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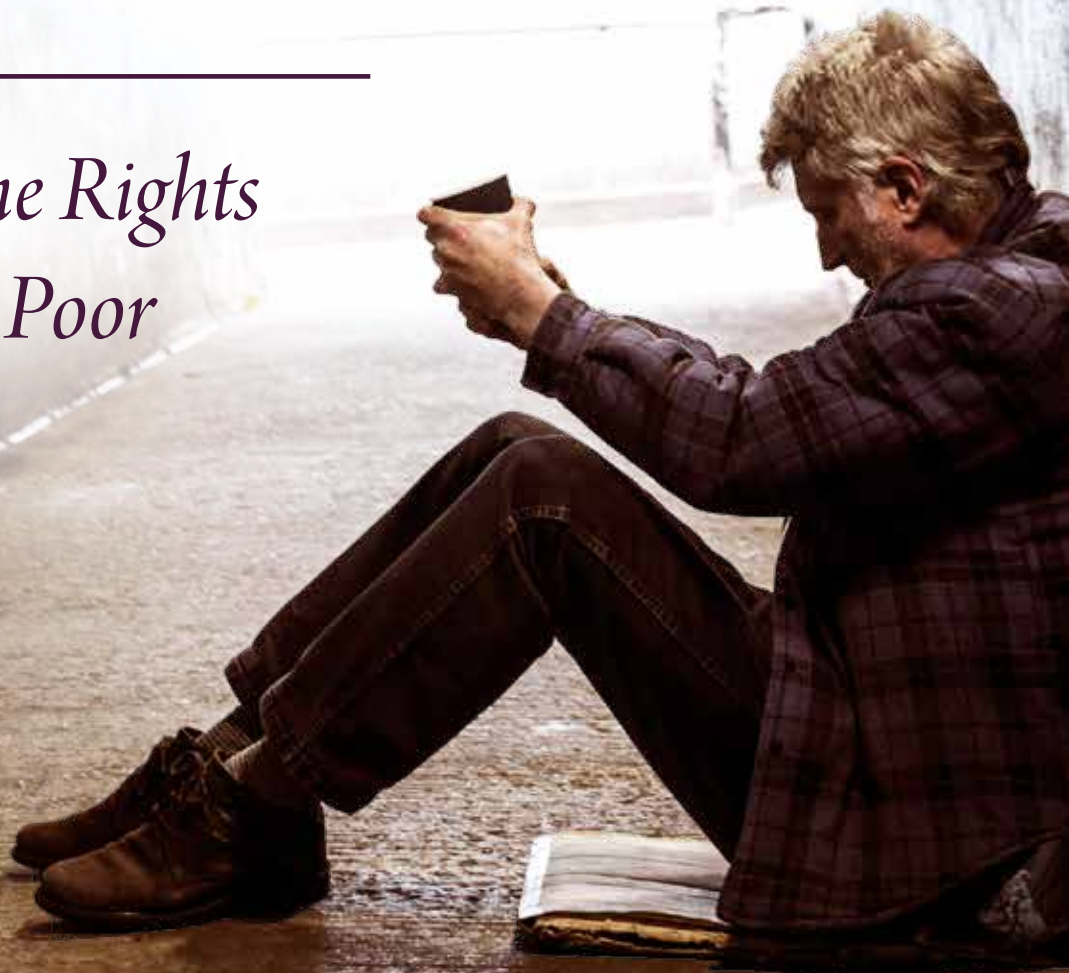
A PUBLICATION OF THE CHRISTIAN LEGAL SOCIETY

OUR CALL TO SERVE

*Protect the Rights
of the Poor*

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- On Being Homeless: From the Law Firm to the Streets to the Law Firm Again
by Don Arnold
- The Faces of Injustice: God's Call to Christian Legal Aid
by Chris Purnell
- Religious Freedom & Bigotry: The Facts Matter
by Michael P. Schutt





David Nammo,
Executive Director
and CEO

Christian Legal Aid

One of my favorite memories in law school is working the legal aid desk at the Daley Center in Chicago. My law school had just started a pilot “legal aid” program for the law students, and I was one of the first students to attend that class (if memory serves correctly). We were to set up in the Daley Center, which houses most of the county courtrooms and circuit court offices. It is where anyone would come to file or respond to a complaint.

So there we were - a few law students with a supervising attorney, set up over two folding tables and a couple of computers – watching the stream of people coming in and out of the clerk’s office to get their complaint or response time and date stamped. Like any law student, I felt incredibly inadequate to help anyone. What I didn’t realize is how much more we understand the law (even as a law student) than the regular public. Summons, complaints, responses all seem like a foreign language to most people.

One afternoon, a gentleman and his young family showed up at my table. He had come to the courthouse to see how he could get his final check from a former employer as his family lived hand-to-mouth and needed the check to make their rent payment. He had worked as a line cook in a small restaurant and left for a better paying job. He claimed that when he called the former employer, they ignored him and suggested he could have his work visa threatened if he caused trouble.

So here he was, sitting at my table and looking to me for help. After coordinating with the supervising attorney about next steps, we decided that I should call the former employer and see if it could be solved with a phone call. I called and explained that I was calling from the legal aid clinic at the Daley Center. I had a gentleman sitting across the table from me trying to find out how to retrieve his last paycheck and claiming it is being withheld from him. I then asked who I should speak to concerning that last check? The stumbling and fumbling response from the restaurant was almost comical.

The former employer insisted that it was all a misunderstanding and requested that the gentleman immediately come to the restaurant and pick up his last check. It was pure joy to help a family with a simple phone call, having the authority of the law at my back.

Christian Legal Aid clinics are doing the same thing across the country. They are seeking justice, defending the orphan, and helping the poor with the love of Christ. They are run by attorneys who sacrifice every day to help the “least of these,” and are staffed by volunteers like you and me. Whether or not you have ever volunteered with a legal aid clinic in your area, I would challenge you to consider trying it out. Please think about volunteering, starting, or just supporting a Christian Legal Aid clinic in your area. We are here to serve together in the name of the Lord, and I can’t imagine a greater calling.

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Editor-in-Chief
David Nammo

Design & Production
Perceptions Studio

Editorial Email
clshq@clsnet.org

Advertising Office
Christian Legal Society
8001 Braddock Road, Suite 302
Springfield, Virginia 22151

For advertising inquiries, email
clshq@clsnet.org.

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A photograph of a man with grey hair, wearing a blue plaid shirt and dark jeans, sitting on a concrete bench in a tunnel. He is looking down at a smartphone in his hands. The tunnel walls are made of concrete and have some graffiti. The lighting is dim, with a bright light source at the end of the tunnel.

OUR CALL TO SERVE

Protect the Rights of the Poor

On Being Homeless: From the Law Firm to the Streets to the Law Firm Again

BY DONALD E. ARNOLD

I never thought I would grow up to be homeless. In fact, “homeless” wasn’t a word in my vocabulary when I young. My daughter, however, learned the word when she was about ten. That’s how old she was when her father became homeless.

Most people don’t like to see homelessness, and if they do see it, they rarely acknowledge the magnitude of the problem. One tends to look away. There is also a great deal of misconception and misinformation regarding homelessness.

For example, one may think that because I was homeless, I must be uneducated, lazy, and chose not to work. All those assumptions are false.

I hold a B.S. in Engineering from California State University at Northridge, and a J.D. from Southwestern University School of Law. I have worked since the age of fourteen, other than the period of time when I was homeless.

I was in the top ten percent of my class for the first two years of law school, which was quite an accomplishment considering I also worked fifty to sixty hours a week at a national insurance carrier. And I had an hour drive from my home in Palmdale to work, an hour drive from work to school, and another hour drive from school to home each night. On a typical day, I left my house at 4:00am, arrived at work by 5:00am, then left for school at 4:00pm, Monday through Thursday. I didn’t get home most week nights until 11:00pm.

I stranded a wife and a toddler all week, except on Friday nights and Saturday, when I cared for my daughter while my wife went to school for a teaching credential. I did homework when I got home at night and when I could on Saturdays. I also received superior reviews at work, five stars, which was a review many coveted and few received.

I was invited to join Southwestern Law School’s Law Review after my first year because of my high grades. This added another ten to twenty hours of work per week to my already busy schedule. I was also honored to have my article published (*Abating the Flood: How the California Legislature Stopped the*

Reign of Estrada v. Workers’ Compensation Appeals Board, 28 Sw.U.L. Rev. 677, 1999). Lucky me -- more hours required to edit and perfect my article.

My first job was washing dishes when I was fourteen. I worked through high school and I put myself through college, *working*. I’ve always worked. I am not lazy, and I am not uneducated.

I am an alcoholic and an addict, but had an eight year period without a drink. I started law school during that period, when I had been five years sober. But then I started taking prescription medicine while in law school as a result of an automobile accident and perceived stress: Soma, Xanax, and Midrin. Backaches, stress and headaches. I became addicted. I suffered. I was sober, but not clean ...

