myself included, can talk for hours about how particular adoption settings resulted in positive, life-changing experiences for birthparents and their family members, as well as for adoptive parents and their families.

Tim Blied is a partner in the firm Schmiesing Blied Stoddart & Mackey, with offices in Orange and Riverside Counties in California. He is a long time member of the American Academy of Adoption Attorneys as well as the Academy of California Adoption Lawyers.

Clarity in the Shadow of a Billboard

By William W. Watts III

Sometimes, from an unexpected angle, a certain clarity comes. Clarity about the way things are and the way things ought to be, clarity about your own culture, and clarity about yourself in the midst of that culture.

A few weeks ago, in an upscale Chicago neighborhood known as the "Viagra Triangle," a billboard appeared, displaying a scantily clad female body and a muscle bound male torso and between them the message, "Life's short. Get a divorce." At first, I was shocked at the cynical bluntness of the message, its shallow portrait of happiness as good sex with a sexy partner, and its lie that the shortness of life justifies trashing some tired old marriage for greener pastures. It grieved me that the sponsor of this billboard was a law firm, eager to sell its services and seemingly indifferent to the corrosive effect of its message upon a society already losing ground in the sustaining of life commitments. But then I suppose that was the power of the message – tapping into and successfully exploiting the libertine lifestyles and attitudes of the "Viagra Triangle" neighborhood. And some would say, I suppose, that the effects of the exercise of that power were their own justification – catapulting an anonymous law firm into the national spotlight and certainly generating new clients.

Finally, however, a kind of clarity began to emerge as I meditated on this billboard and its message. It seemed almost iconic of our sensual, commercially-driven culture. I began asking myself, what are my commitments and my temptations, as a lawyer in the midst of this culture, who nevertheless calls himself a disciple of Jesus? Where am I standing, and where do I need to stand as such a disciple? Oftentimes, our own culture, and our own professional sub-culture within that culture, can serve as a peculiarly powerful blind spot. We often need the most clarity in navigating the most familiar territory.

The first "clearness" that came, in the glossy glare of those nameless, faceless bodies on a billboard promising sex without responsibility or sex as personal gratification, was a powerful sense of how deeply our culture has commodified everything, even human relationships. This de-personalizing of others sets us free from being morally accountable to others and frees us to use them as objects to get what we want. As a lawyer apprenticed to Jesus, I simply am not free to do this. Not to anyone. My client is not an object for me to manipulate. Neither are my witnesses, the judge nor anyone else who potentially stands in the way of my desires, no matter how noble or laudable I may think those desires are. As a lawyer following Christ, I am called to view and treat others with the dignity and respect owed to every human being created in the image of God. This is what is due to them, which is a shorthand description of what it means to do justice. We fail to do justice when we fail to treat

My final flash of "clearness," as I thought about the pain of the child whose mother or father took that billboard message to heart, was seeing my need to be aware of and "own" up to the social consequences of my words and actions.

each other justly, which is a rudimentary kind of love. Participation in the public administration of civil or criminal justice ought to be participation in the just treatment of others. As Christian lawyers, our hearts ought to be fixed upon, as fundamentally important, the restoring of relationships, if possible, not their destruction, and the preserving of community, not its erosion. Justice is a personal word. It is a word about personal relationships. It has no meaning outside the realm of persons and their communities. To view or treat others impersonally, as objects to be managed or manipulated or discarded, is to view and treat them unjustly. Whatever we accomplish for a client – a divorce settlement, a trial victory, a negotiated contract – if we have done so only by leaving in our wake victims of our anger or lies or manipulation, we have achieved only injustice. May God give us the grace to resist that temptation.

My second "clearness," in the shadow of this eye-catching billboard and the publicity it garnered, concerned the importance of resisting the temptation to promote myself. God is my source. I must serve Him and others faithfully in the field He has given me and trust Him for any increase. We are constantly bombarded by a relentless stream of marketing schemes and self-promotion. We can easily begin to fear that, unless we get "in the game," we will fade into commercial oblivion. Indeed, the *raison d'etre* of this billboard was not the advocacy of a position on divorce but the garnering of clients. Without that motivation, the sign would never have been put up. How much we buy into this reasoning can be seen by how ready we are to believe that the notoriety and fame that any advertisement brings justifies its existence and makes any moral criticism of it irrelevant. If it works to bring in business, nothing else really matters. The old adage "business is business" is usually a cover for the idea that you need to hang any moral scruples in the hall closet upon entering the halls of commerce.

Given the widespread cultural assumption of the need for marketing and image-making, the need to be a winner and not a loser in the chasing after a limited number of customers, it comes as a great relief to know that, as a disciple of Jesus Christ, I don't have to worry about promoting myself. That's His prerogative, in His time, for His glory, not mine. I don't have to evaluate every relationship, every social encounter, in terms of the degree to which it fits into some successful network I am building for the advancement of my own professional career. God will resist us in the pursuit of that ambition. And meaningful relationships in our lives will prove elusive. God loves us and will take care of us. We trust in His promise to do so. We seek His kingdom, His reign in our lives, knowing that whatever else we need will be supplied. We do for others who can do nothing for us. God has a network beyond anything we can create or even imagine!

My final flash of "clearness," as I thought about the pain of the child whose mother or father took that billboard message to heart, was seeing my need to be aware of and "own" up to the social consequences of my words and actions. As lawyers with singular access to the institutions of civil and criminal justice in our society, we have been given a measure of power not commonly shared—a power to do immeasurable good or immeasurable evil and harm. We cannot blithely wash our hands of the "ripple effects" of the exercise of that power. It is never simply a question of getting the greatest advantage for the client, as important a consideration as that may be. The lawyers' shibboleth that "justice is achieved if my client wins" is generally a smokescreen for self-ambition and greed. The public contempt in which lawyers are held today is in no small measure due to the fact that, in pursuing "justice," they often speak and act as though there were no law, no overriding ethic, to which they must confine themselves in their morally myopic pursuit of the greatest advantage for their clients. The lack of any *a priori* commitment to some higher value leaves them with no basis for resisting the temptation to simply manipulate the system for their clients' and their own advantage. The assumption that this is what "good" lawyering looks like has profoundly debilitating effects upon society. If the public perception is that justice depends upon this kind of lawyering, we will quickly become a people governed by the rule of men, not the rule of law, which, in the final analysis, means being governed by the rule of power.

So, in the end, I am grateful that a glimpse of the wrong road has helped me see where the right road lies. There is, I believe, a right road for lawyers apprenticed to Jesus Christ as their Lord and Teacher. It is a road on which justice is not only sought as an end but is incarnated in a life acting justly towards others. It is a road free of the pressure or need to promote oneself, because it is paved by trust in the One who feeds the sparrows. And it is a road on which one serves God above all others, and thus serves all others well.

Life is forever. And so are relationships. May we, by the grace of our Lord Jesus Christ, communicate that to a world deeply in need of both.

William W. Watts III is a partner in the firm of Hudson & Watts, LLP, in Mobile, Alabama, and president of the Mobile Chapter of the Christian Legal Society. Bill is also an actor, having played Dietrich Bonhoeffer at the 2001 National CLS Conference and Screwtape in a one man show based on the Screwtape Letters by C.S. Lewis. Bill and his wife, Karen, have three children.

