

# THE CHRISTIAN LAWYER

A PUBLICATION OF THE CHRISTIAN LEGAL SOCIETY

Vol. 7, No 1  
Spring 2011



**50 Years of His-Story at CLS: Part 1**

PAGE 3

**The State of Religious Land Use Planning Law Under RLUIPA**

PAGE 8

**Crimes in America: Too Much of a Good Thing**

PAGE 13

**Due Process and the Privatization of Virtue**

PAGE 16

***Remember Jesus Christ, risen from the dead, the offspring of David,  
as preached in my gospel, for which I am suffering,  
bound with chains as a criminal. But the word of God is not bound!***

**2 Timothy 2:8-9**

Vol. 7, No 1  
Spring 2011

# THE CHRISTIAN LAWYER

A PUBLICATION OF THE CHRISTIAN LEGAL SOCIETY



**50 Years of His-Story at CLS: Part 1**

PAGE 3

**The State of Religious Land Use Planning Law Under RLUIPA**

PAGE 8

**Crimes in America: Too Much of a Good Thing**

PAGE 13

**Due Process and the Privatization of Virtue**

PAGE 16

***Remember Jesus Christ, risen from the dead, the offspring of David,  
as preached in my gospel, for which I am suffering,  
bound with chains as a criminal. But the word of God is not bound!***

**2 Timothy 2:8-9**

NEW PROGRAM IN ETHICS,  
LAW AND SOCIETY

GORDON-CONWELL IS PLEASED TO OFFER A NEW CERTIFICATE PROGRAM IN ETHICS, LAW AND SOCIETY DESIGNED SPECIFICALLY FOR MEMBERS OF THE CHRISTIAN LEGAL SOCIETY. THIS PROGRAM WILL STRENGTHEN YOUR BIBLICAL AND THEOLOGICAL GROUNDING, DEEPEN YOUR UNDERSTANDING OF THE LEGAL PROFESSION IN LIGHT OF YOUR CHRISTIAN FAITH AND PROVIDE OPPORTUNITY TO TRANSFER CREDITS TO A FORMAL SEMINARY DEGREE.

FIND OUT MORE ABOUT:

THE CLS PROGRAM  
[www.gordonconwell.edu/CLSprogram](http://www.gordonconwell.edu/CLSprogram)

GORDON-CONWELL  
[www.gordonconwell.edu](http://www.gordonconwell.edu)

CONTACT NUMBER  
1-800-428-7329

Gordon-Conwell   
Theological Seminary  
HAMILTON | BOSTON | CHARLOTTE | JACKSONVILLE

THINK Theologically | ENGAGE Globally | LIVE Biblically



## IN THIS ISSUE

CLS 50TH  
ANNIVERSARY

2

Letters to the Editor

3

50 Years of His-Story  
at CLS: Part 1  
by CLS Staff

7

From the Executive Director

8

The State of Religious  
Land Use Planning Law  
Under RLUIPA  
by John W. Mauck  
and Amy J. Parrish

10

Christians Should Influence  
Governments for Good  
by Wayne Grudem

13

Crimes in America:  
Too Much of a Good Thing  
by Craig A. Stern

16

Due Process and the  
Privatization of Virtue  
by Eric Bruggink

19

Christian Legal Aid  
Legal Aid Transformations

20

Center for Law and  
Religious Freedom  
The Three Branch Tango  
on Faith-Based Hiring

22

Law Student Ministries  
Law Students on The Road

24

Attorney Ministries  
The Bible is the Inspired  
Word of God

27

Advocates International  
The Next Chapter  
in His-Story

30

Tribute  
The Faithful Life and  
Ministry of Sam Ericsson

## FROM THE PRESIDENT



### A “CHRISTIAN” LEGAL SOCIETY

At our 2010 National Conference, Dr. Don Davis, Founder and Director of World Impact’s Urban Ministry Institute, challenged us to consider whether we of the Christian Legal Society are striving to fulfill our purpose by owning and honoring the name, “Christian.” Dr. Davis suggested three marks of a *Christian* legal society:

1. **Unashamed identification with the person of Jesus Christ;**
2. **Undaunted representation of his Kingdom; and**
3. **Unfailing advocacy of the most vulnerable and neglected.**

We are the Christian Legal Society – that’s our name. Do we bear the marks?

**Unashamed identification with the person of Jesus Christ:** What does this mean? To leave a Bible, and maybe some tracts in our waiting room? To boldly share our witness with clients? All good (if done “with gentleness and respect,” see 1 Peter 3:15), but not enough. Dictionary.com defines “identification” as “a process by which one ascribes to oneself the qualities or characteristics of another person,” or the “perception of another as an extension of oneself.” Identification with the person of Christ, therefore, is more than self-identification as Christian, or witnessing. It is seeking to live as an extension of Jesus Christ, adopting and exemplifying His character. Do we unashamedly love our enemies – even deceptive opposing lawyers? Do we ask the Spirit to give us Jesus’ compassion for unrepentant clients? In short, do we adopt the mind of Christ, in all things?

**Undaunted representation of His Kingdom.** CLS stands firm for the right of all people to worship and to conduct their lives in accord with their religious beliefs. We have zealously defended the rights of the unborn and advocated the traditional, biblical concept of marriage. Is this undaunted representation of His Kingdom? Yes, but I believe our King demands more than zealous advocacy; he demands undivided loyalty. As citizens of the Kingdom of Heaven, we are called to resist the ever-present temptation to align our thinking and our beliefs with any of the world’s kingdoms – the “isms” of the world – be they liberalism or conservatism, individualism or communitarianism, capitalism or socialism. Any such alignment is idolatry. I continue to learn how short I fall in my quest for undivided loyalty.

**Unfailing advocacy of the most vulnerable and neglected.** Of course we advocate for the most vulnerable and neglected – that’s what lawyers do. But who are the most vulnerable and neglected? This may sound reminiscent of the lawyer’s question that prompted Jesus’ story of the good Samaritan, and perhaps we should consider answering in the same way Jesus did. Are we unfailing in our recognition of the most vulnerable and neglected, as viewed through the eyes of Christ, or are we subtly influenced by the world’s philosophies? As just one example, consider the sojourner – the alien. Do we unfailingly advocate for the alien, consistent with the mind of Christ as revealed in the Scriptures, or are our minds more aligned with one political viewpoint or another concerning the “immigration issue”? May we have the mind of Christ, to see the vulnerable and neglected as He sees them.

In my first column as President I posed the question, “CLS: What’s in it for me,” and suggested that the “first thing – the heart of the matter – is the ‘Society’ . . . ‘life together’ with . . . companions on a common journey.” What is this common journey? The vision of CLS is “A growing nationwide fellowship of Christian lawyers and law students who act justly, love mercy, and walk humbly with God.” Perhaps this is simply another way of describing a “Christian” legal society unashamedly identified with Christ, undividedly loyal to His sovereignty, and faithfully advocating for the most vulnerable and neglected He cares about.

We are the *Christian* Legal Society. Let us spur one another on to love and good deeds – living in accord with our name. To that end, I invite your feedback. Call me at (212) 408-1291 or email me at [prathbun@americanbible.org](mailto:prathbun@americanbible.org).

*Pete Rathbun is General Counsel of the American Bible Society in New York City. A CLS member since 1987, Pete and his wife Peggy believe that God has called CLS to serve and influence in the legal profession “for such a time as this.”*

# LETTERS TO THE EDITOR

THE  
CHRISTIAN LAWYER®

Spring 2011, Vol. 7, No. 1

Dear Readers,

As the editor, I would like to get your feedback on this issue and all the forthcoming issues in order to improve it by making it more helpful to the readers. I pray that The Christian Lawyer will be a helpful, practical, and encouraging resource for each of you. I welcome constructive criticism about the magazine as a whole whether the criticism is favorable or unfavorable.

Also, please take advantage of the opportunity to share how the articles were beneficial to you and what new things you learned. The authors spent a considerable amount of time on their articles, and I am sure that it would be encouraging to them to hear what others think about their effort. Selected letters out of all the ones that are received will be included in the "Letters to the Editor" section in forthcoming issues. If I am unable to include all the responses that I receive, I will try to forward them to the appropriate authors in order to make sure that they receive your feedback.

Another resource that I want to make sure that they receive your feedback is the devotionals that CLS emails out twice a month. If you would like to receive these devotionals, please send your email address to [memmin@clsnet.org](mailto:memmin@clsnet.org), and I will be add you to the recipient list.

If you would like to view the past devotionals, they can be found at the CLS homepage ([www.clsnet.org](http://www.clsnet.org)) under the resources tab. Blessings to you all!

Jesus is Lord!  
Brady Tarr, Editor

For by grace you have been saved through faith. And this is not your own doing; it is the gift of God, not a result of works, so that no one may boast. (Eph. 2:8-9)

Dear Editor

Thank you for letting God the Father use you to speak truth to us in love through this devotion (What's Love Got to Do with It? Part 1). I need, we need, to hear the gospel message in order to live the life God has for us in Christ. The gospel is not just for Salvation and then let it sit on the shelf; it is for all life and godliness. Paul testifies this as he addresses the book of Romans to the Roman Christians who have already received the gift of Salvation. Paul says in Romans 1:15: "I am eager to preach the gospel to you who are in Rome."

Thank you for challenging us in love with the gospel. You may want to consider listing some of the comments you receive from lawyers about how God is using the devotions in their lives to encourage other lawyers to read and meditate on the devotions; that God would use the devotions to draw men and women lawyers unto Himself. You have my permission to use my comments as you see fit.

We lawyers desperately need to die to self daily and preach the gospel to ourselves daily if we want to experience the life God has for us. I am praying for you, Brady, that God would continue to open your eyes to greater Wonders in Him each day and that God would keep you in the palm of His hand as you boldly proclaim His precious gospel.

Grace and Peace and Love to you my brother.  
Craig Covrett, [craig@covrettlaw.com](mailto:craig@covrettlaw.com)

## Member Service: E-Devotionals

CLS sends out bi-weekly devotional emails to our members. Written by various CLS members, these E-Devotionals have been well received. If you haven't been getting the devotionals and would like to receive them by email, please make sure that CLS has your most current email address by updating your member profile at [www.clsnet.org](http://www.clsnet.org) or by emailing us at [memmin@clsnet.org](mailto:memmin@clsnet.org).

The Christian Lawyer welcomes letters, comments and suggestions from our readers. We'd like to hear how God is moving in your life, law practice, CLS chapter or law school. Letters may be edited to suit the format of the magazine. Mail to: Editor, Christian Legal Society, P.O. Box 98000, Washington, DC 20090-8000 or e-mail your submissions to [memmin@clsnet.org](mailto:memmin@clsnet.org).

Editor in Chief & Publisher  
Brady Tarr

Design & Production  
Custom Designers, Inc.

Editorial Office  
The Christian Lawyer  
Christian Legal Society  
P.O. Box 98000  
Washington, DC 20090-8000

Editorial E-Mail:  
[btarr@clsnet.org](mailto:btarr@clsnet.org)

Advertising Office  
Christian Legal Society  
P.O. Box 98000  
Washington, DC 20090-8000  
Email: [btarr@clsnet.org](mailto:btarr@clsnet.org)

Advertising in *The Christian Lawyer* does not imply editorial endorsement.

Opinions expressed in *The Christian Lawyer* are solely the responsibility of the authors and are not necessarily those of the editors or members of the Christian Legal Society.

### Manuscript Policy

We encourage the submission of article and story ideas by our readers. For a copy of our editorial guidelines, please write or send an e-mail to the editor. Unsolicited manuscripts and poetry are not accepted. A query letter must be sent first to [editor@clsnet.org](mailto:editor@clsnet.org) describing a proposed manuscript. Any unsolicited manuscripts will not be returned.



CHRISTIAN  
LEGAL SOCIETY

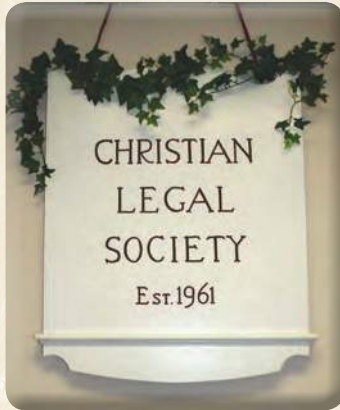
The Christian Lawyer is a publication of:  
Christian Legal Society  
P.O. Box 98000  
Washington, DC 20090-8000  
Main Office: 855.CLS.9800 (855.257.9800)  
Fax: 855.CLS.9801 (855.257.9801)

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

© Copyright 2011. The Christian Legal Society. All rights reserved.

# GREAT IS HIS FAITHFULNESS:

## 50 YEARS OF “HIS-STORY” AT CLS: PART I



Compiled by CLS Staff, past and present with much help from CLS' members and friends

*Because of the LORD'S great love we are not consumed, for his compassions never fail. They are new every morning; Great is His faithfulness.*

LAMENTATIONS 3:22-23

**I**t all began with a late-night conversation in 1959, when Paul Barnard and Henry Luke Brinks talked about the need for a national association of Christian lawyers. Former Wheaton College classmates, Barnard, a law professor at Stetson University, St. Petersburg, Florida, and Brinks, an attorney in the Chicago firm of Bryon, Hume, Groen and Clement, had arrived independently at the same conclusion: Christian lawyers had no network for sharing their problems and finding fellowship. Pastors and church groups did not know how to locate Christian lawyers who were willing and able to offer legal counsel from a Christian perspective. Christian doctors had the Christian Medical Society to assist them to integrate their faith and profession, so why not form a Christian “legal society?”

Barnard sent out “a flock of letters” to friends, friends of friends and other people he thought might be interested. Meanwhile, in Chicago, Brinks and his uncle, Gerrit P. Groen, also a Chicago attorney, began meeting monthly with several other Christian lawyers for lunch and fellowship. Whenever possible, Barnard would fly in from Florida to join them. While most of the names have changed, this original Chicago “Loop Group” continues to meet monthly today.

Having established this base, and knowing from Barnard's mail survey that substantial national interest existed in a Christian legal society, the time-consuming task of incorporation began. The founding “Chicago chapter” filed the Articles of Incorporation for the Christian Legal Society on October 19, 1961. On February 3, 1962 CLS held its first Board of Directors meeting, at which time the first CLS by-laws were adopted.

The five original purposes of the Christian Legal Society, as stated in the formal paperwork, were remarkably similar to the nine purposes now listed in CLS' current Vision and Mission Statement:

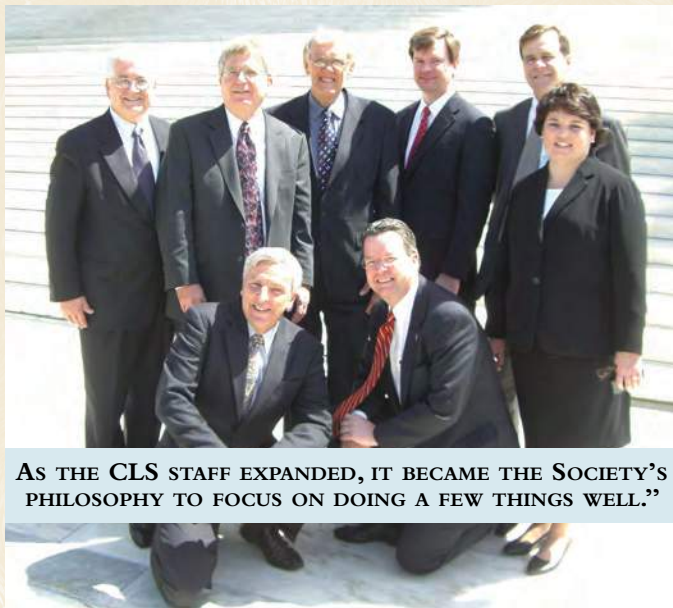
- ◆ To provide a means of society among Christian lawyers
- ◆ To clarify and promote the concept of the Christian lawyer.
- ◆ To encourage and aid deserving young students in preparing for the legal profession.
- ◆ To provide a forum for the discussion of problems relating to Christianity and law.
- ◆ To cooperate with bar associations and other organizations in asserting and maintaining high standards of legal ethics.