I suffer from major depression, recurrent, perhaps as a result of enduring child molestation for eight years when I was a kid. That diagnosis makes me mentally ill (DSM-IV 296.35) and a “mental health patient,” though I’m better now that I consistently take medication as prescribed, instead of to get high.

I began my career as an attorney in 1999, working for small firms that practiced workers’ compensation defense law, which is the industry in which I worked while going to Law School. I had a successful career, a six figure salary, a home, and a beautiful relationship with my daughter. (My wife and I were separated and eventually divorced.) But I was still taking the pills, and my abuse eventually caught up with me. I entered a rehabilitation facility in early 2001 to detoxify and get off the pills.

A week after emerging from rehab, I realized I was getting “clean and sober,” and that I had not had a drink in eight years. I was clean *and* sober for about a week, but unfortunately, I saw a flashing liquor store sign immediately before going into rehab to get off the pills, and that image stuck with me when I got out. After getting off of the pills, I made the foolish decision to have a drink, and that led to another seven months of hell, alternating between pills and alcohol. Toward the end of that run, I was introduced to crack cocaine.

Given my history, I should know better than to smoke crack. After all, I passed the bar on my first attempt and I have a B.S. in Engineering with an emphasis in Thermal Fluids. That's rocket science--so one would not characterize me as a fool. But then again, most would think that only a fool would give up his house, six-figure salary, and a wonderful relationship with his daughter, all for the sake of a drug.

I am not a fool--but I am an addict and alcoholic, and addiction is an equal opportunity disease.

I lost my job when the crack pipe became more important than my clients, more important than my employer, more important than having a place to live, and more important than my daughter. I sold my house when I couldn't pay my bills because I wasn't working. I wasn't working because I got fired. I thought I was sick. Perhaps I was. Too sick to work? Perhaps not. Regardless, I used some of my profit from the sale of my home to pay six months of rent for another house and pay off all of my bills, thinking I could get off of the drugs and rebuild my life by not having the burden of work or monthly bills.

Unfortunately, drug addiction doesn't make life easy or so simple, and I eventually wasted the rest of my money on drugs and alcohol, for me and a slew of people I thought were my friends. I stopped seeing my daughter, I didn't see old friends, and I didn't see family. They didn't understand, but my new "friends" did. I bought a lot of drugs for my new friends. I also bought them a lot of food and cigarettes and alcohol. And I gave them a place to live, at least until I got evicted, which happened when I ran out of money. True, I had my priorities mixed up. True, I should have known better. But I had stopped caring. I was suicidal.

Then I did the unimaginable. I became one of *them*. The word many of us don't associate with anyone we know personally.

Perhaps a word that we know, yet do not wish to acknowledge. It's a dirty word. *They're* dirty. Lazy and on the streets because that is where they want to be.

And I was one of them. **Homeless.**

For six months of my life, from May 2005 through November 2005, I slept behind the dumpster in back of the Salvation Army Store, or in the park, the desert, and in the rain. I slept in county jail or the psyche ward, or in the psyche ward at county jail. I didn't have a car to sleep in because I no longer had a car. I didn't care, I learned to ride the bus instead. I learned to panhandle, so I could buy food and alcohol. I showered at the public pool, and I ate Kentucky Fried Chicken out of a dumpster left over from the night before.

I also had a drug conviction, which occurred before I was homeless, and I had a habit of missing court. As a result of missing court, I would often end up in the county jail after being picked up on my "no bail" warrant. On one of those occasions, I was given a *Good News for Modern Man* New Testament Bible, and I actually started reading it, something I had not done before in my life. I had been raised as a Lutheran, and I attended church regularly on Sundays; however, the extent of my Bible reading was the weekly lectionary verses in the church bulletin.

I met Lester on one of my last trips to county jail. One night he asked me a random question, "What separates man from the animals?" I offered that it was because we could speak and reason and hold conversations. Lester disagreed. He told me the difference was that man has dominion over the rest of the animal kingdom. I disagreed with that assessment, but I accepted it in the interest of ending the conversation. That night I read my Bible, and specifically saw the verse:

"All kinds of animals, birds, reptiles and creatures of the sea are being tamed and have been tamed by man...."
(James 3:7)

I couldn't believe it. There, in black and white, was proof of what Lester had said: that man has tamed, or has dominion over, the animals, birds and creatures of the sea.

I immediately read the passage for Lester, and said "what a coincidence." Lester smiled calmly and said, "No, it's confirmation." I saw the face of God when Lester looked at me, and

◀ (Left) Don Arnold in L.A. county jail in 2005. (Right) A new Don Arnold back in his law office today.





immediately I felt a sense of calm. I came to believe after that experience that God speaks to us in many ways, “confirming” various paths for us in life. But we must have our eyes, ears and minds open.

As a result of my drug conviction, I also was able to get into rehabilitation for my drug addiction, the cost of which was paid by the State. I ignored that opportunity for the duration of my homelessness, until my only other option after missing court for the sixth time, was to go to state prison. Entering rehab seemed a much better alternative than entering the state prison. So on November 17, 2005, I admitted myself to the Tarzana Treatment Center in Lancaster, California. On November 18, 2005, I became clean and sober for what I hope will be the rest of my life. I currently have been off of alcohol and drugs for over ten years.

Tarzana Treatment Center offered me a warm bed, a shower, and three meals a day. I don’t know why I didn’t afford myself of that opportunity sooner. All I can say is that as a member of the homeless community, however brief, I understand now that one tends to accept homelessness as a way of life. But I do not believe any homeless person would turn down the opportunity to sleep in a warm bed each night and have three meals a day; it’s just that it does not seem to be a viable option when one is on the streets.

I was in the Tarzana Treatment Center when the managing partner who fired me in July of 2004 got in touch with me to let me

know that I was imminently in danger of being disbarred by the California State Bar. God blessed me with an amazing boss, who cared enough to locate me and then assist me with hiring a lawyer to help me retain my Bar license. I didn’t realize it at the time, but my license to practice law was suspended when the State Bar found out I had a felony drug conviction, and because I was homeless on the streets of Los Angeles, I wasn’t receiving any of the notices that came from the State Bar regarding the status of my license.

This same managing partner eventually hired me to work as a paralegal while my license was suspended, and in February of 2007, when my license was restored, he hired me back on as a full time attorney. That boss was one of many people God placed in my life to help me recover. Without him, I do not believe I would be the successful attorney I am today.

Through another series of what I now call confirmations, I became convinced that God’s calling for me was to help other homeless people recover, so to speak, from homelessness. I began to volunteer regularly to assist the homeless, serving and providing for hot meals at my church and at the park, supporting a homeless agency in Lancaster financially and with my time, and I eventually started my own nonprofit organization to raise awareness of homeless issues and raise money for permanent supportive housing. To a more limited extent, I have assisted with legal issues, such as having warrants for so called “quality of life” crimes dismissed.

I have met a lot of homeless individuals since being a member of that population myself, and I know that each of them has a story just like mine, but different in the details. The story is that one did not expect or seek to become homeless, that they once were fully functioning members of society, and that any number of events can occur in one's life that will lead to homelessness: the loss of a job, the unexpected death of someone dear and the ensuing depression, an accident, or simple physical or mental disability. But nobody wanted to be homeless, or ever dreamed that it could happen to them.

I have also learned that I do not just have a god in my life, I have a God in my life who cares for me and wants me to succeed.

“For I know the plans I have for you,” declares the Lord, “plans to prosper you and not to harm you, plans to give you hope and a future.” Jeremiah 29:11

I also believe that the plans for my life include helping others less fortunate than I. And, lastly, I firmly believe in the words of James in Chapter 1, verse 22:

Do not merely listen to the word, and so deceive yourselves. Do what it says.

Doing what the word says means helping others to achieve all that they can and to recover from events such as homelessness. I can read all I want about helping a brother or sister who is without clothes or food (James 2), but until I actually do something about it, I am not doing the work of the Lord.

By leading me out of homelessness and into the Tarzana Treatment Center, God did for me what I could not do for myself. He helped me recover from homelessness by placing people in my life such as my ex-wife, who never stopped caring for the father of her child; my former and current boss, who gave me back my career; and Lester, who taught me a lesson I will never forget.

I thank God every day for saving me, and sending me people who cared.



Donald E. Arnold has a B.S. in Engineering from California State University and a J.D. from Southwestern University School of Law. He has worked with two national insurance carriers and now practices workers' compensation law in Los Angeles, California.

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CHRISTIAN LEGAL SOCIETY

The Faces of Injustice: God's Call to Christian Legal Aid

BY CHRIS PURNELL

“He shouldn’t be able to get away with that. It’s just not right!” It was sweltering outside, a typical Indiana summer day where stifling heat and oppressive humidity meet and canoodle over our state. I was doing a legal intake at a local Presbyterian Church when a couple came in to tell me about their landlord. Evidently, their air conditioning had broken, their plumbing had issues, and the apartment had a serious mold problem. And evidently, their landlord had decided not to fix the air conditioning. Nor the plumbing. Nor the mold. It was as if the landlord had made a resolution to not abide by health codes. It was a case of omni-negligence.