Key Supreme Court Rulings

by Steven H. Aden

The 2006-2007 U.S. Supreme Court Term issued decisions in four cases in which CLS's Center for Law & Religious Liberty filed *amicus curiae* briefs. The topics were partial-birth abortion, taxpayer standing and student speech.

PARTIAL-BIRTH ABORTION

Gonzales v. Planned Parenthood and *Gonzales v. Carhart*[1] were consolidated cases that presented to the Court for the second time the question of the constitutionality of statutory prohibitions on "partial-birth abortion." A partial-birth abortion is a late gestation abortion procedure by which a physician partially delivers the intact, living infant up to the head (in the case of a breech presentation) or up to the waist (in the case of a head-first presentation) and then, just before the moment of birth, kills the nearly-born infant by puncturing its skull and vacuuming out the brain. In its contentiously split decision in *Stenberg v. Carhart*[2] seven years ago, the Court effectively found a constitutional right to partial-birth abortion. As Justice Antonin Scalia aptly noted in dissent in *Stenberg*, "[this] method of killing a human child – one cannot even accurately say an entirely unborn human child – proscribed by [the Nebraska law] is so horrible that the most clinical description of it evokes a shudder of revulsion." Nevertheless, the majority struck down the Nebraska law in part because it failed to include a "health of the mother" exception. Imposing on the states an impossible evidentiary burden, the majority concluded that Nebraska had "fail[ed] to demonstrate that banning [partial-birth abortion] without a health exception may not create significant health risks for women."

Congress responded to *Stenberg* by passing the Partial-Birth Abortion Ban Act of 2003,[3] which sought to remedy the deficiencies in the Nebraska statute through an extensive set of factual findings on the necessity of partial-birth abortion. Congress found that "[a] moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion ... is a gruesome and inhumane procedure that is never medically necessary and should be prohibited" and that "[t]here is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures." Planned Parenthood and abortionist Leroy Carhart challenged the ban in separate lawsuits. The lower courts in both cases struck down the law based on their readings of *Stenberg*, and the Eighth and Ninth Circuits agreed, both concluding that the absence of a health exception rendered the Act unconstitutional. Reflecting the virtually insurmountable burden *Stenberg* had placed on justifying abortion regulations, the Ninth Circuit opined that *Stenberg* required a health exception unless "there is consensus in the medical community that the banned procedure is never medically necessary to preserve the health of women."[4]

The Center filed friend of the court briefs on behalf of the Christian Legal Society (CLS) in each of the two cases before the Supreme Court.[5] CLS first

The Court declined to accept the invitation of CLS and others to revisit the scope of the constitutionally-required "health" exception, stating that it assumed that the Act would be unconstitutional "if it subjected women to significant health risks."

argued that although the Court could uphold the Act by distinguishing *Stenberg*, the better course of action would be to overrule that decision: "We believe that this Court's time and constitutional powers would be better spent, and the rule of law better served, if *Stenberg* were abandoned as wrongly decided." Failing that, CLS encouraged the Court to take the opportunity to correct *Stenberg*'s mistaken view that in any case where there is any disagreement about the need for a health-related exception from an abortion-related regulation, the absence of an exception is fatal to the regulation.

The Supreme Court rejected each challenge to the Partial-Birth Abortion Ban Act, with Justice Anthony Kennedy writing for the Court. Kennedy began by repeating the gruesome description of the partial-birth abortion procedure he had set out in his dissent in *Stenberg*. Finding the description of the banned procedure sufficiently clear to encompass the prohibited partial-birth abortion procedure without also reaching the more common type of abortion procedure, Justice Kennedy rejected the argument that the federal statute was unconstitutionally overbroad. The Court said that by identifying specific "anatomical landmarks" to which the infant must be partially delivered before a partial-birth abortion becomes proscribed, and by adding an "overt-act" requirement that must occur to kill the infant after delivery to the anatomical landmark, the Federal Act was sufficiently differentiated from the Nebraska statute in *Stenberg*.

In the Court's view, the Federal Act furthers the government's interest in preserving and promoting respect for life, as Congress could reasonably conclude that "the type of abortion proscribed by the Act requires specific regulation because it implicates additional ethical and moral concerns that justify a special prohibition." "Whether to have an abortion requires a difficult and painful moral decision," Justice Kennedy said. Because "some women come to regret their choice to abort the life they once created and sustained," the state has an interest in ensuring that such a choice is made with full information:

> It is self-evident that a mother who comes to regret her choice to abort must struggle with grief more anguished and sorrow more profound when she learns, only after the event, what she once did not know: that she allowed a doctor to pierce the skull and vacuum the fast-developing brain of her unborn child, a child assuming the human form.[6]

The Court declined to accept the invitation of CLS and others to revisit the scope of the constitutionally-required "health" exception, stating that it assumed that the Act would be unconstitutional "if it subjected women to significant health risks." Here, however, "whether the Act creates significant health risks for women has been a contested factual question." In view of this "documented medical disagreement," the Court concluded, "[t]he question becomes whether the Act can stand when this medical uncertainty persists. The Court's precedents instruct that the Act can survive this facial attack." Abortion jurisprudence, Justice Kennedy suggested, had distorted the usual deference afforded legislative determinations. "Medical uncertainty does not foreclose the exercise of legislative power in the abortion context any more than it does in other contexts." The lower courts' interpretations of *Stenberg* "to leave no margin of error for legislatures to act in the face of medical uncertainty" operated as a kind of judicial "zero tolerance policy" for legitimate abortion regulations. "This is too exacting a standard to impose on the legislative power… to regulate the medical profession," the Court concluded. In so ruling, the Roberts Court appeared to be affirming once again, as it did last term in *Ayotte v. Planned Parenthood*,[7] that challenges to restrictions on abortion must play by the same juridicial rules as constitutional challenges in other contexts. Hopefully, we are seeing the beginning of the end of what Justice Scalia has called the "ad-hoc nullification machine"[8] that has characterized abortion jurisprudence.

TAXPAYER STANDING

Another of the Court's decisions, *Hein v. Freedom From Religion Foundation*,[9] could have a significant impact on the Center's work in ensuring fair treatment for religious organizations. *Hein* was a head-on challenge by the Freedom From Religion Foundation against the Bush Administration's Faith-Based and Community Initiative. Freedom From Religion Foundation is a strict separationist group whose self-proclaimed purpose is to file taxpayer lawsuits challenging the religious right campaign "to raid the public till and advance religion at taxpayer expense." The group challenged expenditures made by the faith-based offices of several federal agencies for conferences at which faith-based organizations were allegedly "singled out as being particularly worthy of federal funding…and the belief in God is extolled as distinguishing the claimed effectiveness of faith-based social services." Because the expenditures came from the discretionary budgets of the various agencies, and no Congressional appropriation specifically required them, the case presented the question of whether federal taxpayer status confers standing to challenge discretionary executive agency spending as violative of the Establishment Clause.

