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OF ORPHANS AND ADOPTION, PARENTS AND THE POOR, EXPLOITATION AND RESCUE: A SCRIPTURAL AND THEOLOGICAL CRITIQUE OF THE EVANGELICAL CHRISTIAN ADOPTION AND ORPHAN CARE MOVEMENT

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*David M. Smolin**

The evangelical Christian[1] movement within the United States has become mobilized and focused on adoption and orphan care as a Christian imperative and practice over the last several years.[2] This mobilization and practice has been accompanied by scriptural and the-

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[1] *See* David M. Smolin, *Religion, Education, and the Theoretically Liberal State: Contrasting Evangelical and Secularist Perspectives*, 44 J. CATH. LEGAL STUD. 99, 99-102 (2005) (discussing various definitions of evangelical Christianity or evangelical Protestantism).

[2] *See* Kathryn Joyce, *The Evangelical Adoption Crusade*, THE NATION, Apr. 21, 2011, *available at* http://www.thenation.com/print/article/160096/evangelical-adoption-crusade; Ted Olsen, *Adoption is Everywhere: Even God is into it*, CHRISTIANITY TODAY, July 2, 2010, *available at* http://www.christianitytoday.com/ct/archives/july2011.html; Peter Smith, *Adoption Growing Among Evangelical Christians*, THE COURIER-JOURNAL, Jan. 18, 2011, *available at* http://www.courierjournal.com/article/20110118/FEATURES10/301120034/Adoption-growing-among-evangelical-Christians.

ological analysis purporting to establish an interconnected Christian theology of adoption and orphan care undergirding these imperatives to action.[3]

The primary purpose of this essay is to demonstrate that the scriptural and theological analysis undergirding the evangelical adoption and orphan care movement is patently and seriously erroneous. Thus, this essay will demonstrate that, based on the standards, methods, and presuppositions broadly shared by evangelical Christians in analyzing scripture and theology,[4] the evangelical adoption movement's specific analysis of concepts such as "adoption" and "orphans" has been seriously deficient and has produced conclusions that are demonstrably false. The second purpose of this essay will be to indicate that these errors of scriptural and theological analysis have produced, and are producing, practices that in scriptural and Biblical terms would be called "sinful" and in more secular language can be called exploitative. Due to space limitations, this second purpose will be abbreviated, with the reader referred to other works that describe in detail exploitative and abusive adoption practices.

Of course this essay does not claim that every act inspired by the evangelical adoption and orphan care movement is evil or exploitative; nor does this essay deny that some helpful and effective ministries are conducted in the name of the movement. Indeed, some who work under the banner of the movement have avoided the errors and exploitative practices identified in this essay. Nonetheless, the errors and exploitative practices described herein are not merely peripheral errors or growing pains, but go to the heart of how the movement has defined its mission, purpose, and practices.

Part I of this essay will briefly overview the theological and scriptural positions presented by the evangelical adoption and orphan care movement. Part II will present, in several parts, a theological and

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[3] *See* DANIEL J. BENNETT, A PASSION FOR THE FATHERLESS: DEVELOPING A GOD-CENTERED MINISTRY TO ORPHANS (2011); DAN CRUVER ET AL., RECLAIMING ADOPTION: MISSIONAL LIVING THROUGH THE REDISCOVERY OF ABBA FATHER (Dan Cruver ed., 2011); TONY MERIDA & RICK MORTON, ORPHANOLOGY: AWAKENING TO GOSPEL CENTERED ADOPTION AND ORPHAN CARE (2011); RUSSELL D. MOORE, ADOPTED FOR LIFE: THE PRIORITY OF ADOPTION FOR CHRISTIAN FAMILIES & CHURCHES (2009); *Resolution No. 2 On Adoption and Orphan Care*, S. BAPTIST CONVENTION (June 2009) [hereinafter *SBC Resolution*], http://www.sbc.net/resolutions/amResolution.asp?ID=1194.

[4] *See* RAYMOND B. DILLARD & TREMPER LONGMAN III, AN INTRODUCTION TO THE OLD TESTAMENT 19 (Gerard Terpstra ed., 1994) (discussing an "evangelical" approach to scriptural texts).

scriptural critique of the movement, exploring in particular the scriptural and theological significance of the two major concepts at issue, adoption and orphans. Part III will argue that the analytic errors of the movement have contributed to exploitative practices. Part IV will conclude with a plea for debate, interaction, and reform.

I. THE EVANGELICAL CHRISTIAN ADOPTION AND ORPHAN CARE MOVEMENT

The fundamental premise of the evangelical Christian adoption and orphan care movement is that the scripture's teachings on orphans and adoption are intertwined and connected. A Biblical doctrine and practice of adoption is viewed as a primary imperative and response to the Biblical call to assist orphans, the fatherless, and the poor.[5]

Thus, the repeated Biblical call to assist orphans and the fatherless requires action and intervention. Orphans are viewed as a significant category within the scriptures, and as a group that God views with special compassion, concern and care. Indeed, orphans are among the most vulnerable and prominent of the intertwined categories of persons Biblically viewed as in need of assistance, such as the poor.[6] Because they are assumed to be children, orphans also evoke the scriptural texts portraying Jesus as having a particular solicitude, concern, and care for children, whose access to Him should not be hindered.[7] Because orphans are viewed as lacking parents caring for them, they particularly exemplify God's role as "Father of the fatherless."[8]

Within this viewpoint, the Biblical terms "orphan" and "fatherless" are understood as synonymous terms referring to infants or children without any active parental care.[9] Given this understanding, adoption is viewed as the most effective, compassionate, permanent, and appropriate intervention. Since "orphans" are viewed as those who lack a family, and the family itself is such a fundamental human need, nothing short of providing orphans with a permanent family completely fills that need. Other forms of assistance and intervention, such as provision of food, clothing, housing, education, temporary care, etc., are viewed as significant and sometimes quite necessary; yet, within

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5 *See supra* note 3.

6 *See, e.g.*, BENNETT, *supra* note 3, at 39-55.

7 *See Matthew* 18:1-14; *Luke* 18:15-17.

8 *See* BENNETT, *supra* note 3, at 45 (quoting *Psalm* 68:5); MOORE, *supra* note 3, at 20 (quoting *Psalm* 68:5).

9 *See* MOORE, *supra* note 3; SBC *Resolution*, *supra* note 3.

this perspective adoption appears to be the only fully satisfying solution.[10]

The primacy of adoption as an intervention is further undergirded by a theology of adoption which links "vertical" adoption (God's adoption of each Christian into the family of God) and "horizontal" adoption (adults adopting orphan children). Within this theological perspective, "vertical" adoption is a manifestation of the gospel and of salvation, and hence central to the Christian message. "Horizontal" adoption thus becomes a representation and proclamation of the gospel, a living embodiment within human relationships of the "good news" of what God has done for his "children" in His Son, Jesus Christ.[11]

According to these premises, every Christian is "adopted" by God, such adoption representing a transfer from the realm of the devil and fallen humanity (Adam) into the relational life of the Triune God (Father, Son, and Holy Spirit) and the redeemed family of God (the church).[12] To be "adopted" by God is to have God truly as one's Father and to share in the intimate love of God the Father for God the Son. Adoption is at the center of God's salvation, a great act of redemption in which sinners are forgiven, justified, sanctified, and made into a "new creation."[13]

Adoption of orphans, particularly by Christians, exemplifies God's care for each of His "children."[14] The child is transferred into a Christian family and potentially/actually into the family of God.[15] The child passes from estrangement, abandonment, hunger, trauma, depersonalized institutionalization, or the life of the streets into the warm embrace of loving arms: a "forever family."[16] The child is accepted on the basis of the love and faith of the parents as a full part of their family, despite any disabilities or racial, ethnic, or cultural differences.[17]

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[10] *See* MERIDA & MORTON, *supra* note 3 (promoting adoption as a response to the problem of the fatherless but also recommending other forms of orphan care, particularly when children are not eligible for adoption or otherwise will not be adopted); MOORE, *supra* note 3 (focusing almost exclusively on adoption as a response to the needs of orphans).

[11] *See* BENNETT, *supra* note 3, at 67-81; CRUVER ET AL., *supra* note 3; MERIDA & MORTON, *supra* note 3, at 27-45; MOORE, *supra* note 3.

[12] *See* CRUVER ET AL., *supra* note 3, at 7-56.

[13] *See supra* note 3.

[14] *See id.*

[15] *See* CRUVER ET AL., *supra* note 3, at 15.

[16] *See* MERIDA & MORTON, *supra* note 3, at 49-56; MOORE, *supra* note 3, at 16-18, 52. The term "forever family" is common in the context of adoption.

[17] *See* MOORE, *supra* note 3, at 147-66.

When the orphan is young, vulnerable, alone, and without help or assistance—far too weak to provide for herself—the adoptive parents intervene and transfer the child from the realm of death and alienation into the realm of life and love. Thus, adoption mirrors and exemplifies the famous gospel principle that God acts for our salvation when we are "without strength:" helpless sinners unable to save ourselves.[18]

Thus, when Christians realize what God has done for them in "adopting" them, they are moved to imitate, on a human scale, God's great work, through the adoption of orphan children into their families.[19] When Christians truly appreciate how helpless, needy, and without hope they were apart from their adoption, in Jesus Christ, by God the Father, they are moved to seek out and adopt the helpless, needy, orphan children of the world, and bring them into their own families through legal adoption.[20]

This compelling theological picture of an adoption imperative is supplemented by statistics indicating extremely large numbers of orphans in the world today. Thus, both Christian and secular sources promoting adoption commonly claim that there are more than 100 million orphans in the world, a staggering figure indicating a virtually limitless need for adoptive families.[21] Those focused on adoption from the United States foster care system estimate that more than 100,000 children in the United States are in need of adoption.[22] Putting together the Biblical call to orphan care, the understanding of adoption as a living representation and proclamation of the gospel, and the nearly endless need for adoptive parents to provide homes for well over 100 million orphans, the evangelical adoption and orphan care

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[18] *See id.* at 150 (quoting *Romans* 5:6).

[19] *See* MERIDA & MORTON, *supra* note 3, at 19-45; MOORE, *supra* note 3, at 15-84; *SBC Resolution*, *supra* note 3.

[20] *Id.*

[21] *See* TOM DAVIS, FIELDS OF THE FATHERLESS 81 (2008) (stating that 143 million orphans could be adopted if 7% of Christians each adopted one orphan); MERIDA & MORTON, *supra* note 3, at 50 (stating that UNICEF estimates of 143-150 million orphans does not reflect the full number of the "fatherless"); Elizabeth Bartholet, *International Adoption: Thoughts on the Human Rights Issues*, 13 BUFF. HUM. RTS. L. REV. 151, 182-83 (2007) (stating that there are said to be more than 100 million children "with no available caregivers"); Elizabeth Bartholet & David Smolin, *The Debate*, *in* INTERCOUNTRY ADOPTION: POLICIES, PRACTICES, AND OUTCOMES 370, 370 (forthcoming June 2012) (stating that there are approximately 143 million orphans) [hereinafter *The Debate*]; *SBC Resolution*, *supra* note 3 (stating that there are "Upward of 150 million orphans"); *but see* BENNETT, *supra* note 3, at 22-23.

[22] *See* MERIDA & MORTON, *supra* note 3, at 51.

movement proclaims a call for virtually all Christians to be involved in adoption. Thus, Christians are told that they should either be adopting, or else be supporting organizations or persons involved in adoption, in order to heed this Biblical call and meet this great need in the contemporary world.[23]

In its strongest form, proponents of the adoption and orphan care movement perceive adoption as the essential and primary way of understanding the Christian's relationship to God, and hence as essential and primary to the communication and practice of the gospel.[24] From this perspective, even Biblical narratives such as the story of the prodigal son, which do not appear to reference adoption, are read as adoption narratives.[25] Indeed, it appears that virtually all scriptural passages about the relationship of God's people to God are read through the lens of adoption.[26] Given this reading of vertical adoption as essential to the gospel, horizontal adoption, which mirrors and proclaims vertical adoption, is viewed as an activity that should permeate and be integrated into the life of the church in a way far more central than the typical "ministries" of the church. Not only should virtually all Christian families either be adopting, or supporting others in adopting, but adoption should be central to the corporate life of the church.[27]

This vision of adoption as central to the church presupposes a certain form and image of adoption as both the referent to our vertical adoption by God, and also as the kind of practice of horizontal adoption to which Christians and the church are called. The basic image of adoption is that of a non-related person adopting an infant or child who is an orphan. The term "non-related" means that the adoptive parents were not previously related to the child through blood or marriage; an "orphan" generally refers to an infant or child whose parents are both dead, or whose parents are both either unable or unwilling to parent the child.[28] In addition, from a legal perspective the Christian

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[23] *See* Russell D. Moore, *Abba Changes Everything: Why Every Christian is Called to Rescue Orphans,* CHRISTIANITY TODAY, July 2, 2010, *available at* http://www.christianitytoday.com/ct/2010/july/10.18.html [hereinafter *Abba Changes Everything*].

[24] *See id.* (stating that "Adoption is, on one hand, gospel."); CRUVER ET AL., *supra* note 3, at 7-81.

[25] *See* CRUVER ET AL., *supra* note 3, at 9-12.

[26] *See id.* at 7-56.

[27] *See* MERIDA & MORTON, *supra* note 3, at 80; *Abba Changes Everything*, *supra* note 23.

[28] *See* MERIDA & MORTON, *supra* note 3, at 19-56; MOORE, *supra* note 3; *Abba Changes Everything*, *supra* note 23.

adoption movement presumes the kind of adoption which exists in the United States, which in comparative law terms is called full adoption. Full adoption involves a complete legal transference of the child from the original family to the adoptive family, so that after the adoption the child is a legal stranger to their original father, mother, siblings, and all other relatives, while being a full member of the adoptive family. Full adoption generally involves both a new name and a new identity for the child.[29] In the full adoption version existing in a majority of states, the law implements an "as if," closed records system. Under this system, the original birth certificate and court records are sealed. Hence, adult adoptees are not permitted to discover their original name, identity, and family members and the original parents are not permitted to discover the adoptive identity of the adoptee. Thus, the law of the United States builds the protection and legitimacy of adoptive relationships upon the legal destruction and suppression of the original family relationships. Adoptive relationships in this system are designed to copy biological family relationships; since biological family relationships are exclusive—one mother and father per child—the same exclusivity is expected in adoptive relationships. The only way to achieve this kind of exclusivity is to deny that "birth" mothers and fathers are truly parents, leaving adoptive mothers and fathers as the only true parents.[30] The evangelical Christian adoption and orphan care movement has not critiqued the legal system of adoption within the United States, but instead presupposes it as the normative form of adoption, which can create expectations and presuppositions that minimize the significance of original family relationships for adopted persons.

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[29] *See* INT'L REFERENCE CTR. FOR THE RTS. OF CHILD. DEPRIVED OF THEIR FAMILY, INT'L SOC. SERV., FACT SHEET NO. 29 "SIMPLE ADOPTION" VERSUS "FULL ADOPTION:" THE EFFECTS OF ADOPTION (2007) (explaining in comparative law terms the differences between simple and full adoption); INT'L REFERENCE CTR. FOR THE RTS. OF CHILD. DEPRIVED OF THEIR FAMILY, INT'L SOC. SERV., MONTHLY REV. NO. 1/2006 JAN. 2006 "SIMPLE ADOPTION" VERSUS "FULL ADOPTION:" A NATIONAL CHOICE WITH INT'L REPERCUSSIONS (2006).

[30] *See* E. WAYNE CARP, FAMILY MATTERS: SECRECY AND DISCLOSURE IN THE HISTORY OF ADOPTION (1998); David M. Smolin, *Child Laundering as Exploitation: Applying Anti-Trafficking Norms to Intercountry Adoption Under the Coming Hague Regime*, 32 VT. L. REV. 1, 4-10 (2007) [hereinafter Smolin, *Child Laundering as Exploitation*]; Riitta Högbacka, Univ. of Helsinki, Address at the Interim Meeting of Family Sociology of the European Sociological Association: Transnational Adoption and the Exclusiveness and Inclusiveness of Families (Aug. 26-29, 2008), *available at* http://www.kumsn.org/main/?module=file&act=procFileDownload&file_srl=4182&sid=d28b7e0aaa719923304c1a0afe05a569.