I was a brand-new, ruddy-cheeked attorney and I had just begun my time at the Neighborhood Christian Legal Clinic (the Clinic) in Indianapolis, where I work to this day. There, right in front of me and in stark relief, was one of my first real clients. A living, breathing, fact-pattern that I was supposed to issue-spot and provide with a stupendous analysis about why, ultimately, they had no remedy against their landlord. They had (wisely) used the money to try to fix some of the issues. But all a judge would most likely see was that they (mistakenly) did not pay their landlord his rent money. Now, he was evicting them.

This couple did not need a learned treatise on independent obligations in Indiana landlord-tenant law, nor an excursus on why attorneys cost so much, nor a discourse on economics. They needed justice. These folks were created in the image of God, endowed with incredible worth and meaning, and thus, they were entitled to a right judgment.

Further, this couple was the victim of an especially troubling sort of injustice. I call it the unholy trinity of personal injustice, systemic injustice, and poverty. This trifecta caused the husband to fall into despair and to wonder aloud about the very foundations of justice in the world.

The Forms of Injustice

First, their landlord was personally unjust. There could be any number of reasons why the landlord decided not to fix their HVAC in the middle of the summer. Perhaps the landlord was

struggling financially with other properties not performing. Perhaps he simply forgot, even though the couple had documented several contacts with him about the issues. Perhaps he just didn’t understand the harm that could be caused. Regardless, the landlord failed in his obligations, and the ones most hurt by it were these clients.

Second, the law was marred by the pitfalls of systemic injustice. Laws should reflect, at the very least, a rough sense of justice. Political philosopher John Rawls noted that, “Justice is the first virtue of social institutions, as truth is of systems of thought. A theory, however elegant and economical must be rejected or revised if it is untrue; likewise, laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust” (A Theory of Justice, p. 3). The landlord/tenant law was made with input from landlords—it does not seem that there was much input from residential tenants. This showcases that justice can sometimes come from not hearing from the powerless. Tenants have more obligations compared to landlords and weaker remedies for default than landlords do. Again, this is not the fault of the courts; rather, it is a problem with the system of law-creating in the first place.

Third, the clients were plagued by the problem of poverty, or a distributive injustice. The clients we work with at the Clinic are at or below 125% of the federal poverty level. For a family of four, that means living off of \$30,375 per year. That’s \$584.31 per week. Many of our clients make even less than that, especially clients who are seeking asylum from persecution in another country. With this lack of resources, most cannot afford private legal counsel.

Now, for many of us, distributive justice smacks of a political solution that is far too radical and problematic to implement with any effectiveness. But politics aside, God spoke about “distributive justice” clearly in two contexts: Israel and the Church. In Deuteronomy, Moses reminded Israel that “there will be no poor among you; for the LORD will bless you in the land that the LORD your God is giving you for an inheritance to possess” (Dt. 15:4). And 2 Corinthians harkens back to God’s role as the ultimate creator and giver of wealth: “He has distributed freely, he has given to the poor; his righteousness endures forever.’ He

who supplies seed to the sower and bread for food will supply and multiply your seed for sowing” (2 Cor. 9:9-10). God is the ultimate distributor, and he likes to distribute through his people, the Church.

Jonathan Edwards asked with characteristic gusto and incisiveness, “Where have we any command in the Bible laid down in stronger terms, and in a more peremptory urgent manner, than the command of giving to the poor?” (Christian Charity, quoted in Timothy Keller, *Generous Justice*, p. xvi) This side of heaven, the disparity still persists, and it leads to a chasm in who has access to our justice system and who is left to fend for themselves.

The Facts of Injustice

Indiana has a problem with access to the justice system. According to *Unequal Access to Justice*, a landmark 2008 study of the civil legal needs of the poor in Indiana, there is one attorney for every 8,850 people that are income eligible for free civil legal assistance. This is compared with one attorney for every 688 people in the general population. This is a significant gap. Further, the report noted that the need for legal help is tremendous: 86% of the people surveyed at 125% or less of poverty level faced at least one legal issue. In most cases, it turned out to be a legal issue that they could not afford to fight. Hiring an attorney is a very expensive proposition. In urban areas like Indianapolis, a modest hourly rate is in the realm of \$200-\$400 per hour. This prices many low-income folks out of the justice market.

And it gets worse in the country as a whole. Compared to other “high income” countries, the United States has a tremendous disparity when it comes to those who can access civil justice and those who cannot, according to the 2011 Rule of Law Index. . A full 30% of low-income people seek no legal redress due to factors related to their income. Only 7% of high-income individuals do the same. That’s a 23% difference between rich and poor—gigantic compared to the 3% disparity in other similar countries.

The fact that the poor do not have access to right judgments may seem like an inevitability—but to God, access to right judgments is a baseline necessity of a good society. Leviticus says that “you shall have the same rule for the sojourner and the native, for I am the LORD your God” (Lev. 24:22). This reminder was meant to protect non-Israelites from racially-motivated mistreatment. To be sure, that issue still persists in our day. But for a person who cannot afford an attorney to get

access to the courts, the law may as well be different for them. They have no one to help them navigate the legal system. They have no one to advocate for them. This grieves the righteous heart of God.

The God of Justice

Not getting access to redress is something that cuts against the character of God. “For the LORD is a God of justice.” (Is. 30:18) When the scriptures talk about God and his character, justice and righteousness rarely lag far behind. God’s ways are just (Deut. 32:4), God is a defender of orphans and widows (Ps. 68:5), God dispenses with justice (Zeph. 3:5), and God is righteous in every way (Ps. 145:17). God’s justice is revealed to us in primarily two different forms. First, God is a good judge. The Ancient Near Eastern world understood that rulers needed to be just. This would happen in a court of law, to be sure, but it was also exhibited in the legislative and executive functions of government. The Old Testament exuberantly shouts that God is a good and true judge (see, e.g., Psalm. 7:11; 111:7; Isaiah. 11:4; Job 37:23; John 5:30; 1 Peter 1:17). He makes right choices in disputes, and he advocates on behalf of the poor (Ps. 146:6-9). Very few of God’s other attributes receive such abundant biblical air-time.

Secondly, God is just in a deeper, moral sense. We normally translate this as “righteous” in our Bibles, though the word is often the same as that used to translate “justice.” Not only does God choose the right path and discern correctly between justice and injustice, but he in himself is just, is righteous. There is no distinction in the godhead between acting justly and being just. This state of being just is communicated to God’s people. God’s character has traditionally been divided between his “communicable” and his “incommunicable” attributes. God’s “omni” characteristics (omnipresence, omnipotence, etc.) cannot be communicated or shared with us. However, God’s love, justice, and wisdom are all attributes that can be put on by humans, to a greater or lesser degree. Christians, through the indwelling power of the Holy Spirit and through union with Christ in his death and resurrection (see, Rom. 8:11; 6:5) are being conformed more and more to the image of Christ, who is God (2 Cor. 3:18). As we are being formed, God’s righteous Holy Spirit calls out to us. But we must answer that call.

The Call of Justice

In his landmark book, *Biblical Ethics and Social Change*, Dr. Stephen Charles Mott reflects on the language used in Isaiah



58, where the prophet exhorts the people of God to worship God through doing justice, “to loose the bonds of wickedness, to undo the thongs of the yoke, to let the oppressed go free . . . to share your bread with the hungry, and to bring the homeless poor into your house” (Is. 58:6-8). Mott notes that “the action goes beyond simple charity to attack the causes of suffering, and every form of oppression is touched upon. The will of God is that the people of God be engaged in those actions which will bring to an end human misery in all its manifestations” (p. 73, emphasis added).

At the Clinic, we loose the bonds of injustice through our work with trafficked humans, domestic violence victims, sexual assault survivors, asylum-seekers, impoverished ex-offenders, and low-resource folks of all stripes. This is our act of worship, this is our hymn of praise to a just and righteous God. As lawyers, we have a specific relationship with justice because we are officers of the court. Micah 6:8 famously said, “He has told you, O man, what is good; and what does the LORD require of you but to do justice, and to love kindness, and to walk humbly with God?” Isaiah screamed it at the beginning of his

beautiful prophecy: “Cease to do evil, learn to do good; seek justice, correct oppression; bring justice to the fatherless, plead the widow’s cause” (1:16-17).

In many cases, as with my tenant clients, we are unable to provide a just remedy. But, as ambassadors of Christ (2 Cor. 5:20), we can point people to the God of justice. As advocates we can bring them to the Advocate, Christ, whose wounds justify sinners and make us just and righteous (Is. 53:5; Luke 5:32; 2 Cor. 5:21).