The Supreme Court, in a split decision, reversed and answered in the negative. Justice Alito, writing for a plurality, rejected what he described as the Seventh Circuit's "broad" reading of *Flast v. Cohen*,[10] the Court's seminal 1968 decision granting standing for taxpayers to bring Establishment Clause challenges in federal court. Justice Alito emphasized the impor-

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tance of "the kind of redressable 'personal injury' required for Article III standing," and characterized *Flast* as a carved-out, narrow exception to the personal injury requirement. *Flast* held that to show standing derived simply from federal taxpayer status, a taxpayer must first "establish a logical link between that status and the type of legislative enactment attacked." Essentially, this means that federal taxpayers can only challenge the constitutionality of exercises of congressional power under the taxing and spending clause of Article I, § 8. "The expenditures at issue," according to Alito, "were not made pursuant to any Act of Congress," nor were they expressly authorized by Congress. The Faith-Based Initiative is funded by general appropriations to the Executive Branch and, thus, could not be challenged by taxpayers.

Although the plurality purported to "leave *Flast* as [we] found it," the logic of the holding fractured the Court, provoking sharp criticism from Justice Scalia in concurrence and the four Justices in dissent. Justice Scalia (joined by Justice Thomas) made it clear that he would have been much happier with a decision that overruled *Flast*. Justice Scalia argued that financial injury to a taxpayer – what he called "wallet injury" – cannot satisfy the constitutional standing requirements because of the speculative nature of any inquiry into the effects of congressional spending on any particular person's tax bill. And "psychic injury" – the mere mental displeasure of seeing tax money spent in an unlawful manner – was exactly the generalized grievance that the standing requirement was created to avoid, Justice Scalia argued. Justice Scalia charged the plurality with "beating *Flast* to a pulp and then sending it out to the lower courts weakened, denigrated, more incomprehensible than ever and yet somehow technically alive." Justice Kennedy, on the other hand, was more deferential to *Flast* in his own concurrence, emphatically stating that "the result reached in *Flast* is correct and should not be called into question." In view of Justice Kennedy's position, the plurality seems joined around a compromise decision not to disturb *Flast*, but to prevent its extension. After *Hein*, taxpayers will continue to have standing to challenge alleged Establishment Clause violations in fact situations that closely resemble *Flast* — where taxpayers allege that a specific congressional Act appropriates funds for a program that violates the Establishment Clause.

STUDENT SPEECH

Morse v. Frederick[11] could have important ramifications for the authority exercised by public school officials to censor disfavored student speech, religious or not. *Morse* reviewed a Ninth Circuit decision that held that a school principal in Juneau, Alaska, violated the First Amendment when she suspended a student for displaying a 14-foot banner reading "Bong Hits 4 Jesus" across the street from the school during a Winter Olympics "Torch Relay" parade passing the school grounds. The principal argued that school officials must have the authority to censor student speech they deem "inconsistent with the school's educational mission." Organizations across the ideological spectrum, including CLS, filed *amicus* briefs warning that such a broad assertion of school authority could be and often is used to justify censorship of student expression, particularly religious expression.

The Supreme Court reversed, agreeing with the principal. Chief Justice Roberts'

THE COURT RELIED PRINCIPALLY ON CASES UPHOLDING PUBLIC SCHOOL OFFICIALS' AUTHORITY TO CONDUCT STUDENT SEARCHES ON CAMPUS TO HOLD THAT THE "SPECIAL CHARACTERISTICS" OF A PUBLIC SCHOOL AND THE IMPORTANT INTEREST IN DETERRENCE ALLOW SCHOOLS TO RESTRICT STUDENT EXPRESSION THAT MAY REASONABLY BE VIEWED AS PROMOTING DRUG ABUSE.

majority opinion held that schools may take steps to safeguard those entrusted to their care from speech that could reasonably be regarded as encouraging illegal drug use. Chief Justice Roberts described the real dispute as "less about constitutional first principles than about whether Frederick's banner constitutes promotion of illegal drug use."The principal's reading of the banner as an incitement to illegal drug use was reasonable, and while it did not express a political or religious message, the banner's reference to illegal drugs prevented the Court from treating it as mere nonsensical gibberish. Declining to frame the case as controlled either by *Tinker v. Des Moines*[12] or *Bethel v. Fraser*,[13] the Court repeatedly stressed the danger of student drug use and the "important – indeed, perhaps compelling" interest of the public schools, in a tutelary capacity, to deter drug use. The Court relied principally on cases upholding public school officials' authority to conduct student searches on campus to hold that the "special characteristics" of a public school and the important interest in deterrence allow schools to restrict student expression that may reasonably be viewed as promoting drug abuse.

Justice Alito (joined by Justice Kennedy), seems to have had a sympathetic ear for the concerns expressed by CLS and other *amici*. Justice Alito concurred with the majority on the understanding that the Court's decision "goes no further than to hold that a public school may restrict speech that a reasonable observer would interpret as advocating illegal drug use and [that] it provides no support for any restriction of speech that can plausibly be interpreted as commenting on any political or social issue…" Justice Alito stated that he would affirmatively reject the view that schools may censor any student speech perceived as interfering with its "educational mission" because of the risk of wide abuse of the definition of that mission as "the inculcation of whatever political and social views are held by" school rule-makers. Because Justices Alito and Kennedy concurred on narrower grounds than the majority, Justice Alito's opinion will likely be regarded as the controlling opinion in the case.

Although the 2006-2007 session of the Court yielded no truly landmark decisions in religious liberty or life advocacy, incremental progress can be seen in these cases. *Carhart* and *Planned Parenthood* strongly suggest that the era of favorable judicial treatment for abortion may be ending. In the religious liberty arena, the Court appears to be signaling that it will continue to be solicitous of the rights of religious persons and organizations, even when, as in *Morse*, it desires to shore up government authority to address real social concerns such as drug abuse. As these issues evolve in the courts, the CLS Center will continue its tradition of vigorous advocacy for life and liberty. [14]

1 127 S.Ct. 1610 (2007).

2 530 U.S. 914 (2000).

3 18 U.S.C. § 1531 (2003).

4 435 F. 3d 1163, 1173 (9th Cir. 2006).

5 The Center's brief in *Gonzales v. Planned Parenthood* was authored by Professors Richard W. Garnett of Notre Dame Law School and Michael Stokes Paulsen of Minnesota Law School. Its brief in *Gonzales v. Carhart* was authored by Professor Dwight G. Duncan of Southern New England School of Law.

6 Among these women, Justice Kennedy observed, is Sandra Cano, the "Doe" of *Doe v. Bolton*, whose *amicus* brief urging regard for abortion survivors' mental and emotional health was cited by the Court.

7 546 U.S. 320 (2006).

8 *Hill v. Colorado*, 530 U.S. 703, 741 (2000) (Scalia, J., dissenting).

9 127 S. Ct. 2553 (2007).

10 392 U.S. 83 (1968).

11 127 S. Ct. 2618 (2007).

12 393 U.S. 503 (1969), holding that public school officials may impose only reasonable time, place and manner restrictions in student expression that neither "disrupts" the educational function of the school nor interferes with the rights of others.

13 478 U.S. 675 (1986), holding that public school officials may censor lewd and offensive student expression delivered as part of a school-sponsored activity.

14 The author gratefully acknowledges the assistance of Pamela McElroy (*J.D.* candidate, Univ. of Virginia '09), Julie Baworowsky (*J.D.* candidate, Notre Dame Law School '09), and Christina Trefzger (*J.D.* candidate, Columbia Law School '09) in preparing this article.

Steven H. Aden serves as chief litigation counsel for CLS' Center for Law & Religious Freedom, overseeing all cases in trial and appellate courts. He is a 1989 honors graduate of Georgetown University Law Center, and is the author of numerous law review and professional publications on constitutional law and civil rights issues.