Eager to move forward, CLS launched its first membership drive in June 1962. Within weeks, the organization had 40 charter members, and President Barnard had organized the first CLS annual meeting.

Glenn Winters, executive director of the well-respected American Judicature Society and CLS President from 1964–1966, recalls, “Only a handful attended that historic gathering in the Fairmont Hotel, but it was sufficient to elect a nation-wide board of directors and start the infant organization on its way.” Addressing three couples (including one couple who were on their honeymoon, Mr. and Mrs. William “Skeeter” Ellis) and two Winters outlined an impressive vision for CLS. He challenged each person present to do their part “to enable CLS to provide fellowship for Christian attorneys; to serve as a witness to the legal profession; and to present a platform from which Christian attorneys could speak as a united voice on social, moral and ethical issues.”

And as Gerrit Groen, who was elected the new CLS President during the meeting, reported in his September 1962 newsletter, the tone of the first CLS annual meeting on August

*Continued on page 4.*



**AS THE CLS STAFF EXPANDED, IT BECAME THE SOCIETY'S PHILOSOPHY TO FOCUS ON DOING A FEW THINGS WELL."**

Row 1: Fred Potter, CLS Executive Director 2009–Present; Sam Casey, CLS Executive Director 1994–2008; Row 2: Michael Woodruff – CLRF Director 1985–1990, Michael McConnell argued CLS v. Martinez, Sam Ericsson – CLRF Director 1980–1985 & CLS Executive Director 1985–1991, Greg Baylor CLRF Director 2001–2009, Steve McFarland CLRF Director 1990–1999, and Kim Colby, CLRF Senior Counsel 2009–Present (Center staff since 1981)

7, 1962 set a precedent for love and high standards of care that still exist within CLS today:

*The first annual meeting at San Francisco is history - we trust, significant history. Although attendance was small, it was enthusiastic and eager. Members and wives represented Florida, Texas, Illinois, Michigan, Washington and California. The Sunday evening devotions and dinner and the Tuesday business sessions were conducted in an atmosphere and style measuring up to the finest traditions of Bar Association groups. That is as it should be. Our cause and our purpose are second to none.*

## The Birth Announcement

Further encouragement came from the wide use of a news release announcing CLS' birth. Distributed to both religious and legal media, the release resulted in both critical and appreciative coverage. Religious publications such as *The Banner* commented that CLS "could give leadership in facing a good many problems that a Christian deals with and talks about these days" (February 8, 1963), but the dominant attitude of the organized bar was less receptive.

Notably, *Christianity Today* quoted Maurice Brooks, president of the Abilene (Texas) Bar Association, as saying, "Religious beliefs have nothing to do with the legal profession" (February 1, 1963).

The "birth announcement" also brought membership inquiries. Under President Groen, CLS grew to 100 members and established local chapters in Chicago, Dallas and Seattle.

To facilitate the formation of these chapters and of chapters in other strategic cities, CLS elected a national council (board of directors) with representatives spread from New Jersey to Illinois to California. Appropriately, Groen called these chapters "the building blocks of CLS," reporting that "a regularly scheduled, once-a-month luncheon meeting...is proving to be a simple, effective and enjoyable format."

Although today the format for CLS fellowship varies from small early morning weekly prayer groups to the annual national and regional conferences, the biblical principle of "not forsaking the meeting together, but encouraging one another in love and good works" continues to work well in the more than 40 attorney and 100 law student chapters across the country that are now affiliated or becoming affiliated with CLS.

Modeling its ministry after that of the Christian Medical and Dental Society, in 1962 and 1963 CLS also began student chapters at the University of Michigan, Northwestern (Illinois), Stetson (Florida) and Harvard (Massachusetts).

In 1964, under the leadership of George Newitt, CLS instituted its first publication, *The Christian Lawyer*, in the form of a four-page newsletter that was written produced and mimeographed by George himself and usually included a short leading article dealing with some phase of political science, philosophy or law, which in George's words, "would be of peculiar interest to Christians who were lawyers." Beginning in 1968 and continuing through 1979, *The Christian Lawyer*, in the words of CLS President J.C. Berghoff, was "changed into a small-size professional journal of interest to thinking Christian folk generally, but of peculiar interest in addition to lawyers, to ministers, teachers and students, in school and out, of matters in the fields of law, political science and philosophy."

From 1963 through 1970, Presidents Jacob Stam, Glenn Winters, J.C. Berghoff and Harold S. Irwin, Sr. laid important groundwork for future accomplishments. Difficulties encountered during this period, which Berghoff describes as one of "scratching and scraping" also enabled CLS to define its mission more accurately.

## A Question of Name

One of the first obstacles the Society had to overcome was caused by its up-front name, which occasionally caused CLS to be falsely called an anti-Semitic group. To alleviate this problem, the Board determined to change the name to the Greenleaf Legal Society - a proposal that was overwhelmingly voted down by CLS members. President Jacob Stam's explanation of why the Board thought such a change would be beneficial provides some interesting insight into the social dynamics of the turbulent 1960s where the word "Christian", then as now, had picked up some unfortunately pejorative meanings:

*It was with some misgiving that the first Board of Directors chose and used the name "Christian Legal Society" on a trial basis. It was chosen for want of a better alternative at the time. Some, and perhaps many, have jumped to the conclusion that this name has the same connotation as the real estate development sign that says "Christian Community which really means "Jews, keep out of our real estate development" and which has nothing to do with the sacred and theological definition of the word "Christian."*

Simon Greenleaf, author of *The Testimony of the Evangelists*, a book that uses the rules of evidence to establish the credibility of the Scriptures, was one of Harvard University's most renowned professors. By renaming CLS after Greenleaf, the Board felt they could clarify the Society's intent:

*We believe that this will awaken an interest and promote questions that will give the opportunity to furnish information and give testimony, and unlike the old name, will not cause a curtain to drop between us and*

**‘RELIGIOUS PUBLICATIONS SUCH AS *THE BANNER* COMMENTED THAT CLS ‘COULD GIVE LEADERSHIP IN FACING A GOOD MANY PROBLEMS THAT A CHRISTIAN DEALS WITH AND TALKS ABOUT THESE DAYS’ (FEBRUARY 8, 1963)’**

*those whom we want most to reach with the gospel of Christ.*

While CLS did not change its name, today it is well-regarded and highly respected by all faith communities in the United States, particularly the Jewish community, as one of the nation’s most experienced defenders of religious freedom for all Americans.

### The 1970s

The 1970s were a decade of significant growth for CLS. Membership skyrocketed to 2,000, paid staff grew from two to twelve people, CLS’ Center for Law and Religious Freedom and its Christian Conciliation Service (now Peacemaker Ministries’ Institute for Christian Conciliation) were formed, and William H. “Skeeter” Ellis, who served as president from 1971-1974, generated contagious enthusiasm about the organization.

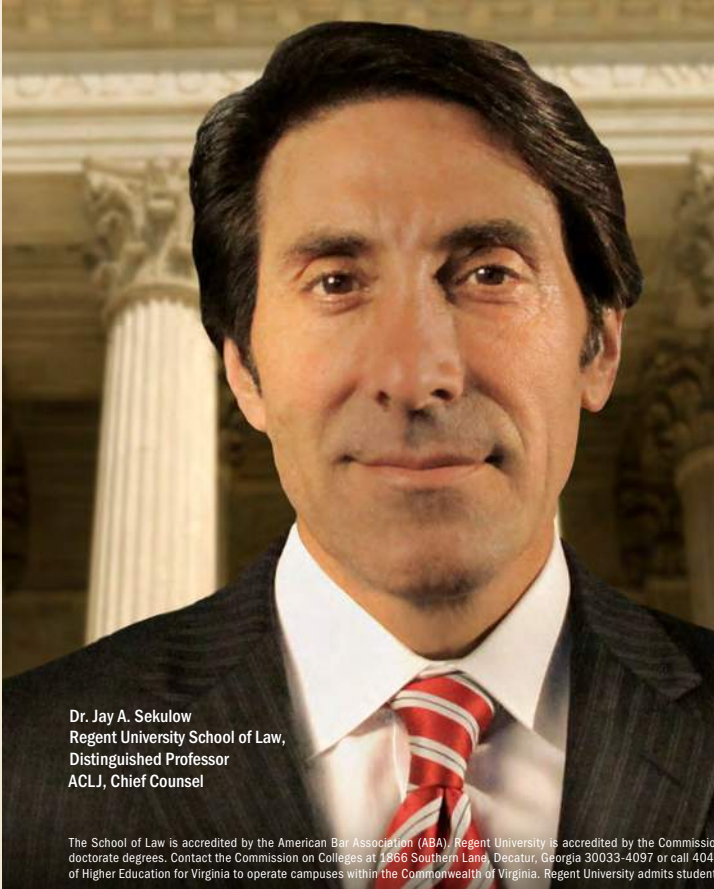
One person Ellis brought to the Society, Lynn Buzzard, filled the role of CLS’ first and longest-serving executive director, from 1971 though 1985. According to Ellis, “Lynn Buzzard was the Northwest regional director of the Christian Medical Society

(CMS) and the executive editor of CMS’ publications. He and I started meeting for breakfast. One of his earliest comments was that we needed to begin publishing a newsletter and to hire a full-time staff to help equip members to reach out to their colleagues.”

Heeding the advice, Ellis and his mother-in-law, Juanita Woodruff, started the *Cross and Quill*, CLS’ first regular newsletter, published from 1971 to 1975.<sup>1</sup> An explanatory note from Editor George Newitt read, “CLS is beginning to move. Increasingly we are beginning to meet, to pray together, to fellowship together, to think about the critical issues, which we face as we seek to relate our profession to our faith. And as we can encourage one other and read of each others efforts, it will challenge all of us.”

Before long, Ellis was also convinced of the validity of Buzzard’s suggestion calling for a professional staff. Expressing his frustration, Ellis wrote in *Cross and Quill*, “In my few months as your president, it has become absolutely clear that just the correspondence alone is more than can be properly handled by a

*Continued on page 6.*




**“YOU CAN STUDY CONSTITUTIONAL RIGHTS IN AN ENVIRONMENT THAT SUCCESSFULLY DEFENDS THEM.”**

– Dr. Jay A. Sekulow

Regent School of Law’s passion for the law and the Christian principles upon which the law was founded goes beyond the classroom. In 2009, it went to the Supreme Court in a successful First Amendment case led by Dr. Jay Sekulow, Chief Counsel for the American Center for Law and Justice (ACLJ) and Regent professor. The ACLJ offers our students training in the critical work of a leading public interest law firm. We’re ready to equip you. Learn more today.

Call 877.267.5072 | [www.regent.edu/law](http://www.regent.edu/law)

Announcing the Center for Global Justice:  
[www.regent.edu/globaljustice](http://www.regent.edu/globaljustice)



The School of Law is accredited by the American Bar Association (ABA). Regent University is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to award associates, baccalaureate, masters, and doctorate degrees. Contact the Commission on Colleges at 1866 Southern Lane, Decatur, Georgia 30033-4097 or call 404.679.4500 for questions about the accreditation of Regent University. Regent University is certified by the State Council of Higher Education for Virginia to operate campuses within the Commonwealth of Virginia. Regent University admits students without discrimination on the basis of race, color, disability, gender, religion, or national or ethnic origin. LAW100415



lawyer in private practice.”

Soon afterwards, CLS arranged to hire Buzzard for 25 percent of his time, an arrangement that went to half time, three-quarters, and ultimately full-time in 1979. Today CLS and CMS (now called the Christian Medical Associations) continue to co-sponsor bio-ethical conferences, stand together in opposition to physician-assisted suicide and destructive human embryo research, and assist each other in a multitude of other ways. We have both found that good things happen when “Luke” (the doctor) and Paul (the lawyer) work together.

When Buzzard, an editor, pastor and educator came on board, CLS felt the impact. With humor, Ellis recalls one of the earliest examples of the changes Buzzard brought about:

*I remember Lynn getting up in the board meeting and asking, “Do you have a budget?” We admitted that we did not, but that we had maybe spent \$6,000 to \$10,000 that year. So Lynn got up and wrote a budget on the blackboard as the board developed it. It came out to be \$25,000.*

Under Buzzard’s leadership, CLS membership grew, particularly through students. Following CMS’ pattern of inviting practitioners to attend the Saturday evening session of a weekend student conference, CLS used a generous bequest from former President Jacob Stam to sponsor a law student conference in California in 1974.

The first mention of CLS’ law student ministries in CLS’ publications occurred in Volume 1 of the CLS *Quarterly* (January 1980) where we learn, among other things, that:

*“Valparaiso University Law School Chapter was founded in 1975 by David J. Allen, now a Chicago attorney, nine people signed a simple charter and began to meet for prayer and sharing over pot luck dinners....”*

We also learn that law students and what they are concerned about has not changed as much as we may think:

*“A crowd of 45 enthusiastic, witty talented law students descended upon a pastoral conference center in southern Wisconsin in October 1979...After imitating ducks, sheep and anteaters and pantomiming widgets and slot machines during Thursday evening ice-breakers, coordinator Brent Amato led a full and challenging program of speakers, small group sharing and recreation.... CLS Executive Director Lynn Buzzard did his usual outstanding talk on the CLS...vision, as well as inspiring devotionals, and a talk about his recent law school experience on the “Hazards of Law School.”... Several attorneys took time out of busy schedules to spend a day or afternoon with the group.*

During Bob Toms’ tenure as CLS President, CLS had a “growth spurt” from 700 to nearly 2,000 members. He was particularly instrumental in increasing memberships from California, the state that today continues to have one of the largest CLS delegations. One of those he interested in CLS was Herbert E. Ellingwood, who was later appointed Special Counsel to President Reagan. Ellingwood served as CLS President from 1976–1978, combining his extensive traveling with recruiting law students for CLS chapters.

In 1976, CLS established the Center for Law and Religious Freedom (CLRF) at the urging of Christopher Hall, a California attorney. Hall saw the need for Christian lawyers to be better equipped to defend our religious liberties, which are threatened by an increasingly secularized society. Now more than 25 years

after its founding, CLRF is the well-established advocacy arm of CLS not only in the church/state arena, but also in the struggle to protect the sanctity of human life.

Of equal significance was the founding of the Christian Conciliation Service (CCS) in 1979 as an outreach of CLS that has attracted the attention of pastors and lay leaders across the nation. Substantially developed under the leadership of C. Fred Cassity, who served as CLS President from 1984–1985, CCS developed the biblical theology, training and voluntary mediation/arbitration procedures needed to equip lawyers and non-lawyers to bring justice and reconciliation to parties at conflict within their churches and communities without the need of litigation.