Chris Purnell received his B.S. in English and History from Indiana State University in 2005. He received his J.D. from Indiana University Robert H. McKinney School of Law, where he was a Note Editor for Law Review and graduated Magna

Cum Laude. Chris has served at the Neighborhood Christian Legal Clinic in Indianapolis since September 2008, starting as a staff attorney, then as Executive Director since February 2015. He is also an Adjunct Professor at Taylor University and an Elder at Village Life Church. Chris and his wife, Christy, live in Indianapolis with their two young and always vivacious children.

Looking Beyond the Minimum: Giving God Our Time, Talent, and Treasure

BY CRAIG SHULTZ

We're all familiar with the parable of the good Samaritan, starting with the lawyer who wanted to know what he needed to do to inherit eternal life. Jesus responded simply by instructing him to "Love the Lord your God... and your neighbor as yourself." But for the lawyer, this wasn't specific enough. He wanted an explanation and thus asked "who is my neighbor." After all, he likely thought "love your neighbor" was pretty ill defined and a little too all-encompassing. The lawyer asked for clarification.

For us as lawyers, this is where we live and work every day. We spend our careers trying to understand legal standards and then often try to determine the minimum required to meet those standards. That is what this lawyer was doing. His question was just a hopeful attempt to solicit from Jesus what was the least he would have to do while being certain that he would inherit eternal life. Of course, Jesus understood the lawyer's intentions and thus answered with the well known parable. Then, demonstrating the power of a good question, broadened rather than limited the perceived scope of His earlier answer by asking "Who proved to be a neighbor?" Jesus took away all the pretense embedded in the lawyer's inquiry.

Giving More Than The Minimum.

All of us start with the same amount of time each day. But as lawyers, besides so often looking at ways to minimize the responsibility of our clients or complicate the responsibility of our opponents, we are used to measuring out our efforts and talent by increments of time. The result is presumably a corresponding increase in our own wealth and treasure. And while that may be appropriate within our profession, we surely shouldn't view life in the same manner. Rarely is anything neatly contained within tenths of hours or dealt with in conveniently packaged directions or solutions. The instruction

to love God and our neighbor was not some idea of minimal proportion. It was similar to Micah 6:8 in which God tells us to do justice, love mercy and walk humbly with Him. Our responsibility as Christians, and in particular Christian lawyers, is to be ready to use and give all that we have to accomplish what God sets before us.

Of course, as a practical matter, we struggle with what it really means to give Him everything. Perhaps too often we

rely on our own power and skills, not depending on God at all. We want our actions in life to be truly significant, all the while being a bit too concerned with how we appear to others. It is easy to fall into the temptation of measuring our responsibilities and valuing our lives by what good things we have done. We can even find ourselves acting like the proverbial rich man who built bigger barns to store up treasures for himself, right up to the day his life would end.

Loving those around us is not always easy. It involves spending time with people, helping them, sharing our lives with them - actually loving them as God loves us.

That is admittedly a negative scenario. But to hopefully make a point and only as an example, think about discussions we've had about tithing, a subject that can reveal how susceptible we may become to this temptation. We've all likely heard others as well as ourselves sometimes proudly conclude that tithing on gross rather than net income is what God expects, perhaps not recognizing the slightly self righteous sufficiency of that determination. After all, giving based on our gross can still be a minimum. It's just a higher minimum. And certainly it neglects the better analysis my lawyer friend Marvin Martin shared years ago when he noted that it all belongs to God so our more legitimate concern ought to be with just how much we should "suck off the top" for our own purposes.

So what do we have to use and give for God? A quote I first ran across a number of years ago and thought particularly moving may provide insight to that question. Henri Nouwen, in his book *Gracias*, wrote simply:

It is difficult not to have plans, not to organize people around an urgent cause, and not to feel that you are working directly for social progress. But I wonder more and more if the first thing shouldn't be to know people by name, to eat and drink with them, to listen to their stories and tell your own, and to let them know with words, handshakes, and hugs that you do not simply like them, but you truly love them.

Spending time with people and sharing our lives with them without an agenda for ourselves can be powerful. It sounds most similar to how Jesus lived His life on earth. He loved those with whom He came into contact and gave His time and attention. That's the focus we need.

Giving Our Legal Skills.

One of the great blessings of being a lawyer is sharing our time and knowledge, often with people who can least afford it. Christian legal aid provides a perfect vehicle through which to do that. It may well be the most meaningful ministry sponsored and encouraged by CLS. To provide legal services without

charge, not for our benefit but for theirs. Lawyers who excuse themselves from this opportunity due to fear that they may not be qualified or sufficiently knowledgeable to give the type of advice needed, are worried unjustifiably. As lawyers, we know more about the law than the person who is sitting in front of us. We know better how to find answers to the problems faced by a particular person. And we have resources that allow us the freedom to use that time and talent to help. Many of these people would be lost without our assistance.

What a blessing when we help a man who badly needs a good job, has an offer, but whose past criminal record won't allow him to be hired by a company that finally wants him. My son fought for months to expunge that record, obtained the order on a Friday, and knew on Monday that the client indeed got the job the company had been holding for him.

What an honor to help a woman who had become a Christian and wanted to confront the pending warrant from another state but had no money. We talked with the prosecutor, told him what we were doing and were able to help her avoid felony charges that could have plagued her for years.

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But of course giving our time, our talent, and our treasure need not be limited to lawyering. Even excessively tipping the housekeeper in the hotel (I've pitched this before a few years ago at the CLS banquet), the waiter in the restaurant, or buying someone a meal, not as a lawyer but as a neighbor, is a blessing. Nor does it need to involve money. Spending time with a colleague who needs some advice or a friend who needs someone who cares can be equally important. There is no end to the ways we can help others. We just need it to be part of our mindset.

At a conference sometime in the 1980s, Lorne Sanny, who was for many years President of the Navigators, preached one of the sermons I actually recall. It was based on Judges 3:31.

And after him came Shamgar, the son of Anath, who struck down 600 Philistines with an ox goad; and he also saved Israel.

As I think about that, I wonder if Shamgar had spent most of his time wandering around on his job with his ox goad, wondering what life was all about. Day after day, year after year, perhaps nothing much happened. But when the opportunity arose, he was obviously ready. He didn't just strike down a few Philistines. He saved Israel - with an ox goad.

There isn't much history recorded to explain the verse but Lorne Sanny's point was simple and that point is applicable here. It was summed up in this way:

Do whatever you can
Wherever you are
With whatever you have to work with.

While we can imagine that Shamgar felt pretty good about his part in the process, we shouldn't define his life purpose by examination of a single day's activity. It surely seems unwise to judge the entirety of a person's life by the single worst or best thing they've ever done. From a worldly point of view, defining our lives by what we do or accomplish may make sense. From an eternal perspective, such definitions can seem paltry and insignificant compared to what really counts, our relationship with Jesus. We can picture God's pleasure with Shamgar's life arising primarily from him having simply lived each day in obedience to Him so he could one day use his training and faithfulness to save the nation, though he likely had not been given any idea of what lay ahead. He just did what he could each day.

Loving those around us is not always easy. It involves spending time with people, helping them, sharing our lives with them - actually loving them as God loves us. We can be busy every day, do seemingly great things, even acquire wealth but if those become our goal, we will likely miss the point. It is the simple things in life that can make the most difference. Our listening ear, our prayers, and maybe even some legal advice can mean so much to those who have no voice and nowhere to turn. We can help restore value to people who are downtrodden and emotionally drained. In short, that's part of loving our neighbor, doing justice, loving mercy, and loving God. It may not look like much to the world but to His eyes, those are the things that matter.



Craig Shultz graduated from Wichita State University in 1974 and earned his J.D., cum laude, from Washburn University School of Law in 1978. He is a trial lawyer in Wichita, Kansas. He and his wife Rita

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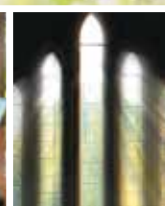
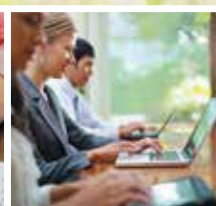


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Swindled by a lawyer: A legal aid client's story

BY ALISSA BAIER

It was a hot August afternoon when I first met with Cristal and her case manager in my office at Open Door Legal Services. I had been told that this new client was an undocumented Salvadoran woman, and she had some questions about the legitimacy of her immigration attorney. Cristal was staying at a Christian homeless shelter for pregnant women and single mothers. Despite the warm weather, Cristal was wearing a dark fleece jacket that completely hid her pregnancy. She spoke softly yet intelligently as she shared her story.

Cristal was trying to apply for Deferred Action for Childhood Arrivals (DACA) with the help of an attorney who was highly recommended to her by some friends in the local Salvadoran community. Since President Obama's executive order on June 15, 2012, DACA has been available to undocumented youth as a form of relief that provides temporary protection from deportation and work authorization, but no pathway to lawful permanent residency or citizenship. When Cristal was only 15 years old, she and her mother left El Salvador and traveled to the United States with the help of "coyotes," risking their lives as they crossed the Rio Grande River and trekking through the hot Texas desert land on foot. Cristal's mother was eventually deported back to El Salvador, but Cristal has stayed with other family members in the Seattle, Washington area ever since. Cristal had spoken with a few different immigration attorneys throughout the years about "fixing" her status, but she was never able to pay their legal fees. After DACA became available in 2012, she felt it was time to try again.