CHRISTCHASE - NOT PAPERCHASE

By Dan Kim

THE 1L YEAR

My mind recalls those two semesters in grainy, convenience store, surveillance-like video, played out in fast-forward, only to slow to a crawl (with HD picture no less) when I received my grades each semester. My 2L and 3L years were filled with great memories like many other busy, hectic, and fun times, but my first year of law school is stored a bit differently.

I graduated from law school in June of 2005 and can recall most of those three years with some clarity. Although my somewhat exaggerated memory may make my 1L year it seem worse than it was, I have found while working at CLS and interacting with hundreds of law students across the country that others have a similar story to tell when it comes to their first year in law school.

The hurdles 1L students face in Massachusetts are eerily similar to the ones that loom over 1Ls in Arizona. This should come as no surprise though, as the 1L curriculum is somewhat uniform throughout the country, as is the approach law schools take in educating their students. The other underemphasized common experience is the culture that pervades our law schools. The unique law school environment that incoming 1Ls experience can quickly become indoctrination into a certain way of thinking and acting. Because most undergraduate institutions do not provide a primer on law school culture, much less the spiritual well-being of their students, how can a Christian law student grow spiritually? Additionally, how are we, as Christians in the study of law, to engage such a culture and be an instrument in spreading the good news of Christ? As Christians, we know that the Bible admonishes us not to "be conformed to this world, but [to] be transformed by the renewal of [our] mind[s]…." (Romans 12:2 ESV) How are we to be the "salt and light" on our law school campuses?

FOREIGN CULTURE

My undergraduate years at Brandeis University were filled with late-night conversations about all things philosophical and contemplative. At this small, liberal arts school largely populated by young Jewish men and women, I found out what I did and did not like when it comes to a whole variety of things that my parents probably would be shocked that I know.

In contrast, while I certainly recall many late nights in law school, I do not recall any late night conversations my 1L year that involved the same kind of introspection. Rather, there was much speculation, as in "What did that page just say?" and a lot of reading - a **lot** of reading! Discussions centered on issues, holdings and reasonings. Plato was replaced by Learned Hand and Socrates by, well, the Socratic method. If college is an art gallery filled with things to contemplate and digest, then law school is like a manufacturing plant assembly line where I was constantly asking, "What is that?" and, "Where does it fit?" so I could become a competent (read "employed") lawyer.

Specifically, what I recall most vividly about my 1L year was the introduction of foreign terms (BarBri, IRAC (the method not the country), moot court, etc.), customs (the aforementioned Socratic method is an example of one) and an overall cluelessness I had when it came to the

Many Christians told me, and I believed, that by being singularly devoted to being an excellent student, I was being a good steward of the time and talents given to me by God.

study of law. Some things were easy to learn. You do not know *sua sponte*? Look it up in your Black's Law Dictionary (please note here that we need a dictionary for our law school classes, taught, we thought, in English). For other things we were not as fortunate. Questions such as "Do I really need to outline every single case I read?" and "I need a study group? Really?" did not necessarily have clear cut answers. Many of us just followed the crowd in response to some of these questions, while we had to experiment and find out what was best on our own in other cases. Outlining every case was a waste of time for me, but it did help with some of my professors' questions in class.

INTEGRATED LIFE

Following the crowd can certainly be helpful because there is no need to reinvent the wheel, as they say. However, this "sheep-like" mentality can easily carry over to questions of substance, which should be critically examined by every law student, especially those who, through their union with Christ, are "children of God." (John 1:12 ESV) Specifically, I am referring both to the legal instrumentalism and pragmatism that our law professors speak about as foundational truths to the study of law as well as how we spend our time.

Before I started law school, some attorneys who knew I was about to enter my studies told me that I was going to be really busy and that I needed to focus, bear down and make those three years a time in which I could just concentrate on being diligent in my pursuit of a law degree. Many Christians told me, and I believed, that by being singularly devoted to being an excellent student, I was being a good steward of the time and talents given to me by God. While every Christian law student should strive for excellence and diligence in their studies, acting in this manner comes close to requiring Christians to separate their faith from their approach to their studies. **It asks us to think and act like unbelievers among unbelievers.**

The stress of not knowing what you are doing during your 1L year plays a horrible trick on your senses. The typical law student is usually a detail person who likes to be the authority on things – the "know-it-all." The stress of being exposed to a foreign culture (law school) with all its attendant curiosities can arouse a great deal of wonderment, but mostly, combined with the law student's know-it-all disposition, causes great frustration and at times con-

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sternation. These emotions allow us to quickly agree with those who tell us we are too busy – too busy to talk to people, too busy to get involved at church, too busy to even be a friend.

In reality, while you may be confused with new terminology or culture or concerned how one quirky case fits into your readings for the week, life is not that bad and you are not that busy. And to paraphrase my boss David Nammo, if you think you're busy now, you're in for a rude awakening when you become a full-fledged, licensed practitioner. You will then have even less time because your time will be, literally, money, as you start billing for a living.

Additionally, though you do not often realize it, you form habits in law school that you carry over into the practice of law. If you begin to forsake fellowship, worship, and the study of God's Word now, you have already set your mind on "things of man" and not "on things of God." (Matthew 16:23 ESV) This mindset can easily take shape during your 1L year and become the framework within which you act for the remainder of school and beyond.

So how does one go about engaging the law school culture as a Christian? While your 1L year (and, to a lesser extent, your 2L and 3L years) is fraught with the aforementioned obvious and not-so obvious dangers, it is also a time of great opportunity. In an environment that breeds competition and pride and puts a tremendous amount of pressure on one's time and mental, physical and spiritual energy, the Christian should be the most well-equipped person to not only handle these obstacles but to thrive, and in so doing be a great witness to the resurrection power of Christ through the comfort provided by the empowering of the Holy Spirit. Law students can do that through three aspects of their Christian lives: 1) remember their identity in Christ; 2) cast their burdens on Christ; and 3) practice fellowship and outreach.

IDENTITY

Christians have been adopted into God's family, and now as sons and daughters of God we are heirs with Christ. This remarkable identity shift, from being a slave of sin to co-heirs with Christ, is something that we need to preach to ourselves daily. My cousin, who has been a spiritual mentor of mine since I was 14, shared with me that when he wakes up every morning he says, "Thank you, Lord, thank you for my life." This simple statement reminds him of who he is now in Christ. It is with this mindset he claims each new day for the glory of God. Always be mindful of who you are.

CASTING YOUR BURDENS

One practice common among law students is what some pun-driven people have labeled the "bar" culture. This culture is characterized by the motto "work hard, play hard." (As you can see I am not pun-driven, merely cliché-driven.) One of the first places our 1L advisor (read "a 2L") took us was to the local bar. She explained that this was the place most law students came to unwind after a long week. The Christian, if he/she is rooted in the Word, would know that Jesus desires us to unwind and unburden ourselves by finding peace with Him. He promises that when we come to Him, He "will give [us] rest." (Matthew 11:28 ESV) He said that if we become yoked with Him and learn from Him we will "find rest for [our] souls." (Matthew 11:29 ESV) The hardest times in law school, whether you are a 1L, 2L or 3L, have never been solved by the comfort of a nice, smooth lager or even the ever popular "vegging" out in front of the television. When I was the most stressed, studying for my very first exam in law school, I meditated on this passage in Matthew, talked to Him and unburdened myself. And, of course, I found that His promise is true. I found rest.