Today this ministry, now known as Peacemaker Ministries ([www.Hispeace.org](http://www.Hispeace.org)), continues stronger than ever under the leadership of CLS member and former CLS Board member Ken Sande. For purposes of maintaining the integrity of this ministry, CLS and Peacemaker Ministries adhere to a common pledge known as the “*Peacemakers Pledge*” and maintain a strategic partnership known as “*Partners in Peacemaking.*”

## The 1980s

In October 1980, CLS entered a new era when the Board, under the able leadership of Julius (Jay) Poppinga of Newark, New Jersey, hired three lawyers to assist Executive Director Lynn Buzzard. Samuel Ericsson (later to be known as “First Samuel”), a former trial lawyer and partner with a major Las Angeles law firm, was hired to open CLS’ CLRF office in Washington, D.C., and to be special counsel to the CLRF.

With this new field staff, CLS saw its ministries multiply and its national budget grow nearly three-fold between 1980 and 1982. Christian conciliation programs were planted in over a dozen cities, and the impact of the Center for Law and Religious Freedom began to spread as several highly competent lawyers joined the staff in Washington, D.C.

As the CLS staff expanded, it became the Society’s philosophy to focus on doing a few things well. Thus, the Center for Law and Religious Freedom focused on a few key issues considered to be at the core of the secularization process that is seriously eroding religious freedom in the public arena. A prime focus of the Center became religious speech rights, particularly the equal access issue.

During the 1980s, CLS’ in-house journals also grew. The *Quarterly* replaced *The Christian Lawyer* as the lead CLS publication, and in 1981, CLS launched the *Religious Freedom Reporter*, a journal providing accurate information on church/state issues. By 1986, the *Religious Freedom Reporter* (RFR) was on the shelves of most law school libraries in the United States. The RFR ceased publication in May 2002 since the information it provided became available online. The *Quarterly* again became *The Christian Lawyer* in the Fall of 1998, and is now published in hard copy (*The Christian Lawyer*) and for a short time was available in audiotape versions (*The Christian Lawyer Digest*).

TO BE CONTINUED . . .

1 CLS’ regular newsletters have been called the *Cross and the Quill* (1971–1975), the *Briefly* (1976–1998), and the *Christian Lawyer* (1998 to 2004)

# Executive Director Musings: On Quarks, Quirks and Quips

By Fred L. Potter



## ACKNOWLEDGEMENTS

THE UNIVERSE HAS A DESIGN, and so does a book. But unlike the universe, a book does not appear spontaneously from nothing. A book requires a creator . . .

—Stephen Hawking and Leonard Mlodinow, *The Grand Design*, p. 187.

**“THE FOOL SAYS IN HIS  
HEART, “THERE IS NO GOD.””**

**PSALM 14:1**

The dust cover of Stephen Hawking’s latest book<sup>1</sup> describes it as “a succinct, startlingly, and lavishly illustrated guide to discoveries that are . . . threatening some of our most cherished belief systems. . .” Hardly so! This “guide to discoveries” could more accurately be described as a “collection of theories,” the sum total of which threatens nothing. Even other self-identifying scientific naturalists find that Dr. Hawking’s remarkable artistry with words does not advance the God/no-God debate at all. To Hawking’s credit, he makes no such claim in the book itself, but simply concludes that he has no personal need to call upon God for what he lays out as “The Apparent Miracle” of the conditions supporting human life. Ironically the above brief extract from his acknowledgements belies even that notion. Hawking’s miracle chapter has done as much as anything that I have read over the last year, apart from the Bible itself, to reinforce my belief in the Judeo-Christian God of the Bible as the creator/sustainer of the universe.



Manifold quirks of the universe (“lucky” coincidences for Hawking) necessary to sustain life are so improbable that Hawking speculates that billions of universes exist in order to reach his personal conclusion that planet earth is not so remarkable after all. With literary sleight of hand, Hawking lumps the Judeo-Christian concept of God with multiple non-Christian concepts about the physical universe, which from our 21st Century perspective, he deems worthy of derision. In contrast to those quips at which Hawking pokes fun is the trustworthy revelation of Scripture that the universe was created out of nothing – exactly the proposition which some scientists a mere century ago would have dismissed as foolishness, but which Hawking now celebrates. And then, there is life itself. As I held my hours-old fourth grandson recently, I was struck by how truly remarkable, infinite and, yet, personal is the God we serve. The Christian message is, indeed, Good News!

Reflecting on our call as Christian lawyers to imitate God’s qualities of justice and mercy, both locally and globally, renews my passion for CLS’s work of “*Seeking Justice with the Love of God.*” Serving Haitian immigrants working in Dominican Republic sugar cane fields recently with my wife, Mertie, reminded me that, although we enjoy God’s common grace and beauty,



we do not all enjoy His justice, for which we naturally long. The young man pictured as he transports a tiny part of the one ton cut sugar cane required for a total \$1 harvester’s wage does not share, humanly speaking, any of the opportunities ahead for my newborn grandson. Our medical missions team could relieve this teenager of his physical pain for a short while, but much work remains to open the door of a just society to him. Let’s pursue our shared purpose with renewed vigor, inspired by deepened appreciation for our creator/sustainer God and love for his Son, our Lord Jesus Christ.

<sup>1</sup> Unlike Paul Miller’s *A Praying Life*, commended in my last article, *The Grand Design* is not a book I recommend to members generally for reading. Though interesting for its craftsmanship, it seems to be of only elementary value as the philosophical piece it is and of doubtful, if any, value on the scientific front it purports to represent.

**“AS I LIVE, SAYS THE LORD, EVERY KNEE SHALL BOW TO ME, AND EVERY TONGUE SHALL CONFESS TO GOD.” SO THEN EACH OF US WILL GIVE AN ACCOUNT OF HIMSELF TO GOD.**

**ROMANS 14:11-12**

# The State of Religious Land Use Planning Law Under RLUIPA

By John W. Mauck & Amy J. Parrish  
Mauck & Baker, LLC

**‘THE SITUATION IN *FORTRESS BIBLE CHURCH* POINTS TO THE POSSIBILITY OF SUING CITY OFFICIALS, SUCH AS MAYORS, ZONING BOARD MEMBERS, AND BUILDING COMMISSIONERS, IN THEIR INDIVIDUAL CAPACITIES (RATHER THAN THEIR OFFICIAL CAPACITIES) FOR VIOLATION OF CIVIL RIGHTS.’**

**A**lthough Kingdom First Church in Atlanta, Georgia, had rented a former union hall to use as its church home, its parishioners were meeting for worship in an office building lobby on Sunday mornings. Business people from the surrounding offices were using the lobby to come in and out of the building, using the elevator, and walking through or past the congregation trying to worship. Why? Atlanta denied Kingdom First Special Permission to use the former union hall for worship because it did not generate income for the city. Many other churches in the U.S. are facing similar situations. As a result of burdensome, exclusionary or discriminatory zoning codes, some receive just days notice to vacate their buildings, or are never given clearance to use the buildings which they have purchased or leased. These zoning codes cause some congregations to worship elsewhere or to close their doors indefinitely.

As a Christian lawyer or member of a church board, at some point you will likely be asked to advise a church regarding zoning. Particularly for the lawyer who does not regularly practice in the area, it is easy to get caught up in a municipality's tactics of delay and expense. Jesus told his disciples, "I am sending you out like sheep among wolves. Therefore, be as shrewd as snakes and as innocent as doves" (Matthew 10:16). That is why we would like to update you on the current state of litigation under The Religious Land Use and Institutionalized Act of 2000, 2 U.S.C. 2000cc, et seq. ("RLUIPA").

RLUIPA, conceived, written and lobbied for by CLS and CLS members, was passed by a unanimous vote of both Houses of Congress and signed into law on September 22, 2000. Congress passed this law in response to its finding that land use is one area where state and local governments improperly impose substantial burdens on religious liberty because of the wide discretion municipalities had created for themselves in granting and denying permits for land use. Specifically, Congressional hearings revealed that many localities were using facially neutral zoning laws to exclude religious groups from operating in commercial areas.

In November of 2007, Kingdom First bought the union hall in Atlanta to use for worship, churches were a permitted use at that location. However in December of 2007, Pastor Gibbons

was told that the property had been rezoned to a Special Interest District, and the church would have to apply for a Special Use Permit. When Kingdom First met with the neighborhood group which would recommend approval or denial of the special use, it was told that it needed to change its use to an income generating use or face denial. The neighbors wanted a "Starbucks," not a church! In October of 2008, Kingdom First sued in federal court, claiming a violation of equal treatment under RLUIPA because the ordinance freely permitted clubs and lodges, museums, art galleries and libraries, theatres, offices, studios, business or commercial schools, childcare centers and kindergartens, and private and public schools, but not churches. The City of Atlanta quickly agreed to a consent order allowing Kingdom First back into its building, and later changed its zoning law to treat churches the same as other assembly uses.

Power of Praise Worship Center Church in Dixmoor, Illinois, illustrates a situation where a municipality imposed a "substantial burden" on a church in violation of RLUIPA. Power of Praise began leasing a storefront in Dixmoor in November of 2009 for use as a church. Although the Village Trustees told the church it could worship pending code inspections, the church continued to be told by the Building Inspector and Code Enforcement Officer that the property was not zoned for a church use, and that Power of Praise would have to vacate or face fines. In addition, the Village refused to disclose the Zoning Code to the church, thus making it impossible to determine if it was complying with the code or not. Facing no other options, the church left its building in February of 2010. In August of 2010, Power of Praise filed for a Temporary Restraining Order and Preliminary Injunction, and the city quickly settled, allowing it back in its building to freely worship once again.

Many of these cases can be resolved by informing the municipality of RLUIPA and obtaining a Temporary Restraining Order and/or Preliminary Injunction. However, when litigation is extended, courts around the country are starting to allow big judgments against municipalities under RLUIPA Section 4(a), which provides for "appropriate relief" against governments that violate the statute. A court awarded a church \$1,252,327 in attorneys' fees and \$89,664 in expenses incurred in a RLU-



Kingdom First, Atlanta, Georgia



Power of Praise Worship Center, Dixmoor, Illinois

IPA case in Colorado in 2010. *Rocky Mountain Christian Church v. Board of County Commissioners of Boulder County*, 2010 U.S. Dist. LEXIS 8273 (D. Co., Jan. 11, 2010; affirmed by 10th Circuit May 17, 2010). In Maryland, a jury awarded damages of \$3,714,822.36 for violations of RLUIPA substantial burden and the Equal Protection Clause. *Reaching Hearts Int'l, Inc. v. Prince George's County*, 584 F. Supp. 2d 766 (D. Md., Nov. 4, 2008). In addition, courts have spoken generally about how damages can be assessed against municipalities. *Chase v. City of Portsmouth*, 428 F. Supp. 2d 487 (E.D. Va. 2006) (damages can be assessed against the city itself if a plaintiff can tie them to a cognizable loss for violations of RLUIPA, Free Exercise Clause and Equal Protection Clause); *Maranatha High School v. City of Sierra Madre*, 2003 WL 25338413 (C.D. Cal., Mar. 12, 2003) (damages relating to the out of pocket expenses for “design” and “architectural” fees, and other fees charged by the city are considered “appropriate relief” under RLUIPA).

Furthermore, courts can also find that churches are entitled to compensatory damages under 42 U.S.C. § 1983 even if they are not entitled to monetary damages under RLUIPA. *Fortress Bible Church v. Feiner*, 2010 U.S. Dist. LEXIS 82043 (S.D.N.Y. Aug. 11, 2010). *Fortress Bible Church* details the lengthy saga of the Town of Greenburgh doing everything possible to delay a church’s locating in the town. The judge issued a 200 page excoriation of the tactics the town used and laid bare its deceptions. The court found that the church was entitled to increased construction costs as a result of delays, increased traffic improvement costs as a result of delays, reimbursement for unnecessary environmental study fees, consultant’s fees, attorneys’ fees, and costs. In addition, the court ordered \$10,000 in sanctions against the Town of Greenburgh for destruction of evidence and disregarding discovery obligations.

Given some courts’ recognition of RLUIPA and the growing trend to offer monetary damages that will shake up the zoning establishment, where is land use law headed in the future? We know that municipalities will no longer be able to claim ignorance of the law, since RLUIPA has been around for ten years. The situation in *Fortress Bible Church* points to the possibility of suing city officials, such as mayors, zoning board members, and building commissioners, in their individual capacities (rather than their official capacities) for violation of civil rights. This would mirror a suit against a police officer under the 4th Amendment for an illegal search or seizure, and may provide plaintiffs with the public accountability they seek if they succeed on the merits. It may affect a popular election if officials are sanc-

tioned for violating federal laws protecting a local constituency.

The scope of RLUIPA is expanding as the Second Circuit recently read it to allow a for-profit catering business with a functioning, but financially needy, church because the municipality allowed similar businesses in a hotel and in a cooperative apartment. (*Third Church of Christ, Scientist v. New York City*, 08-6022cv, Second Circuit, Dec. 2010).

Another emerging question is whether a church has associational standing to assert its members’ rights to monetary damages for a violation of their free exercise. Typically, there needs to be individual participation in the suit in order to recover free exercise damages. However in *Church of Scientology v. Cazares*, 638 F.2d 1272 (5th Cir. Fla. 1981), the court found that the church did have associational standing because the church members’ free exercise was intertwined with the services and facilities of the church, and that the actions complained of uniformly affected the entire membership. Until the associational standing issue is clarified further, we are recommending that churches ask their members to donate their free exercise claims to the church corporation and assign to it their right of action. Hopefully, obtaining large damage and attorney fee awards under RLUIPA will result in fewer lawsuits and fairer zoning codes as municipal insurers educate their insured concerning the law.