Escaping an Unethical Attorney

This attorney, Mr. Rico, told Cristal that her case wouldn't be an easy one. She had endured some domestic violence from a past boyfriend, and the police had charged her as the perpetrator instead of the victim. Mr. Rico said her case was going to take a lot more work because she had this assault conviction on her record. He quoted her \$4,000 and asked for a \$1,000 payment upfront. A few weeks later, he asked for another \$1,000. Cristal used every dollar of her savings, plus what she could gather from friends and family, to pay him.

As weeks passed, Cristal began to worry if Mr. Rico was doing any work on her case. He kept demanding more money



without showing any progress, and he was saying things that frightened her. He insisted that they meet in his apartment because it was "safe" from immigration authorities. When Cristal's boyfriend, Leon, joined her for a meeting and asked the lawyer to notarize something for them, Mr. Rico started arguing with Leon and even threatened to deport him. Mr. Rico often sent her strange text messages asking for more money, and once even stated: "We need to hurry! The Republicans are going to defund DACA!" Even more strange, Mr. Rico didn't seem to remember Cristal's name, and he regularly wrote the name "Samantha" on her fee agreement, billing receipts, and other documentation.

If that wasn't disconcerting enough, Mr. Rico also pressured Cristal to find employment "under the table" so that she could pay him more. Most of the billable hours documented on his final invoices involved contacting potential employers who could offer her a job, despite her lack of work authorization.

Cristal was smart and articulate, but she was also pregnant, homeless, and vulnerable. She was so afraid of this attorney that she didn't want to answer his phone calls. Even worse, this attorney still had her personal documents in his possession—her

birth certificate, high school diploma, and tax documents—and she worried about never getting them back.

I had heard similar stories before involving clients who had paid a “notario,” or unlicensed scam artists, who promised to help them obtain immigration status. But I was extra concerned that a real attorney was behaving in this way. Cristal was visibly upset, and she burst into tears more than once during our meeting. I offered to intervene on her behalf by contacting Mr. Rico, informing him of Cristal’s decision to change representation, and ask for the return of her original documents, along with a written accounting for his legal work accomplished with her \$2,000 down payment on this case.

We arranged a meeting between Mr. Rico, Cristal, and her case manager in a public place so that they could make this exchange. Along with the return of her original documents, Mr. Rico provided Cristal with an invoice that accounted for only \$1,000 of the money that Cristal had paid, not \$2,000. I contacted Mr. Rico again and asked for an updated invoice.

His second invoice described 11.5 hours of work performed on very different dates from the first invoice—also at a higher hourly rate—resulting in a bill for more than \$3,000. Nothing

was comparable between these two invoices: the dates listed were completely different, the type of “work” performed on each date was inconsistent and questionable, and even the attorney’s hourly rate varied between these two invoices. It had every appearance that he had written these completely from memory on two separate occasions, without citing preexisting records.

We sent a demand letter to this attorney requesting a refund of Cristal’s \$2,000. Time passed without a response. I consulted with Cristal about filing a grievance against Mr. Rico with the state bar association, and she agreed. “Sure, I would like my money back, and I really need it,” she told me, “but this is about so much more than the money. What he did was wrong, and other people should know this before they hire him as their attorney.”

Our bar grievance outlined the gross inconsistencies in Mr. Rico’s two billing statements, his errors in the client’s name, his pressure to make payments, the outrageous fee he was charging for a DACA case, his lack of awareness that Cristal was actually eligible for a better form of immigration relief, and elements in his fee agreement that we believed violated the rules of professional conduct.



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Renewed Hope for Immigration Relief

As I learned about Cristal's story, I wondered if she might be eligible for a better form of immigration relief than DACA. Mr. Rico failed to provide Cristal with a full explanation of the different types of visas and options that she could consider aside from DACA. But as I learned about her past, I found that Cristal could potentially qualify for a "U Visa" (allowed under the federal Victims of Trafficking and Violence Protection Act) due to her history as a victim of domestic violence. Even better than DACA, this type of visa would put her on a pathway to lawful permanent residency, and eventually, citizenship.

In January 2015, Cristal gave birth to her son, a United States citizen. She had married Leon around that time, too, and moved out of the homeless shelter to live with his family. These new developments brought even more good news. Now that they were married, Leon—an undocumented immigrant from Mexico—could qualify as a derivative spouse on Cristal's visa.

We set to work on her visa application, knowing that it would take quite a bit of care to prepare all the forms and supporting evidence for both Cristal and Leon. After many hours of work by volunteer attorneys and interns, we finalized their applications in October 2015 and mailed them to Citizenship and Immigration Services (CIS).

Justice through the Bar Association

Meanwhile, the state bar association took interest in Cristal's grievance and contacted her former attorney. He defended himself by attacking Cristal's character and mental health, writing a long, rambling letter that claimed she made these things up. He claimed that he had "taken pity on her" as a client because no other attorney wanted to work with her.

Cristal was deeply hurt by these comments, but she showed incredible strength and pressed on with the bar grievance in hopes of obtaining both a refund and public admonishment of Mr. Rico. The bar association agreed that something needed to be done. Yet because Mr. Rico had not been sanctioned by the bar before, he was offered "diversion." While diversion is not made public, it still includes serious requirements such as ethics education, counseling, rehabilitation programs, and payment of restitution within a specific time frame. If the attorney did not meet these requirements, then the matter could still be sent to a formal hearing.

Cristal was upset that his wrongdoings were not going to be made public. With our legal aid clinic's help, she sent a letter to

the bar association expressing her concerns. This letter pointed out that, "...I felt preyed on and abused by [Mr. Rico], and I don't want other undocumented immigrants to feel the same way if they choose to hire [Mr. Rico] for legal services ... I am afraid that other vulnerable members of the population will fall victim to [Mr. Rico's] intimidating tactics."

Months passed, and Mr. Rico never responded. The bar association decided to move forward and voted unanimously to send the case to a public hearing on the alleged misconduct. We thought Mr. Rico was going to face formal charges after all.

However, after receiving notice of this, Mr. Rico reemerged from his silence. He found his old diversion contract, signed it, and mailed it back to the state bar association, long after the deadline had passed. He also mailed a \$2,000 check to Cristal, including a strict non-disclosure agreement Mr. Rico characterized the check as "settlement offer" that required Cristal to terminate her bar complaint, refrain from future action against him, and "cease-and-desist" from any discussion of what had happened with the public or "non-necessary parties."

I advised Cristal not to accept the settlement, and the state bar association agreed that she was entitled to a full refund of her fees without any conditions. We returned the check to Mr. Rico and asked him to send us a new one with no strings attached.

An Opportunity for Prayer

At one point, Cristal called me to ask for advice about divorce. She and Leon had been struggling throughout their first year of marriage, and she had asked us about this once before. Cristal has experienced much emotional abuse and was deeply depressed. She worried that her husband only stayed married to her so that he could be included on her immigration petition. Also, Leon's brother-in-law had recently moved into the house, and it was creating a strain on their marriage. Cristal wondered if she should leave Leon and move back to Texas where she had a few friends and family members to support her.

As Cristal cried to me on the phone, I asked if I could pray for her. Cristal mentioned to me in the past that she considers herself Muslim, but she agreed to receive prayer with no hesitation and allowed me to speak God's love and protection over her.

Resolution Still to Come

Finally, on March 14, 2016, we received a new \$2,000 restitution check from Mr. Rico. Fourteen months after Cristal filed her grievance, and she was finally repaid!

I contacted the state bar association with this news, and they agreed to move forward with diversion for Mr. Rico. However, if Mr. Rico does not fulfill the requirements of his diversion program in the future, our grievance could end up going forward to a formal hearing and possibly result in his suspension. Cristal and Leon's U visa petitions remain pending with CIS. These types of applications require up to 22 months of waiting for a decision.

By God's grace, Cristal tells me that she and Leon are no longer pursuing divorce, but instead, are seeking options for marriage counseling. Leon's brother-in-law has moved out of their home, and that alone has made it easier to work on their marriage.

Cristal expressed her gratitude in a recent email to me, writing, "Thank you so much for helping me out with the complaint against [Mr. Rico] ... and also for helping us with the immigration case and for caring about us, not just as your clients, but also as humans."

Reflection

Clients like Cristal are the very reason I feel called to practice immigration law at a Christian legal aid clinic. I've learned from Cristal's case that a lawyer's actions can be just as much a weapon of oppression as a source of justice for the poor and vulnerable. As a follower of Jesus, I feel called to use my legal aid practice in a way that's honoring to God and all those whom He's created—regardless of their nation of citizenship, income level, or primary language.