FELLOWSHIP AND OUTREACH

I cannot stress enough the importance of finding or creating a fellowship at your law school to delve deeper into the meaning of the study of law as it relates to your faith. The law school experience is a particular one that, unfortunately, our churches generally do not address and non-law school friends may not understand. A fellowship of believers at your school can encourage, nourish and challenge you in your walk in Christ.[1] I do want to point out that the fellowship itself should never become the Christian version of the bar culture. While it is and certainly should be a place to find fellowship and encouragement, it should never become insular and devolve into a place where you gather together merely to pat each other on the back or to bemoan your common struggles. It should be a place to explore your faith in law school, in fellowship and in love, as well as challenge and equip you to reach out to your fellow students and the surrounding community.

A 1L student is bombarded with the self-centered driven goal of success, measured by class ranking and moot court or law review status. There is an opportunity here. If, assured in your identity, at peace through your fellowship with the Holy Spirit, and encouraged and challenged by your fellow Christians on campus, a clueless 1L (or experienced 2L or 3L) can be a great shining light for Christ. Whereas his/her classmates may become consumed by the stress and rigors of the 1L year, Christian law students should claim victory over it. A simple question that a 1L should keep in mind is, "How am I ministering to those around me with the grace and peace that I have in Christ?" Law school is a means to an end, but if our end is to become more Christ-like, specifically to glorify God in our law practice, then we must realize that this goal will only be attained through a means (our time in law school), which is training us to succeed.

Law school is rigorous. It is time consuming. But ultimately it is a field ripe for planting and harvesting. It is surely where God called you to be for the next few years. Seize that opportunity to further His kingdom. Soli deo Gloria.

1 I do not emphasize the need for a fellowship on your campus to deemphasize our need to be connected to a local church. In fact, all of the advice contained herein begins with the premise that you are connected to a thriving community who loves the Lord and seeks to spread His good news.

Dan Kim is the manager of Law Student Ministries for the Christian Legal Society. He graduated from Brooklyn Law School, where he led the CLS law student group, and Brandeis University.

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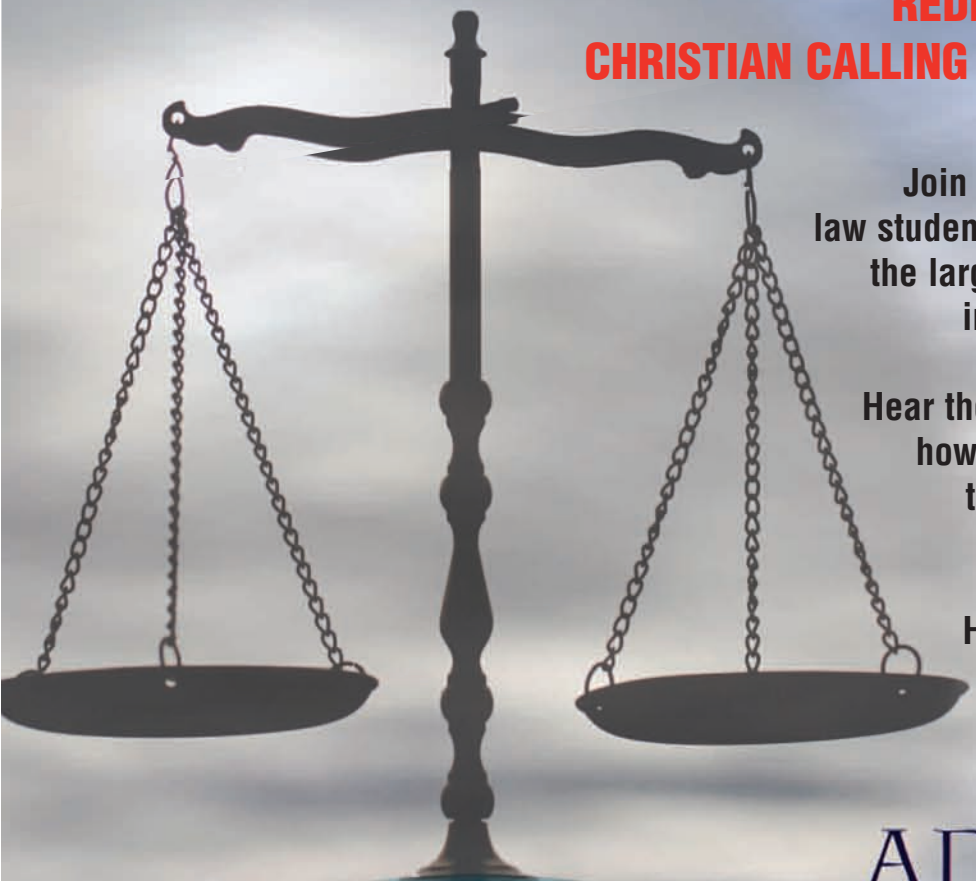

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Advocates International's US Office
info@advocatesinternational.org
sericsson@advocatesinternational.org

Advocates Europe
lpopov@advocateseurope.org
dani@ruleoflawinstitute.bg

Advocates Latin America
aloise@adinet.com.uy
vbalmaceda@advocatesinternational.org

Advocates Asia
cla@touchtelindia.net
christian.lawyers@gmail.com

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Law to Locusts and Back Again

by Donna Bradley

If anyone else thinks he has reasons to put confidence in the flesh, I have more: circumcised on the eighth day, of the people of Israel, of the tribe of Benjamin, a Hebrew of Hebrews; in regard to the law, a Pharisee; as for zeal, persecuting the church; as for legalistic righteousness, faultless.

But whatever was to my profit I now consider loss for the sake of Christ. What is more, I consider everything a loss compared to the surpassing greatness of knowing Christ Jesus my Lord, for whose sake I have lost all things. I consider them rubbish, that I may gain Christ and be found in him, not having a righteousness of my own that comes from the law, but that which is through faith in Christ—the righteousness that comes from God and is by faith. I want to know Christ and the power of his resurrection and the fellowship of sharing in his sufferings, becoming like him in his death, and so, somehow, to attain to the resurrection from the dead. Philippians 3:4b-11 (NIV)

ADDICTION

I grew up in a middle-class, African-American family who made certain that I was educated at the best schools – St. Mary's Episcopal School, Brown University, and Howard University School of Law. They ensured that I had everything I needed and most of what I wanted. I grew to depend on my own abilities and skills, not understanding or recognizing the need for a Savior. I practiced general law for about 1 ½ years before working with two government agencies for 10 years doing labor and employment law. In all that time, I never realized, in my arrogance, that God had gifted me with the abilities required to perform such work. I was faithful in my church attendance, thinking that was sufficient.

However, even while attending church and practicing law, I became addicted to crack cocaine. As long as the cost of the habit did not exceed my income, it was easy to keep up the pretense. But when cost of the addiction increased, I was just like any other addict, doing whatever was necessary to support the addiction. It was during that time that I lost all material possessions. I resigned from my job with the government agency ostensibly to care for my mother, who had Alzheimer's. And while this was partially true, the reality was that my addiction did not allow me to continue to function normally. Searching for the next hit became the main thing, with absolutely no benefits.