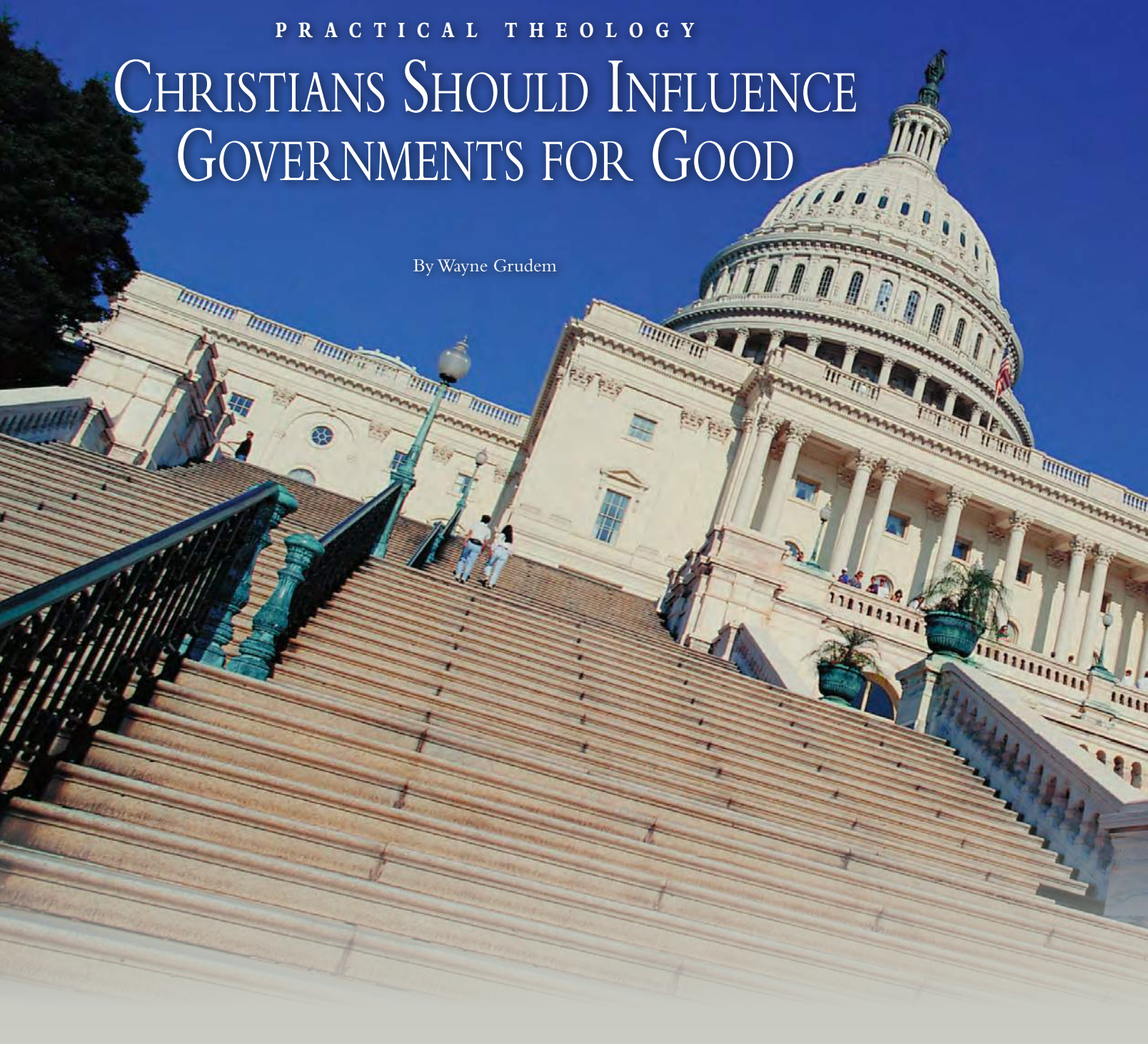
In conclusion, land use law is expanding under RLUIPA to allow churches to have worthwhile claims against municipalities that exclude or substantially burden them contrary to their members’ civil rights. It is important to remember the command, “if it is possible, as far as it depends on you, live at peace with everyone” (Romans 12:18). There is no need to demonize municipalities. Instead, we need to remember that, with RLUIPA in place, both the government and religious groups have an incentive to explore opportunities that will allow localities to protect legitimate interests in neighborhood character and quality of life, while allowing religious assemblies to fulfill their missions.



*John W. Mauck and Amy J. Parrish practice with the Chicago law firm of Mauck & Baker, LLC. [www.mauckbaker.com](http://www.mauckbaker.com). Mr. Mauck has been practicing law since 1972, and his firm focuses on religious land use, nonprofit, and church law. Mrs. Parrish has been practicing law since 2005, and has served as a board member of the Northern Illinois Chapter of Christian Legal Society.*

# CHRISTIANS SHOULD INFLUENCE GOVERNMENTS FOR GOOD

By Wayne Grudem



Should Christians seek to influence laws and governments based on the moral standards of God as taught in the Bible? Several examples from the Old Testament, the New Testament, and church history argue that Christians have a biblical responsibility to seek to influence governments for good.

## Old Testament Examples

In the Old Testament, the Jewish prophet Daniel told the secular Babylonian king Nebuchadnezzar, “*Break off your sins by practicing righteousness, and your iniquities by showing mercy to the oppressed, that there may perhaps be a lengthening of your pros-*

*perity*” (Daniel 4:27). At that time Daniel was “ruler over the whole province of Babylon” and “chief prefect over all the wise men of Babylon” (Dan. 2:48). He was regularly “at the king’s court” (Dan. 2:49). Therefore it seems that Daniel had a significant advisory role to this secular king and frequently spoke to him about God’s wisdom concerning government policies.

The counsel that Jeremiah proclaimed to the Jewish exiles in Babylon supports this idea: Jeremiah told the Jewish exiles, “*Seek the welfare of the city where I have sent you into exile, and pray to the Lord on its behalf, for in its welfare you will find your welfare*” (Jer. 29:7). But seeking the “welfare” of Babylon must

have included seeking to bring good to the secular government (just as Daniel did). The true “welfare” of any secular city will be advanced through governmental laws and policies that are consistent with God’s teaching in the Bible, not by those that are contrary the Bible’s teachings.

Other believers in God had high positions of governmental influence in non-Jewish nations. In Egypt, Joseph was the highest official after Pharaoh the king (see Gen. 41:37-45; 42:6; 45:8-9, 26). In Persia, Nehemiah was “cupbearer to the king” (Neh. 1:11), a position of high responsibility before King Artaxerxes. Queen Esther had significant influence on the decisions of King Ahasuerus of Persia (see Est. 5:1-8; 7:1-6; 8:3-13; 9:12-15, 29-32), and her uncle Mordecai “was second in rank to King Ahasuerus” (Est. 10:3, see also 9:4).

In addition, several passages in the Old Testament prophets address the sins of foreign nations around Israel: see Isaiah 13-23; Jeremiah 46-51; Ezekiel 25-32; Amos 1-2; Obadiah (addressed to Edom); Jonah (sent to Nineveh); Nahum (addressed to Nineveh); Habakkuk 2; Zephaniah 2. These prophets could speak to nations outside of Israel because the God who is revealed in the Bible is the God of *all peoples* and *all nations* of the earth, and they will one day stand before him in judgment. Therefore the moral standards of God as revealed in the Bible are the moral standards to which God will hold all people accountable, and this includes the way people conduct themselves in government offices.

## New Testament Examples

From the New Testament, one example of influencing a secular government is John the Baptist:

[John the Baptist] preached good news to the people. But Herod the tetrarch, who had been reproved by him for Herodias, his brother’s wife, *and for all the evil things that Herod had done*, added this to them all, that he locked up John in prison (Luke 3:18-20).

Certainly “all the evil things that Herod had done” included many evil actions that Herod had carried out as a governing official in the Roman Empire. John the Baptist rebuked him *for all of them!* He boldly spoke to an official of the Roman Empire about the moral right and wrong of this Roman official’s policies.

So did the apostle Paul. When he was on trial before the Roman governor Felix, “he reasoned about righteousness and self-control and the coming judgment,” but “Felix was alarmed and said, ‘Go away for the present. When I get an opportunity I will summon you.’” (Acts 24:25).

Paul no doubt had told Felix that he would be accountable for his actions as governor at “the coming judgment,” and this was what led Felix to be “alarmed.” When Luke tells us that Paul “reasoned” with Felix about these things, the word (a present participle of Greek *dialegomai*) indicates a back-and-forth conversation or discussion. It is not difficult to suppose that Felix asked Paul, “What about this decision that I made? What about this policy?” It would be an artificial restriction on the meaning of the text to suppose that Paul *only* spoke with Felix about his “private” life and not about his actions as a Roman governor. Paul is an excellent example of attempting to exercise “significant Christian influence” on civil government.

**‘IN ENGLAND, WILLIAM WILBERFORCE, A DEVOUT CHRISTIAN, LED THE SUCCESSFUL EFFORT TO ABOLISH THE SLAVE TRADE AND THEN SLAVERY ITSELF THROUGHOUT THE BRITISH EMPIRE BY 1840...’**

Therefore if we as Christians today attempt to bring Christian influence to bear on civil governments, we have many positive examples in the Bible, including Joseph, Daniel, Nehemiah, Esther, and Mordecai in the Old Testament. We also have the written prophecies of Isaiah, Jeremiah, Ezekiel, Amos, Obadiah, Jonah, Nahum, Habakkuk, and Zephaniah. And in the New Testament we have the courageous examples of both John the Baptist and the apostle Paul. Such influences on governments are not minor examples in obscure portions of the Bible but are found in Old Testament history from Genesis all the way to Esther (the last historical book), and in the canonical writing prophets from Isaiah to Zephaniah, and in the New Testament in both the gospels and the epistles. And those are just the examples of God’s servants bringing “significant influence” to *pagan* kings who gave no allegiance to the God of Israel or to Jesus in the New Testament times.

If we add to this list the many stories of Old Testament prophets bringing counsel, encouragement, and rebuke to the good and evil kings of *Israel*, then we would include the histories of all the kings and the writings of all the prophets – nearly every book of the Old Testament. We could also add in several passages from Psalms and Proverbs that speak of good and evil rulers. Influencing government for good on the basis of the wisdom found in God’s own words is a theme that runs through the entire Bible.

But there is more. There are *specific Bible passages that teach about government*, and this is an argument for Christian influence on government. Why do we think God put Romans 13:1-7 and 1 Peter 2:13-14 and other related passages (such as in Psalms and Proverbs) in the Bible? Are they in the Bible simply as a matter of intellectual curiosity for Christians who will read them privately but never use them to speak to government officials about how God understands their roles and responsibilities? Does God intend this material to be *concealed* from people in government and *kept secret* by Christians who can just read it and silently moan about “how far government has strayed from what God wants it to be”?

Certainly God put these passages there not only to inform Christians about how *they* should relate to civil government, but also in order that *people with governmental responsibilities* could know what God himself expects from them. This also pertains to other passages in the Bible that instruct us about God’s moral standards, about the nature and purpose of human beings made in God’s image, and about God’s purposes for the earth. All of these teachings are relevant for those who serve in governmental office.

*Continued on page 12*



### Examples from the History of the Church

As for church history, we must readily admit that the church made some mistakes, sometimes very harmful ones, especially as it forgot Jesus’ teaching about the distinction about “the things that are Caesar’s” and “the things that are God’s” (Matt. 22:21). When it forgot this distinction, the church too often failed to protect people’s freedom of religion and fell into the mistake of thinking that the government should try to “compel religion,” which contradicts the Bible’s emphasis on personal freedom of choice to believe in God or not. But in spite of these mistakes, there are many examples of excellent results that came from significant Christian influence on governments.

Historian Alvin Schmidt points out how the spread of Christianity and Christian influence on government was primarily responsible for outlawing infanticide, child abandonment, and abortion in the Roman Empire, in A.D. 374 (see Alvin Schmidt, *How Christianity Changed the World* (Zondervan, 2004), pp. 51, 53, 59). Christian influence also led to outlawing the gladiatorial contests in which thousands of gladiators had died, in 404 (p. 63), and to granting of property rights and other protections to women (p. 111), banning polygamy (p. 115), prohibiting the burning alive of widows in India (in 1829) (p. 116–117), and outlawing the painful and crippling practice of binding young women’s feet in China (in 1912) (p. 119).

Christians have also had a decisive influence in opposing and often abolishing slavery in the Roman empire, in Ireland, and in most of Europe (pp. 274–276). In England, William Wilberforce, a devout Christian, led the successful effort to abolish the slave trade and then slavery itself throughout the British Empire by 1840 (pp. 276–278).

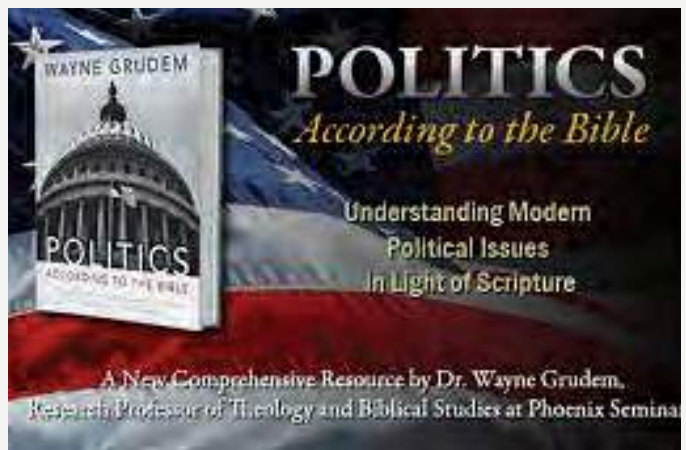
In the United States, though there were vocal defenders of slavery among Christians in the South, they decisively lost the argument, for they were vastly outnumbered by the many Christians who were ardent abolitionists, speaking, writing, and agitat-

ing constantly for the abolition of slavery in the United States. Schmidt notes that two-thirds of the abolitionists in the U.S. in the mid-1830s were Christian clergymen (p. 279). The American Civil Rights movement that resulted in the outlawing of racial segregation and discrimination was led by Martin Luther King, Jr., a Christian pastor, and supported by many Christian churches and groups (pp. 287–289).

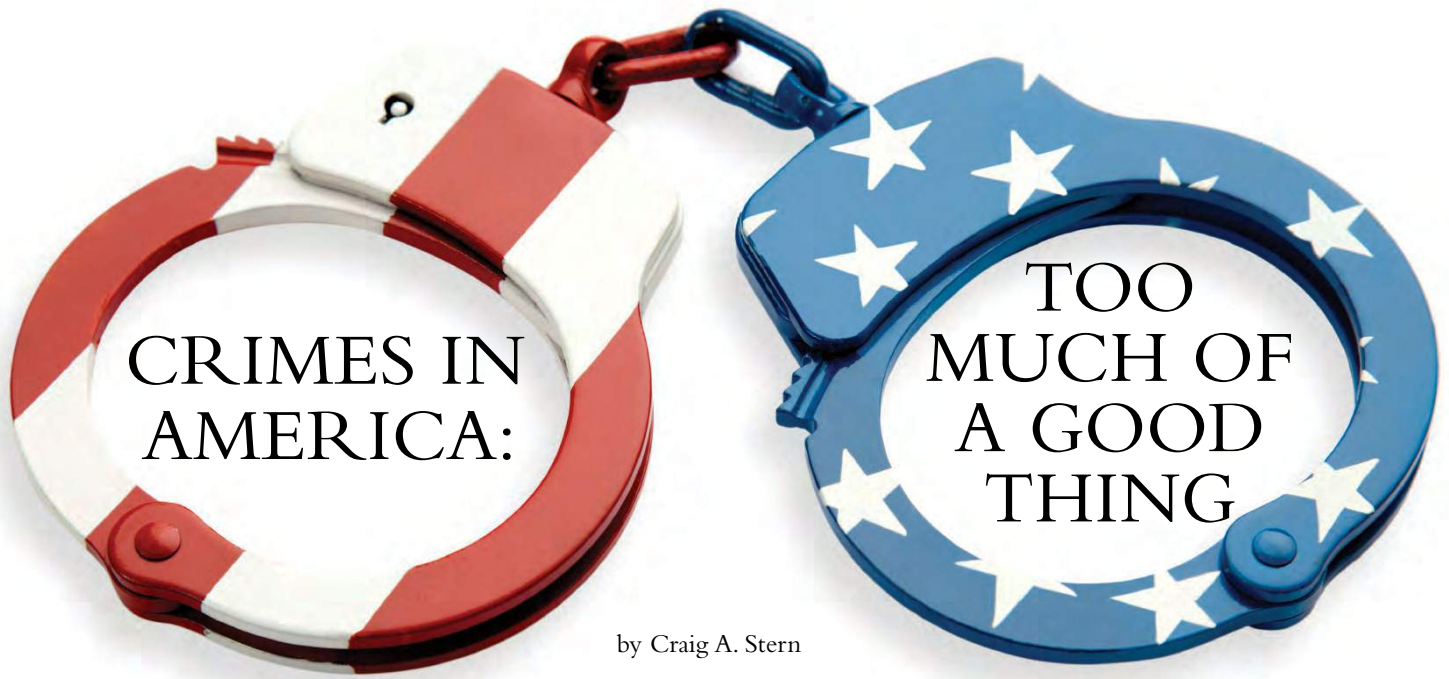
If Christians had adopted a mistaken view that they should just do the “spiritual” work of evangelism and avoid the world of politics and laws, they never would have brought about these changes in human governments. But these changes did happen because Christians realized that if they could influence laws and governments for good, they would be obeying the command of their Lord, “Let your light shine before others, so that they *may see your good works* and give glory to your Father who is in heaven” (Matt. 5:16). They influenced governments for good because they knew that “we are his workmanship, created in Christ Jesus *for good works*, which God prepared beforehand, that we should walk in them” (Eph. 2:10).