Despite the many hardships she's faced and the many people who have harmed her over the years, Cristal remains an unshakeable woman and an excellent mother to her son. Her case reminds me of what's written in the book of Jeremiah: "Thus says the LORD: Do justice and righteousness, and deliver from the hand of the oppressor him who has been robbed. And do no wrong or violence to the resident alien, the fatherless, and the widow..." Jeremiah 22:3 (ESV). I continue to pray for Cristal and her family, that a favorable result would come quickly in their immigration case, and that they would receive justice and experience God's righteousness.



Alissa N. Baier is an associate attorney at Open Door Legal Services (ODLS), a Christian legal aid clinic at Seattle's Union Gospel Mission. ODLS advises homeless and low-income clients regarding many of the legal problems that keep them from overcoming homelessness, addiction, hunger, and poverty. Alissa also leads the Seattle CLS attorney chapter and serves on the planning committee for the CLS Northwest Regional Retreat. She graduated from the Seattle University School of Law in 2011, where she served as an Executive Editor of the Seattle Journal for Social Justice and a leader of the student CLS chapter. She graduated magna cum laude from Seattle Pacific University in 2007 with a Bachelor of Arts in Communication and Journalism.

All names have been changed except that of the staff attorneys at Open Door Legal Services.

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RELIGIOUS FREEDOM & BIGOTRY

THE FACTS MATTER



BY MICHAEL SCHUTT

I was recently at a conference for Christian professionals designed to encourage the integration of faith and work. One of the breakout speakers, chasing a rabbit trail and decrying the lack of compassion from many Christian circles, roundly condemned the Georgia legislature for passing a state Religious Freedom Restoration Act law. The Governor of Georgia had recently vetoed the bill, and the speaker, who didn't really know a thing about the bill or its effects, opined confidently that this was the "right thing to do" in deference to our LGBTQ friends and neighbors. He continued by noting that Christians "should not be behind anti-gay legislation."

I have heard much like this lately, from students particularly, but also from faculty members and friends. I want to push back a bit on the illogic and the lack of factual basis behind much thinking like this.

It seems that there are two sentiments behind these sorts of statements. The first is that "facts don't matter, it's the perception that counts." The second is that those who do "wrong" according to current public fashion are always, regardless of the nature of the wrong itself, under the jurisdiction of the state and can be coerced by the government.

First, most Christians who talk like this do not understand RFRA or the effect of state RFRA statutes. But they don't care, because the facts don't matter. Unfortunately, this is not true. Without re-hashing the details, I simply urge thinking humans to actually read the discussions on the topic, look at the legislation, and familiarize themselves with the effects of such statutes. These statutes typically provide, as the Georgia statute did, that before the state—the government—can restrict the exercise of a citizen's religion, it must demonstrate that it has a compelling interest to do so and that it has chosen the least restrictive means of doing it.

Of course, these laws have been in effect as to the federal government for more than 20 years, and the sky has not fallen. Nor have gays and lesbians been thrown under literal or figurative buses as a result of Muslims, Hindus, Rastafarians, or even Christians being protected by RFRA. It is laws of this type that allow Muslim prisoners to grow beards, Sikh army officers to wear religiously-mandated turbans, and Presbyterian churches to operate soup kitchens. The federal RFRA passed overwhelmingly and was signed into law by that arch-conservative, Bill Clinton.

Why the big change in attitudes toward RFRA now? It's because facts no longer matter, for starters. After all, this is what the conference speaker was hoping to get across: Christians should stop being so judgmental, bigoted, and legalistic. He's right, of course, about the judgmental, legalistic, and bigoted thing. We shouldn't be that. But RFRA and support for it is none of those things, and to use it as an example of bigoted, judgmental legalism is to lie about the intent and content of the law. It's immoral, actually, to do so. It is simply counter-factual. Sometimes the facts matter. It is not loving to our Christian brothers and sisters to allow folks to call them bigots and haters in the name of giving ourselves a "good" name. It is shameful, in fact.

As to the second sentiment, I simply challenge Christian students and lawyers to ask themselves: Who is better suited to tell us how we ought to love our neighbors, the state or the church? The state or our families? The state or ??? It matters not, pick any other mediating institution in our culture that influences people to do act well and to love their neighbors.

Why is it that we are so willing to applaud the state's interference with a florist's or a baker's conscience? Whenever we decide that something is wrong, we decide that "there oughta be a

law" against it. This is bad politics and bad policy, of course. But it is also incredibly unbiblical.

I ask you to do two things. First, take the time to find out what these RFRA laws really do. They are not bigoted or judgmental. They have little, if any effect, on homosexual activity or the freedom of the LGBTQ community, despite the hysteria to the contrary. Second, evaluate the track record of the state in compelling "love." The welfare state, for example, is a failure. It has increased, rather than decreased, poverty, and throws money at problems in the name of charity. And it's almost as bad at spending money as it is at charity.

The power to coerce love does not reside in the state for good reason: coerced love is not love. To demand that, under force of civil law, florists, bakers, filmmakers, rock stars, and lawyers love their neighbors exactly the same way that the majority of citizens would love theirs is to support tyranny and participate in the decline of civil society.



Mike Schutt is the director of CLS Law Student Ministries and of the Institute for Christian Legal Studies (ICLS), a cooperative ministry of CLS and Trinity Law School, where he is a Visiting Professor.

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Will Religious Liberty and Nondiscrimination Laws Be Permitted to Co-Exist?



BY KIM COLBY

Given that slavery and racism were embedded in our country's laws and culture for centuries, nondiscrimination laws are essential. They serve the vital purpose of ensuring that people are not denied housing, jobs, or access to public accommodations because of immutable characteristics having nothing to do with their abilities or character. To our society's credit, affixing the label of "discrimination" to an action immediately casts that action as wrongful.

But for that very reason, the current campaign to recast religious liberty as "a license to discriminate" must be dismantled if religious liberty is to survive in America. Until quite recently, stigmatizing persons for following their religious convictions was understood to be the hallmark of a repressive society. Now self-styled "progressives" want to usher in an era of public shaming and blacklisting of religious individuals and institutions who disagree with their values and beliefs.

A healthy balance between nondiscrimination laws and religious liberty is both attainable and necessary. For starters, nondiscrimination laws are intended to protect civil rights, including our foremost civil right – religious liberty.

This is hardly a novel concept. Traditionally, nondiscrimination laws have protected religious citizens in two independent ways. First, such laws typically have protected citizens from religious discrimination by including "religion" in their lists of protected categories, alongside the other basic categories of race, color, sex, and national origin. Second, nondiscrimination laws usually exclude religious citizens and religious organizations from their proscriptive scope in the contexts in which a particular prohibition on discrimination is likely to create tension with religious liberty. Title VII of the 1964 Civil Rights Act illustrates both of these religious liberty protections: it prohibits discrimination on the basis of religion in employment, while simultaneously exempting religious employers from that prohibition. Otherwise Christian colleges, for example, could not require that their professors be Christians.

Unfortunately, government officials are increasingly misinterpreting and misusing nondiscrimination laws to exclude religious citizens and organizations from the public square. Nondiscrimination laws are being misused as a sword to punish the very religious citizens and religious organizations that

such laws were intended to protect. This misuse of nondiscrimination laws actually undermines their essential purposes (to prevent governmental discrimination against religious citizens) and the good they serve. This misuse will soon diminish genuine diversity in our society. In the name of “tolerance,” government officials are institutionalizing religious intolerance. In the name of “inclusion,” government administrators threaten to exclude religious citizens and organizations from the public square.

Examples of the government’s misuse of nondiscrimination laws are multiplying, with two quite recent examples demonstrating the depth of the problem. First, the federal Department of Education is misusing Title IX to publicly shame religious colleges for their religious beliefs regarding sexual conduct. Second, a recent statement issued by six members of the U.S. Commission on Civil Rights insists that government officials should subordinate religious liberty to nondiscrimination laws.

The Department of Education’s Blacklist

Congress enacted Title IX in 1972 to prohibit sex discrimination at educational institutions that receive federal financial assistance.¹ Since then, Title IX has been highly successful in opening up educational opportunities, including sports, to girls and women.

But like most federal nondiscrimination laws, Congress exempted some organizations from the prohibition on discrimination. Title IX exempts college fraternities and sororities, the YMCA, YWCA, Boy Scouts, Girl Scouts, Camp Fire Girls, and other voluntary youth service organizations.² Unsurprisingly, Title IX also exempts “an educational institution which is controlled by a religious organization if the application ... would not be consistent with the religious tenets of such organization.”³

In its Title IX regulations, adopted in 1972, the Department of Education established a procedure by which religious colleges could “claim the exemption ... by submitting in writing ... a statement by the highest ranking official of the institution, identifying the provisions ... which conflict with a specific tenet of the religious organization.”⁴ Over the past 44 years, numerous educational institutions have sent DOE such statements. DOE has always approved them because nothing in Title IX authorizes DOE not to approve a religious college’s claim of an exemption, as DOE itself admits.