My husband Larry and I recognized the need for change and decided to make an exodus from our "Egypt" in Memphis, Tennessee – our place of bondage – along with our two little boys, $10, and a tank of gas. Our destination was unknown. The tank of gas allowed us to travel as far as St. Louis, Missouri, before it ran out. Our first address was a homeless shelter for families, and our meals were eaten at various soup kitchens throughout the city. We moved into the inner city of St. Louis. Homelessness, poverty, and inner city living were all very unfamiliar to us, but it was these experiences along with the love and encouragement of our Jubilee Community Church family that led to my willingness to submit to Jesus Christ. Finally, one Friday evening in August 1997, I surrendered all. I understood my need for a Savior for the first time with the help of Pastor Leroy Gill, Jr., his wife, Donna, Andy Krumsieg, an elder at Jubilee Community Church, and friends Steve and Robin Boda. I finally understood the love of Christ after coming to my point of brokenness. The Lord had humbled me.

RUBBISH AND COMFORT

There were many who walked alongside me at that time and taught me to study the Word of God. Although I am still faced with the troubles of daily life, my coping mechanism is now Jesus Christ rather than crack cocaine. My heart's desire is to see others become free from the bondage of addiction through a relationship with Christ.

I am so grateful that I lost everything that did not matter to gain a relationship with Jesus! In the scheme of things, all other things I count as rubbish. Had it not

I encourage other attorneys to be bold in sharing with others their struggles and how Christ comforts them. He gave us the testimony so that we could comfort and encourage others.

been for my struggles with addiction, homelessness, poverty and hunger, I would have neither considered nor had a heart for the poor.

However, even after surrendering to Christ, I was ashamed of this testimony, deciding that no one ever needed to know that I had once been addicted to drugs. It is only through the power of the Holy Spirit that I have the boldness to share this, understanding that it was Christ who freed me. The glory and honor goes to Him. The passage 2 Corinthians 1:3-7 states:

> Praise be to the God and Father of our Lord Jesus Christ, the Father of compassion and the God of all comfort, who comforts us in all our troubles, so that we can comfort those in any trouble with the comfort we ourselves have received from God. For just as the sufferings of Christ flow over into our lives, so also through Christ our comfort overflows. If we are distressed, it is for your comfort and salvation; if we are comforted, it is for your comfort, which produces in you patient endurance of the same sufferings we suffer. And our hope for you is firm, because we know that just as you share in our sufferings, so also you share in our comfort.

For this reason, I encourage other attorneys to be bold in sharing with others their struggles and how Christ comforts them. He gave us the testimony so that we could comfort and encourage others. We should not to be ashamed of Christ!

THE LORD IS FAITHFUL

In 2000, Larry and I purchased a home in the inner city of St. Louis. Larry is now associate pastor of Jubilee Community Church and director of Victory Over Bondage, a Christ-centered drug and alcohol ministry. The Lord restored everything that the locusts ate. Satan intended for me to die, but the Lord intended otherwise. Through all of this, I did not lose my children or my law license. My license has been in voluntary inactive status. My children are now adults, and I am "nana" to three beautiful grandchildren. A fourth is on the way!

In the last few months, as a result of my involvement with Christian Legal Aid, I have decided to reactivate my law license. The attorneys who have been involved in the Christian legal clinics thought that they were ministering only to my neighbors with legal issues, but unbeknownst to them, they ministered greatly to me. They have shown me what it means to have a servant heart and how the Lord uses the gifts that He gave attorneys to minister to and evangelize the poor. Because of their examples, I will soon file a petition to reactivate my license and seek reciprocity in Missouri. I want to be available to help those who can not afford an attorney and to show them the love of Christ.

Donna Bradley is the Project Director for St. Louis Christian Legal Aid and has been faithfully serving not only the volunteer attorneys and law students but the clients that those colleagues have been serving since 2004. [Since writing this piece, Donna has successfully had her law license reinstated and has gained reciprocity in Missouri.]

ADVOCATES INTERNATIONAL
Doing Justice with Compassion

He's Got the Tiny, Little Babies in HIS Hands

By Samuel E. Ericsson

Two of the most fulfilling and dramatic stories over my 40 years as a lawyer involved a pre-born California baby and a Bulgarian orphan. Let me set the stage.

BUSY-NESS

From 1969 to 1980, my primary practice was antitrust litigation with a Los Angeles firm representing Fortune 500 companies. During the final four years with my firm, I also served as an executive pastor for the mega, 15,000-congregant Grace Community Church. Additionally, I was lead counsel in a clergy malpractice case that was filed against the church in March 1980.

In July 1980, I visited CLS headquarters on the top floor of an old Christian Education building at Oak Park First Baptist Church in Oak Park, Illinois. After climbing the steps to the third floor, I was taken aback to find CLS Executive Director Lynn Buzzard and the eight-person staff in such modest quarters. During that meeting, Lynn shared an ad in the CLS Quarterly magazine announcing that CLS was ready to hire its first staff lawyer to direct the Center for Law & Religious Freedom. But there was a caveat in the ad: *Due to limited available funds, applicants must be prepared to serve as counsel at a nominal token salary or be in a position to raise funds for their own support for the foreseeable future.* I had heard of nominal salaries and understood a token one. But a "nominal token salary" was altogether something new. When Lynn asked whether I was interested, I told him that I would discuss it with my wife, Bobby. After seeking the counsel of my partners and the church board, I began raising my CLS support. "The foreseeable future" has lasted 27 years.

Sam Ericsson and Tristen.

THE WIDOWER'S PREGNANT DAUGHTER

In October 1980, a friend at Grace Community Church asked me to meet with a man from another church whose wife had died a year earlier, leaving him alone to raise two teenage daughters. The man had just discovered that his 17-year-old daughter was five months pregnant.

My initial thought was that a woman would be far more suitable for crisis pregnancy counseling. I had no experience in this area. I also had three very good excuses: 1) I had administrative duties at the largest church in Los Angeles County; 2) I was lead counsel in the high-profile clergy malpractice case; and 3) I was busy raising funds for my move to Washington, D.C. to join CLS. However, the Good Samaritan parable about the priest and Levite ignoring the beaten man resonated in my heart. I agreed to a breakfast meeting with the man and his pregnant daughter.

At breakfast, we agreed that abortion was not an option. The young woman also realized that raising a child at this time in her life might not be the best for either the baby or her. She asked, "Mr. Ericsson, could you find the best Christian home for my tiny, little baby?" I was tempted to raise my three "busy-ness" excuses, but once again the priest and Levite images came back. So, motivated in part to buy time, I suggested that we pray and ask the Lord to lead us to "the best Christian home for the tiny, little baby."

THE ANSWER

Just a few hours later, I received a call from Jim Harris, a friend who pastored a church in Boise, Idaho. He mentioned a fine couple in his church who were unable to have children and asked that if I ever saw an adoption opportunity, to keep them in mind! God was quite efficient in answering our breakfast prayer. By the end of the day, I referred the young mother-to-be to a CLS member in Los Angeles and the couple in Boise to a CLS member there. But it was not the end of the story.