Therefore, the Old Testament, the New Testament, and the history of the church give significant evidence showing that Christians have a biblical responsibility to seek to influence governments for good. But sometimes Christians have held mistaken ideas about how this should be done. In a subsequent article, I hope to warn against five mistakes that have been made regarding Christian influence on government.

The views and theology that are expressed in this article are those of Wayne Grudem and should not necessarily be understood to the views and theology of the Christian Legal Society.



Wayne Grudem is Research Professor of Theology and Biblical Studies at Phoenix Seminary in Phoenix, Arizona. He is a graduate of Harvard (B.A.), Westminster Seminary- Philadelphia (M.Div.), and the University of Cambridge (Ph.D.). This material is adapted from his recent book *Politics – According to the Bible: A Comprehensive Resource for Understanding Modern Political Issues in Light of Scripture* (Zondervan, 2010).



by Craig A. Stern

**C**rime is a problem in America. So is criminal justice. Many have pointed to victims of crime ill-treated by criminal justice, defendants ill supplied with counsel, and prisons more scandalous than the crimes that keep them overfull. Among those, many have been Christians whose witness as Christians includes a call to justice in our system of criminal justice. Other defects in that system must be evident to lawyers practicing criminal law.

The defects in American criminal law itself are more fundamental than the defects in the workings of American criminal justice. The most fundamental defects in the law are the ones that affect the very purpose and scope of the criminal law.

Christians must first look at some of the general biblical principles for criminal law. The authority and model for criminal law, as for all civil government, begins with *Genesis* 9:6: “Whoso sheddeth man’s blood, by man shall his blood be shed: for in the image of God made he man.” This epitome describes a response to wrongdoing identical to the wrong done. An offense demands a like response.

Elsewhere the Lord God specified for the Israelites what this epitome means. For homicide, some killings led to capital punishment. Others led to exile. The distinction between the two sets of killings rests upon the state of mind of the killers: Killers to be punished capitally killed with a more culpable mind.<sup>1</sup> The thing taken from the victim should not be the only consideration, but also the quality of the act of taking was to figure into what a just punishment would be. Therefore, the response to a killing was to reflect the criminal mind and not only the criminal act. It was the evil will expressed in the act, and not just its harm, that signaled the appropriate return. The shedding of blood that deserves the shedding of blood in return is a shedding of blood with a guilty mind.

The New Testament also teaches that civil punishment is apportioned to evil will. For example, *Romans* 13:1–6:

Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same: For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye must needs be subject, not only for wrath, but also for conscience sake. For for this cause pay ye tribute also: for they are God’s ministers, attending continually upon this very thing.

Rulers mete out punishment in administering for God wrath on the doing of evil.<sup>2</sup> The doing of evil comes from the heart.<sup>3</sup> Then, for an act to be truly classify as evil, the heart must have contributed an evil will. Even respecting civil laws at some distance from primary moral obligation, enactments detailing wrongs that theretofore were matters morally indifferent, civil government punishes their breach as a moral fault.<sup>4</sup> Done well, this ministry of punishing the fruit of an evil will should yield peace and quiet.<sup>5</sup> The teaching of the New Testament corresponds with that of the Old in emphasizing the significance of the evil will when the civil government punishes evil acts.<sup>6</sup>

So the Bible presents civil government as punishing with an eye towards requiting evils according to the will behind them. It is a good thing that civil government treats (appropriate) wrongs as crimes. In this sense, crimes—the catalogue of offenses civil government stands ready to avenge—are a good thing.

*Continued on page 14*





**‘THE MORE CRIMINAL LAW  
 PRESCINDS FROM MORALITY  
 IN SWEEPING MORE BROADLY, THE  
 MORE IT BECOMES A TOOL FOR  
 POWER INSTEAD OF JUSTICE.’**

But there can be too much of a good thing. If the catalogue of offenses civil government stands ready to avenge is so large as to include incidents that are not truly moral evils, incidents that need not be products of evil will, then the catalogue is too large to fit within a biblical description of the ministry of criminal punishment.

To be sure, there are at least two elephants in the room where folks discuss the reach of criminal law. The first stands for the question of the reach of civil government altogether. (What sins are crimes, and what matters may civil government reach with its authority to outlaw otherwise (relatively) indifferent doings?) The second stands for the related question of the nature of human law. (Is human law fundamentally an instrument shaped by humans to achieve ends selected by humans, or is it fundamentally a normative order that reflects and applies another normative order more transcendent and authoritative than humans themselves can produce?<sup>7</sup>) But avoiding these elephants, what of American criminal law in light of the biblical description?

First is the sheer number of defined offenses, and especially federal offenses. As might be expected, most of these offenses have but slight connection to immorality; they largely punish *mala prohibita*, wrongs having been prohibited. Without the defining clarity that moral sensibility can lend, and enlarging the vast rank of like offenses, the promulgation of these offenses scarcely supplies the predicate for a moral fault in violating them.<sup>8</sup> If the necessary moral fault for breach of *mala prohibita* lies in failing to submit appropriately to a human institution, the laws produced by that institution must signal what that submission entails. How criminal can it be to violate norms themselves both morally neutral and too obscure to communicate a duty to behave a certain way?

Clearer still is the problem posed by vicarious liability, including corporate liability. This category of criminal liability has burgeoned, again probably most in the realm of federal law. Vicarious liability holds one person criminally liable for the crimes of another. Sometimes the law requires of a defendant his own criminal act and criminal mind to work this vicarious liability, as in cases of complicity and conspiracy. But other times there is really no such requirement. And in cases of corporate vicarious liability, *respondet superior* is available to render corporations guilty whenever any employee violates the law in hopes of furthering a corporate end.<sup>9</sup> It is difficult to square with a biblical description of criminal justice the punishing of one person for what really are the wrongs only of another. Especially so, perhaps, when the entity punished can act at all only through others, and can in no way harbor a will of any sort. When a civil government imposes such vicarious criminal liability, it is doing something other than administering for God wrath on a doer of evil.

A third questionable enlargement of the reach of criminal law deals directly with the element of the criminal mind in the definition of offenses. Looking again especially at federal criminal law, more and more offenses, especially *mala prohibita* offenses, lack any significant requirement that the prosecution prove a guilty mind.<sup>10</sup> Criminal law that minimizes or eliminates the significance of the criminal mind is unlikely to reflect a biblical description of the role of civil government in criminal law. A

criminal law that punishes without regard to the state of mind of the actor is unlikely to impose a punishment appropriate to the evil of the crime. To punish acts without such regard is to punish too much.

These three features of contemporary American criminal law mark a departure from a biblical description of criminal justice. Proliferation of *mala prohibita*, expansive vicarious liability, and offenses defined without much regard to the criminal mind, all breach the principles of *Genesis* 9:6 and *Romans* 13:1-6. But the departure from a biblical description of criminal justice does not end here. A system of criminal justice untethered to a biblical description of criminal justice departs from the biblical description of justice generally. The more criminal law prescind from morality in sweeping more broadly, the more it becomes a tool for power instead of justice. This conclusion follows if only from the consequence that so many can be shown to have violated the criminal law.<sup>11</sup> Because prosecution of all offenders is impossible, the situation invites ulterior purposes leading to violating the biblical injunction, “Ye shall not respect persons in judgment.”<sup>12</sup>

In some fundamental respects, American criminal justice has departed from a biblical description of criminal justice. Consequently, the law has overextended the range of criminal liability. It is good that civil government punishes crimes. But there can be too much of a good thing.<sup>1</sup>

#### REFERENCES:

- 1 See *Exodus* 21; *Numbers* 35; *Deuteronomy* 19; *Joshua* 20; see also Craig A. Stern, *Torah and Murder: The Cities of Refuge and Anglo-American Law*, 35 VAL. U. L. REV. 461 (2001).
- 2 Of course, it is not every evil that rulers punish. In fact, the Bible teaches that the sort of evil that gentile civil government punishes is that falling within the epitome of *Genesis* 9:6.
- 3 *Matthew* 15; *Mark* 7.
- 4 *I Peter* 2:11-17.
- 5 *I Timothy* 2:1-4.
- 6 A distinct and explicit category of criminal as opposed to civil liability is unknown to the Bible. Nevertheless, passages like those on the penalty for homicide, and like the mention of the sword in *Romans* 13:1-6, suggest a system of punitive responses from civil government calibrated to suit especially evil wrongs, taking into account the evil quality of the will manifested in those wrongs.
- 7 See MICHAEL P. SCHUTT, *REDEEMING LAW* (2007).
- 8 See Harvey A. Silvergate, *Federal Criminal Law: Punishing Bona Fide Intentions—A Betrayal of Professor Hart’s Admonition to Prosecute Only the Blameworthy*, in *IN THE NAME OF JUSTICE* 65 (Timothy Lynch ed., 2009).
- 9 See Gregory L. Diskant, *Rethinking Corporate Criminal Liability*, LITIG., Winter 2008, at 5.
- 10 See BRIAN WALSH & TIFFANY M. JOSLYN, *WITHOUT INTENT: HOW CONGRESS IS ERODING THE CRIMINAL INTENT REQUIREMENT IN FEDERAL LAW* (2010).
- 11 See Alex Kozinski & Misha Tseytlin, *You’re (Probably) a Federal Criminal*, in *IN THE NAME OF JUSTICE*, *supra* note 8, at 43.
- 12 *Deuteronomy* 1:17a.



Professor Craig Stern worked in the criminal law as subcommittee counsel with the United States Senate Committee on the Judiciary, and briefly as a federal prosecutor. He teaches criminal law at the Regent University School of Law.



# DUE PROCESS AND THE PRIVATIZATION OF VIRTUE

by Eric Bruggink

Peter Kreeft has written that modern western civilization is the first in human history to deny the existence of objective moral truths: “The most radically new feature of our civilization is not technology, its powerful new means, but the lack of an end, a *summum bonum*—we are the first civilization that does not know why we exist.”<sup>1</sup> Earlier civilizations adopted what he refers to, borrowing from C.S. Lewis, as a “Tao,” a phrase by which he and Lewis meant a collective belief in certain natural moral principles. The modern western mind, however, is eager to be shed of the idea that such truths exist. The consequences, Kreeft believes, are obvious; it is no coincidence that the Twentieth Century has been called the century of genocide.

I recalled Kreeft’s comment, as well as Lewis’ essay, “The Abolition of Man,” when reading the debate between Justices Antonin Scalia and John Paul Stevens in *McDonald v. City of Chicago*, 561 U.S. \_\_\_, 130 S. Ct. 3020, 3054 (2010). By a vote of five to four, the Court ruled that the Second Amendment right to bear arms was incorporated into the 14th Amendment’s due process protections applicable to the states. Justice Scalia wrote a concurring opinion which was largely a response to a dissent by Justice Stevens. The two sharply frame an argument over the role of judges in a democracy, whether “due process” should be tethered to historical understandings, and over Scalia’s concern that the clause ultimately becomes a device to neutralize morals legislation.

Justice Scalia contends for a historically-grounded construction of due process, and asserts that the “subjective nature of Justice Stevens’ standard is . . . apparent from his claim that it is the courts’ prerogative—indeed their duty—to update the Due Process Clause so that it encompasses new freedoms the Framers were too narrow-minded to imagine . . .” *Id.* at 3051. Steven’s approach therefore “does nothing to stop a judge from arriving at any conclusion he sets out to reach.” *Id.* at 3054. Justice Stevens, while denying any usurpation of power, nevertheless concedes that “the liberty safeguarded by

the Fourteenth Amendment is not merely preservative in nature but rather is a ‘dynamic concept.’” *Id.* at 3098. The clause must be seen, in his view, as having an intentionally open texture and as granting interpretive discretion to judges to facilitate its urgent call to justice. *Id.* at 3099. Justice Stevens is willing, for that reason, to look beyond the United States to give content to the Constitution: “it is silly—indeed, arrogant—to think we have nothing to learn about liberty from the billions of people beyond our borders.” *Id.* at 3111.

An earlier example of this long-running argument can be found in the Supreme Court’s decision in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) concerning laws adopted by Pennsylvania to limit the availability of abortion. In the process of striking down these laws as inconsistent with the due process clause, the Court had some very telling things to say, including the following in the plurality opinion by O’Connor, Kennedy and Souter: “Some of us as individuals find abortion offensive to our most basic principles of morality.” Basic principles of morality, in other words, were insufficient to sustain the laws. Instead, the Court struck down most of the restrictions for the following reasons:

These matters [referring to abortion], involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.

*Casey*, 505 U.S. at 851. The state, in short, can do nothing to infringe on individual autonomy, even if a majority finds those actions offend basic principles of morality.

*Casey* was cited as controlling in *Lawrence v. Texas*, 539 U.S. 558 (2003), which struck down Texas’ sodomy laws. One might question the wisdom of enforcement of such laws, but rather

than leaving that problem to the democratic branches, the Court made it clear that it is willing to use the due process clause to block majoritarian notions of morality. The Court did an inventory of the “Nation’s laws and traditions in the past half century” and concluded that they “show an emerging awareness that liberty gives substantial protection to adult persons in deciding how to conduct their private lives in matters pertaining to sex.” *Id.* at 572. Texas, presumably, had not noticed the trend or had declined to get in line with this emerging awareness.

Justice Scalia expressed his concerns, not just as to the holding, but also as to the Court’s self-invitation to monitor evolving trends as a way of determining the meaning of the due process clause. He viewed the decision in *Lawrence* as opening the door for targeting any number of “morals laws”: “The law is constantly based on notions of morality, and if all laws representing essentially moral choices are to be invalidated under the Due Process Clause, the courts will be very busy indeed.” *Id.* It is easy to project that restrictions on cloning, gay marriage, or

secularists’ view, disagreements about the important decisions in life, concerning procreation, death, marriage, and so on, should be antiseptically adjudicated by professionals, applying reason without the hyperventilation prompted by unresolvable moral claims.

One of the key principles of Enlightenment progressivism is that notions of *telos*, or purpose, and virtue cannot be verified in the material world. For the secularist, there is no other world. Hence, societies can only organize themselves around rational, scientific principles, which exclude the possibility of transcendent or revealed truth. Individuals, of course, can choose to engage in such speculations but banding together to impose them on others is impermissible. Consequently, virtue, purpose, and morality are confined to the arena of personal preference.

Of course, this approach only appears to be neutral. In fact, it is hostile to the idea that there are truths which transcend positive law and which a culture ignores at its peril.

A view into the future is afforded by a recent panel decision

## ‘STEVEN’S APPROACH THEREFORE “DOES NOTHING TO STOP A JUDGE FROM ARRIVING AT ANY CONCLUSION HE SETS OUT TO REACH.”’

euthanasia eventually will be subject to the same infirmity found in *Lawrence*.