From 1972 until 2014, it was understood that Congress meant “sex” to mean biological sex, *i.e.*, “male” or “female.” But in 2014, DOE joined the campaign begun in 2012 by the EEOC, Department of Justice, and Department of Labor to re-define “sex” for purposes of Title VII and Title IX. DOE issued a guidance letter re-interpreting the term “sex” to include “sexual orientation” and “gender identity.”⁵

In response, many religious colleges submitted claims for exemption because of the conflict that DOE’s re-definition of “sex” created with orthodox Christian beliefs concerning marriage, sexual conduct, and sexual identity. DOE has continued to process these claims as before. In recent months, however, DOE has seemed to slow down the approval process for some colleges.

In December 2015, an LGBT advocacy group, the Human Rights Campaign (HRC), launched an attack on Christian colleges’ religious liberty by sending a letter to DOE with three demands: 1) DOE publicize the names of the colleges claiming the religious exemption; 2) DOE require colleges to publicize that they have obtained or sought an exemption; and 3) Congress amend the law to require DOE to report the names of colleges requesting exemption.⁶

Within days, eight senators joined a letter to DOE, urging it to comply with HRC’s demands.⁷ Predictably, DOE capitulated and agreed to create a webpage linking to the religious colleges’ letters requesting exemptions and DOE’s responses.⁸

Note that HRC did not seek, and DOE is not listing, the hundreds of public and private colleges that routinely exempt fraternities and sororities from college nondiscrimination policies, claiming that Title IX requires the exemption, even though the Title IX exemption for fraternities and sororities is only an exemption from Title IX itself, not from state or local nondiscrimination laws, and not from college nondiscrimination policies. But HRC’s and DOE’s campaign is certainly not about fairness. And it is certainly not about Title IX’s many other exemptions. It is solely about punishing religious colleges for taking a religious liberty exemption that Congress enacted 44 years ago to protect their constitutional rights.

There is nothing shameful about the religious colleges claiming the exemption that Congress gave them (and other nonreligious organizations) decades ago. And there is nothing shameful about religious colleges remaining true to their religious beliefs regarding biblical standards for marriage and sexual conduct.

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The HRC’s purpose is to publicly shame the religious colleges who hold traditional religious views regarding marriage and sexual conduct. But DOE did not have to collaborate in black-listing Christian colleges because of their religious beliefs.⁹ And DOE should not remain silent as religious colleges are further harassed because they exercise their Title IX exemption.

Pressure on the NCAA to Exclude Religious Colleges

March Madness used to be a time of high-spirited hysteria over basketball, but for the past two years, it has become a time of mean-spirited hysteria against religious liberty. In 2015, the NCAA threatened to leave Indianapolis because the Indiana Legislature had the audacity to adopt a law to protect religious liberty for Hoosiers of all faiths.

In March 2016, 80 LGBT groups sent a letter to the NCAA demanding that it “divest from all religious based campuses who have requested discriminatory Title IX waivers toward LGBTQ youth.”¹⁰ In other words, religious colleges that exercise their right to govern themselves according to their

religious convictions should be excluded from the NCAA. If a religious college will not let a male student who identifies as female live in its women’s dormitory, no student at that college should be allowed to compete in an NCAA sport. Fortunately, the NCAA responded sensibly by noting that its “diverse membership” of over 1100 colleges “all serve to educate students while also preserving individual institutional values.”¹¹ What March Madness will bring in 2017 is anyone’s guess.

United States Commission on Civil Rights’ Attack on Religious Liberty

In April 2016, six out of eight commissioners on the United States Commission on Civil Rights (USCCR) issued a statement that highlighted the following three deeply disturbing conclusions (USCCR’s points in italics with my responses in roman type):

“Civil rights protections ensuring nondiscrimination, as embodied in the Constitution, laws, and policies, are of preeminent importance in American jurisprudence.”

Of course, this is equally true of religious liberty, which is our first civil right, a fact religious liberty opponents prefer to ignore.

“Religious exemptions to the protections of civil rights based upon classifications such as race, color, national origin, sex, disability, status, sexual orientation, and gender identity, when they are permissible, significantly infringe upon these civil rights.”

The USCCR’s blanket statement is an extremist position. Is it even accurate to claim that religious exemptions invariably “significantly infringe” upon other civil rights? The moderate position is to find a way by which both religious liberty and other civil liberties are respected. Usually we have found a way to balance all citizens’ rights. Our nation’s history demonstrates that both religious liberty and other civil rights can be equally respected and protected. Yet the USCCR would have us abandon valuable common ground in favor of its extreme position that religious liberty should only be grudgingly protected -- if it is protected at all.

“Overly broad religious exemptions unduly burden nondiscrimination laws and policies. Federal and state courts, lawmakers, and policy-makers at every level must tailor religious exemptions to civil liberties and civil rights protections as narrowly as applicable law requires.”

Again, this crabbed understanding of religious freedom is foreign to American law. Consider the Supreme Court’s 2012 decision in *Hosanna-Tabor*, in which the Court held that a church had the right to determine its ministers free from governmental interference even when a nondiscrimination law was invoked. The unanimous Court concluded: “The interest of society in the enforcement of employment discrimination statutes is undoubtedly important. But so too is the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry out their mission.”¹²

Religious liberty and nondiscrimination laws are too important to play them against one another in some misguided game of “constitutional chicken.” Instead, the friends of religious liberty must reclaim a “confident pluralism”¹³ that respects both nondiscrimination principles and religious liberty.



Kim Colby is the Director of the Center for Law & Religious Freedom. She is a graduate of Harvard Law School.

ENDNOTES

- 1 20 U.S.C. §§ 1681-1688.
- 2 20 U.S.C. § 1681 (a) (6).
- 3 20 U.S.C. § 1681 (a) (3).
- 4 34 C.F.R. § 106.12 (a).
- 5 DOE, *Questions and Answers on Title IX and Sexual Violence*, p. 5, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.
- 6 HRC staff, “HRC Calls on Department of Education to Take Action After Anti-LGBT Exemptions Requests,” <http://www.hrc.org/blog/hrc-calls-on-department-of-education-to-take-action-following-anti-lgbt>.
- 7 Ltr. from Sen. Wyden to Sec. Duncan, Dec. 18, 2015, available at <https://www.wyden.senate.gov/download/?id=F9569D7F-5B18-42B4-BD64-983F217F1584&download=1>.
- 8 Ltr. from Asst. Sec. Lhamon to Sen. Wyden, Jan. 20, 2016, available at <https://www.wyden.senate.gov/download/?id=49301FF8-076D-4F95-A138-23C7247DAF2B&download=1>.
- 9 DOE webpage listing colleges requesting exemptions between 2009-2016, available at <http://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/z-index-links-list-2009-2016.html>; same for before 2009, available at <http://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/z-index-links-list-pre-2009.html>; DOE webpage “Religious Exemption,” available at <http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/rel-exempt-pr.html>
- 10 Ltr. from Aids Housing Alliance/SF, et al., to Mark Emmert, Pres. NCAA, Mar. 9, 2016, available at <https://www.campuspride.org/shamelist/takeactionNCAA/>.
- 11 Ltr. from Bernard Franklin, Chief Inclusion Officer, NCAA, to CampusPride, Mar. 15, 2016, available at <https://www.campuspride.org/NCAAREsponse/>.
- 12 *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 132 S. Ct. 694, 710 (2012).
- 13 John D. Inazu, *Confident Pluralism: Surviving and Thriving through Deep Difference*, Univ. of Chicago Press (2016), available at <http://www.amazon.com/Confident-Pluralism-Surviving-Thriving-Difference/dp/022636545X>.



PUT NOT YOUR TRUST in Princes

BY KEN LIU

The 2016 presidential campaign has been, if nothing else, interesting. Like countless other Americans, I am apprehensive about the future of our nation. This election cycle will likely impact many crucial societal issues for years and years to come.

But we must always remember that God's kingdom is not of this world. Earthly kingdoms may rise and fall, but the Word of God will reign forever. The Psalmist urges us:

Do not put your trust in princes,
in human beings, who cannot save ... (Psalm 146:3 NIV).

We are not to put our trust in governmental authorities (i.e., princes), but instead, should put our hope in the One who can truly save. As the Psalm continues:

Blessed are those whose help is the God of Jacob,
whose hope is in the Lord their God ...
He upholds the cause of the oppressed
and gives food to the hungry.
The Lord sets prisoners free,
the Lord gives sight to the blind,
the Lord lifts up those who are bowed down,
the Lord loves the righteous.
The Lord watches over the foreigner
and sustains the fatherless and the widow,
but he frustrates the ways of the wicked.
The Lord will reign forever,
your God, O Zion, to all generations. (Psalm 146:5-10)

Notice how much emphasis the Psalmist places on God as the hope for the downtrodden—the oppressed, the hungry, the prisoner, the blind, the immigrant, the orphan, and the widow. God intimately cares about them -- he upholds, he gives, he sets free, he lifts up, he watches over, and he sustains.