II. A THEOLOGICAL AND BIBLICAL CRITIQUE OF THE EVANGELICAL ADOPTION AND ORPHAN CARE MOVEMENT

Upon examination, the theological and biblical foundations of the evangelical adoption and orphan care movement are deeply flawed. The various presuppositions and conclusion ironically are only distantly related to the actual content of the scriptures. The scriptural concepts of adoption and orphan are not intertwined but indeed are almost mutually exclusive. While the apostle Paul probably does employ an adoption metaphor in describing salvation and the Christian's relationship to God, its claimed centrality is belied by the absence of any such references to adoption in virtually the rest of the Bible, Old and New Testaments. Further, even if Paul's adoption metaphor is viewed as central, its reference point is a practice of adoption fundamentally different from the kind of adoption in the minds of the movement. The claim of a Biblical call to Christians to adopt ("horizontal" adoption) is belied by the almost complete absence of adoption as a practice in the scriptures, with the few examples of adoption providing no support for the kinds of adoption urged by the movement. Thus, upon closer examination the purported links between "vertical" adoption" (our relationship to God) and the kinds of "horizontal" adoption urged by the movement are, scripturally speaking, non-existent.

Worse yet, the movement's distorted teaching on adoption and orphan care causes the church to minimize or pass over the primary Biblical call in relationship to "widows and orphans" and the "fatherless," leading to practices that exploit the very persons the Bible has called Christians to assist.

These critiques are elaborated below through an examination of the concepts of "adoption" and "orphan" in the Old and New Testaments.

A. Adoption in the Christian Scriptures

1. Old Testament (Hebrew Bible)

i. The Absence of Adoption from the Law of Moses

Most significantly, there is no law of adoption in the Law of Moses. Both the term and the practice are missing from the more than

600 laws of the Torah.[31] Later Jewish interpretations of the Torah, such as the Talmud, verify this absence, and agree that Jewish law lacks any law or practice of adoption. Instead, within Jewish law (outside of the Bible) there is provision for a role known as caring for another's child. While such role is praised, it does not involve a change in the legal identity of the child. The child's name, identity and family history are not altered by this form of care. However praised, this quasi-adoptive role in traditional Jewish law is more akin to foster care than to formal adoption.[32]

The reasons for this absence are clear. The Law of Moses is created for a patriarchal, patrilineal, and tribally-organized society in which biological lineage through the father and male line are paramount. Children belong not only to their father, but also to a lineage going back ultimately to one of the twelve tribes and hence one of the sons of Israel (Jacob).[33] Within this family system, it would be virtually unthinkable to take a child of dead parents and legally remove the child from their father's lineage. Such would be to blot the father and family from Israel, in a society where continuation of the patriarchal, inter-generation family line is a paramount goal of the family system.[34] Thus, within such a system one would assume that when infants or children lose their father or parents through death or otherwise, it would be the responsibility of the relatives to raise the child while preserving the child's original identity.[35]

One situation where a child is re-assigned fathers by the law is that of levirate marriage, whose object is to preserve the family line of a man who dies without an heir. In such a situation, the brother and widow are obligated to marry and assign the first son legally to the

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[31] *See Genesis*, *Exodus*, *Leviticus*, *Numbers*, *Deuteronomy*; Francis Lyall, *Roman Law in the Writings of Paul Adoption*, 88 J. BIBLICAL LITERATURE 458, 459 (1969); Daniel Pollack et al., *Classical Religious Perspectives of Adoption Law*, 79 NOTRE DAME L. REV. 693, 696 (2004) (stating that "adoption as a formal legal institution does not exist in Jewish law."); Michael J. Broyde, Adoption, Personal Status, and Jewish Law, at 128-147, in The Morality of Adoption (Timothy P. Packson, ed. 2005).

[32] Pollack et al., *supra* note 31, at 696; Broyde, *supra* note 31.

[33] *See Genesis* 46, 48-49; *Exodus* 1:1-7; *Leviticus* 1-4; *Joshua* 7:14, 15-24.

[34] *See Deuteronomy* 25:6 (stating that levirate marriage was instituted so that a dead brother's "name will not be blotted out of Israel."); Robert L. Hubbard, Jr., *The Go'el in Ancient Israel: Theological Reflections on an Israelite Institution*, 1 BULL. FOR BIBLICAL RES. 3, 15 (1991); Lyall, *supra* note 31, at 459-60.

[35] *See Esther*; *see infra* notes 54-60 and accompanying text.

(deceased) brother and husband.[36] Of course in such an instance the child would be raised in the household of the biological father and mother, and so such an instance is certainly not comparable to contemporary forms of adoption. Indeed, this custom underscores the importance of the patriarchal family line within Israel.

It is noteworthy that there is no provision in the Law of Moses for adopting the children of foreigners, whether of those abandoned by foreigners or the children of those conquered by Israel. By contrast, the law makes specific provision for marrying foreign women conquered by Israel and bringing them into Israel.[37] Thus, Biblical and Jewish law generally rejects the fundamental legal concept of adoption, the legal change in the child's identity. This rejection occurred despite interactions with other cultures in which this legal concept did exist and was practiced, and thus was a self-conscious distinction between the law of the people of God and that of the "nations." Interestingly, this rejection of the fundamental concept of adoption is similar to what would later occur in Islam.[38] Ultimately, both Judaism and Islam provide a category for raising someone else's child in one's household, without changing the legal identity of the child and without removing them, in identity, name, and law, from their original family.[39]

ii. Purported Instances of Adoption in the Old Testament

a. *Moses*

The few examples of adoption or adoption-like practices in the Hebrew Bible underscore the lack of adoption in the Mosaic and Jewish law. The most prominent of these is the adoption of Moses.[40] While Christians ironically sometimes include Moses in their discus-

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[36] *See Genesis* 38:8; *Deuteronomy* 25:5-10; Lyall, *supra* note 31, at 459-61. *Cf. Leviticus* 18:16 (stating that a man shall not have sexual relations with his sister-in-law).

[37] *See Deuteronomy* 21:10-14.

[38] *See* Pollack et al., *supra* note 31, at 732-52; Broyde, *supra* note 31, at 129. *See also* Convention on the Rights of the Child art. 20(3), Nov. 20, 1989, 1577 U.N.T.S. 3 (recognizing that Islam has a separate doctrine, kafalah, apart from adoption to provide for children separated from their parents).

[39] *See* Pollack et al., *supra* note 31, at 696-711, 732-52; Broyde, *supra* note 31.

[40] *See Exodus* 2.

sions of Biblical foundations for adoption,[41] the story more naturally supports a negative perspective on adoption. The story begins with Pharaoh ordering the Hebrew midwives to kill all of the Israelite male children.[42] Pharaoh's purpose was in modern terms genocidal, as he wanted either to destroy entirely, or destroy partially, the Hebrew people, and it is considered genocide to intentionally destroy a people "in whole or in part" through "killing members of the group."[43] The male line was attacked presumably because the continuation of the patriarchal Hebrew people depended on the continuity of the male line, rendering it unnecessary to kill the daughters of the Hebrews. However, the Hebrew midwives "feared God" and did not obey the command to murder the male infants, subsequently lying to Pharaoh to cover up their disobedience.[44] Subsequently Pharaoh directly orders that the Hebrew sons be "cast into the river."[45]

Moses is born into the tribe of Levi in the midst of this genocidal infanticide. Moses' mother hides him as long as possible, and then finally places him into an ark or basket, placing it in the reeds by the riverbank. Moses' sister watched to see what would occur. It is in this context that the "adoptive parent," Pharaoh's daughter, discovered Moses. Knowing this was a Hebrew child, and presumably knowing the decree of Pharaoh, she had "compassion" on him, intervening to save the child's life. Pharaoh's daughter hired Moses' mother to nurse him, with Moses initially cared for by his own mother within his own household.[46] (It is unclear from the text whether Pharaoh's daughter realizes what anyone would suspect, that the Hebrew girl who approaches her is a relative of the child and the nurse the girl locates is the child's mother.) Given the common custom of nursing for several years, and the textual statement that Moses was taken to Pharaoh's daughter after he had grown, it is apparent that Moses was raised for at least several years within the family of his birth. Pharaoh's daughter thus effectively shielded Moses from Pharaoh's decree of death even as he remained initially with his own mother. Thus, only when Moses

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41 *See, e.g.*, MERIDA & MORTON, *supra* note 3, at 70. Moore instead tries to distinguish the adoption of Moses. *See* MOORE, *supra* note 3, at 107.

42 *See Exodus* 1:15-16.

43 *See* Convention on the Prevention and Punishment of the Crime of Genocide art. 2, Dec. 9, 1948, 78 U.N.T.S. 277 [hereinafter Genocide Convention].

44 *See Exodus* 1:17-20.

45 *Exodus* 1:22.

46 *See Exodus* 2:1-10.

was older did his mother bring him to Pharaoh's daughter, and then "he became her son."[47]

Whether one thinks of Pharaoh's daughter as a woman moved by compassion to save a child's life, or as a woman exploiting the vulnerability of those whom her father had condemned to death, the portrayal certainly does not refer to any kind of adoption that one would want to systematize into a law or practice. Giving mothers a choice of their children being murdered by an oppressive, genocidal decree, or adopted, is hardly an ethical practice. Moreover, Pharaoh's daughter was not necessarily acting contrary to the ultimate purpose of her father, the Pharaoh, for his main goal was to reduce the number of Hebrew children. If the adoption had been successful in making Moses permanently into an Egyptian, there would indeed have been one less Hebrew male child to carry on the lineage of the Hebrew people. Taking and forcibly adopting the children of another's people can be, like the murder of a people's children, an effective means of eliminating or reducing that people: literally a form of genocide under contemporary international law.[48]

However, the adoption, as an *adoption,* failed. As a man, Moses identified completely with the people of His birth, the Hebrew people. Thus, when he saw an Egyptian beating a Hebrew, "one of his brethren," he killed the Egyptian; when this becomes known, Moses flees from Pharaoh to preserve his own life.[49] The commentary of the New Testament on Moses' choice to reject his adoptive family and people and return to the people of his birth is clear:

> By faith Moses, when he was come to years, refused to be called the son of Pharaoh's daughter; Choosing rather to suffer affliction with the people of God, than to enjoy the pleasures of sin for a season; Esteeming the reproach of Christ greater riches than the treasures in Egypt: for he had respect unto the recompense of the reward. By faith he forsook Egypt, not fearing the wrath of the king: for he endured, as seeing him who is invisible.[50]

Moses not only returns to his people in general; he also returns to his specific family. Thus, throughout Moses' leadership of Israel his

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47 *Id.*

48 *See* Genocide Convention, *supra* note 43, at art. 2 (genocide includes "[f]orcibly transferring children of the group to another group.").

49 *Exodus* 2:11-15.

50 *Hebrews* 11:24-27 (King James).

sister Miriam and brother Aaron are by his side.[51] Moses is one of the most important figures in the Hebrew Bible and, from a Jewish or Christian point of view, one of the most consequential people in history. While Pharaoh's daughter saved his life, as a commentary on adoption the message is clear: Moses' critical role in the history of his people, and the history of the world, hinges on him rejecting his adoptive identity and returning to the people and family of his birth. The extra-Biblical Jewish traditions praising Pharaoh's daughter underscore this conclusion, for they add narratives in which she ultimately rejects her own people, goes with Moses and the Israelites as a part of the Exodus, and ultimately becomes a part of the lineage of Israel through marriage and bearing children. Thus, these Jewish traditions identify Moses' adoptive mother with "Bithiah the daughter of Pharaoh" who married Mered of the tribe of Judah in 1 Chronicles 4:18.[52] From this perspective the adoption worked in reverse, with the adoptive mother becoming absorbed into the original family and people of the child. Yet, even in this reverse adoption, she remains in the Biblical text "the daughter of Pharaoh," for even absorption into the people of God does not eliminate her lineage. Indeed, her name, "Bithiah," means daughter of the Lord (YHWH), so the Biblical text calls her, literally, "daughter of the Lord, daughter of Pharaoh:" even God does not deny her biological lineage in making her a daughter of God.[53]

It is difficult not to see in the story of Moses not only a dramatic story of a man caught between two identities, but also a Jewish rejection of the central concept of adoption, that a legal procedure could change the fundamental identity of a human being. Adoption turns out to be a pagan, foreign custom, whose fundamental premise is proven false in the story of Moses, a man who accepted his birth identity even if it meant choosing the identity of a slave people over the identity of a royal prince of a great and powerful people and dynasty.

b. *Esther*

One of the most famous of the purported "adoptions" in the Hebrew Bible concerns Esther, the Jewish woman who, married to the

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[51] *See, e.g.*, *Exodus* 4:14-16; 7:1-2 (God appoints Aaron, identified by God as Moses' brother, as Moses' spokesman); *Exodus* 15:20-22 (Miriam); *Numbers* 20 (death of Miriam and Aaron); *Micah 6:4* (prophetical book recounts redemption of Israel from Egypt, stating "I sent before thee Moses, Aaron, and Miriam.").

[52] *See* 1 *Chronicles* 4:18.

[53] *See* 1 *Chronicles* 4:18 ("Bithiah bat pharaoh" in the Hebrew text).

Persian King, intercedes with the King for the survival of her people.[54] The text indicates that Esther was taken as a daughter by Mordecai, her cousin, after the death of her parents.[55] It is unclear under the text whether this was a formal legal adoption under Persian law, or an informal extended family arrangement of the kind one would expect within Hebrew extended families. The word adoption is not used in the Hebrew text, nor in the Septuagint (LXX), but the Latin term for adoption is used in the Vulgate; hence English translations based on the Hebrew text don't contain the word adoption, while Roman Catholic translations based on the Vulgate do use the term adoption.[56] The Biblical text emphasizes the family relationship between Mordecai and Abihail, Esther's father, calling Esther "the daughter of Abihail the uncle of Mordecai, who had taken her for his daughter."[57] The Vulgate is the same but instead considers Abihail and Mordecai brothers. Thus, Mordecai was either the first cousin or the uncle of Esther.[58] Thus, the text stresses not only Esther's relationship to both her original family and to Mordecai, who raised her, but also the relationship of either uncle/nephew or brothers between Esther's father Abihail, and Mordecai. It would seem that Mordecai taking Esther as a daughter in no way denigrated Abihail as a father, but in fact instead fulfilled a kind of family responsibility of a nephew to his uncle, or as a brother, within the strong clan bonds of Israelite extended family life. This interpretation is underscored by the message Mordecai sends to Esther when she at first does not want to heed his urgent request to go to the King and beg for the lives of the Jews: "Think not . . . that thou shalt escape in the king's house, more than all the Jews. For if thou altogether holdest thy peace at this time, then shall . . . deliverance arise to the Jews from another place; but thou and *thy father's house* shall be destroyed . . . ."[59] Hence, Mordecai appealed to Esther's desire to pre-

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54 *See generally Esther*.

55 *See Esther* 2:7. The Protestant English versions, following the Hebrew, say that Esther was Mordecai's uncle's daughter—hence Mordecai and Esther were cousins. They are apparently uncle and niece in the Vulgate.

56 *Cf. Esther* 2:7, in: HEBREW BIBLE (Hebrew Publ Co.), *available at* http://www.mechon-mamre.org/p/pt/pt3301.htm; *Esther* (Douay-Rheims Version with Vulgate, *available at* http://www.latinvulgate.com/verse.aspx?t=0&b=19; *Esther* (English Septuagint), *available at* http://ecmarsh.com/lxx/Esther/index.htm; *Esther* (Greek Septuagint), *available at* http://bibledatabase.net/html/septuagint/17_002.htm; *Esther* (Greek, Vulgate, and English texts), *available at* www.newadvent.org.

57 *Esther* 2:15.

58 *See Esther* 2:7, 2:15; *supra* note 56.