I draw a connection between the increasing secularization of civic space identified by Kreeft and Lewis and this debate between Justices Scalia and Stevens. Obviously the push to privatize traditional morality dates back to the Enlightenment, but my hypothesis is that the trend has accelerated in the United States (traditionally more conservative than Europe) because of the extent to which we increasingly rely on law to serve as a unifying theme in a culture which is rapidly shedding other centripetal forces. America has always faced divisions in terms of geography, religion, culture and even language. Law has served as a critical binder. Thus we have chosen to defer to the judgment of nine justices to resolve the thorniest and most basic issues of life. I suspect this willingness is precisely because of a fear of division in a country which, from the outset, has been more of a mixture than a compound.

As the country has become more multi-cultural and multi-religious, official support for the softer restraints imposed by traditional non-governmental institutions—family, church and community organizations—have become suspect and have certainly lost much of a presumption of support from the formal tools of governing. A wager has been made that satisfying individual appetites is a safer way to preserve unity than encouraging traditional institutions. Competing truth claims thus are resolved by the Court, and the unmistakable trend has been increasing toward freedom for the individual and less deference to group-based morality claims.

This trend is seen by many merely as the application of reason and reasonableness, a way to finally overcome the messy, often competing, claims of believers. If religion were consigned to the purely private areas of life, many would applaud. In the

by High Court of England and Wales<sup>2</sup> in *Johns v. Derby City Council*, [2011] EWHC 375 (Admin). The court, in deciding that a couple were unfit to serve as foster parents because their Christian beliefs prevented them from endorsing homosexuality, announced that the “aphorism that ‘Christianity is part of the common law of England’ is mere rhetoric.” *Id.* para [39]. It endorsed instead the following statement from an earlier opinion:

“[I]n the eye of everyone save the believer, religious faith is necessarily subjective, being incommunicable by any kind of proof or evidence. It may, of course, be true, but the ascertainment of such a truth lies beyond the means by which laws are made in a reasonable society. Therefore it lies only in the heart of the believer who is alone bound by it; no one else is or can be so bound, unless by his own free choice he accepts its claims.”

*Id.* para [55] (quoting *McFarlane v. Relate Avon Ltd.* [2010] EWCA Civ 880 para [21]).

Presumably such decisions would be seen as a model drawn from “the experience of other advanced democracies, including those that share our British heritage.” *MacDonald*, 130 S. Ct. at 3110 (Stevens, J. dissenting). In my view, it illustrates the frightening prospect of the trajectory offered by the modern secular state: nominal freedom of expression for the autonomous individual, a hollowed out community life devoid of critical values or ends traceable to traditional religious mores, and a necessarily omnipresent government, virtually coextensive with the edges of human activity. The conduit in the United States appears to be the Due Process Clause, a dynamo at the heart of constitutional interpretation, simultaneously attracting highly contro-

*Continued on page 18*

## ‘CHRISTIANITY LEAVES NO ROOM FOR COMPETING GODS OR THE ABSENCE OF GOD.’

verted social questions to the courts and tilting their resolution in favor of more personal autonomy and weakened informal authority structures.

The Christian world view is fundamentally at odds with this scenario. Most religions and indeed secularism itself share this common feature: they make exclusive and ultimately contradictory claims about the origins of truth. Christianity leaves no room for competing gods or the absence of God. And its claims extend to the four corners of creation and human behavior. The existence of God, in other words, dictates, or should dictate, the way believers approach all of life, including how they participate in the public arena.

Secularists, who leave no room for the transcendent, understand this, of course, and it no doubt animates much of the effort to turn religious values into private preferences. The explosion of Islamic fundamentalism no doubt has given further urgency to the perceived need to bracket the effects of religion in the west.

With religiously-based morality excluded from the civic arena, and virtue made a purely private concern, there can be no legitimate appeal to an “ought,” other than that derived from positive law. Decision making is thus reduced to raw power. As John Paul II observed, “A democracy without values easily turns into open or thinly disguised totalitarianism.”<sup>3</sup> A society which turns loose the individual and weakens traditional mechanisms of restraint will soon be faced with no binding force except force itself. Edmund Burke rightly noted, “Society cannot exist, unless a controlling power upon will and appetite be placed somewhere; and the less of it there is within, the more there must be without.”<sup>4</sup>

Both the problem thus presented and the call to the church were elegantly summed up by Lesslie Newbigin:

A missionary encounter with our culture must bring us face to face with the central citadel of our culture, which is the belief that is based on the immense achievements of the scientific method and, to a limited increasing extent, embodied in our political, economic and social practice—the belief that the real world . . . is to be understood in terms of efficient causes and not of final causes, a world that is not governed by an intelligible purpose, and thus a world in which the answer to the question of what is good has to be left to the private opinion of each individual and cannot be included in the body of accepted facts that control public life.<sup>5</sup>

What will become of a culture which willfully ignores truth merely because it is religiously grounded? This uniquely western delusion that indiscriminate toleration of competing ideas is rationally compelled or is universally endorsed will turn out to be neither. Quite the contrary. It is irrational and widely despised.

The notion of compartmentalization of our lives between the sacred and secular, uncritically accepted by most Christians, is fundamentally inconsistent with the truth claims of the gospel. In cultures in which government is not antithetical to prevailing views of morality, citizens are not faced with stark choices. Not so in the future of the west. The Church, then, will be confronted more and more with a false god. As Newbigin explains:

Who then has the infinite duty to honor the infinite claims of every person to the pursuit of happiness? The answer of the eighteenth century and of those who have followed it is familiar: the nation state. The nation state has replaced the church as the centerpiece in the post-Enlightenment ordering of society.<sup>6</sup>

Nothing short of cultural reawakening, triggered by the church’s rediscovery of its prophetic role, will alter the outcome.

### REFERENCES

- 1 Peter Kreeft, *Darkness at Noon: the Eclipse of Permanent Things*, in *Permanent Things* 196, 207 (Andrew Tadie & Michael MacDonald eds., Eerdmans, 1995).
- 2 Despite its name, this court is in fact an intermediate appellate court in the United Kingdom’s judicial system.
- 3 Letter from Pope John Paul II to the distinguished participants in the Fiftieth National Prayer Breakfast (Jan. 29, 2000).
- 4 Edmund Burke, A Letter to a Member of the National Assembly in *The Works of the Right Honorable Edmund Burke*, vol. 4 at 52 (rev. ed. 1866).
- 5 Lesslie Newbigin, *Foolishness to the Greeks: The Gospel and Western Culture* 79 (1996).
- 6 *Id.* at 26.



Eric Bruggink is a Senior Judge of the United States Court of Federal Claims. He received both his B.A. and M.A. from Auburn University and earned his J.D. from the University of Alabama School of Law. He previously served as Director, Office of Appeals Counsel of the U.S. Merit Systems Protection, practiced law in Alabama, and served as a law clerk to Chief Judge Frank H. McFadden of the Northern District of Alabama. Judge Bruggink is married and has two adult sons. The views expressed here are solely those of the author and do not represent the court, its members, or the United States.



## Legal Aid Transformations

By Dean Jim Rosenblatt

One of my favorite words is “transformation.” I can recall when my boys were growing up how they would delight in their Transformer toys. With a twist here and a push there the toy would take on an entirely new appearance.

During my later years in military service, our command led an effort to transform the Army. The environment in which the Army operated in the Cold War had changed. The new environment produced a non-linear battlefield that was fluid and constantly changing. This new environment called for a different Army. The Army would transform with different equipment, a new doctrine, and revised training.

I have watched our Mission First Legal Aid Office also engage in transformation. We operate this office in conjunction with the community and faith based Mission First organization. The office



the situation they faced. It may have been the termination of benefits, eviction from their residence, or the seemingly impossible adoption of a grandchild. Clients were transformed through this process. Not only did they have a burden and a weight lifted from their shoulders when a problem was

they can use their legal skills and training in a way that helps others. The tears of joy, the hugs of appreciation, and the simple thank you notes that follow the resolution of a legal issue transform the hearts of these legal providers. The satisfaction gained from this work reaffirms their legal calling and offers a transforming sense of purpose and worth.

Likewise our law students are transformed early in their legal education. They acquire a sense of service that will follow them into their legal careers. These students are transformed in a way that lets them see the common elements of humanity that connect us all and that make us special beings in this creation.

As Paul said in his letter to the Corinthians (2 Corinthians 3:18), “We . . . are being transformed into his likeness with ever-increasing glory which comes from the Lord, who is the Spirit.”

I recall attending my first CLS

**‘MANY OF THE ATTORNEYS ARE SURPRISED BY THE SENSE OF ACCOMPLISHMENT THEY GET FROM INTERACTING WITH REAL FOLKS WITH REAL PROBLEMS FOR WHICH THEY CAN OFFER REAL SOLUTIONS.’**

has been transformed from one with a single attorney to a robust organization with a Director, two staff attorneys, and a paralegal complemented by a cohort of over 200 volunteer attorneys and a host of law student externs and volunteers. The increase in personnel, the expansion of the office space, and the expanding client base have transformed the office so that it looks very different than at its founding five years ago.

On the most visible level our Legal Aid Director Patti Gandy and her staff have transformed lives. Countless examples can be listed of folks who came to this office for help when they were overcome with

solved, but they were transformed in their relationship with others. They developed a sense of being loved and cared for. They acquired an additional element of their humanness that might have been worn away through the friction of life.

The most compelling transformation comes to the volunteer attorneys and students who work with these clients. Many of these attorneys are surprised by the sense of accomplishment they get from interacting with real folks with real problems for which they can offer real solutions. They connect with clients in a way they cannot with large corporate clients. These attorneys see firsthand how

Conference and talking with others about how to establish a legal aid office. Through the collective efforts and contributions of many in our community this dream has become a reality. Our Mission First Legal Aid Office will continue to transform the receivers and the providers of legal services.



*Jim Rosenblatt has served as the dean of Mississippi College School of Law in Jackson, Mississippi since August 2003.*

*He is a graduate of Vanderbilt University and Cornell Law School and served for 30 years as a Judge Advocate officer in the US Army.*



## The Three Branch Tango on Faith-Based Hiring

By Kim Colby

**M**ay the government penalize a faith-based ministry for hiring employees who share its faith?

Not that long ago, the question had an obvious answer. Of course not. Americans shared a common — and common sense — understanding that faith-based ministries *were* faith-based *because* their employees and volunteers shared their particular faith. Rather than condemning such behavior, civic society welcomed the participation of churches, synagogues, and other faith groups in helping care for individuals, here and abroad, who were poor, sick, or otherwise in need.

### Four Societal Changes Jeopardized Faith-Based Providers' Hiring Rights

But in the mid-twentieth century, four trends combined to diminish the public's appreciation for the magnitude of services provided by faith-based groups and for their need to maintain their faith identities through faith-based hiring.

Perhaps most obviously, in the 1960s, the government vastly expanded its provision of an array of social services. The government either directly provided the services through its own employees or funded private groups' delivery of services through their own employees.

Simultaneously, many in the legal and educational elites propounded the view that the religious component of social services was unnecessary — indeed, perhaps even a hindrance — to the efficacy of the social services provided. This one-size-fits-all mentality refused to acknowledge that persons often respond better to programs that address personal issues from a spiritual perspective.

The extreme separationist mentality that characterized the Supreme Court's

Establishment Clause jurisprudence in the 1970s both proceeded from and reinforced this elitist predilection. The judiciary adopted a hypersensitive interpretation of the Establishment Clause that myopically focused on the religious identity of the provider rather than the broader societal need for the services being provided. As a result, the government often discriminated against religious providers in allocating funding among private social services providers.

In the 1990s, the separationist jurisprudence gave way to an Establishment Clause jurisprudence of “neutrality,” which again allowed government funding to religious social service providers on an equal basis with secular service providers. But the elite's tactics simply switched and slapped the label of “discriminators” on faith-based service providers who required their employees to agree with their animating religious beliefs. As a shield to maintain the religious pluralism long prized by Americans, nondiscrimination policies were enacted to protect religious groups from discriminatory exclusion. Suddenly, nondiscrimination policies became a sword threatening to exclude religious groups from equal participation with secular social providers.

Certainly racial discrimination has been the pervasive sin throughout American history, making understandable the knee-jerk reaction that *any* “discrimination” is a bad thing. But history and common sense teach that faith groups' practice of hiring employees who share their faith is not unconstitutional discrimination but instead lies at the core of religious liberty, a fundamental right protected — not prohibited — by the Constitution.

Now in 2011, to counter these four trends, the religious community must pur-

posefully articulate why it is *not* discrimination for a religious group to choose employees to staff its religious mission. Besides serving the constitutional goal of religious liberty, it serves the constitutional goal of religious equality. Nonreligious social service providers are free to hire employees who will advance their mission — and religious providers must be free to do the same. Religious equality among different denominations, a critical Establishment Clause purpose, is also served. While some religious groups may have no qualms about hiring employees of other faiths, other religious groups strongly believe that their staffing decisions are central to their religious identity.

### President Clinton and President Bush Welcomed Faith-Based Providers

For the past fifteen years, the issue of faith-based ministries' hiring rights has been center stage. In the 1990s, CLS and other religious liberty groups assisted Congress in passing legislation to allow faith-based providers to compete for federal funding on an equal basis with other private social services providers in certain government programs. Indeed, the Clinton Administration came to view faith-based groups as allies in providing critical services to the underprivileged, imprisoned, and hurting.

The subsequent Bush Administration heavily promoted faith-based initiatives and encouraged faith-based groups to apply for federal grants. To level the playing field with other social service providers, the Bush Administration issued an executive order and adopted federal regulations protecting faith-based groups' right to compete for federal funding. In 2007, the Department of Justice's Office

---

## ‘BUT THE ELITE’S TACTICS SIMPLY SWITCHED AND SLAPPED THE LABEL OF ‘DISCRIMINATORS’ ON FAITH-BASED SERVICE PROVIDERS WHO REQUIRED THEIR EMPLOYEES TO AGREE WITH THEIR ANIMATING RELIGIOUS BELIEFS.’

---

of Legal Counsel issued a letter that stated its opinion that the Religious Freedom Restoration Act of 1993 (which CLS helped pass and defend in the courts) protected a religious ministry’s right to hire according to its religious beliefs while expending federal funds to provide social services.

### President Obama and Congressional Democrats Split Ways

From inaugural day onward, the Obama Administration has been under intense pressure from special interest groups to reverse the status quo and prohibit faith-based hiring by all federally funded recipients. As a candidate, President Obama had indicated he might take such action. Yet, at least in his first term, the President has resisted supporters’ calls to take such unwise and provocative action.

The 2007 Department of Justice letter has been a prime target of these groups’ ire. On September 30, 2009, fifty-eight organizations sent a letter to Attorney General Holder asking him to withdraw the 2007 letter. After waiting nine months for a response, several of these groups then petitioned Congressman Jerrold Nadler (D-NY), then-Chairman of the House Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Civil Liberties, to hold a hearing on the Administration’s inaction on the issue.

Last November 18, Congressman Nadler obliged and chaired a heated hearing on the issue. Barry Lynn, Executive Director of Americans United for Separation of Church and State, and Melissa Rogers, then a member of the President’s Council on Faith-Based Partnerships, testified that faith-based ministries should not be allowed to hire according to their faith for social services programs that are federally funded. Neither addressed the administrative nightmare such a requirement would necessitate. (For example, in many ministries, employees wear multiple hats and work on several programs at once.) University of Virginia Professor Douglas Laycock eloquently defended faith-based

groups’ rights under the First Amendment and Title VII to hire according to their religious beliefs so long as they serve persons of any, all, or no faith.

Particularly remarkable was the anger directed toward the Administration by the committee members of the President’s own party. Indeed, their hostility seemed further fueled by the Administration’s announcement, only the day before the hearing, of an executive order setting forth new guidelines for faith-based service providers on several issues but leaving the issue of faith-based hiring untouched.