As Christians, we are God's hands and feet here on Earth. So, because God cares intimately for the downtrodden, we are to do the same. As Christian attorneys, we have a particular calling. Indeed, Psalm 82 calls us to "Give justice to the weak and the fatherless; maintain the right of the afflicted and the destitute." "Justice" and "rights" are in our domain. If we don't advocate for justice and the rights of the poor, who will?

Regardless of who wins this year's elections, two things are certain: 1) God will continue to reign, and 2) the poor will continue to need help and hope. As Christian attorneys, we stand at the intersection of those two certainties. We have the skills to advocate for justice for the poor, and we can proclaim the greatest Advocate—the one who provides true hope.



Ken Liu is the Christian Legal Society Director of Legal Aid Ministries. He has provided legal aid services through Good Samaritan Advocates in Northern Virginia since 2005.

If you feel God calling you to use time, talents, and treasures to serve the needy, consider coming to the 2016 Christian Legal Aid Summit in Washington, DC on October 20th (as part of the Christian Legal Society National Conference) or contact Ken Liu at kliu@clsnet.org.



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ALABAMA

Birmingham
CLS Birmingham
Mark Hogewood
mhogewood@wallacejordan.com

Mobile
CLS Mobile
William Watts
bill@pipeshudsonwatts.com

ARIZONA

Phoenix
CLS Phoenix
Chris Charles
chris@providentlawyers.com

Tucson
CLS Tucson
Jim Richardson
jimmiegrichardson@msn.com

CALIFORNIA

Inland Empire
CLS Inland Empire
Maureen Muratore
mmlawyer@peoplepc.com

Los Angeles
CLS Los Angeles
Bill Reichert
reichert@wellsfargo.com

Orange County
CLS Orange County
Steve Meline
melinelaw2@yahoo.com

Sacramento
CLS Sacramento
Steve Burlingham
steveb@gtblaw.com

San Diego
CLS San Diego
Miles Lawrence
MLawrence@LTSLaw.net

San Fernando Valley
CLS San Fernando Valley
Ben Jesudasson
ben@bjslawfirm.com

San Francisco
CLS San Francisco
Kirstin L. Wallace
kwallace@archernorris.com

West Los Angeles
CLS West L.A.
Sarah Olney
sarah.olney@yahoo.com

COLORADO

Colorado Springs
CLS Colorado Springs
Synthia Morris
synthiamorrisatty@gmail.com

Denver
CLS Metro Denver
Terry O'Malley
tomalley@omalleylawoffice.com

DISTRICT OF COLUMBIA

CLS DC Metro
Paul Daebeler
pfdaeber@verizon.net

FLORIDA

Jacksonville
CLS Jacksonville
Tom Harper
tom@employmentlawflorida.com

Orlando
CLS Orlando
Joshua Grosshans
josh@lseblaw.com

Tampa
CLS Tampa
Joseph Pippen
joe@attypip.com

GEORGIA

Atlanta
CLS Atlanta
Clare Draper
Clare.draper@alston.com

HAWAII

Honolulu
CLS Hawaii
Terry Yoshinaga
yoshinagalaw@gmail.com

ILLINOIS

Chicago
CLS Northern Illinois
Steve Denny
sdenny@dennylaw.com

KANSAS

Wichita
CLS of Wichita
Douglas Coe
Douglasjohncoe@gmail.com

LOUISIANA

New Orleans
CLS New Orleans
Frank Bruno
frank@fabruno.com

MARYLAND

Baltimore
CLS Baltimore
David Smith
maryland.cls@startmail.com

MASSACHUSETTS

Boston
CLS Boston
Brian Tobin
btobin@tobin.pro

MINNESOTA

Minneapolis
CLS of Minnesota
Paul Baertschi
baertschi@integra.net

MISSISSIPPI

Jackson
Bob Anderson
Bobanderson1987@gmail.com

MISSOURI

Kansas City
CLS Kansas City
Jesse Camacho
jcamacho@shb.com

St. Louis
CLS St. Louis
Gary Drag
garydrag@sbcglobal.net

NEBRASKA

Lincoln
Jefferson Downing
jd@keatinglaw.com

NEVADA

Las Vegas
David Ortiz
davidortizlaw@yahoo.com

NEW YORK

New York City
Wendy Patrick
jstcesq@live.com

Syracuse
CLS Central New York
Ray Dague
rjdague@daguelaw.com

NORTH CAROLINA

Wake County
Wake County CLS
Max Rodden
mrodden@smithdebnamlaw.com

OHIO

Columbus
CLS of Central Ohio
Tim Nittle
tmittle@gmail.com

Willoughby Hills
CLS of Ohio Northeast
Robert L. Moore, Esq.
rob@robertlmooreesq.com

OKLAHOMA

Oklahoma City
CLS Oklahoma City
David Van Meter
david@vanmeterlawfirm.com

OREGON

Salem
CLS of Oregon
Warren Foote
warren.foote@comcast.net

PENNSYLVANIA

Philadelphia/Delaware Valley
Ted Hoppe
thoppe@thoppelaw.com

Pittsburgh
CLS Western Pennsylvania
Delia Bianchin
delia_bianchin@pennunited.com

TENNESSEE

Nashville
CLS Greater Nashville
John Kea
jkea@sbc.net

TEXAS

Austin
CLS Austin
Steve Campos
scampos@thefowlerlawfirm.com

Dallas
CLS Dallas
Jon Mureen
Jon.mureen@squirepb.com

Houston
CLS Houston
Stephen Moll
smoll@reedsmith.com

San Antonio
CLS San Antonio
Chad Olsen
chad@braychappell.com

VIRGINIA

Leesburg
CLS Northern Virginia
Mark Crowley
markvincentcrowley@earthlink.net

Richmond
CLS Richmond
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“Again, I tell you that if two of you on earth agree about anything you ask for, it will be done for you by my Father in Heaven. For where two or three come together in my name, there am I with them.”

MATT. 18:19-20

Together is Better than Alone

Many years ago in North Carolina, I helped start two CLS chapters in Winston-Salem and Raleigh, as well as two CCS (Peacemaker Ministries) groups in the same region. The law fellowships and Peacemaker ministries thrived and grew during the early years; however, when I departed each city, they did not continue to grow. Eventually, a couple of the groups died off. Upon reflection, I have learned that while we had many people who participated in the ministries, I had not gathered two or three other leaders to share the burden and joy, nor did we bathe them in adequate prayer support.

As we see the changing culture around us today, we know that being a Christian is becoming increasingly unpopular. We are no longer in the majority. Being a Christian attorney is even more counter-culture and not exactly the way to earthly success and popularity. How can we, therefore, achieve what God has called us to be in our culture, community and church when we are bombarded with negative messages and encouraged to shrink back? More importantly, our law practice demands so much of our time and attention that often we feel that we cannot properly focus on advancing our faith in the way we know we should. This results in many Christian lawyers feeling isolated in their practices and even in their church communities and just trying to get business to make a living.

I have discovered that gathering a group of Christian lawyers/leaders to shoulder the load has great benefits and produces even greater results. One way I have seen this was through starting the DC Christian legal aid clinic many years ago (recently bolstered by my former associate attorney) and our Northern Virginia (NOVA) Christian Lawyers' group, which is now starting other satellite chapters and ministries. For example, in what became the NOVA CLS Chapter, we started by having a few Christian lawyers meet together for breakfast to discuss how to best

integrate our Christian faith into the demanding practice of law. As we continued to run into each other in court, community events and other places, we took great comfort and encouragement from our growing fellowship and friendship. Soon we were averaging so many attendees that we moved to a bigger space and lunch venue. We created a small task force of Christian lawyers who shared the planning and leadership as the CLS chapter was formed and we grew in numbers and maturity. When I took over the national presidency, the three or four Christian lawyers whom I had gathered into a leadership task force gracefully stepped in and continued to grow the Christian lawyer fellowship here in NOVA.

We are stronger together than alone, which is not only Biblical, but also proven daily in a practical way. Oftentimes, however, we tend to be loners when it comes to walking out our Christian faith in the law practice. We need to change that habit to help bring changes to our nation. Since my unofficial motto of CLS is **change the lawyer, change the law and change the culture**, we need to be change agents: in short, salt and light to a dark and dying world; but we need to do it together. I encourage you to reach out to Christian lawyers in your churches and communities to get them working with you in CLS to stand up for the Biblical values that make us salt and light to the world.

A great patriot, Benjamin Franklin, said this at a critical hour for our nation. As the Bible instructs us in the verse I quoted at the start, there is power in Christians praying and working together. We have seen these results through the ages, and we will see positive changes now if we gather together again in Christ regardless of political leanings. We are Christians and Ambassadors from His kingdom called to fight the Evil One and his minions to bring His kingdom to this earth. May we be found faithful together and no longer be “Lone Ranger” Christian attorneys.

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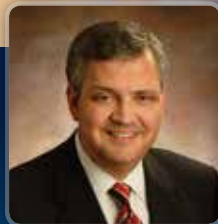


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