59 *Esther* 4:13-14 (King James) (emphasis added).

serve the survival of her biological father's lineage, for the reference is clearly to her biological father, rather than to Mordecai. Overall, while Mordecai's relationship with Esther is praiseworthy, and although Esther is a daughter to Mordecai, Esther is still also accounted as the daughter of Abihail, her original father.[60] Thus, Esther is a precedent for some form of extended family "adoption" or "care," in which the child's original name and identity are preserved, rather than for a law and practice that systematically allows strangers to adopt and change the identity of the children of others.

c. *Other Purported Adoptions in the Old Testament*

Another event sometimes cited as an Old Testament adoption occurs when Jacob declares that two of Joseph's sons, Ephraim and Manasseh, would count as Jacob's children.[61] Thus, the grandfather declared two of his grandchildren as his sons.[62] Whatever the significance of this event, it is not adoption as we would understand it. The event occurred shortly before Jacob's death, as virtually a death-bed pronouncement, and thus had absolutely nothing to do with the rearing or custody of children.[63] The change of status of Ephraim and Manasseh from grandchildren of Jacob to children of Jacob is significant within the emerging "twelve tribes" structure of "Israel,"[64] but did not truly constitute the kind of change of people, family, and identity normally associated with adoption. At most, it is precedent, like Esther, for a kind of extended family adoption; in this case grandparent adoption, although its special circumstance as a virtual death bed declaration makes it very unlike Mordecai's raising of Esther.

Incredibly, some cite Abraham's purported "adoption" of Eliezer as a precedent for adoption.[65] There is a tradition that Eliezer was the unnamed servant who ruled over Abraham's entire household, whom Abraham later entrusted with finding a wife for his son Isaac.[66] Regardless of their relationship, all that occurs in the text is that Abram complains to God that because he is childless, Eliezer will be his heir. This hardly seems to constitute an adoption, as it appears simply to be

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60 *See Esther* 2:15, 9:29.

61 *See Genesis* 48; MERIDA & MORTON, *supra* note 3, at 70 (citing Jacob's adoption of Ephraim and Manasseh to show that "God is pro-adoption.").

62 *See Genesis* 48:5.

63 *See Genesis* 48-49.

64 *See, e.g.*, *Genesis* 49:28.

65 *See Genesis* 15:2-3.

66 *See Genesis* 24.

a case of one childless man designating another man as his heir, a matter more akin to designating a beneficiary in a will than adoption. No term for adoption is used, either in the Masoretic Hebrew text or typical English translations.[67] Ironically, if this is an adoption, it is one that is directly overruled by the voice of God; according to the text, God tells Abram that Eliezer shall not be his heir, but instead that one from Abram's own body shall be his heir.[68]

There are situations in the stories of the patriarchs where women seek to obtain children through their maidservants.[69] The most significant is that of Abram, Sarai, and Hagar, which leads to the birth of Ishmael.[70] Such arrangements do not alter the identity and role of the father, and hence do not result in a change in the child's ultimate legal identity within these patriarchal, polygamist families. Moreover, Sarai's attempt to have a child through giving her maidservant to her husband as an additional wife does not, in the text, end well. Instead, the event causes discord within Abram's household. From a Jewish and Christian perspective this entire affair represents a lack of faith and patience by Abram and Sarai, who take matters into their own hands in trying to produce the long-awaited son, only to find that this is not the son of promise, but instead is a child who will be competitive with that child and thus must be sent away, despite also being Abraham's son.[71] These incidents are not really adoptions, but rather reflect the combination of patriarchal lineage, polygamist practice, concubinage, and slavery found within the period of the patriarchs. Further, the presumption in the text seems to be that the maidservants care for their own children, regardless of whether those children are in some sense ascribed to their female masters. The closest modern analogue of these acts would be so-called surrogate motherhood, although in the Biblical examples the surrogate also nurses and cares for the child. The ascribed mothers are basically outsourcing conception, pregnancy, birth, and child care to their female slaves. Such is hardly a precedent for the kinds of adoptions envisioned by the modern Christian adoption movement.

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[67] *See Genesis* 15; Masoretic text *available at* http://www.mechon-mamre.org/p/pt/pt0115.htm.

[68] *See Genesis* 15:4.

[69] *See, e.g.*, *Genesis* 16, 30:1-13.

[70] *Genesis* 16.

[71] *See Genesis* 16-18, 21. The designation of Hagar as a "wife" of Abraham is sometimes controversial, but seems to follow from the text in Genesis 16:3.

In summary, the Old Testament reads more like an anti-adoption text than a theological foundation for adoption. The absence of any real law or practice of adoption is coupled with a number of what might be described as anti-adoption cautionary tales. The only thing close to positive adoption stories are arrangements within extended families—in particular, Mordecai taking his cousin Esther as a daughter, and Jacob on his deathbed taking two of his grandsons as sons. Neither is necessarily, in legal format an adoption in legal format, as the texts do not use the Hebrew or Greek word for adoption. Neither involves the kind of loss of identity and relationship envisioned in modern stranger adoption. Esther thus explicitly remains the child of her father even as her cousin/uncle takes her into his household as a daughter, and Ephraim and Manasseh retain the same paternal lineage and group of relatives, essentially exchanging grandfather for father and father for brother. Thus, Esther's story concerns the provision of care for a relative whose parents are dead, and Jacob's taking grandchildren as children appears to be a truly exceptional situation related to the founding and defining of the twelve tribes of Israel. None of these positive stories provide any Biblical foundation for the kinds of stranger adoptions, involving a complete loss of original lineage and identity, envisioned by the modern Christian adoption movement.

2. Adoption in the New Testament

Given the lack of credible foundations in the Old Testament, it is understandable that the modern Christian adoption movement focuses primarily on the New Testament. Here, at last, one expects to find real support for the very strong claims of the movement. Upon closer examination, however, it is clear that the New Testament foundations for the contemporary adoption movement are similarly flawed.

The first claim, that Jesus himself was adopted by Joseph, and that this adoption is a positive precedent for the kinds of adoptions urged by the Christian adoption movement,[72] is upon examination deeply confused. By marrying the pregnant Mary, Joseph did indeed become the legal father of Jesus. However, Joseph became the legal father of Jesus directly through the marriage without any legal form of adoption, as the law presumably made him, as Mary's husband at the

[72] *See, e.g.*, MERIDA & MORTON, *supra* note 3, at 70; MOORE, *supra* note 3, at 74.

child's birth, the legal father of Jesus.[73] No legal form or procedure of adoption would have been either necessary or possible, as there is no need to adopt a child who at birth is ascribed to you, and the Jews still lacked any law or practice of adoption.[74] While it is true that Joseph provided Jesus with a legal identity and patrilineal identity within Israel, conceptualizing this as an "adoption" in the modern sense does severe damage to the spiritual meaning of their relationship. If Joseph had "adopted" Jesus in the modern sense this would have required the repudiation of God's fatherhood of Jesus, for God would be the "birth" father. Joseph, who was informed in a dream prior to the marriage that Jesus was the child of the Holy Spirit,[75] surely did not intend this kind of displacement. Jesus Himself makes it clear, even in His childhood, that He answered ultimately to God His father, explaining His disappearance to Joseph and Mary by explaining that He had to "be about My Father's business:" indeed, Jesus admonishes Joseph and Mary that they should have known this already.[76] Since the Father-Son relationship between God the Father and Jesus is one of the primary themes of the New Testament and a basic part of Christian orthodoxy,[77] it is spiritually obscene to envision Joseph's act as an adoption in the modern sense. As in the stories of the Old Testament, it is the original parent, in this case God, who is far more important than the so-called "adoptive" parent.

The New Testament itself does not label Joseph an adoptive parent. Thus, this is a label created by modern interpreters, rather than by the scriptures themselves. If one tries to justify this after-the-fact characterization, by saying that what Joseph did was analogous to an adoption, this does nothing for the modern Christian adoption movement. It is true that Joseph was a non-biological "father" who took on the legal, social, and relational role of a father for a child not genetically related to him. Even if this were to be conceptualized as an adoption, or analogized to an adoption, it would be precedent, at most, for step-parent adoption, which is an entirely different matter than the kinds of stranger adoption advocated by the Christian adoption movement. Joseph, after all, supported the "birth mother" in being able to

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[73] *See, e.g.*, *Matthew* 1:16 (genealogy of Jesus through Joseph, the "husband of Mary, of whom was born Jesus.").

[74] *See supra* notes 31-32 and accompanying text.

[75] *See Matthew* 1:20-21.

[76] *See Luke* 2:49 (King James).

[77] *See* PHILIP SCHAFF, CREEDS OF CHRISTENDOM; *see, e.g.*, Apostle's Creed; Nicene Creed.

raise and mother her own child, rather than removing Jesus from Mary. As we will see later in our examination of the Biblical treatment of "widows" and the "fatherless," what Joseph did in helping an otherwise "single mother" to keep and raise her own child was consistent with the ministries of Jesus and Elijah in assisting single women and their children in staying together.[78] Honoring the "birth" mother—honoring the motherhood of Mary–is exactly contrary to the kinds of adoptions advocated by the modern Christian adoption movement, which typically take children from living mothers and gives them to non-related people as their adoptive children. If Joseph had acted in a way typical of the Christian adoption movement, Mary would have lost Jesus at birth.

Looking beyond the question of Jesus and Joseph, it is important that the gospels as a whole never use any Greek or other language term for "adoption."[79] This absence of the language and concept of adoption in the gospels is itself, like the absence of adoption from the Mosaic law, deeply significant. The major purpose of the writers of the gospels was, after all, ultimately to present the gospel. In addition, the New Testament contains the preaching and teaching of Jesus Himself. Significantly, it appears that neither these authors, nor so far as is recorded, Jesus Himself, ever chose to make reference to adoption, even as a metaphor. How central can adoption be to the Christian faith if neither Jesus nor the gospels ever employed either the word or the concept?

Indeed, this absence of any reference to adoption is found in every part of the Bible except three of the letters of Paul. Hence, the ascribed writings of John, Peter, Jude, and James, as well as the authors of the gospels and Acts (Matthew, Mark, Luke, and John) similarly fail to use either the language or concept of adoption.[80] Every Biblical author except for Paul conveyed the gospel and Christian faith without once using the concept of adoption. If one holds to an evangelical doctrine of the inspiration of scripture, this also means that God Himself, in inspiring the various writers of the New Testament canon, chose to communicate the gospel and the Christian faith in the four gospels, Acts, Revelation, and the letters of John, Peter, James, and Jude, without any reference to the language or concept of adoption.

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78 *See infra* notes 146-53 and accompanying text.

79 *See* TREVOR J. BURKE, ADOPTED INTO GOD'S FAMILY: EXPLORING A PAULINE METAPHOR 21-22 (D. A. Carson ed., 2006); *see also* CRUVER ET AL., *supra* note 3, at 12.

80 *See* Burke, *supra* note 79.

This fact belies the claim that adoption is central to the gospel, whether as preached or as lived. To hold that adoption was central to the gospel would be to view the gospels and most of the New Testament canon as fatally deficient in their communication of the gospel.

The argument for a "Biblical" doctrine of adoption thus depends on five purported references to adoption in three of Paul's letters: Romans 8:15, 8:23, 9:4; Galatians 4:5; Ephesians 1:5.[81] It is primarily from these five references that the Christian adoption movement has sought to build an entire edifice of theology and practice. These references thus bear close analysis and scrutiny.

The first difficulty is linguistic. The Greek word often translated as adoption, *huiothesia,* consists of two parts: *huios* meaning son and *thesia*, from the verb *tithemi*, which means "to set, put, or place." The word literally means something like to put in the place of a son.[82] This has created the question of whether "adoption" or "sonship" is the better translation.[83] This translation issue raises the question of whether the Apostle Paul was referring to a legal practice of adoption as a metaphor.[84] It is possible that Paul was merely referring to the status of being a son (sonship), without intending to refer to adoption as a means to that status. If so, then in fact there are essentially no New Testament references to adoption, for these five uses of the term *huiothesia* are the only possible instances of the word "adoption" occurring in the New Testament.

Since the majority modern translation of the term *huiothesia* is adoption, and since this more fully joins the debate, I will assume that Paul is in fact referencing some kind of "adoption."[85] However, it is important to keep in mind that even if Paul is referencing adoption, he is also directly referencing coming into the place or status of a son. Thus, even if adoption is the means for attaining the status of a son, that status (sonship) remains central to understanding Paul's meaning.[86] In addition, it is possible that "sonship" would be a better translation for at least one of the five uses of *huiothesia*.

Four of the passages in question relate to the relationship of the Christian (Jew or Gentile) to God in Christ, that allow the Christian to

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81 *See* BURKE, *supra* note 79, at 22.

82 *Id.* at 21-22.

83 *See, e.g.*, DOUGLAS J. MOO ET AL., ROMANS, GALATIANS (Clinton E. Arnold ed., 2007) (at Romans 8:15) [hereinafter MOO ET AL.].

84 *See* BURKE, *supra* note 79, at 32-45.

85 *See generally* MOO ET AL., *supra* note 83.

86 *See, e.g.*, MOO ET AL., *supra* note 83; *see also* BURKE, *supra* note 79, at 71.

call upon God as Father.[87] The fifth passage, Romans 9:4, refers to the Israelites, to whom pertains "the adoption, and the glory, and the covenants, and the giving of the law, and the service of God, and the promises; Whose are the fathers, and of whom as concerning the flesh Christ came . . . ."[88] Whether translated "the adoption" or "the sonship" Romans 9:4 describes the relationship Israel had with God the Father before the coming of Jesus, as the rest of the items in the list (apart from sonship or adoption) refer to an event or status established in the Old Testament.

To the degree that the human law or practice of "adoption" is being referenced by Paul, it is clearly a metaphor meant to help convey to the reader something about their actual or potential relationship to God. As a metaphor, it is important to understand to what Paul is referencing when he uses the term "adoption," and what Paul intends to convey to the reader about their relationship to God through use of that metaphor.[89]

The most commonly accepted viewpoint is that Paul is invoking the Roman law and practice of adoption as his allusion or referent.[90] This viewpoint is based on the prominence of the practice of adoption among the Romans, especially Roman emperors and nobility; the fact that Paul is a Roman citizen; and the use of the term in letters to three communities living under Roman law.[91] Indeed, three of the five references occur in Paul's letter to the church at Rome![92] Alternatively, or in addition, a reference to Greek law, custom or practice of adoption is possible.[93] Considering the absence of a law or practice of adoption among Jews, and in the rest of the Bible, the evidence is very strong that the referent of Paul's adoption metaphor is not Jewish. This explains why such a reference to adoption is found only in Paul, for Paul is self-consciously the Apostle to the Gentiles.[94] If Paul is invoking adoption as a metaphor, it is to explain to Gentiles their actual or potential relationship to God in Christ.

Paul's invocation of the Israelites as having the *huiothesia* is potentially problematic in terms of a translation of "adoption." It would

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87 *See Ephesians* 1:5; *Galatians* 4:5; *Romans* 8:15, 8:23.

88 *Romans* 9:4 (King James).

89 *See generally* BURKE, *supra* note 79.

90 *See, e.g.*, BURKE, *supra* note 79, at 46-71; Lyall, *supra* note 31, at 458-466.

91 *See, e.g.*, BURKE, *supra* note 79, at 60-71.

92 *See Romans* 8:15, 8:23, 9:4.

93 *See* BURKE, *supra* note 79, at 58-60.

94 *See, e.g.*, *Romans* 11:13; *Acts* 9:15; *Acts* Chapter 15; *Galatians* Chapters 1, 2; *Ephesians* 3:1-13.

be entirely unproblematic for Paul to say that the Israelites had the "sonship," the status or position of sons of God, as the sonship of Israel is a central theme of the Hebrew Bible.[95] Viewing Israel's status of sonship as being accomplished through "adoption" would, however, be unique to this single reference, and in Jewish terms would be a virtually meaningless statement, given the lack of a law or concept of adoption in Judaism. At most, then, in Romans 9:4 Paul is using a Greco-Roman concept as a metaphor to explain to Gentile Christians the history of God's relationship to Israel. The purpose of this metaphor would presumably be to stress that it is not merely Gentile Christians who are adopted by God, but rather all who are sons of God: Jew and Gentile alike, including historical old covenant Israel. Thus, Paul would be avoiding the inference that Israel is the "natural" son of God while Gentile Christians are the unnatural, adopted sons of God. Such a theme would be consistent with one of Paul's major themes, which is the equality of Jew and Gentile in Christ, a point essential to Paul's rejection of circumcision and the Mosaic ceremonial law for Gentile Christians.[96] If that is the point, however, we must recognize that Paul is willing to mix his metaphors and to some degree his message on this point, for in Romans chapter 11 Paul characterizes Israel as the "natural" branches of an olive tree, with the Gentiles contrasted as a "wild" olive tree whose branches are "grafted" into the good olive tree.[97] According to this metaphor of an original "natural" olive tree and wild branches "grafted" in to the tree, the Gentiles are in fact not "natural" parts of the tree but added through the human artifice of grafting.[98] Some of the natural branches (some of the Jews) were broken off by God due to unbelief.[99] However, Paul warns the Gentile Christians: "if you were cut out of the olive tree which is wild by nature, and were grafted contrary to nature into a cultivated olive tree, how much more will these, who are natural branches, be grafted into their own olive tree?"[100]

Paul, then, is probably using the Roman and/or Greek law and practice of adoption as a metaphor to help Gentiles understand their relationship to God, as well as to understand the equality of all, Jew or Gentile, Male or Female, Slave or Free, in Christ. An examination of

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95 *See* BURKE, *supra* note 79, at 71.