Revising President Bush’s Executive Order No. 13279, President Obama’s Executive Order No. 13559 reiterated several fundamental principles to guide federal agencies in administering social service programs. Federal funds must be distributed effectively and efficiently. Faith-based groups will not be discriminated against but will be allowed to compete on equal footing for funding. Faith-based groups may not discriminate against any beneficiary on the basis of religion, or lack thereof, or the beneficiary’s refusal to participate in a religious practice. Religious worship, instruction, or proselytization must occur separately in time and location from federally funded programs.

While not explicitly addressing religious hiring, the Order specifically protects faith-based groups’ participation in federal programs “without impairing their independence, autonomy, expression outside the programs in question, or religious character.” The Order explicitly permits faith-based organizations to select board members on a religious basis. If a faith-based group may select board members based on their shared faith, by analogy, the same group should be able to select its staff based on the same shared faith.

### And the Courts Join the Dance

In September, the Ninth Circuit Court of Appeals tapped into this dance between the President and Congress when it ruled that Title VII protects World Vision from an employment discrimination suit based on its requirement that its employees share its religious beliefs. Three employ-

ees had sued World Vision for religious discrimination after they were terminated because they no longer believed in the Trinity, a requirement for all World Vision employees. Supporting World Vision, CLS filed an *amici* brief that was joined by the Association of Gospel Rescue Missions, the Center for Public Justice, the National Association of Evangelicals, Samaritan’s Purse, and the Union of Orthodox Jewish Congregations of America.

The Ninth Circuit panel split 2-1 in favor of World Vision but with four separate opinions. The two judges in the majority agreed that World Vision qualified as a religious employer and, therefore, was entitled to the Title VII exemption to hire according to its faith. The two judges, however, differed on the proper test for determining whether an employer could claim the religious exemption. In a separate *per curiam* opinion, the majority held that an organization is certainly exempt “if it is organized for a religious purpose, is engaged primarily in carrying out that religious purpose, holds itself out to the public as an entity for carrying out that religious purpose, and does not engage primarily or substantially in the exchange of goods or services for money beyond nominal amounts.” In contrast, the dissenting judge would limit the exemption essentially to houses of worship. In January, the Ninth Circuit denied the employees’ petition for rehearing.

Whether the *World Vision* case will be appealed to the Supreme Court is uncertain. What is certain is that the Center will continue to defend the right of faith-based hiring. The slow work of rebuilding a societal consensus that faith-based hiring is a core component of religious liberty — and not “discrimination” — requires a continued commitment to protect genuine religious pluralism for groups serving our neighbors in need, both at home and abroad.



Kim Colby is Senior Legal Counsel at the Center for Law and Religious Freedom. She is a graduate of Harvard Law School.



# LAW STUDENT MINISTRIES



## Law Students on *The Road*

By Mike Schutt

In Cormac McCarthy's bleak, post-apocalyptic novel, *The Road*, a father leads his son across an ash-bathed wasteland towards the coast in the hope of finding warmth and more civilized people than the violent nomads they encounter on the way. At heart, it is the story of a father's love for a son. During the harrowing months of their journey, his advice, protection, and memories keep hope alive in the boy. Yet an odd irony is present from almost the very beginning: while the father and son speak of themselves as "the good guys," the father is unwilling, whether from fear or wisdom, to share, reach out, or provide assistance to any other human beings that they meet. More than once the boy asks, "We are the good guys, right?"

The novel ends with the death of the father, who has become increasingly sick along the road. It turns out that a family has been following the pair, and offers to take the boy in. Only when the boy's father is gone, is he able to trust others to help and care for him. The fierce protection of the father, while motivated by real love, was the very thing that kept the son from rescue and warmth near the end of their journey. Because his only goal was survival, because he saw the outside world as purely a hostile place, and because he was unwilling to risk for the sake of serving others, he almost failed in his mission to protect and nurture his son.

I think we can learn a thing or two from these themes in *The Road* as we think about the mission of law student fellowships on campus.

### Mere Survival

Over the years, I've visited with hundreds of law student leaders and attended law student meetings all over the country. The basic mission—the

"what and the why"—of the typical law student fellowship range from very basic to comprehensive and reflect the broad range of needs of Christian law students, but I have found that wherever I go there are students whose only goal is simply to survive the law school experience. Often, these students have formed groups whose sole mission is to provide shelter from a stressful and "secular" law school environment.

Many law students are pressed and discouraged by their law school experience, and they form or join a CLS group to find encouragement, rest, and Christian friendship. While I am pleased that these groups exist to encourage harried and attacked students, they are by definition inwardly focused and miss out on so much of what a student fellowship can be.

Toward the end of *The Road*, we figure out that it will be impossible for the father to transition from survival mode in order to attach to a community that can nurture and help his son begin to flourish as a human being. In our law school groups, there is a place for sheltering those who need to "simply survive." It should never, however, be our main mission, and we should be committed to helping our group transition out of bunker mentality into witnessing community as quickly as possible.

### Hostile Environments

*The Road's* father was wisely suspicious of other human beings. Yet he was so protective that he missed opportunities to receive help from others and enter into relationships with those who were willing to help him and his son.

Sometimes we do the same thing on the law school campus, believing that the environment around us is so hostile that we can't even lift our heads to have a

conversation with those who God places in our path. I remember encouraging a student to approach a particular law professor about serving as faculty sponsor for their group. "Oh, I assumed he was against us," was the student's response. Unfortunately, we are often guilty of assuming the worst about those we don't even know.

There are places and groups that are hostile to the claims of Christ and that are suspicious of Christ followers. But as groups of believers reach out and engage those outside our Christian campfire, we find that we can not only serve these folks, but also be nurtured and encouraged by them. Sure, the American law school campus is generally hostile to the claims of historic orthodox Christianity, but it is not *only* that; it is not primarily that. It is also a generous, curious, interesting, challenging, and healing place, if one looks in the right places with the right spirit.

### Willing to Risk?

I am pleased to say that there are large number of law student fellowships that see themselves as a vehicle for service to the campus and the community. These groups vary, of course, some focusing on the law school, others on the community; some on legal substance, and others on compassion and charity.

Groups focusing on community and charity, for example, may hold a food drive, sponsor Compassion International children, participate in Operation Christmas Child, and visit nursing homes. Students in the campus outreach or legal substance orientated groups may set up cookies and coffee for their peers during finals, participate in local Christian Legal Aid, and sponsor monthly debates or lectures for the school from outside sources. As one might imagine, the tools for outreach and service

## ‘YET SERVICE TO OTHERS ALSO INVOLVES RISK, PARTICULARLY WHEN IT INVOLVES IDENTIFYING ONESELF WITH THE CAUSE OR CLAIMS OF JESUS.’

are almost endless, and the variety of things that a law chapter might do is limited only by the creativity and time constraints of its leaders and members. It is a blessing to see compassion and service flowing from the hearts of the next generation of attorneys.

Yet service to others also involves risk, particularly when it involves identifying oneself with the cause or claims of Jesus. It is relatively easy on campus today to be against sex trafficking and child poverty. Who isn't against these things? Yet to actually work against them, side by side with others, involves serious commitment and personal sacrifice. Costlier still is to articulate that one's opposition to these things flows from the inherent dignity of the human person, created in God's image. This sort of talk generally resides outside of our comfort zone and involves some emotional risk on the law school campus.

Yet the riskiest sort of ministry involves our closer neighbors: those hurting in our midst, the awkward student in the front row, the sick colleague, the angry professor. Are we, like the father in the McCarthy novel, afraid to leave the highway to help others? Are we too busy? Will our grades suffer? The command to love one's neighbor is actually the hardest to obey with *actual* neighbors, and it involves a real cost to us because it means relationship and vulnerability. The father in *The Road* was afraid his son would die, so he let others die. He was afraid their meager supplies would be stolen, so he wouldn't share. What are we afraid of? Surely it is not a matter of life and death that keeps us from giving ourselves to our hurting classmates.

I'm encouraged that there are groups of faithful students gathering at almost every American law school, and I applaud leaders who make the effort, in the midst of the academic rigors of law school, to organize, encourage, and serve their classmates and their law school community. This faithfulness is a simple but profound example of what it means to be salt and light in the world.

May the Lord bless your good efforts on campus!



Mike Schutt is director of CLS's Law Student Ministries and the Institute for Christian Legal Studies, a cooperative ministry of CLS and Regent University School of Law. He is the author of *Redeeming Law: Christian Calling and the Legal*

Profession (InterVarsity Press 2007) and is an associate professor at Regent University School of Law. He is an honors graduate of the University of Texas School of Law.

The staff at Law Student Ministries would love to hear your stories of success or failures. Please give us a call or shoot an email [lsm@clsnet.org](mailto:lsm@clsnet.org).

The graphic features a large blue square on the left containing the Roman numeral 'IX' in white. To its right, the text '9Marks' is written in a large, bold, dark blue font. Further right, the text 'Building Healthy Churches' is written in a smaller, blue font. Below this, the text '9Marks.org' is written in a dark blue font. The bottom half of the graphic is a decorative pattern of squares in various shades of blue, teal, and green, arranged in a grid-like fashion.

---

# ATTORNEY MINISTRIES

---



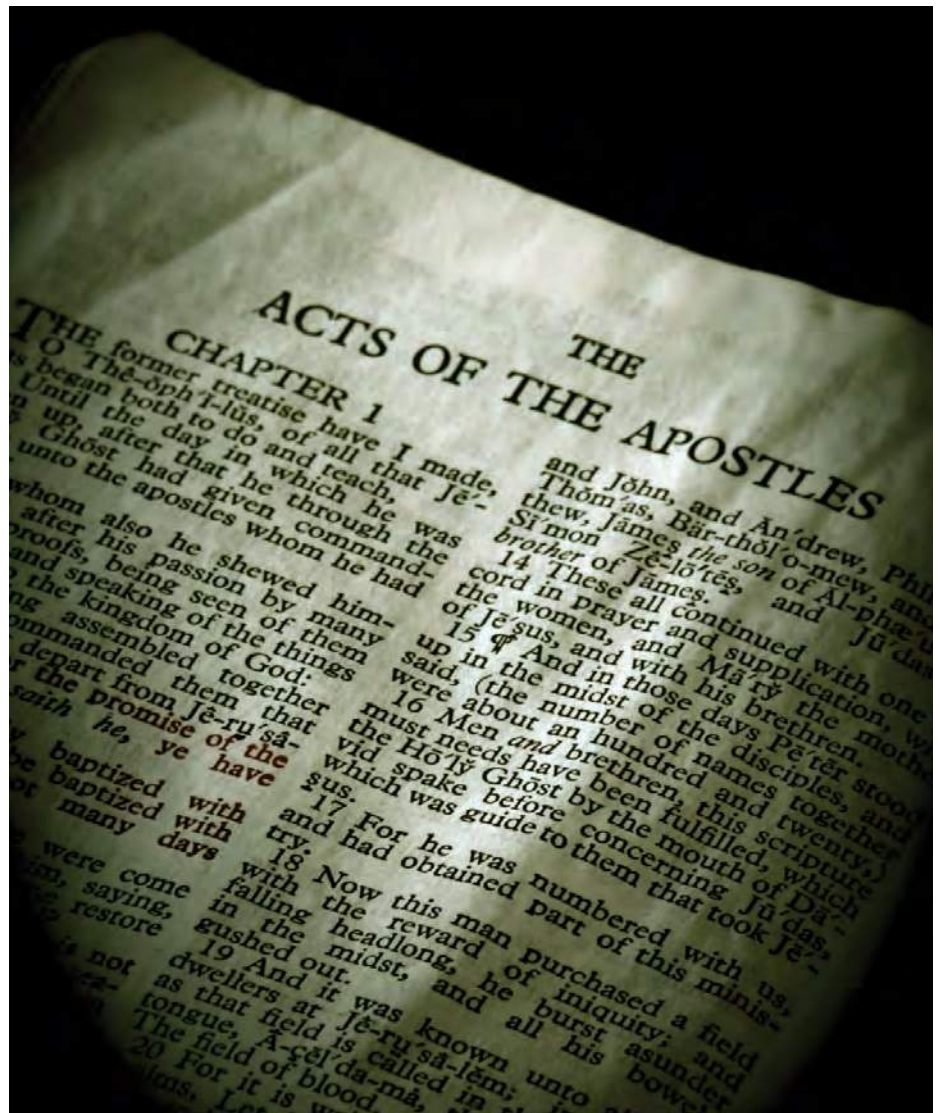
## The Bible is the Inspired Word of God

### The Statement of Faith Explained, Part 1

Compiled and Edited by Brady Tarr from the writings of Tim Challies

As 2011 is the Christian Legal Society's 50th anniversary, I would ask that you reflect with me on the Statement of Faith upon which CLS was built. In this issue, I will seek to define and explain the foundational importance of what it means that the Bible is the inspired Word of God. The sentence in the Statement of Faith regarding biblical inspiration simply reads: "The Bible is the inspired Word of God." The reason I begin with this sentence of the statement is because it is the one from which all others are derived and dependent. If the Bible is God's Word, which it is, then what it says is true and its teachings should be studied and followed as closely as possible in order to better understand who the only true God is and what it means to be a Christian. As Christians, we understand the Bible to be God's perfect revelation of Himself to us.

Members of CLS must affirm the above sentence of the Statement of Faith along with several others in order to become a member of CLS. I would like to clarify that my understanding and explanation of the meaning of this statement in light of Scripture does not necessarily have to be affirmed as I explain it in order to become a member of CLS. What follows over the next several editions of *The Christian Lawyer* is simply my attempt to help readers reflect on some of the foundational beliefs of the Christian faith.



---

## ‘WE CAN DEFINE THE DOCTRINE OF SCRIPTURE’S AUTHORITY AS FOLLOWS: “THE AUTHORITY OF SCRIPTURE MEANS THAT ALL THE WORDS IN SCRIPTURE ARE GOD’S WORDS IN SUCH A WAY THAT TO DISBELIEVE OR DISOBEY ANY WORD OF SCRIPTURE IS TO DISBELIEVE OR DISOBEY GOD.’

---

### The Authority of the Bible

Since the Bible is God’s Word, it is authoritative so we must first look and see what the Bible says about itself. We find throughout Scripture that the Bible claims for itself a position of unique authority as the Word of God (2 Tim. 3:16). In doing so it appeals only to its own authority for proof because there is no greater authority to which it can appeal. After all, if God is the ultimate authority and the Bible is God’s authoritative Word, to what else can it appeal? Were the Bible to appeal to our reason to substantiate its authority, it would implicitly show that human reason is a higher authority. We can define the doctrine of Scripture’s authority as follows: “The authority of Scripture means that all the words in Scripture are God’s words in such a way that to disbelieve or disobey any word of Scripture is to disbelieve or disobey God” (Wayne Grudem, *Systematic Theology*, page 73).

### The Inspiration of the Bible

Closely related to the authority of Scripture is the inspiration of Scripture. Inspiration tells us how the Bible was transmitted from God to men. We find that the Bible draws its authority and inerrancy from the fact that it is inspired by God. The Bible teaches that “All Scripture is breathed out [inspired] by God” (2 Timothy 3:16). This is explained further by the apostle Peter who writes, “no prophecy of Scripture comes from someone’s own interpretation. For no prophecy was ever produced by the will of man, but men spoke from God as they were carried along by the Holy Spirit” (2 Peter 1:20,21). The Holy Spirit was actively involved in bringing God’s words to humans. The actual form this inspiration took is much disputed. We know from reading the Scripture and observing the different styles of writing and differing levels of expertise in writing, that God did not merely use men as robots. If He had done this, we

would expect to find a consistent writing style throughout. Somehow God used the specific skills, backgrounds and situations of the authors to transmit His words. **Zechariah 7:12** sheds light on this. “...lest they should hear the law and the words that the Lord of hosts had sent by his Spirit through the former prophets.” We see that the ministry of the Holy Spirit extended to the whole and to the individual parts (...the words that the Lord of hosts...).