Over a decade later, on Mother's Day in 1993, I was speaking at Cole Community Church in Boise, Idaho. I had been sharing

...WHEN YOU RECEIVE TWO FAXES WITHIN TEN MINUTES FROM OPPOSITE SIDES OF THE PLANET INVITING YOU TO VISIT THE SAME COUNTRY, GO TO THE SAME CITY, MEET THE SAME PERSON AND DISCUSS THE SAME ISSUE, YOU DO NOT NEED TO WAIT FOR A THIRD FAX! WE DECIDED TO GO TO ALBANIA.

adoption stories from Bulgaria, Romania and Russia. After the service, a man told me how much he appreciated the stories because he and his wife had adopted two girls. When he mentioned that Jim Harris had helped find their 13-year-old daughter, Susan, through contacts in Los Angeles, I asked him if the birthmother's last name was so-and-so. His jaw dropped. I told him Susan's His-Story. When I later met Susan, I told her, "We've met before, but you wouldn't remember." She had been in her mother's womb five months the first time we "met."

A few years later, I called Susan's dad to thank him for donating to Advocates International. He told me that his father had died a week earlier and that "Susan had been the apple of his eye." I asked him to send a photo of "the apple of his eye." I continue to carry Susan's picture with me to show people what a five-month fetus looks like at age 16.

BULGARIA CALLING

Another photo in my Day-Timer is of Tristen, an orphan from Bulgaria. I had left my ten-year tenure at CLS on June 1, 1991. I had been the CLS executive director after replacing Lynn Buzzard in 1985. My goal was to begin a global journey driven initially by a desire to mobilize lawyers to help believers in the Soviet Union. It eventually became Advocates International. On June 19, 1991, CLS member Roger Sherrard of Poulsbo, Washington, called to ask whether I was interested in going to Sofia, Bulgaria, to meet the dean of a law school who wanted to meet a Christian lawyer to discuss ethics. In jest, I replied, "Roger, why go to Sofia, Bulgaria? Why not Paris, Bermuda or the Bahamas?"

The next day I received a call from Pasadena, California, from Paul Popov, who had been born in Bulgaria. He asked whether I was interested in traveling to Sofia, Bulgaria, to meet the president of the Sofia Bar Association who wanted to

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meet a Christian lawyer from America to discuss ethics. I told Paul that I had never been invited to Bulgaria until Roger's call the day before, and now I had two invitations. I connected the dots and called Roger to tell him that we should start making plans to go to Sofia. We bought tickets to leave on July 5, 1991.

All the days ordained for me were written in your book before one of them came to be.
Psalm 139:16 (NIV)

Before I formed you in the womb, I knew you, before you were born I set you apart…
Jeremiah 1:5 (NIV)

Religion that God our Father accepts as pure and faultless is this: to look after orphans and widows in their distress… *James 1:27 (NIV)*

A SOMBER 4TH OF JULY

The day before our departure to Bulgaria, friends Fred and Ellen joined us at our annual July 4th picnic at the Iwo Jima memorial overlooking the Washington Mall. Fred was a professor at George Mason University, and the couple had been in our home Bible study group. Fred and Ellen were generally upbeat people, but on this day they were quiet and seemed discouraged. They had been working on adopting two Romanian orphans for 18 months. Everything was set, and they bought tickets to Romania to bring two brothers back, but Romania had just closed its doors to all adoptions to America.

When I mentioned that I was leaving for Bulgaria the next day, Fred and Ellen asked whether I could help them find a Bulgarian child to adopt. As I had never been to Bulgaria, I had no answer. Adopting orphans is not like buying souvenirs. I suggested they write a one-page letter describing their home, family and hopes that I could take with me to Bulgaria.

FINDING AN ORPHAN

During our visit to Sofia, I met lawyer Maria Antonova and gave her Fred and Ellen's letter. Maria had never handled an international adoption before but was willing to help. In September, Maria discovered an adoptable orphan boy in the northern Bulgarian town of Russe. She began the paperwork in Bulgaria, while Fred and Ellen initiated the process in Virginia.

On my next visit to Sofia in January 1992, we learned that the new Minister of Justice of Bulgaria had closed the door to all adoptions to the United States. Rumors were circulating in Bulgaria that Americans adopted babies for body parts and used orphans for medical experiments while selling them to the highest bidder. These rumors were common fodder before the fall of Communism. Maria knew the minister of justice personally and arranged for us to meet with him. He listened to what we had to say and told us that we could proceed with the adoption. Soon thereafter he ended the policy and opened the doors for hundreds of American adoptions.

THE NOTARIZED LETTER

Advocates International did not officially exist until 18 months after I left CLS. To put bread on the table in the meantime, I had opened a small immigration practice in Virginia. I ordered the 30-volume Immigration Law Treatise for $2,000 in April 1992 and became a bona fide immigration lawyer.

The day I unpacked the treatise, Fred called to say that Maria needed a letter stating that Tristen would enjoy all the rights and freedoms of American children and due to rumors still circulating that he would not be subject to experimental surgeries. Unless Maria had the notarized letter from me, Tristen's adoption would not be approved.

I had never before written the type of letter the Bulgarian officials wanted. Using my new immigration law library, I found some sample letters with impressive legalese. I gave Fred and Ellen the notarized letter at 6:30 a.m. on May 13, 1992, while they were on their way to Reagan National Airport to travel to Sofia to bring little Tristen home.

A WONDERFUL DISCOVERY

On June 17, 1992, Ellen brought Tristen to my office. He was the happiest baby I had ever seen. We discovered that Tristen was born on Tuesday, June 18, 1991, and was placed in the Russe orphanage on Wednesday June 19, 1991 – the same day Roger called from Poulsbo, Washington, with my first invitation to visit Sofia. Jesus taught that his Father's eye is on the sparrow. I have no doubt that the Father's eye is also on children. He's got the tiny, little babies, both pre-born and born around the world, in his hands.

An immigrant from Sweden, Sam Ericsson is a graduate of Harvard Law School. He practiced complex business litigation in the 1970s and was the executive director of the CLS through the 1980s. He is now the president of Advocates International, which he launched in the early 1990s to create a global network of lawyers committed to religious liberty, human rights, conflict resolution and ethics.

Attorney Chapters

Please contact the CLS chapter in your area for meeting schedules and events.

ALABAMA

Birmingham
CLS Birmingham Chapter
Robert Palmer
bob@elglaw.com

Mobile
CLS Mobile Chapter
William Watts
williamwatts@hotmail.com

ARIZONA

Phoenix
CLS Phoenix Chapter
Timothy J. Watson, Esq.
twatson15@cox.net

Tucson
CLS Tucson Chapter
Scott Rash
scottrash@gabroylaw.com

CALIFORNIA

Los Angeles
CLS Los Angeles Chapter
Terran Steinhart
terran@steinhartlaw.com

Orange County
CLS Orange County Chapter
Donald S. Roberts
donald@hummellawfirm.com

Sacramento
CLS Sacramento Chapter
Steven Burlingham
steveb@gtblaw.com

San Diego
CLS San Diego Chapter
John Yphantides
johnyphantides@usa.net

COLORADO

Colorado Springs
CLS Colorado Springs Chapter
Tyler Makepeace
jmakepeace@integrity.com