96 *See, e.g.*, *Ephesians* 3:1-13; *Galatians*; *Romans* 3:28-30.

97 *See Romans* 11:16-24.

98 *Id*.

99 *See Romans* 11:19-21.

100 *Romans* 11:24 (New King James).

the Roman law and practice of adoption underscores how apt this metaphor or comparison would have been for Paul's purposes, and also helps us identify Paul's meaning.[101]

Roman adoption law had its context within the broader principles of Roman family law where the virtually absolute power of the father was central. Thus, the *pater familias* (father of the family) possessed the power known as the *patria potestas* (fatherly power). The father had virtually absolute and sole authority over his children, including the right to have them "exposed" or killed in infancy, or sold into slavery. The wife and mother of the children, by contrast, had no legal authority over the children, however much she may have exercised extensive moral and emotional authority. The father's authority over his children normally continued until the father's death, irrespective of the age and marital status of the children.[102] (Fathers sometimes passed their authority over their daughters to the husband at marriage, but in practice this form of marriage by the time of Jesus had become unpopular, with married daughters normally remaining under the *potestas* of her father.[103] Married sons were under the *potestas* of their fathers until the father's death regardless of their marital status.[104]) Indeed, fathers commonly played a central role not only in their children contracting marriages, but also in the divorces of their children.[105] While the common picture of the broad authority of the *pater familias* varied in its details and practical and legal limitations across Roman history, what is significant for this study is the broad outlines as existed at the time of the apostle Paul.

The Roman family particularly focused on the continuation of the male line and family name, and the inheritance and transmission of property—especially real property—from generation to generation. The continuation of the family line and name generally required a legitimate son born of a marriage. Marriage and procreation were thus duties.[106] The continuation of the family line also involved the maintenance of the family cult, which included sacrifice to ancestors.

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101 *See* BURKE, *supra* note 79, at 60-70.

102 *See, e.g.*, BURKE, *supra* note 79, at 63-64; SUZANNE DIXON, THE ROMAN FAMILY 40-41 (1992); GEOFFREY S. NATHAN, THE FAMILY IN LATE ANTIQUITY 24-28 (2000).

103 *See* NATHAN, *supra* note 102, at 16-17.

104 *See* DIXON, *supra* note 102, at 40-41.

105 *See, e.g.*, DIXON, *supra* note 102, at 40-47; Susan Treggiari, *Divorce Roman Style: How Easy and Frequent Was It?, in* MARRIAGE, DIVORCE, AND CHILDREN IN ANCIENT ROME 32-46, 34 (Beryl Rawson ed., 1991)..

106 *See* NATHAN, *supra* note 102, at 1-28.

Honoring ancestors and the family name through the display of images of ancestors in the home and public processions was also a normal practice of great families. Fitting funerals and commemorations were also important. A great stress was laid upon the honor of the family and family name. The lack of a suitable heir was thus potentially a great crisis for a significant family, endangering the fundamental purposes of the Roman family.[107]

This problem of a suitable heir was the animating purpose of Roman adoption law. Thus, adoption played a particularly prominent role in upper class families.[108] Significantly, adoption also was a common means of choosing the most appropriate successor for an emperor, and hence a number of Roman emperors adopted or were adopted.[109] Adoption was thus an accepted solution to the problem of a man lacking a living son who could be his heir.[110] Although subject to criticism, adoption could also occur even if there was already a living son or heir, for example because the father did not view his natural son as having the qualities necessary to carry out the responsibilities involved in being his heir.[111]

Given this purpose, adoption in ancient Rome was usually the adoption of an adult male. Adults were chosen because their character and suitability to play the critical role of heir of a great family, or even emperor, could be ascertained, and because of their readiness to assume their responsibilities. Males were of course chosen because of the limitations placed in Roman law and custom upon the roles of women. There were two forms of adoption, *adoptio* and *adrogatio*, depending on whether the adoptee was still under the authority of a

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[107] *See* BURKE, *supra* note 79, at 66; NATHAN, *supra* note 102, at 26-27; BERYL RAWSON, *The Roman Family, in* THE FAMILY IN ANCIENT ROME, NEW PERSPECTIVES 12 (1986) [hereinafter RAWSON].

[108] *See, e.g.*, BURKE, *supra* note 79, at 60-70; DIXON, *supra* note 102, at 108-113; NATHAN, *supra* note 102, at 25; RAWSON, *supra* note 107, at 12; Mireille Corbier, *Divorce and Adoption in Roman Familial Strategies, in* MARRIAGE, DIVORCE, AND CHILDREN IN ANCIENT ROME 41, 63-78 (Beryl Rawson ed., 1991) [hereinafter Corbier].

[109] *See* BURKE, *supra* note 79, at 62-63; Pliny the Younger, PLINY, LETTERS AND PANEGYRICUS, VOL. II 333-49 (Betty Radice trans., Harvard Univ. Press 1969) (hereinafter PLINY); RAWSON, *supra* note 108, at 12; TACITUS, HE ANNALS, Book I, ch. 2-3, (John Jackson trans., Harvard Univ. Press 1962); TACITUS, THE ANNALS, Book 12, ch. 25-26 (John Jackson trans., Harvard Univ. Press 1962); TACITUS, THE HISTORIES, Book I, ch. 15-21 (Clifford H. Moore trans., Harvard Univ. Press 1962).

[110] *See* DIXON, *supra* note 102, at 108-13; RAWSON, *supra* note 107, at 12.

[111] *See* BRILL'S NEW PAULY, ENCYCLOPAEDIA OF THE ANCIENT WORLD 146-52 (2002) [hereinafter BRILL'S NEW PAULY]; Corbier, *supra* note 108, at 66.

living father. If so, the transaction was from father to father (*adoptio*); if not, the adult essentially placed himself under the *potestas* of the adoptive father (*adrogatio*). Adoption was always by a male, and the wife of the adoptive father did not join in the adoption. Legally, the adoptee attained a new name and identity, even having all of his debts cancelled, since the prior legal personality ceased to exist.[112] Nonetheless, commonly a form of the adoptee's original family/clan name was adapted and retained as a part of his new name (in the form of a cognomen), indicating some continuity with his original identity. Practically, adopted persons commonly continued their personal relationships with their original family, and even were expected to fulfill some filial duties to their original families. Indeed, since adoption was in legal form often a family to family transaction, it could be a means of creating alliances between families, similar to the role of marriage in creating alliances between families. In addition, adoption quite frequently occurred within extended families, with an uncle or great uncle, for example, adopting a nephew.[113]

Thus, the Roman law and practice of adoption served as an excellent metaphor for Paul in conveying to Roman Gentiles their status and inheritance as sons of God. When Paul's audience heard his references to adoption, they would have had in their minds young adult males who became emperors, or who otherwise moved upward in Roman society, through adoption. Paul's reference to adoption in a Roman context implicitly invites a comparison between the Roman view of the Emperor as "Lord," and the Christian insistence that God is Lord of Lords and King of Kings and His Son, Jesus Christ, is Lord. The clear message is that the inheritance the Christian receives from adoption by God would be even greater than the inheritance received by those who are adopted by Roman emperors. In a society obsessed with honor, Paul is communicating that there is no higher honor than being a Christian, which makes one a co-heir with the Lord Jesus Christ, Heir of God the Father.[114]

The historical record of adoptions in the Imperial Line proximate to the time of Jesus and Paul makes it very probable that Paul was invoking not only the Roman law of adoption in general, but the use of

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[112] *See, e.g.*, BRILL'S NEW PAULY, *supra* note 111; BURKE, *supra* note 79, at 60-70; DIXON, *supra* note 102, at 108-13; RAWSON, *supra* note 107, at 12; Corbier, *supra* note 108, at 63-78.

[113] *See, e.g.*, BRILL'S NEW PAULY, *supra* note 112; BURKE, *supra* note 79, at 60-70; DIXON, *supra* note 102, at 108-13.Corbier, *supra* note 108, at 63-78.

[114] *See, e.g.*, *Romans* 8:15-23.

adoption by Emperors in particular. Thus, the first true emperor of the Roman Empire, Octavius, known later as Augustus, was adopted by his great-uncle, Julius Caesar, posthumously through Julius Caesar's will in 44 B.C. Augustus Caesar is the Emperor who in Luke 2:1 issues the decree at the time of Jesus' birth that the Roman world be registered. "Caesar" was in fact the adopted name of Octavius given him by his great-uncle and adoptive father, Julius Caesar; over time the name "Caesar," coupled with the title Augustus he was given, became virtual titles for the position of Emperor. Octavius (Augustus) eventually adopted his step-son, Tiberius, a Claudian, who was also married to his daughter, making Tiberius Emperor. From that time forward the famous Julio-Claudian dynasty of Emperors were related through a complex and interlocking combination of blood, marriage, and adoption. A primary role of adoption within this dynasty was to pick, amongst the various candidates within this interconnected set of families, the next emperor. Thus, the emperor Tiberius was both the great-uncle and adoptive grandfather of the next emperor, Gaius Caligula (and is sometimes listed as his adoptive father as well). Gaius Caligula's uncle Claudius, became emperor after Caligula was assassinated. The next emperor, the notorious Nero, the infamous persecutor of the Christians, was the grandnephew of both Caesar Augustus and of the emperor Claudius; when Claudius married Nero's mother he became the step-son of Claudius as well, and he later (after adoption) married Claudius' daughter, Claudia Octavia. Nero also became emperor through adoption when his great-uncle and step-father, the emperor Claudius, adopted him; in the end, then, the Emperor Claudius had been the great-uncle, step-father, father-in-law, and adoptive father of Nero. Amongst these interlocking relationships, it was the adoption that made Nero the designated heir and next emperor (after his mother and possibly Nero himself murdered Claudius).[115] These sets of adoptions within the line of Roman emperors occurred in the period immediately before Paul wrote the books of Romans, Galatians, and Ephesians, and hence would have been prominent in the minds of both Paul and his readers.[116]

The claims of divinity by and on behalf of the Roman Emperors, and the accompanying imperial cult, underscored Paul's implicit meaning. In Roman experience and culture one could become not merely an emperor, but ultimately a god, by being adopted by the prior

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[115] *See, e.g.*, BRILL'S NEW PAULY, *supra* note 111; BURKE, *supra* note 79, at 62; RAWSON, *supra* note 107, at 12; Corbier, *supra* note 108, at 63-78.

[116] *See supra* note 109.

emperor and god.[117] By contrast, Paul made the claim to these primarily Gentile Christians living under Roman rule that they had been brought into the family life of the true God, and His Son and Heir, Jesus Christ, and thus could be made co-heirs with the true Son of God through a kind of divine adoption.[118]

The fact that in Roman adoption the adoptee did not receive his full inheritance at the time of the adoption, but only later at the death of the adoptive father, similarly served Paul's rhetorical point that the Christian's inheritance, while in existence now, would only be received in full at some later time. Thus, the Roman law of adoption and inheritance helps Paul convey the "already, not yet" aspect of the Christian's inheritance from God in Christ. Just as the adopted children of the emperors and nobility of Rome did not receive their full inheritance until the death of their adoptive fathers, the adopted sons of God would not receive their full inheritance until some future time.[119]

While the Roman referent is most persuasive, it should be noted that adoption under Greek law and custom, while different in some respects, shared a fundamental continuity with Roman adoption in being focused principally around adoption of adult males for the purpose of providing a family with continuity and an heir. Thus, although the clearest and most likely reference point is Roman adoption, much of the same analysis would be found in analyzing Greek adoption as a possible referent of Paul's adoption metaphor.[120]

For purposes of this essay, a fundamental point is that neither Roman nor Greek adoption was focused on the adoption of child orphans. Adoption generally had nothing to do with providing for the weak, the poor, dependents, or children. Adoption took young adult males who generally had families and a position in society, and gave them a social promotion to a higher position in society through provision of a new legal identity; in exchange, the adopted adult fulfilled the responsibilities and duties of a son and heir of a great family, whether that meant leading the empire or managing an upper-class noble house-

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117 *See, e.g.*, MOYER V. HUBBARD, CHRISTIANITY IN THE GRECO-ROMAN WORLD 127-31 (2010).

118 For contrasting views on the significance of the Imperial Cult as background to the early church and the writings of Paul, *cf.* PAUL AND EMPIRE: RELIGION AND POWER IN ROMAN IMPERIAL SOCIETY (Richard A. Horsley ed., 1997); and SEYOON KIM, CHRIST AND CEASAR, THE GOSPEL AND THE ROMAN EMPIRE IN THE WRITINGS OF PAUL AND LUKE (2008).

119 *See, e.g.*, *Romans* 8; *Galatians* 4:1-7.

120 *See* BRILL'S NEW PAULY, *supra* note 111; BURKE, *supra* note 79, at 58-60.

hold. While it was theoretically possible to adopt a young child, such was rarely done, since such a child was unprepared to lead the empire or family and his capacities to do so in the future were still unknown.[121]

Indeed, adoption in the Greco-Roman context was not even about providing a family for an adult "orphan." The men "adopted" by the Roman emperors generally were already related to those emperors through combinations of blood and marriage (their own and that of their mothers) in addition to their adoptions. The distinctive purpose of adoption within this web of family relationships was to make them heirs to the empire, not to provide them with a family. Thus, even though one of the two forms of adoption concerned a man without a living father, this occurred primarily because by the time many men reached an appropriate age to be adopted—preferably in the prime of their adulthood—their fathers were already dead. Of course the other form of adoption involved a transfer of parental authority from one father to another, and hence involved adults who still had a living father. Whether their fathers were alive or dead, the men chosen for adoption were picked because of their competency and strength—as established adults—to lead a family, clan, or empire. Adoptees were not viewed as either children or as orphans, but as adult candidates for honor, wealth, greatness, and power.

It should be noted, in addition, that adoption was certainly not shameful or a secret in the ancient Roman context. To the contrary, in the ancient Greco-Roman world where honor and shame were such important social and emotional markers, adoption would have been highly publicized and indeed was one of the greatest honors one could attain.[122] Moreover, despite the fact that adoption marked a new legal identity, it did not in any way require the adoptee to cut themselves off socially from their original family members. Of course since only fathers adopted—there being no legal form of maternal adoption—adoption did not imply or require a break with one's original mother. (In some prominent cases, of course, the mother was married to the adoptive father.) Despite the change in legal identity, adoptive sons were understood to still have duties to their original fathers.[123] Thus, adoption in the ancient world did not bear the marks of secrecy and shame, and the complete cutting of relationship and ties to all mem-

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121 *Id.*

122 *See, e.g.*, BRILL'S NEW PAULY, *supra* note 111; BURKE, *supra* note 79, at 65-66; PLINY, *supra* note 109.

123 *See* DIXON, *supra* note 102, at 112.

bers of the original family, that have so often marked the modern history of adoption.