### What Scripture Says

If it was God who inspired men to write the Bible, what does that teach us about Scripture? Is it possible that Scripture, as it was given from God to men, can be anything less than perfect? Would God lie? Would He write in only half-truths? The Bible tells us otherwise:

**2 Samuel 7:28** – “And now, O Lord God, you are God, and your words are true, and you have promised this good thing to your servant.”

**Numbers 23:9** – “God is not man, that he should lie, or a son of man, that he should change his mind. Has he said, and will he not do it? Or has he spoken, and will he not fulfill it?”

**Psalms 12:6** – The words of the Lord are pure words, like silver refined in a furnace on the ground, purified seven times.

**Proverbs 30:5** – Every word of God proves true; he is a shield to those who take refuge in him.

**John 17:17** – Sanctify them in the truth; your word is truth.

We find a consistent Scriptural witness that God does not lie, for He is incapable of telling falsehood. The men who wrote God’s words, had supreme confidence in the rest of His words. If God is incapable of telling a lie, it stands that the words He spoke to those who wrote the words

of Scripture must also be perfectly true. At this point, I trust we have sufficient Scriptural basis to conclude that Scripture is authoritative and that the words given by God to men were without error. But how can we know that the words we have today accurately represent those words?

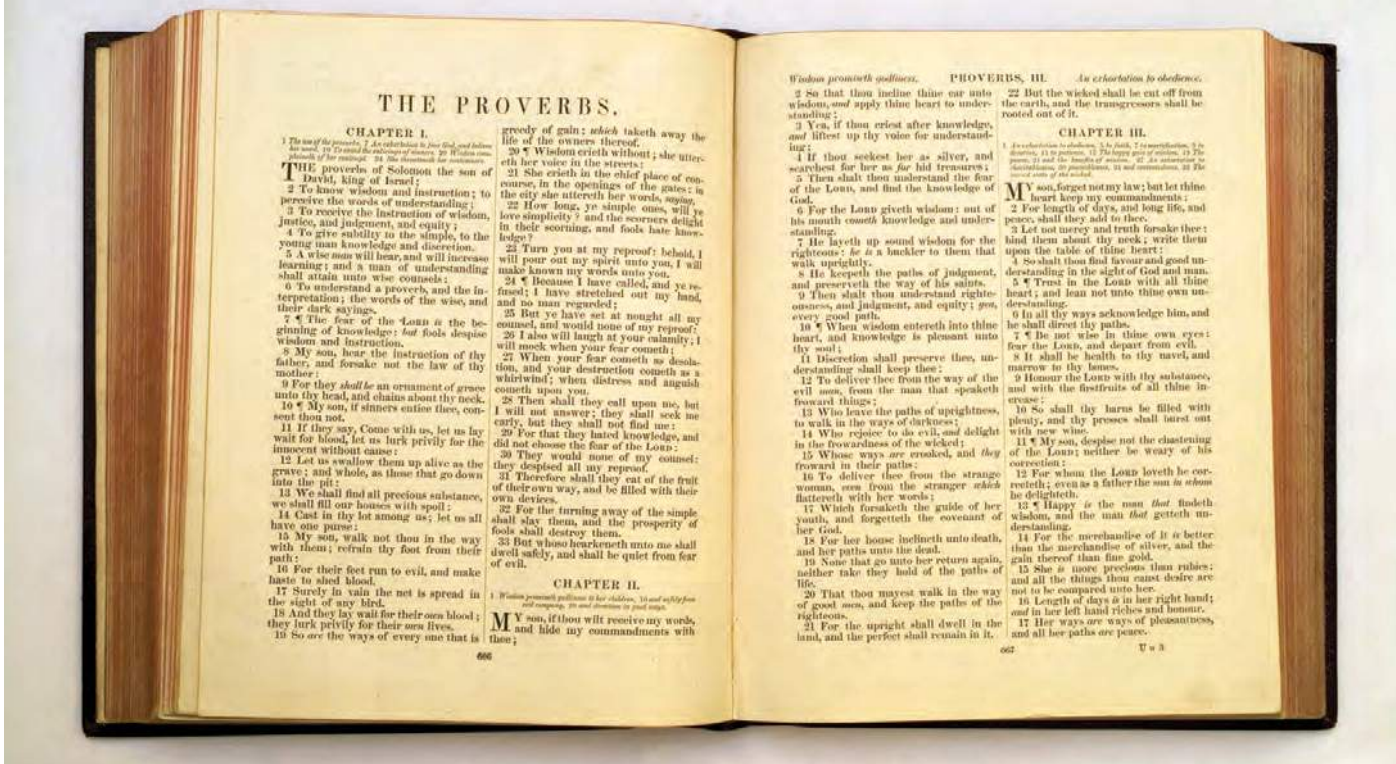
### The Inerrancy of the Bible

Here is a solid working definition of inerrancy: “*The inerrancy of Scripture means that Scripture in the original manuscripts does not affirm anything that is contrary to fact*” (Wayne Grudem, *Systematic Theology*, page 90). This definition affirms that a perfect God moved human authors, by His Spirit, to perfectly transcribe what He wanted to communicate. It is important to note that this definition does not apply to the transmission of Scripture through the ages and the translation into other languages. The above definition affirms only that the original autographs are inerrant. This definition is based on the clear teaching of Scripture (see above), as well as the character of God. If God is unable to lie and if he inspired Scripture, it must have been completely consistent with fact at the moment of transcription. (For a more thorough treatment of biblical inerrancy please refer to: [http://library.dts.edu/Pages/TL/Special/ICBI\\_1.pdf](http://library.dts.edu/Pages/TL/Special/ICBI_1.pdf))

### The Transmission of the Bible

The transmission of the Bible describes how the words of God were transmitted from the original documents to what we have today. This is a topic that can only be done justice in a much longer treatment, so allow me to merely point to some of the facts. We possess a wealth of biblical manuscripts in the original languages of Hebrew, Greek and Aramaic. John MacArthur writes, “With this wealth of biblical manuscripts in the original languages and with the disciplined activity of textual critics to establish with almost perfect accuracy the content of the

*Continued on page 26*



autographs, any errors which have been introduced and/or perpetuated by the thousands of translations over the centuries can be identified and corrected by comparing the translation or copy with the reassembled original. By this providential means, God has made good His promise to preserve the Scriptures. We can rest assured that there are translations available today which indeed are worthy of the title, "The Word of God" (John MacArthur, *The MacArthur Bible Handbook*, page xxii).

**Some Problems if Inerrancy is Denied**

What are some of the problems that may arise as a result of denying inerrancy? First, if we deny inerrancy, we make God a liar. If there are errors in the original manuscripts, that were breathed out or inspired by God, one of two things must be true: either God purposely lied or he mistakenly lied. This indicates that God is capable of making errors or of producing errors. If God could lie and if the Bible were not the inerrant Word of God, we might conclude from this that we are likewise able to intentionally lie, even if only in small matters.

Second, if we deny inerrancy we lose

trust in God. If there are errors in Scripture, even if in the smallest detail, and these were placed there intentionally by God, how are we to maintain trust that He did not lie in other matters? When we lose trust in the Scriptures, we lose trust in God Himself and we may consequently lose our desire to be obedient to Him.

Third, if we deny the clear testimony of Scripture that it is inerrant (2 Peter 1:20-21; 2 Tim. 3:16), we make our minds a higher standard of Truth than the Bible. Some people deny the inerrancy of Scripture because they say that the doctrine does not "feel right." But nowhere does the Bible appeal to our feelings or our reason for its authority or inerrancy. We must submit to God's Word, for it will not submit to us.

Fourth, if we deny inerrancy, and indicate that small details are incorrect, we cannot consistently argue that all the doctrine the Bible contains is correct. Admitting error in even the smallest historical detail is the thin edge of the wedge, for we then allow the possibility that there may be error in doctrine as well.

Ultimately, the inerrancy of the Bible is true because it is the inspired Word of God, perfection is consistent with God's

character, and because He has told us it is true. We must be careful with any objections to this doctrine, for if we indicate that we believe there are errors with the original manuscripts, we strike at the very character of God. The Bible is inerrant because it was breathed out by an inerrant God who is holy. Because of this, we can have full confidence, today and always, that the Bible is inerrant, completely trustworthy, and does not affirm anything contrary to fact.

**SOURCES USED:**

- <http://www.challies.com/bible/are-there-errors-in-the-bible/>; parts 1, 2, 3 by Tim Challies
- Systematic Theology: An Introduction to Biblical Doctrine by Wayne Grudem
- The MacArthur Bible Handbook by John MacArthur



Brady Tarr is the Attorney Ministries Coordinator at The Christian Legal Society and the Editor-In-Chief of The Christian Lawyer magazine. He received his Master's of Divinity from The Southern Baptist Theological Seminary.



## The Next Chapter in His-Story

By Brent M. McBurney

“What do you say to the President when he tells you which way to rule on a case?”

That question, asked by Albania’s then Chief Justice, Zef Broxi, through a translator, of Justice Sandra Day O’Connor, was only slightly more intriguing than her response:

“Excuse me?”

Asked a second time, Justice O’Connor answered with a very straightforward:

“That would never happen.”

She then explained to Broxi and six of his colleagues the importance of an independent judiciary. That meeting in 1995 was one of the most intriguing in my first tenure with Advocates International, before I went to law school.

Fast forward to April 2009, when I accompanied Sam Ericsson, AI’s Founder and President Emeritus, and AI board member Roger Sherrard to meetings at the Administrative Office of U.S. Courts in Washington, D.C. for another Albanian delegation of judges and their staff.

One of the Albanians contracted an eye ailment and was in quite a bit of pain. He told Sam and me about his problem so we stopped, right there on the sidewalk between the Thurgood Marshall building and Union Station and prayed a simple 15-second prayer for healing. The very next morning, he told us with tears in his eyes that God had healed his eye at bedtime the night before. Thank you Lord.

Over the past 20 years my involvement with AI has blessed me. When I first met Sam Ericsson in 1991, we belonged to a prayer group for friends working in



Russia. In 1993, I lived in the flat of Nicky Vyssotsky, Sam’s Russian “son,” when I worked for Prison Fellowship International in Moscow, Russia.

From 1994–1996, prior to law school, I worked on the staff of AI as Director

of Communications. During that time I attended my first Christian Legal Society national conference and met hundreds of CLS members.

Following my stint as a trial and appellate attorney at the U.S. Department

---

**‘WHEN WE ALLOW OURSELVES TO BE USED BY THE LORD, HIS PLANS ARE SO MUCH LARGER THAN OUR OWN DREAMS.’**

---



AI's founder Sam Ericsson, promoted to Glory on January 21, 2011, and current President & CEO, Brent McBurney at the Ericsson's West Virginia cabin last fall.

In November, the AI board of directors appointed me as the new President and CEO and AI held a dinner for local supporters where I was asked to share my vision for AI going forward. At the end, a dear friend and elder in my church prayed a prayer of consecration for me and Elizabeth in this new season of life. We are so blessed to have friends who come alongside us, and we know that the Lord's plans are far greater than even our own dreams.

As AI enters into its second 20 years of ministry, our mission remains the same: Encouraging and enabling Advocates to meet locally, organize nationally, cooperate regionally and link globally to promote justice, rule of law, religious freedom, reconciliation and integrity. Although we will all miss our dear brother Sam who was promoted to Glory on January 21, 2011, his legacy will carry on.

We invite you to join us as we continue to work to make a difference in the lives of our colleagues, like those from Albania who still face an uphill battle for an independent judiciary. With your prayers and support, we hope to see a new generation of judges who don't have to wonder what to do if their President calls them about the cases they hear.



*Brent McBurney is President & CEO of Advocates International and can be reached at [bmc-burney@advocatesinternational.org](mailto:bmc-burney@advocatesinternational.org). He is a graduate of George Mason University School of Law and Baylor University.*

of Justice, I joined the staff of CLS, serving the poor and needy with CLS members through their efforts with Christian Legal Aid. I also served our brothers and sisters from around the world at the 4th and 5th Global Convocations in 2004 and 2008.

Events of this past summer, however, confirmed to me that when we allow ourselves to be used by the Lord, His plans are so much larger than our own dreams.

When CLS Executive Director Fred Potter approached me in June and explained his vision for a new direction for Christian legal aid, he asked me and my wife Elizabeth to pray about the changes. What we heard, both independently and together, was a very clear word from God that it was time for me to leave CLS. Where we were to go was not clear. We all agreed that I would stay on staff with CLS through the end of October 2010.

I began to consider various job options, including the possibility of moving to

another city. I have now noticed that the only jobs I applied for were internationally focused positions. I didn't recognize this right away, but the Lord was steering me back to international work.

In September, Matt Bristol, one of AI's board members, asked whether I was interested in working as AI's new CEO. In August, AI's CEO Sam Ericsson had gone on medical leave, and when the biopsy results from his surgery returned a few weeks later, it became apparent that AI needed to find a new CEO. What is most encouraging to everyone involved was how the Lord moved the hearts of board members

As I look back on the past six months and all of the divine coincidences, it has become clear to me that I had to take that initial step of faith to leave CLS, followed by the nudge toward international work, so that I would be in the right place when the Lord called me to serve through Advocates.

# Mission Driven · Practice Oriented

At Liberty University School of Law, law is studied in the context of the Western legal tradition and the Christian worldview. Students learn professional skills in one of the most innovative lawyering skills programs anywhere. The culture at Liberty encourages faith and the desire to do justice, as well as career preparation, and success.



Southwestern National Entertainment Law Champions

Liberty law students and alumni are high achievers: championship competitive teams, high bar passage rates, and legal positions in every sector.

Liberty University School of Law is fully accredited by the American Bar Association.\* If you are thinking about law school or know someone who is – please call 434-592-5300, email [lawadmissions@liberty.edu](mailto:lawadmissions@liberty.edu), or visit [law.liberty.edu](http://law.liberty.edu).



Matthew D. Staver  
Dean and Professor Law,  
Founder/Chairman of Liberty Counsel



LIBERTY UNIVERSITY  
SCHOOL OF LAW

\*The Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association, 321 North Clark Street, Chicago, IL 60654-7598, 312-988-5000.

[law.liberty.edu](http://law.liberty.edu)

1971 University Boulevard  
Lynchburg, VA 24502



---

# TRIBUTE

---



## The Faithful Life and Ministry of Sam Ericsson

*Featuring Contributions from Kim Colby and Brent McBurney*



As many of you already know, Sam Ericsson went to be with the Lord on January 21, 2011, after battling cancer for eleven years. Sam served as CLS's Executive Director from 1984-1991 and Director of the Center for Law and Religious Freedom from 1980-1984. In 1991, he founded Advocates International, a network of international religious liberty attorneys spanning the globe. He is survived by his wife Bobby and children Monica, Ryan, and Nick, and their families.

Below two CLS members who had the privilege of working with Sam at CLS and Advocates International over the past three decades try to capture in writing a small part of Sam's passion for life and the Lord.