Metro Denver
CLS Metro Denver Chapter
Rachel Stokowski
rstokowski03@law.du.edu

DISTRICT OF COLUMBIA

CLS DC Metropolitan Area
David Nammo
memmin@clsnet.org

FLORIDA

Daytona Beach
CLS Daytona Beach Chapter
Annette Pitts
gator465@aol.com

Jacksonville
CLS Jacksonville Chapter
Roger Gannam
rgannam@lfplaw.com

HAWAII

Honolulu Area
CLS Hawaii Chapter
Sandra Young
Youngsandyg@cs.com

ILLINOIS

Chicago
CLS Northern Illinois Chapter
Michael Avramovich
businessfirm@aol.com

INDIANA

Indianapolis
CLS Indianapolis Chapter
Herb Jensen
Jensen@iquest.net

KANSAS

Wichita
CLS of Wichita
J. Craig Shultz
shultzlaw@veracom.net

LOUISIANA

New Orleans
CLS of New Orleans
Roy Bowes
rmb@boweslew.com

MARYLAND

Baltimore
CLS Baltimore Chapter
Matt Paavola
matt@myworkerscomplawfirm.com

MASSACHUSETTS

Boston Metro
CLS Boston Chapter
Jody T. Adams
jodytadams@yahoo.com

MINNESOTA

Minneapolis
CLS of Minnesota
Paul Baertschi
www.clsofminnesota.org

MISSISSIPPI

Jackson
CLS of Jackson
John R. Lewis
Jlewis1515@aol.com

MISSOURI

Kansas City
CLS Kansas City Chapter
Jesse Camacho
JCAMACHO@shb.com

St. Louis
CLS St. Louis Chapter
Robert Ritter
rritter1@charter.net

NEW YORK

New York City
CLS Metro New York Chapter
Joseph Ruta
jruta@rutasoulios.com

Syracuse
CLS Syracuse Chapter
Raymond Dague
rjdague@daguelaw.com

NORTH CAROLINA

Charlotte
CLS of Charlotte
Robert Bryan III
Rbryan@wcsr.com

OHIO

Columbus
CLS of Central Ohio
Charles Oellermann
coellermann@jonesday.com

OKLAHOMA

Oklahoma City
CLS Oklahoma City Chapter
Michael L. Tinney
OKkidsdad@cox.net

PENNSYLVANIA

Pittsburgh
CLS Western Pennsylvania Chapter
Delia Bianchin
delia_bianchin@pennunited.com

TEXAS

Austin
CLS Austin Chapter
Col Donald W. Neal Jr.
donteresaneal@hotmail.com

Dallas
CLS Dallas Chapter
Jon D. Campbell
jcampbell@chambleeryan.com

Houston
CLS Houston Chapter
Rebecca Renfro
rrenfro1@houston.rr.com

San Antonio
CLS San Antonio Chapter
Paul Russo Stone
paulr.stone@grandecom.com

VIRGINIA

Charlottesville
CLS Charlottesville Chapter
James Garrett
jwgarrett@snookandhaughey.com

Hampton Roads/Tidewater
CLS Hampton Roads Chapter
Michelle Hawkins
hawkinsjd@gmail.com

WASHINGTON

Seattle
CLS Seattle Chapter
Tom Rodda
trodda@elmlaw.com

Notice of CLS Annual Meeting

Notice is hereby duly given that the annual meeting of the members of Christian Legal Society shall be held in the Emerald Ballroom of the Hilton Sandestin Beach and Golf Resort in Destin, Florida on Friday, November 1, 2007 at 10:30 a.m. All members of the Society are cordially invited to attend for the purpose of meeting the Society's Board of Directors and receiving the Society's report on the state of the Society.

The Whine Glass is Half Full

David Nammo
EDITOR-IN-CHIEF

It is work week at my house. Over the past few years, my wife and I have developed a system. Laura packs up the kids and travels to her parents for a week-long visit. Meanwhile, I remain home and do major renovations, tackling the large "to-do" list of chores around the house.

This year has been particularly painful. I have removed 55-year-old heating registers, rebuilt and framed new walls, and negotiated the electrical and structural tasks that are associated with a major renovation. Needless to say, I am tired.

Laura has been calling frequently from South Carolina to ask what I am doing. I finally told her to stop asking because I am taking care of everything that I feel needs to be renovated, including many things above and beyond our original to-do list. She will just have to see for herself when she returns home at the end of the week. And she's even trusting me for the new color of the master bedroom (something not many wives would do).

Meanwhile, I am struggling over every minor detail. I want everything in place and perfect when the family returns, every small piece of moulding and every paint smudge fixed. I especially want my wife to be overwhelmed, amazed and thrilled at the final product when she gets home.

Thankfully, my wife knows how to appreciate my hard work. She will return and fawn over every element upon which I have sweated. She will probably even bring people through the house to see all the new colors and renovations.

As I was painting at about midnight the other night and thinking about being appreciated for the late hours and hard work, I began to realize how I myself do not take time to appreciate the Lord for the amazing blessings He has delivered and continues to deliver every day into my life. We should live each day just overwhelmed at the cost and gift of his crucifixion and resurrection. The details were worked out before the foundations of the Earth were set in place. He fulfilled the covenant promised generations ago and perfectly gave us everything we needed. Our fulfillment should be complete.

It should amaze and humble me that Jesus tore open the fabric of eternity to become a servant, a man who died for my sins by hanging on a cross – the ultimate, eternal project. I am quick, however, to begin looking past that ultimate gift. I have already used it – I know you, Lord, so thanks for that, now let's discuss the latest pressing need in my life. Sometimes, I even whine to the Lord. (Even worse, I see that I have passed that trait onto my children; they have whining to their father down to an art form.)

I realized that instead of living each day in appreciation - overwhelmed by the love and sacrifice of Almighty God - I am instead always looking, even obsessing, about the next thing that I "need" from Him. "Lord, if I can just get that new car…Lord, I really need to make partner…Lord, if I can just get that new job…Lord, if I can get that grade…Lord, I just need to be on law review…Lord, please just this one more thing and I will be happy." Does any of this sound familiar?

I recently reminded my oldest daughter, who wanted to go out and buy the latest Webkinz stuffed animal, of a comment she made about a year ago. Laura and I were debating whether or not to buy an American Girl doll for her. She had said at the time that if we purchased it, it would be all she would ever need. Of course, I goaded her. I even got her to say that she would never ask for another toy ever again. I think it lasted a week.

I see that I am really no different. And praise the Lord for being patient and loving despite the whining.

As a caveat, I know the Lord is in the details and He asks that we bring everything to Him. He even knows our needs before we ask. And for those of you that bring just the "big" things to Him, remember that everything is small to Him. He must look at us and wonder why we don't get it. He did it all. He gave us everything. We need nothing more. His grace is sufficient. Yes, I should pray for my father's cancer. I should pray for my wife and children, their health and protection. Heck, I don't see anything wrong with praying for parking spaces.

Ultimately, it is a matter of appreciation. I need to actively and frequently appreciate and act like I appreciate the Lord and not get bogged down in those momentary irritations (whether an email, family member, co-worker, phone call, or the guy tailgating me). God is good all the time. It is the only thing upon which we can truly rely.

For me, my wife and children are healthy and wonderful. I have a great house and job. My cars work. My children know both sets of their grandparents. We live in a free country where going to church on Sundays is not dangerous. We are surrounded by wonderful friends who know and love the Lord. Thank you, Lord. Thank you, thank you, thank you.

And, Lord, I promise to appreciate you and keep the whining to a minimum… at least for today.

David Nammo is the director of Attorney Ministries and Law Student Ministries for the Christian Legal Society.

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