If we want to understand the Pauline doctrine of divine adoption, we must see adoption through the lens intended by Paul and understood by his original audience. Indeed, if we substitute our modern conception of adoption as primarily a means to provide a family to a helpless and vulnerable orphan child, we will completely miss what Paul is saying. Similarly, if we substitute our modern concept of adoption as involving a "pretense" that it is "as if" one was born to the adoptive family, thus necessitating secrecy and the complete cutting of ties, we will also miss the point. Instead, to understand Paul we must understand adoption as a very public means of attaining honor, elevation, inheritance and greatness through the choice of a divine or noble father to bestow the title of son and heir on a particular individual. Paul's message of divine adoption was about the incredible honor and value of being co-heirs with Jesus, the Heir and Son of God, through the divine selection of each Christian as an adopted son of God: an honor and an inheritance that exceeded even that of the great Roman emperors.

3. Horizontal Adoption in the New Testament

Despite the claims of the Christian adoption and orphan care movement of a fundamental New Testament call to horizontal adoption— and specifically a call to adopt orphan children—the New Testament does not record a single such event. If Jesus and the apostles were calling the New Testament church to practice horizontal adoption of orphans, it seems to have escaped the notice of the writers of the New Testament entirely. Despite clear New Testament admonishments to assist the poor and widows,[124] and despite a clear New Testament record of the early church in fact engaging in organized efforts to assist the poor and widows,[125] there is no parallel New Testament record of anyone being urged to adopt an orphan, or of anyone doing so. Instead, as will be seen below, the references in the Old and New Testament to assisting the orphan and the fatherless were taken in a direction unrelated to that of adoption. Hence, we have the mysterious gap of a Bible supposedly urging horizontal adoption as a fundamental

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[124] *See, e.g.*, *James* 1:27; *James* 2:15-16; *Luke* 12:33; *Luke* 14:12-14; *Luke* 18:22.

[125] *See, e.g.*, *Acts* 2:44-45; *Acts* 4:34-37; *Acts* 6:1-6; *Acts* 11:28-30; *Romans* 15:26; 1 *Timothy* 5:1-16.

practice of the church, without any Biblical record of anyone actually encouraging Christians to adopt, and without any record of Christians actually adopting orphan children.

In the midst of this silence, some strain to find such an adoption in, for example, Jesus' famous statement from the cross: "Woman, behold your son!" indicating a new relationship between the apostle John and Mary.[126] Such misses the Biblical message. John is not the one in need of a mother, nor is he a dependent in need of care. The point is rather that Mary is a widow. As Jesus prepares to die, one of his final acts is to fulfill his earthly responsibilities as a son by providing his widowed mother with an adult male to take care of her. In the patriarchal world of the ancient world, Mary the widow needed an adult male to provide for and protect her. John is to be a son to her, in the sense in which an adult son is charged to provide for his widowed mother.

As we will see, this tendency to miss the widow in the Biblical language about widows and orphans, and the fatherless, is typical of the distorted interpretations of the Christian adoption and orphan care movement. Hence, we must now pass to an examination of the terms "orphan" and the "fatherless" in the scriptures. As we will see, we are indeed commanded to care for the widow and the orphan, and for the fatherless, but in the strict Biblical sense, this has nothing to do with the kinds of adoption urged by the modern Christian adoption movement.

B. Orphans and the Fatherless in the Bible

1. Old Testament

Traditional English translations of the Old Testament (such as the King James Version) have few or no uses of the English word "orphan," but instead use the term "fatherless."[127] Some modern translators prefer the word orphan for these uses. The underlying Hebrew word, "Yatom," is used 42 times in the Old Testament.[128] It can be

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[126] *See, e.g.*, MOORE, *supra* note 3, at 33 (citing *John* 19:26-27).

[127] *See, e.g.*, JAMES STRONG, THE NEW STRONG'S EXHAUSTIVE CONCORDANCE OF THE BIBLE (1990); THE BIBLE (KJV); *Strong's H3490 - yathowm*, BLUE LETTER BIBLE, http://www.blueletterbible.org/lang/lexicon/lexicon.cfm?Strongs=H3490&t=KJV (last visited Jan. 18, 2012) [hereinafter *Strong's yathowm*] (translating yathowm to "an orphan, fatherless").

[128] *See* HAROLD V. BENNETT, INJUSTICE MADE LEGAL 48 (2002) [hereinafter INJUSTICE MADE LEGAL]; *Strong's yathowm*, *supra* note 128.

translated either fatherless or orphan.[129] The word "fatherless" generally appears as a suitable translation because the Hebrew word clearly refers to a child whose father is dead or absent even when the mother is still alive and caring for the child.[130] Thus, if we are to use the word "orphan" for these Hebrew Bible usages, we must be aware of the misconception that can result, for in English we do not always consider a child living with their mother to be an "orphan" even if their father is dead or absent. Hence, the traditional translation of "fatherless" may be preferable, because it avoids this critical misunderstanding.

In the Hebrew Bible, the term "fatherless" or "orphan" is very closely associated with the term "almanah," meaning widow.[131] Thus, the two terms appear together frequently in the law (Exodus 22:22, 22:24; Deuteronomy 10:18, 14:29, 16:11, 16:14, 24:17, 24:19, 24:20, 26:12, 26:13, 27:19), in Psalms (Psalms 68:5, 94:6, 109:9, 146:9), in prophetical books (Isaiah 1:23, 9:17, Jeremiah 7:6, 22:3, 49:11; Malachi 3:5), as well appearing together in Job 24:3 and Lamentations 5:3. Thus, the fatherless or orphans and widows are in many respects a unit.

Generally, these passages assert God's protection of the widow and fatherless (i.e., Deuteronomy 10:18, Psalm 68:5), or a legal or ethical imperative not to exploit but instead to assist or provide for, the widow and fatherless (i.e., Deuteronomy. 24:17, 19, 20). In a few passages, the couplet of widow and orphan relate to a curse or punishment (i. e., Psalm 109:9, Exodus 22:24). Exodus 22:22-24 makes abundantly clear that widows and orphans are not merely two separate categories of needy or vulnerable persons, but are the natural unit created by the death or absence of a husband and father:

> You shall not afflict any widow or fatherless child. If you afflict them in any way, and they cry [out] at all to Me, I will surely hear their cry; and My wrath will become hot, and I will kill you with the sword; your wives shall be widows and your children fatherless.[132]

Thus, while the terms widows and orphans/fatherless often appear together in passages including other vulnerable persons—particularly

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129 *See Strong's yathowm*, *supra* note 127.

130 *See, e.g.*, INJUSTICE MADE LEGAL, *supra* note 128, at 48-56.

131 *See* INJUSTICE MADE LEGAL, *supra* note 128, at 24-56; *Strong's H490 – 'almanah*, BLUE LETTER BIBLE, http://www.blueletterbible.org/lang/lexicon/lexicon.cfm?Strongs=H490&t=KJV (last visited Jan. 18, 2012) (translating 'almanah to "widow").

132 *Exodus* 22:22-24 (New King James).

the poor or strangers—it is important to understand them as a unit belonging together, rather than being merely separate categories. Of course it is possible to have a childless widow or a fatherless child also lacking a mother; normally, however, widows and the fatherless/orphan comprise a vulnerable family unit.

The reason for this vulnerability is not difficult to discover. Within the patriarchal world of the Hebrew Bible, and of the ancient world generally, the woman's lack of a husband and the child's lack of a father both rendered them potentially bereft of protection and provision. The absence of the father and husband not only created grief and loss, but also very practically could create risks of starvation and exploitation. The lack of a male protector could thus be literally fatal. Within that context, God asserts his role as the protector and provider of this vulnerable family unit, and demands that His people imitate Him by protecting and providing for the widow and fatherless.[133]

The Hebrew Bible is specific about the kinds of intervention that are required for widows and the fatherless. Beyond abstaining from exploiting the desperation, powerlessness, and extreme need of the widow and fatherless (i.e., Deuteronomy 24:17), these interventions focus primarily on economic provision, with the Mosaic law being specific as to the sources of assistance, which include leaving provision in the fields at harvest for gleaning, and the tithe set aside every third year and stored (i.e., Deuteronomy 14:29; 24:19-21; 26:12-13). Thus, within the Mosaic Law and Israelite society, assistance to these vulnerable family units was not left to the mere discretionary charity of the people, but was a mandatory duty within the law and was to be systematically carried out from specified sources.

Another strategy within Israelite society was re-marriage for the widow. The book of Ruth presents such a solution as a kind of redemptive event. Ruth presents the intertwined problems of vulnerable widows and a family line within Israel lacking a male heir. The crisis is resolved by the figure of the kinsman-redeemer (go'el), the close relative who will, through marriage and the conception of a child, both provide for the widows and save the family from extinction.[134] In the Ruth narrative, set during the era of the Judges, Elimelech, a man from Bethlehem in Judah, his wife Naomi, and two sons, move from Judah to Moab during a famine. While in Moab, the husband dies, after

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[133] *See, e.g.*, INJUSTICE MADE LEGAL, *supra* note 128, at 23-56; Hubbard, *supra* note 34, at 15.

[134] *See* ROBERT L. HUBBARD, JR., THE BOOK OF RUTH (1988); *see generally* Hubbard, *supra* note 34.

which the two sons marry Moabite women, and then also die.[135] Naomi is thus left with two former Moabite daughters-in-law and no grandchildren. The famous decision of one of the two widowed daughters-in-law, Ruth, to identify with her mother-in-law, sets the stage for the rest of the story. Ruth famously tells Naomi that "[y]our people shall be my people, [and] your God, my God," and insists on accompanying Naomi back to Bethlehem.[136] This vulnerable family unit of two widows initially survives through gleaning from the fields of a man named Boaz, just as was envisioned in the Mosaic Law.[137] Ultimately, however, Boaz, who is a close relative of Naomi, chooses to redeem Elimelech's land and name and, acting as a close relative kinsman-redeemer, marry Ruth.[138] The son (Obed) who is born to Boaz and Ruth is then, in a situation analogous to Levirate marriage, accounted to Elimelech and Naomi, so that their family line within Judah may be continued.[139] The redemptive implications of this story are highlighted by the fact that Obed is named at the end of the story as the grandfather of King David.[140] From a Christian perspective the redemptive significance is further heightened by the inclusion of Boaz and Ruth as the parents of Obed within the genealogy of Jesus presented in Matthew,[141] and Boaz as the father of Obed in the genealogy of Jesus in Luke.[142]

Interestingly, for any doctrine of adoption, both the New Testament genealogies, as well as the genealogy at the end of Ruth, follow the literal biological genealogy in accounting Obed the son of Boaz, rather than accounting as Obed's father the apparent beneficiaries of the symbolic levirate system (Elimelech, the deceased husband of Naomi, and/or Mahlon the deceased husband of Ruth).[143] The only one of the three books to include a mother in the genealogy, Matthew, names Ruth as the mother, despite the symbolic laying of Obed on Naomi's breast and statement by the women that a son has been born

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135 *See Ruth* 1:1-5.

136 *See Ruth* 1:16-18.

137 *See Deuteronomy* 24:19-21; *Ruth* 2.

138 *See Ruth* 4:1-12.

139 *See Ruth* 4:10 (Boaz marries Ruth "to perpetuate the name of the dead"); *Ruth* 4:16-17 (Naomi nurses Ruth's baby and neighbor women declare that a son has been born to her).

140 *Ruth* 4:22.

141 *See Matthew* 1:5-6.

142 *See Luke* 3:31-32.

143 *See Matthew* 1:5-6; *Luke* 3:31-32; *Ruth* 4:21.

to Naomi.[144] Hence, despite the legal significance of continuing the family lines of these deceased men, there is an insistence in the Old and New Testament genealogies in presenting the actual biological lineage. Another interpretation would be that both the literal biological parents, and those accounted as being parents for certain legal purposes, are acknowledged in different ways as the parents of Obed.

The book of Ruth makes abundantly clear that the central hope of a widow within Israel was to be found either through her own remarriage, or through her children or grandchildren. If a widow did not herself remarry, but had a son, she could look forward to that son growing up and providing for her. Her son would become her male provider and protector. If a widow had a daughter, she could look to the man who would marry her daughter (or ex-daughter-in-law in the case of Ruth) as the one who would provide for her. For the widow, her child represented not only her future physical survival, but also the hope of the continuation of her family line, which was of course an over-riding purpose of family life, and even of life itself, within Israel.[145]

From this perspective, one of the most essential interventions one could do for a widow was to protect and preserve her relationship to, and the life of, her child (the fatherless child, or orphan). The Hebrew Bible illustrates this principle through a set of stories about Elijah and Elisha.[146] In the first of these, after Elijah has prophetically enunciated God's decree of a drought, God sends him to a widow, Zarephath, who will provide for Elijah. When they meet, the widow tells Elijah that she was about to prepare a last meal from their scant provisions for herself and her son, "that we may eat of it, and die."[147] Elijah assures her that the bin of flour and jar of oil will not run out; a miracle which enables Elijah, the widow and her fatherless son to survive.[148] A crisis ensues, however, when the son becomes sick and dies. Elijah cries out to God, stretches himself out on the child three times, and ultimately the child is revived and restored to his mother. By this miracle the widow is persuaded that Elijah is truly a "man of God."[149]

Within this story we see God's provision for this widow and orphan, through the miraculous provision of food amidst a drought. We

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144 *Compare Matthew* 1:5-6, *with Ruth* 4:15-17.

145 *See* Hubbard, *supra* note 34.

146 *See 1 Kings* 17; *2 Kings* 4:1-7; *see also 2 Kings* 4:8-37.

147 *1 Kings* 17:12 (New King James).

148 *See 1 Kings* 17:13-16.

149 *1 Kings* 17:17-24 (New King James).

also are able to see that the loss of the child precipitates a crisis of faith, as the widow doubts Elijah's good intentions: "What have I to do with you, O man of God? Have you come to me to bring my sin to remembrance, and to kill my son?"[150] We see here a model of intervention for widows and orphans, as Elijah is able to restore the child to his mother. While the means of restoration (a resurrection from the dead) is obviously miraculous in this instance, the ethical point is that the widow needs her son, and hence acting to restore a child to his widowed mother is the appropriate intervention.

Elijah's successor, Elisha, performs a similar miracle. In this context, a widow comes to Elisha in crisis, telling him: "Your servant my husband is dead, and you know that your servant feared the Lord. And the creditor is coming to take my two sons to be his slaves."[151] In this instance, the widow is faced with the twin disasters of destitution and the loss of her children. Elisha responds by instructing the widow to gather a large number of jars from her neighbors; by a miracle, all of the jars become filled with oil. Elisha then instructs the widow to sell the oil and pay off the debt, using the rest to support herself and her sons. Here, Elisha both provides economically for the widow and orphans of this household, while preventing the separation of the widow from her fatherless children.[152]

Given that Elijah and Elisha are, in New Testament terms, forerunners and types of Jesus, and that in the New Testament Jesus raises a widow's son from the dead,[153] the ethical message of these texts is clear. God is the provider for widows and orphans in two senses: economic provision, and preventing the separation of the widow from her child (the so-called "orphan"). God restores children to their widowed mothers, rather than removing them from widows. Not surprisingly, this ethical message is consonant with the Mosaic Law and the Prophets.

Against this clear record from the law, prophets, psalms, and narrative texts, regarding the intertwined needs of widows and orphans for provision and one another, there is not a single Biblical text on assisting orphans through removing them from their widowed mothers and placing them with other families. Indeed, there are no positive

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150 *1 Kings* 17:18 (New King James).

151 *2 Kings* 4:1 (New King James).

152 *See 2 Kings* 4:1-7.

153 *See, e.g.*, *Matthew* 11:13-14, 17:1-13; *Luke* 7:11-17, 9:28-36; Bruce Waltke, *Meditating on Scripture*, TABLETALK MAG., Sept. 1, 2009, *available at* http://www.ligonier.org/learn/articles/meditating-scripture/.

instances of stranger adoption in the entire Hebrew Bible. The one clear instance of care provided to a child with a dead mother and father—Esther—involves Mordecai, her cousin or uncle, taking her into his household and raising her as a daughter, while simultaneously still accounting Esther to be the daughter of her original father, Abihail. This is certainly a positive story, but it occurs squarely within the context of the Israelite extended family. Moreover, as noted above, the text itself stresses Mordecai's relationship to his uncle or brother, Abihail, who is Esther's father, thus interpreting Mordecai taking Esther as a daughter as a fulfillment of extended family responsibilities rather than as a displacement of Esther's relationship to her deceased father. Thus, there is no indication that Mordecai taking Esther as a daughter involved a change to her name or ultimate legal identity. Indeed, Esther interestingly is not even referred to as an orphan or fatherless child, the presumption being that she passed immediately from the care of her parents to her cousin or uncle upon the death of her parents. Thus, in the one clear instance of provision for a child whose parents are both dead, a member of the extended family fulfills the role of a father while still maintaining the child's name, identity, lineage, and original parentage. Esther thus cannot be considered a Biblical precedent for instances of stranger adoption where the child's name, identity, and lineage are altered, at the expense of any acknowledgement of the original parentage, as typically occurs in modern stranger adoption of "orphans."[154]

In summary, the Hebrew Bible's teaching on the "fatherless" or "orphans" teaches primarily the importance of assisting the widow and orphan as a unit, including the provision of financial support and protection from exploitation. The Biblical call is clearly to keep the widow and orphan together as a family unit. Providing for the child through an adoption that permanently severs the link between mother and child would appear, in Biblical terms, to represent a wrongful abandonment of the widow. Similarly, the one clear instance of providing care for a child with two dead parents provides a positive model for a form of extended family care that both provides the child with a functional father, while still maintaining the child's original name, identity, lineage, and original parentage. Based on the Hebrew Bible, many instances of adoption as practiced in modern society would seem to be a violation, rather than a fulfillment, of the Biblical

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154 *See supra* notes 54 – 60 and accompanying text.

model of widow and orphan care. This point will be explored further below, after examination of the New Testament.

2. New Testament

The primary text in the New Testament on orphans is the much quoted text from James: "Pure religion and undefiled before God and the Father is this, To visit the fatherless and widows in their affliction, and to keep himself unspotted from the world."[155]

The Greek word used here, "*orphanos*," can be variously translated "fatherless," "orphan," or "bereft."[156] It is used only twice in the New Testament.[157] In the context of James, a book often viewed as written within a primarily Jewish-Christian context,[158] the clear reference of the phrase "fatherless and widows" is to the unit of "widow and fatherless/orphan" so prominent in the Hebrew Bible.[159] Hence, the analysis made above, in regard to widows and orphans in the Hebrew Bible, is fully applicable to this New Testament usage. James is referring to the unit of orphan and widow, rather than to two separate unrelated categories of persons needing assistance. James presumably intended to incorporate into the New Testament the Old Testament presumption that widows and orphans normally were to be protected and assisted as a family unit. To assist orphans and widows thus would have included protecting their relationship with one another and seeking to keep them together. This of course does not rule out assisting widows with no children, or assisting children lacking both a father and mother, but nonetheless presupposes that typically widows and orphans comprise a family unit who are assisted together.

This interpretation of James is borne out by the organized focus of the early church on assisting widows, as reflected in both the book of Acts and 1 Timothy, one of the Pastoral Epistles.[160] Thus, according

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155 *James* 1:27 (King James).

156 *See Strong's G3737 – orphanos*, BLUE LETTER BIBLE, http://www.blueletterbible.org/lang/lexicon/lexicon.cfm?Strongs=G3737&t=KJV (last visited Jan. 18, 2012) (translating orphanos to "bereft" (of a father, of parents) or "orphaned").

157 Beyond James 1:27, the other usage is from John 14:18: Jesus, as a part of the Last Supper discourse, assures the apostles that he will not leave them "orphanos," which is variously translated in the New King James version as "orphans" or "comfortless" in the King James version.

158 *See* DONALD GUTHRIE, NEW TESTAMENT INTRODUCTION 722-59 (4th ed. 1990).

159 *See supra* notes 131-53 and accompanying text.

160 *See Acts* 6:1-6; *1 Timothy* 5:3-16.

to the book of Acts, in the period immediately after the beginnings of the church in the Day of Pentecost, there arose a complaint that the widows of the Greek Jews were being neglected by the Hebrew Jews "in the daily distribution" of assistance.[161] This indicates that organized widow assistance was in existence at the very outset of the church. This dispute over widow assistance apparently threatened to undermine the unity of the early church along cultural/ethnic lines. The church's response to this dispute was to appoint a group of men to oversee such widow assistance, which is commonly cited as the origin of the deaconate in the church.[162] The fact that widows are mentioned, but not orphans, is consistent with the interpretation that ordinarily "orphans" would have been assisted through provision to their widowed mothers.

The same organized focus on assistance to widows is found in 1 Timothy 5. The details of this passage present many difficult interpretative issues, which are beyond the scope of this essay.[163] The point at present is that the epistle addresses in detail the question of which "widows" should be supported by the church.[164] The passage also evidences some of the strategies for the support of widows found in the Hebrew Bible. Thus, despite some ambivalence in this passage and also in 1 Corinthians 7 regarding re-marriage,[165] 1 Timothy 5:14 advises that the younger widows remarry.[166] Similarly, Paul states that widows with children or grandchildren should be supported by their own families. Paul thus regards adult children as under an ethical imperative to support their widowed mothers and grandmothers, stating that those who do not provide for their own have "denied the faith" and are "worse than an unbeliever."[167] Thus, just as in the Hebrew Bible, re-marriage and the assistance of adult children and other

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161 *Acts* 6:1.

162 *See Acts* 6:1-6.

163 *See 1 Timothy* 5:1-16. The difficulties include whether the passage concerns something like an "order" of older widows in some kind of church office or ministry, interpreting the details of the requisites for receiving support, and the ambivalence concerning remarriage of widows. For varying views, *see, e.g.*, GORDON D. FEE, 1 AND 2 TIMOTHY, TITUS 114-26 (W. Ward Gasque ed., 1988); DONALD GUTHRIE, THE PASTORAL EPISTLES: AN INTRODUCTION AND COMMENTARY 112-17 (1990); BENJAMIN FIORE, THE PASTORAL EPISTLES 100-09 (2007).

164 *See id.*

165 *See*, *e.g.*, 1 *Timothy* 5:11-14 (the very section urging that younger widows remarry itself seems to be critical of the act). *See also* 1 *Corinthians* 7:8-9, 7:39-40; *1 Timothy* 5:9 (King James) (requirement of having been "the wife of one man.").

166 *1 Timothy* 5:14.

167 *1 Timothy* 5:8; *see also 1 Timothy* 5:4, 5:16.

household or family members are prime strategies for the support of widows. The church is to provide for widows only when these family-based strategies are not available.

Widows are a motif throughout the New Testament, with widows generally seen quite favorably. Thus, Anna the aged widow and prophetess who greets the baby Jesus in the Temple, is a model of piety.[168] Similarly, Jesus publicly praises the generosity and faith of the poor widow's gift of "two mites" at the Temple.[169] Jesus incorporates the figures of the persistent widow seeking justice in the parable of the unjust judge,[170] while condemning the religious hypocrisy of the scribes who "devour widow's houses and for a pretense make long prayers."[171] In the book of Acts, the widows testify to the assistance provided to them by the dead disciple Tabitha/Dorcas; in response, Peter raises the disciple from the dead and presents her to the "saints and widows," thus recapitulating the miracles of Elijah, Elisha, and Jesus in restoring the life of someone dear to widows.[172] It is a commentary on the church that in this case it is a fellow church member, rather than a son, who is resurrected and then presented to widows; the implication is that this Dorcas has been, in a New Testament church setting, fulfilling the role of a son to many widows.

Compared to the repeated and elaborated New Testament treatment of widows, and their assistance, the theme of assistance to the fatherless or orphan is quite minimal. There are essentially no relevant texts, other than the famous James text just discussed. The only other uses of the Greek words that can be translated "orphan" or "fatherless" appear in two texts about Jesus and His relationship to Christians: Jesus' promise in the last supper discourse to not leave His disciples bereft, or as orphans (John 14:18), and a description of the great priest Melchizedek (Hebrews 7:3, "apator"). The contrast with the theme of widows is striking. It is obvious from the New Testament that support of widows was a practical problem that the church confronted on a daily basis. If the same was true of "orphans," it left virtually no trace in the New Testament, unless one assumes that the vast majority of orphans were a part of a widow-orphan unit that were cared for through provision to their widowed mothers.

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168 *See Luke* 2:36-38.
169 *See Luke* 21:1-4.
170 *See Luke* 18:1-8.
171 *Luke* 20:47 (New King James).
172 *Acts* 9:36-42 (Kings James).

Presumably, the reasons for the lack of an "orphan" problem in the New Testament church was due first to the initial Jewish setting of the New Testament church. Judaism had, in contrast to the ancient pagan Greco-Roman world, a pro-life ethic that generally protected the lives of Jewish infants. Jews regarded children as a blessing, took seriously the Genesis commandment to be fruitful and multiply,[173] and with some notorious exceptions generally did not participate in the pagan practices of infanticide or exposure of their infants.[174] Jews were also religiously and culturally focused on the intergenerational continuation of their family groups as a primary goal.[175] As a comparatively small and vulnerable minority in the larger Gentile world, the Jews were not likely to consider children as expendable, but rather would have been motivated to enlarge the population of their people. Hence, in instances where both parents died, other relatives, as in Mordecai's care of the orphan Esther, would have stepped in to raise the child while safeguarding the name and lineage of the dead parents.[176] These practices presumably continued into the New Testament era. Indeed, Jesus' striking and positive teachings on children and childhood would have added even more to the high valuation placed on children in Judaism.[177] In this context, Jews, including Jewish-Christians, presumably did not experience the same proliferation of abandoned and relinquished babies as existed in the wider Greco-Roman world, where the practice of exposure was accepted and widespread.[178] By contrast, widowhood would have been quite common due to the high death rates and modest longevity of people in the ancient world.[179] Under these circumstances, the death of one parent prior to the child attaining adulthood would have been a commonplace. Where the survivor was

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[173] *See Genesis* 1:28; *see*, *e.g.*, *Psalms* 127:3-5. *See also* Marianne Meye Thompson, *Children in the Gospel of John*, *in* THE CHILD IN THE BIBLE 195 (Marcia J. Bunge ed., 2008), for a discussion on ancient Jewish and early Christian pro-life viewpoints opposing abortion and infanticide.

[174] *See generally Ezekiel* 20:25-26; *Jeremiah* 7:31, 32:35; *Leviticus* 18:21, 20:1-5; (selections from the Hebrew Bible that are commonly interpreted to indicate that some Israelites participated in infanticide/child sacrifice, and also that it was forbidden).

[175] *See, supra* notes 33 & 34 and accompanying text.

[176] See, *supra* notes 33-35, 54-60 and accompanying text.

[177] *See*, *e.g.*, *Matthew* 18:1-6, 10-14, 19:13-16.

[178] *See*, *e.g.*, W.V. Harris, *Child-Exposure in the Roman Empire*, 84 J. OF ROMAN STUD. 1 (1994).

[179] *See*, *e.g.*, GEORGE T. MONTAGUE, FIRST AND SECOND TIMOTHY, TITUS 108 (Peter S. Williamson & Mary Healy eds., 2008) (estimating that 40% of the women in the ancient world between ages forty and fifty were widows).

the wife—the widow—the difficult economic and social position of a lone woman in a patriarchal society would have created an immediate issue, whenever the woman either had no children, or only had minor or young children. Hence, it is easy to see why the issues of widows generally eclipsed and subsumed the issue of orphans in a Biblical context.

As the New Testament church increasingly became Gentile rather than Jewish through the increasing success of the mission to the Gentiles, the collision with the very different pagan ethics on matters related to sex, reproduction, abortion, infanticide, and the exposure of infants would become increasingly prominent. There are clear echoes of this collision in the Pauline epistles, particularly in regard to sexual matters,[180] but little trace of the collision on issues such as infanticide and exposure. Apparently the initial effort was directed primarily at teaching an ethic that would, if followed, direct sexual activity within the context of Christian marriage, thereby providing for the love and care of the children who would be created. Teaching a Christian sexual and marital ethic within the Gentile church presumably was the initial frontline against the entire package of "anti-life" pagan practices of abortion, infanticide, and exposure. Presumably the traditional impetus for the poor in the ancient world to abandon children simply because they could not afford to raise them was met with a church community which, even at the very outset of the church in Acts, directed assistance to the poor within the community.[181] Hence, the programs of assistance within the church also would have been the initial and frontline responses to transforming the ethic of the Gentile converts. So far as it appears from the New Testament, remedying the infanticide, abandonment, and the exposure of infants in the wider gentile world outside of the church was not a project of the church during the New Testament era. The tiny size of the church during the New Testament era, its various crises of survival, unity, and persecution, and its position of political vulnerability and powerlessness, presumably mediated against any organized efforts to assist the comparatively vast numbers of infants victimized by the pagan practices of infanticide and exposure. Those efforts would have to await another day.

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180 *See*, *e.g.*, *Ephesians* 4:17-5:20; *Galatians* 5:13-25.

181 *See*, *e.g.*, *Acts* 4:34-35, 6:1-6.

C. Conclusion: Summarizing the Theological Errors of the Modern Evangelical Adoption and Orphan Care Movements

Upon examination, virtually every premise of the modern evangelical adoption and orphan care movement is false. First, the concept of "adoption" is not necessary to the communication of the gospel, as almost all of the New Testament, and almost all of the greatest teachers of the New Testament, including Jesus, the authors of the Gospels and Acts, Peter, James, and John, all communicate the gospel quite effectively without referring to adoption. The position that adoption is a necessary and central concept to the communication of the gospel would suggest that the vast majority of the New Testament is fatally defective in its presentation of the gospel. Thus, while certainly the relationship of individuals, Israel, and the church, to God, are central Biblical themes, that relationship is described in the vast majority of the Bible, Old and New Testament, without reference to adoption.[182]

Second, the adoption and orphan care movement wrongly assumes that the Bible presents a positive vision of the forms of adoption practiced in the United States, meaning full adoption that totally severs the relationship of the adoptee to their original family, such that after adoption the adoptive family is the only family of the adoptee. By contrast, within the Hebrew Bible, breaking the biological lineage of an individual is considered a great wrong against the entire family line. Hence, in the primary and most famous instance of stranger adoption in the Bible, Moses, the scriptural accounts of the Old and New Testament praise Moses for rejecting his adoptive identity in favor of his biological identity.[183] Hence, even when something akin to adoption is viewed positively in the Bible, it generally maintains, rather than breaks, the biological lineage. Thus, when Mordecai takes his cousin/niece Esther as a daughter, Esther is still known thereafter as the daughter of her biological father; Esther is in some sense the daughter of Mordecai, and yet also at the same time remains forever the daughter of her biological father.[184] Taking care of another's child is praiseworthy and a kind of parenting in the Jewish worldview, but only if the biological lineage and original identity of the child is maintained. Indeed, most of the adoption-like practices in the Hebrew Bible essentially occur within an extended family structure.[185]

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182 *See, e.g.*, *supra* notes 30-81 and accompanying text.

183 *See, supra* notes 41-53 and accompanying text.

184 *See supra* notes 54-60 and accompanying text.

185 *See supra* notes 31-35, 54-64 and accompanying text.

Third, the adoption and orphan care movement wrongly assumes that the five Pauline references to adoption refer to the kinds of adoption they favor, meaning non-related adoption of orphan children which completely severs the child's relationship to their original family. Upon examination, Paul is using a metaphor referencing a Roman practice of adult adoption that usually had nothing to do with provision of care for orphans or children. The adults adopted under Roman law were generally neither children nor orphans, and the persons adopting them were often related to them through marriage or blood. Paul is referencing the practice of "adoption" by the emperors and nobility of Rome to communicate to gentile, Roman Christians the immeasurably high honor and unfathomably great inheritance they possess as co-heirs, with Jesus, the son of God. Paul is not, in using the language of adoption, referring to the adoption of child orphans. Instead, Paul is referring to adults with a family who receive an elevation in honor and inheritance through adoption. Our own tendency to transpose our modern image of adoption of a poor orphan child into this text is a misunderstanding that distorts Paul's meaning.[186]

Fourth, the adoption care movement wrongfully assumes that "widows and orphans" are two unrelated categories of vulnerable persons in the Old and New Testament, when the scriptures generally view them as a vulnerable family unit. Hence, the orphan care movement largely misses the Biblical mandate to assist fatherless children in remaining with their mothers, and more broadly in assisting poor and vulnerable children whenever possible through protecting their relationships with their parents and other relatives. The adoption and orphan care movement believes it is possible to have such a movement without reference to the Biblical mandates regarding widows and the poor, allowing for a practice of ministry that takes children away from their vulnerable and poor parents and family members.[187]

Fifth, the adoption and orphan care movement wrongfully assumes a Biblical fit and connection between adoption and orphan care, when in Biblical terms these are almost mutually exclusive categories. Particularly the kind of adoption employed by the adoption movement—that of full adoption which completely severs the child's relationship to their original family—is in Biblical terms likely to be exploitative of both the child and their vulnerable and poor family members. In terms of horizontal human relationships, this kind of "adoption" is not designed or intended for orphans, at least from a Biblical worldview.

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186 *See supra* notes 81-123 and accompanying text.

187 *See supra* notes 127-179 and accompanying text.

Most "orphans" are with their widowed mothers, and what they need is to be assisted and protected as a family unit with their mothers. Taking such children away from their widowed mothers would in fact be a form of exploitation condemned by the Bible. Orphans who have lost both parents, Biblically speaking, should be cared for by their relatives in a manner that both provides them day to day parents, while at the same time continually acknowledging their name and identity as children of their biological parents. Only a very small minority of people termed "fatherless" or "orphans" by the Bible would actually benefit from being adopted by strangers, and even then, a question remains as to how, Biblically, to conceive of their relationships to their original and adoptive families.

Sixth, the adoption and orphan care movement wrongfully assumes that the practice of non-related, full adoption of orphan children is the horizontal analogue to God's vertical adoption of Christians. This mistake stems from misunderstanding the referent in the Pauline passages on vertical adoption, while also ignoring the Biblical perspectives on adoption and orphan care. This mistake also stems from ignoring the absence of horizontal adoption within the New Testament, which is a striking absence given the prevalence of New Testament treatment on widow care within the New Testament. Once the New Testament is examined for what it says, rather than what the movement chooses to read into it, the true horizontal analogue of vertical adoption within the Pauline passages becomes clear. Vertical adoption is one of several means by which Paul teaches that the church is one family household, one people, despite the ethnic (Jew-Gentile), class (slave-free), and male-female differences. The unity of the church as a "family" across various traditional boundaries is thus the true, Pauline, horizontal analogue of vertical adoption. If, as the adoption movement teaches, all Christians are God's adopted children in Christ, then all Christians are also, in Christ, brothers and sisters, parents and children. There is in fact absolutely no need for Christians to go through legal adoption procedures in order to mirror their relationship with God. The way to mirror in human relationships God's "adoption" of His people in Christ is for those people to truly treat one another as family or kin. Indeed, it misses the point to urge Christians to go through legal adoption procedures; the point is that as the church, Christians are already constituted as family to one another,

whatever their racial, ethnic, class, or gender differences.[188] For example, Paul does not need to go through a formal adoption procedure to use language and imagery suggesting he is both father and mother of the Christians to whom he writes and ministers.[189]

III. EXPLOITATION IN THE NAME OF CHRIST: WHY THE THEOLOGICAL ERRORS OF THE EVANGELICAL ADOPTION AND ORPHAN CARE MOVEMENT MATTER

One response to the theological and scriptural analysis presented above would be to ask if it makes much practical difference. Even if the scriptures do not directly advocate or address adoption of non-related orphan children, couldn't such a practice still be a faithful application of the general scriptural principles of concern for such children? Even if the early church was too small to address the care of abandoned children in the wider non-Christian world, does that mean that the church, as it grows, should not do so? Surely abandoned and institutionalized children still need families? Surely the church should widen its scope of concern once it attains the size and means to do so?

These questions are another way of asking about the harms of the theological errors identified in this essay. Do these theological errors lead to harmful practices, or do they just constitute mistaken scriptural justifications for what are otherwise laudable actions?

A full answer to these questions is beyond the scope of this article. However, the outlines of an answer can be summarized as follows, with accompanying citations that provide additional works explaining and documenting these issues.

A. The View of Horizontal Adoption as An Absolute, Redemptive Good, Makes the Adoption Movement Uncritical, Incapable of Self-Correction, and Resistant to Accountability

The adoption movement, Christian and non-Christian alike, has treated adoption as an absolute good. Thus, from a variety of religious and secular perspectives, adoption has been characterized as the humanitarian rescue of an innocent child. The Christian adoption movement has strengthened this viewpoint by proclaiming that adoption is fundamental to the ultimate good of the gospel and of salvation.

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188 *See generally* TREVOR J. BURKE, FAMILY MATTERS: A SOCIO-HISTORICAL STUDY OF KINSHIP METAPHORS IN 1 THESSALONIANS (2003) [hereinafter BURKE, FAMILY MATTERS].

189 *See*, *e.g.*, *Galatians* 4:19; 1 *Thessalonians* 2:7-12; 1 *Corinthians* 4:15-17.

Thus, the Christian adoption movement has treated horizontal adoption as redemptive.[190] From these perspectives, religious and secular, have developed a strong propensity to treat any criticism of adoption as evil. It is as though there are only two positions, for and against, and any criticism places one in the evil "against" position. For the Christian adoption movement, it is as though criticisms of adoption, the adoption movement, or adoption practices constitute a rejection of the foundational Christian gospel message.

Unfortunately, this perspective renders the adoption movement as astonishingly uncritical. Any activity or movement unable to be self-critical inevitably becomes destructive and blind to its own errors. Thus, one of the fundamental harms of the Christian adoption movement has been so closely equating the modern practice of horizontal adoption with the gospel as to make criticism of such practices impermissible, contributing to an adoption system that lacks accountability and lacks practices, habits, and mechanisms of self-correction.

Viewed correctly, horizontal adoption is a relative good. Every adoption involves a profound loss for the child and the child's original family. Sometimes the good done by adoption outweighs the loss; sometimes it does not. Understanding adoption as a relative good reminds us that it can be done ethically or unethically, and thus can constitute, depending on the manner in which it is done, either a good or an evil.[191] Being aware of adoption as a relative, rather than absolute, good, allows one to accept the extensive evidence that adoption has often been practiced in deeply exploitative and unethical ways.[192] Being aware of this history reminds us that there are often other interests involved in adoption besides a pure humanitarian or gospel impulse, such as the desire of intermediaries for monetary compensation,[193] and

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190 *See supra* notes 5-27 and accompanying text.

191 For a fuller explanation of adoption as a relative good, see David M. Smolin, *Intercountry Adoption as Child Trafficking*, 39 VAL. U. L. REV. 281, 283-86 (2004), http://works.bepress.com/david_smolin/ [hereinafter Smolin, Valparaiso].

192 See David M. Smolin, *Child Laundering as Exploitation: Applying Anti-Trafficking Norms to Intercountry Adoption Under the Coming Hague Regime*, 32 VT. L. REV. 1 (2007) [hereinafter Smolin, *Child Laundering as Exploitation*] for an exploration of when abusive intercountry adoption practices are "exploitative," an important concept under some definitions of child trafficking.

193 *See* Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 32 I.L.M. 1134 (1993), at art. 8, 32 (addressing financial aspects of intercountry adoption); Smolin, Valparaiso, *supra* note 191 (addressing line between licit and illicit roles of money in relationship to intercountry and domestic adoption).

the desire of the infertile for children.[194] There is, of course, nothing wrong with the desire of the infertile for children, and monetary compensation and profit in a capitalist society are lawful motivations; such impulses, however, are necessarily subject to ethical and legal limits, particularly when the means of satisfying them is to obtain someone else's children.[195]

Adoption has very often involved the coercive or fraudulent or illicit taking of children;[196] at worst, it has even been a means of genocide.[197] All too frequently, adoption has been practiced in a way that expressed contempt for the original parents and family, due to their religion, culture, poverty, or status as unwed parents. The realization of the potential of adoption for both good and evil hopefully would make those who engage in the practice more careful and concerned that it be practiced ethically and only when necessary.

B. Exploitation of the Poor and the Widow

The modern adoption and orphan care movement has focused so exclusively on "orphans" and the absolute good of adoption as to miss its own exploitation of the families of those "orphans," and hence of the "orphans" themselves.[198] The movement, in seeking to assist or-

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194 *See Infertility FAQ's*, CENTERS FOR DISEASE CONTROL AND PREVENTION (Jun. 28, 2011), http://www.cdc.gov/reproductivehealth/infertility/ (discussing the incidence and causes of infertility in the United States).

195 *See supra* note 193.

196 *See generally* David Smolin, *Child Laundering: How the Intercountry Adoption System Legitimizes and Incentivizes the Practices of Buying, Trafficking, Kidnaping, and Stealing Children*, 52 WAYNE L. REV. 113 (2005) [hereinafter Smolin, *Child Laundering*]; David M. Smolin, *Child Laundering and the Hague Convention on Intercountry Adopotion: The Future and Past of Intercountry Adoption*, 48 U. LOUISVILLE L. REV. 441 (2010), [hereinafter Smolin, *Future*]; Smolin, *Future*, at 444 n. 19 (sources cited); Erin Siegel, Finding Fernanda (2011).

197 *See*, *e.g.*, Melissa Eddy, *Stolen: The Story of a Polish Child 'Germanized' by the Nazis*, STAR NEWS ONLINE (May 8, 2007), http://www.starnewsonline.com/apps/pbcs.dll/article?p=1&tc=pg&AID=/20070508/NEWS/705080331/-1/State; *Trials of War Criminals before the Nuremberg Military Tribunals Under Control, Council Law No. 10*, *in* TRIALS OF WAR CRIMINALS BEFORE THE NUERNBERG MILITARY TRIBUNALS 989 (1951); *Convention on the Prevention and Punishment of the Crime of Genocide*, art. II (e)9, Jan. 12, 1951, 78 U.N.T.S. 277 ("genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as: (e) Forcibly transferring children of the group to another group").

198 *See, e.g.*, Smolin, *Child Laundering as Exploitation*, *supra* note 192, for a discussion of circumstances in which adoption can be exploitative.

phans, exploits widows and the poor. Presenting the full scope of this exploitation of the poor, and the widow, in adoption practices, is beyond the scope of this essay. As has been extensively documented elsewhere, such exploitative practices go far beyond occasional abuses. Corrupt practices that systematically exploit the poor have been commonplace in the modern adoption era, becoming the bases of child laundering and child trafficking practices in a number of sending nations in the inter-country adoption system, including Cambodia, China, Ethiopia, Guatemala, India, Nepal, Samoa, and Vietnam.[199] In addition, modern intercountry adoption systems routinely accept poverty as an appropriate justification for intercountry adoption. The intercountry adoption system routinely is willing to spend $20,000 to $40,000 on an intercountry adoption, while not being willing to spend even a few hundred dollars on the preservation of the original family. Hence, taking away children from the poor is not considered a corrupt or illegal practice by the modern intercountry adoption movement, but instead is considered standard practice. Intercountry adoption systems that offer family preservation assistance to avoid relinquishment due to poverty are, in developing nations, the exception rather than the rule.[200] The movement has yet to learn that taking away the children of the poor and vulnerable is neither a Christian nor a humanitarian act. The movement has yet to learn that removing young children from poor widows, or other vulnerable, single mothers, merely because of poverty and the lack of a father, is neither a Christian nor a humanitarian act. These anti-Christian acts are facilitated by a defective theology that fails to understand that scripturally speaking the "widow and orphan" normally are a unit to be assisted. These anti-Christian practices are facilitated by failing to understand that, scripturally speaking, unrelated adoption that severs original family ties is not normally considered a solution either to the problem of the fatherless/orphan, or for the poor.

C. Demeaning and Minimizing the Significance of the Natural Family and the Ties of Adoptees to Their Original Families

Some of the writings, rhetoric, and practices of the adoption and orphan care movement demean and minimize the significance of the natural family and the ties of the adoptee to their original family.

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199 *See supra* note 196.

200 *See generally* David M. Smolin, *Intercountry Adoption and Poverty: A Human Rights Analysis*, 36 CAP. U. L. REV. 413 (2007).

Many of these tendencies are already evident in the broader culture of adoption in the United States, but nonetheless are often embraced, consciously or unconsciously, by the Christian adoption movement. These tendencies are so pervasive that only a brief overview can be attempted here.

As a matter of language and rhetoric, the term "birth mother" frequently used in the context of adoption has come to stand for a diminishing of the significance of the child's mother. The term is used only for a mother whose child is adopted by someone else, rather than being used for all women who give birth. The implication all too frequently is that such women "only" gave birth to the children, as opposed to the adoptive parents who count as the real mother and father of the child.[201] Within the adoption movement, the inter-generational, genetic ties of the nuclear and extended families often are denied or minimized, with little regard shown for the ongoing ties of the child to their original family members.

The problem has both theological and legal roots. Theologically, insistence on the centrality of the vertical adoption metaphor as a necessary and primary way of viewing the Christian's relationship with God may lead to a diminishment of the significance of natural family ties. Placed on the horizontal, human plane, the implication can be that mere biological ties are insignificant: it is only adoption that is redemptive![202] Such an approach sets aside millennia of teaching about the significance of natural parental ties, and the way that God embraces and uses those ties through covenanting with families as well as individuals. "For the promise is to you and to your children . . . ." (Acts 2:39) is a famous New Testament text indicating that God's pattern of working with intergenerational families in the Old Testament continues in the New Testament. Of course this issue raises complex issues which divide Christians at times, as in the disagreements over infant baptism. However, the overall message of the Bible on the significance of natural family ties is quite clear. The Old and New Testaments are filled with genealogies and God's dealings with

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201 *See, e.g.*, Lorraine Dusky, '*Positive' Adoption Language?*, [BIRTH MOTHER,] FIRST MOTHER FORUM, http://www.firstmotherforum.com/p/positive-adoption-language.html (last visited Jan. 29, 2012).

202 *See, e.g.*, DAN CRUVER ET AL., *supra* note 3 (re-interpreting Biblical passages on the relationship between God and human persons in terms of adoption, and using adoption as a generalized way of understanding a personal relationship with God in Christ); David L. Bartlett, *Adoption in the Bible*, *in* THE CHILD IN THE BIBLE 375, 397-98 (Marcia J. Bunge ed., 2008) (arguing that adoption, rather than birth, should be "normative" for understanding parent-child relationships).

households, families, clans, and tribes. The family ties created when a man and woman marry and produce natural children are commonly viewed in Christian theology as a mirror of God's love and redemptive work. The viewpoint that the natural children of God's people in the Old and New Covenants in some manner share in that covenantal relationship has been a commonplace over millennia. Interpreting the scriptures to convey a message that minimizes the significance of such ties is like interpreting the Bible to teach atheism, in that it discounts and misses one of the major themes of the Bible.

Indeed, elevating adoption by diminishing natural family ties creates, logically, a system that eats itself, for the very concept and practice of adoption is based on an analogy to natural family ties; if natural family ties are insignificant, then there is no purpose served in making the analogy. If adoption is like natural family ties, and natural family ties are insignificant, then adoption itself must be insignificant! Indeed, innumerable Biblical terms and concepts, such as the Christian being "born again,"[203] God being called "Father,"[204] Jesus as the only Begotten Son of God,[205] and Christians as brothers and sisters,[206] are based on analogies to natural family ties that presume their profound significance. In both scriptural and legal terms, natural family ties are primary, and adoption as a concept operates as an analogy or comparison to natural family ties.

The Christian adoption movement tends to diminish the significance of natural family ties in a highly selective, self-serving manner. Thus, Russell Moore, a leading Christian adoption movement advocate, emphasizes the lack of significance, to his internationally adopted children, of their original names, language, culture, nation, and (implicitly) family. Moore virtually denies that such is their "cultural" heritage. Instead, Moore argues, he should and will teach his

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[203] *See John* 3:1-21.

[204] God being called "Father" is almost too ubiquitous to cite, but some prominent examples are 2 Corinthians 1:2 (from representative greetings in Pauline letters invoking "God our Father"); *John* 1:14 (Jesus as the "only begotten of the Father"), 14-17 (last supper discourse in which Jesus constantly addresses God as "Father"); *Luke* 11:2-4 (Lord's Prayer); *Matthew* 6:9-13 (Lord's Prayer).

[205] *See John* 1:14, 3:16-18; 1 *John* 4:9; *see also Psalm* 2:7-9.

[206] Christians, as brothers and sisters, is so ubiquitous in the New Testament that citation seems unnecessary, but nonetheless, a few of the many representative citations would include 1 *Corinthians* 2:1, 3:1, 6:6, 7:15, 9:5; *James* 2:15; *Romans* 16:1; 1 *Thessalonians* 4:1, 9-10. *See generally* BURKE, FAMILY MATTERS, *supra* note 188, at 165 ("The term 'brother' is the most frequently occurring expression that the apostle Paul employs in relation to his fellow Christians.").

adoptive children that their cultural heritage is as "Mississippians," including the stories of the lives of Moore's grandparents and great-grandparents, and a love of the literature, music, and food of the American south.[207] Of course in Moore's account his own biological lineage is treasured and becomes, by implication, a kind of redemptive family account: Moore seems to imply that for his adoptive children being joined to the Moore family is a parallel to our becoming God's children and a part of God's people. Moore as the adoptive father does not leave behind the treasures of his own biological lineage, but instead glories in his love of fried catfish, the English language, and his grandfather. It is only the adopted children who are asked to forego the heritage found in their biological lineage. Moore sees no contradiction in glorying in his spiritual lineage in the ancient Biblical stories and the contemporary church family, while simultaneously treasuring the specific cultural and family lineage he has as the son, grandson, and great-grandson of the American South. Moore gets to prize and embrace the riches of his biological and extended family heritage. But from Moore's perspective, it would apparently be a contradiction for his adopted children to treasure both their birth and adoptive heritages.[208]

Moore might respond that his own adoptive children enjoy, like himself, both their Biblical and church spiritual lineage, and their Mississippian or Southern cultural heritage. The difference, of course, is that adoptees are expected to sacrifice, or view as insignificant, their genetic, biological lineage, while their adoptive parents are not asked to make a parallel sacrifice. From Moore's perspective, this sacrifice seems to be necessitated by the adoption. In order to be fully within the adoptive family and lineage, adoptees are expected to discount the significance of their own biological lineage. The significance of the adoption is built upon the insignificance of the adoptee's original family ties.[209]

This viewpoint of adoption, I would argue, stems not from the Bible, but from the relatively recent development of United States adoption law. In brief, modern adoption law in the United States operates differently from both any scriptural concept of horizontal adoption,

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[207] *See* RUSSELL D. MOORE, ADOPTED FOR LIFE: THE PRIORITY OF ADOPTION FOR CHRISTIAN FAMILIES AND CHURCHES 36 (2009).

[208] *See id.* at 36-37.

[209] For a fuller discussion of the problematic nature of building the legitimacy of adoptive family ties through diminishing natural family ties, *see* Smolin, *Child Laundering as Exploitation*, *supra* note 192, at 4-10.

and also from adoption in the ancient world. Demonstrating this point necessitates a brief legal history of adoption in the United States.

The adoption law of the United States does not come from that of any historical system, as United States law is rooted in English common law, and English common law lacked adoption as a legal practice or system. Adoption law in the United States is thus rooted in positive, statutory law, which began around 1850 and developed its characteristic form over approximately the next hundred and thirty years. For our purposes, what is most significant is the full adoption, closed records system that has become the normative, although not universal, model of adoption in the United States. The closed record system was developed in the period from 1930 to 1980, primarily in relationship to the perceived problems of the unmarried mother and her child. Under the law prior to 1972, non-marital children were legally fatherless, and faced legal and social disadvantages as "illegitimate" children—what British law had called "bastards." Unwed mothers also faced significant social stigmas and disadvantages. In response, adoption law developed a secret, closed records system, purportedly to protect the adopted child and original mother from social stigma, and also apparently to prevent original family members from contacting the child or adoptive family. This system involves the creation of official "birth" certificates showing the adoptive parents as the "birth" parents of the child, and the sealing of the original birth certificate. Initially, records were closed to outsiders but remained open to the parties; later, records were closed to everyone but the adult adoptee. The closing of records to adult adoptees was in many states a separate and last stage that did not occur until after 1960. Thus, the adoptee, even as an adult, in most states was and is not permitted to access the records containing the identity of his or her original parents. The original family is not allowed access to information that would disclose the adoptive identity of their child. The severing of the relationship between the adoptee and the natural family thus goes beyond a formal legal transfer, to an attempt to practically and permanently prevent any contact between them, and to prevent the adoptee from ever knowing their original lineage and identity. The law used the device of a legal fiction, in which it is "as if" the child had been born to the adoptive parents: which means that it is "as if" the child had never been born to the natural mother and father. Hence, adoption became a secret event that could potentially be hidden: particularly where the adoptee looks enough

like his or her adoptive parents to "pass" as their child.[210] Even when (as is commonly the case today) the fact of adoption was openly acknowledged, the facts regarding the child's original identity remained hidden. Thus, American law developed an adoption system in which the adoptee's ties to their original family are normatively defined as completely insignificant, as the child and his or her "birth" mother and father are considered legal strangers to one another. The security and legitimacy of the adoptive relationship are built, legally and psychologically, upon the complete denial of any relationship between the adoptee and their original family. In such a system and viewpoint, it becomes impossible to honor and acknowledge both adoptive and biological relationships.[211]

The tendency of the Christian adoption movement has been to uncritically perceive *this kind of adoption* as supported by scripture and Christian theology. As this essay has demonstrated, however, this is a very serious error. Both positive and negative adoption stories in the Old Testament highlight the continuing significance of birth lineage and relationships after adoption.[212] Although the Roman adoptions referenced by Paul in the New Testament did involve a full legal transfer of the adoptee, they were generally adult adoptions, often of persons already related to the adoptive father through blood and/or marriage, and personal relationships between the adoptee and his original family survived the adoption.[213] Neither the fact of adoption nor the original family relationships were in any way secret under Roman law, and adoption was indeed an honor unrelated to any sense of shame or stigma. Further, since only men could adopt, such adoptions never created a pretense or legal fiction regarding who had given birth to the adoptee.[214] Indeed, based on the scriptural materials it would be quite easy to argue that any adoption system must, wherever possible, safe-

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210 *See, e.g.*, Stanley v. Illinois, 405 U.S. 645 (1972); CARP, *supra* note 30; Barbara Melosh, *Adoption Stories, in* ADOPTION IN AMERICA 218 (E. Wayne Carp ed., 2002); Elizabeth J. Samuels, *The Idea of Adoption: An Inquiry into the History of Adult Adoptee Access to Birth Records*, 53 RUTGERS L. REV. 367 (2001) [hereinafter Samuels, *The Idea of Adoption*]; Elizabeth J. Samuels, *The Strange History of Adult Adoptee Access to Original Birth Records*, 5 ADOPTION Q. 63 (2001) [hereinafter Samuels, *The Strange* History].

211 *See* Samuels, *The Idea of Adoption*, *supra* note 210; Samuels, *The Strange History of Adoption*, *supra* note 210; Smolin, *Child Laundering as Exploitation*, *supra* note 192, at 4-10.

212 *See supra* notes 31-71 and accompanying text.

213 *See supra* notes 101-123 and accompanying text.

214 *See supra* notes 101-123 and accompanying text.

guard and preserve the adoptee's original lineage. Even if such is not mandatory, the American system which characteristically hides and destroys the adoptee's connection to their original lineage appears contrary to scriptural norms.

The theological errors of the Christian adoption movement in minimizing and denying the significance of the adoptee's biological lineage, and in uncritically accepting the legal fictions underlying the law of adoption in the United States, are destructive in numerous ways. Such errors contribute to the practices, noted above, that exploit the original family members of children sought for adoption. It is much easier to exploit and ignore people who are viewed theologically as insignificant or as unrelated "strangers." It is much easier to design adoption systems that extract children from the widow and the poor when you theologically regard them as the irrelevant, merely biological past from which children are to be redeemed. In addition, such mistakes encourage the expectation that adoptive children should be indifferent to and uninterested in their original family. This can cause conflict, suffering, and difficulty within adoptive families, when over time many adoptees develop a significant interest in their original family, or struggle with identity issues common in transracial adoption.[215] Defining such interest in the original family as a lack of loyalty to the adoptive family makes the price of adoption an unnatural disinterest in one's own history and roots, creating tragic and unnecessary conflicts for adoptees and their families.

D. Using "Orphans" as a Means of Promoting Adoption, While Evidencing Confusion Concerning the Status, Identity, Numbers, and Needs of "Orphans"

Many parts of the adoption and orphan care movement use the term "orphan" as a hook or inducement for promoting adoption, while demonstrating little interest in the actual circumstances and needs of the huge numbers of children they have defined as "orphans." The result is an adoption-centered movement that urges adoption in some instances where it is inappropriate, while appearing comparatively uninterested in the other kinds of interventions and reforms which are needed for the vast majority of so-called "orphans."

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[215] *See, e.g.*, Hollee McGinnis et al., *Beyond Culture Camp: Promoting Healthy Identity Formation in Adoption*, ADOPTION INSTITUTE (Nov. 2009), http://www.adoptioninstitute.org/publications/2009_11_BeyondCultureCamp.pdf.

The confusion about numbers is emblematic. Adoption advocates, both religious and secular, commonly claim somewhere between 130 to 165 million orphans globally.[216] Although not always acknowledged, the source of these commonly used statistics generally is UNICEF. The first difficulty is that according to UNICEF nearly 90 percent of such "orphans" have only lost *one* parent.[217] While in Biblical terms such a child may be "fatherless" (if the father is the dead parent), this raises the question of whether taking the child from a living parent with whom they live and transferring them to a stranger is a Christian or humanitarian response. Further, it is unclear how many of the estimated 15 to 18 million double orphans are being cared for by older siblings or extended family members. Thus, it is misleading for adoption-focused literature to cite these very large numbers, for clearly adoption is not the preferred or appropriate intervention for the vast majority of these so-called "orphans." UNICEF has used these large numbers in order to draw attention to children who are vulnerable and potentially in need of some kinds of assistance, as UNICEF as an organization promotes a large range of interventions for children.[218] In the context of the adoption-focused adoption and orphan care movement, however, the statistics can paint a very misleading picture of how many children are in need of adoption.

Certain images of orphans, while compelling and accurate in their own context, can also, within the larger adoption movement become misleading. Thus, Russell Moore begins his *Christianity Today* article on adoption with the pathetic silence of a Russian orphanage where infants are too hopeless to cry.[219] The image is justly compelling, and in the context of intercountry adoption from Russia, quite appropriate. Thus, when Russell Moore writes about Russian orphanages, he is invoking a context in which adoption is often an excellent and appropriate intervention, at least if the family and community are prepared

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216 *See, e.g.*, DAVIS, *supra* note 21; *The Debate*, *supra* note 21; W. Scott Brown, *Allies for Orphans*, OUTCOMES MAG., Aug.-Sept. 2008 *available at* http://www.christianleadershipalliance.org/?alliesfororphans; *SBC Resolution*, *supra* note 3; Bartholet, *supra* note 21; *but see* BENNETT, *supra* note 3.

217 *See* Johanna Oreskovic & Trish Maskew, *Red Thread or Slender Reed: Deconstructing Prof. Bartholet's Mythology of International Adoption*, 14 BUFF. HUM. RTS. L. REV. 71, 77-80 (2008); *Children on the Brink 2004*, UNICEF (July 2004), http://www.unicef.org/publications/cob_layout6-013.pdf; *Press Centre: Orphans*, UNICEF, http://www.unicef.org/media/media_45279.html (last visited Jan. 29, 2012); BENNETT, *supra* note 3.

218 *See Children on the Brink*, *supra* note 217; *Orphans*, *supra* note 217.

219 *See Abba Changes Everything*, *supra* note 23.

for the special needs of these traumatized, post-institutionalized children. Russian institutions, while not all equally bad, are notoriously harmful places for children. Although the system is notoriously corrupt, corruption is not generally the cause of the children being separated from their families and placed into the institutions.[220]

The initial difficulty, however, is the movement's primary focus on adoption, with comparatively little focus on reforming Russia's child welfare system. A rational "orphan care" movement would be strongly focused on reforming the practices that continues to place and maintain children in such substandard and damaging institutions in the first place, particularly since such intercountry adoption will only reach, at best, a small minority of the children.[221] In addition, although organizations that minister to the children within the institutions, or after they leave, can operate under the broad umbrella of the adoption and orphan care movement, their concerns do not yet appear to be central to the rhetoric and writings of the broader movement.

Similarly, the reluctance of the movement to engage "bad news" about adoption is striking in regard to Russian adoptions, as much of the movement's literature ignores the many instances of poor outcomes or extreme difficulties in Russian adoptions. There are large numbers of cases in which the extreme needs of post-institutionalized children have overwhelmed their adoptive parents, resulting in the re-institutionalization of children within the United States, the transfer of children out of their adoptive families, and in at least fourteen instances the death of the adoptive child.[222] The movement has shown little interest or involvement in reforming intercountry adoption from Russia in such a way as to minimize these harms, through, for example, ensuring accurate child study forms and improving post-adoption services.

Even more problematic, however, is a tendency to generalize from Eastern Europe to other contexts. There is a grave danger that readers of Moore's work will transpose his images of Russian orphanages to situations in Africa, Asia, and Latin America, which often are different in important ways. In some nations, it is customary for poor parents to use institutions as in essence boarding schools for the poor, without

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220 *See generally* Smolin, *Future*, *supra* note 192, at 466-67, 473-76.

221 *See, e.g.*, Anna Arutunyan, *Foreign Adoptions Down in Russia as Foster Care Grows*, THE MOSCOW NEWS (Nov. 27, 2008), http://www.themoscownews.com/news/20081127/55359067.html.

222 *See* Smolin, *Future*, *supra* note 196, at 474 & nn. 172-174.

abandoning or relinquishing their children.[223] Orphanages in some nations are often far more humane than the typical Russian orphanage, and may offer children from extremely poor families opportunities for consistent food and education not otherwise available for their children.[224] In some nations, the introduction of an intercountry adoption system has often led to abusive and corrupt practices where children are illicitly obtained in order to profit from adoption fees and meet the "demand" for "orphans." Commonly, adoption systems dealing with the poor refuse to provide any financial aid to preserve families, yet consistently spend tens of thousands of dollars for intercountry adoption. All too frequently adoption goes looking for orphans, dollars in hand, and ends up *creating paper orphans* in order to satisfy the demand. The failure of the adoption and orphan care movement to be aware of and respond to these difficulties is startling, and indicates a lack of interest in the real situations of the so-called "orphans" for whose benefit the movement claims to exist.

Fundamentally, these distortions and omissions raises the question of whether the so-called adoption and orphan care movement is truly interested in assisting vulnerable children, or whether it is just seeking to promote adoption. The movement operates within an American cultural context where the concepts "orphan" and "adoption" fit together neatly like peanut butter and jelly or thirst and water. Despite claims to scriptural support, the movement has failed to embrace the Biblical worldview where most forms of assistance to the "fatherless" or "orphan" do not involve adoption. The Christian adoption and orphan care movement has failed to think in a truly scriptural and Christian manner about either orphans or adoption, and ended up distorting both.

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223 *See, e.g.*, E.J. Graff, *Adoption is Not a Solution for Poor Children*, THE AMERICAN PROSPECT (Sept. 22, 2011), http://prospect.org/article/adoption-not-solution-poor-children.

224 *See, e.g.,* Denise Grady, *Study Suggests Orphanages are Not So Bad*, N.Y. TIMES (Dec. 17, 2009), *available at* http://www.nytimes.com/2009/12/18/health/research/18child.html; Kathryn Whetten et al., *A Comparison of the Wellbeing of Orphans and Abandoned Children Ages 6-12 in Institutional and Community-Based Care Settings in 5 Less Wealthy Nations*, PLOS ONE http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0008169 (last visited Jan. 29, 2012).

IV. A WAY FORWARD: DIALOGUE, DEBATE, AND REFORM

Some of the writings on behalf of the adoption and orphan care movement implicitly anticipate some of the critiques above. It is sometimes noted that there are comparatively few references to adoption in the Bible.[225] It is sometimes admitted that the church historically has not focused on adoption as a theological topic.[226] While these admissions have not persuaded the writers to lessen their claims of the centrality of both vertical and horizontal adoption to the gospel message, they sometimes cause the movement to portray itself as something new.

The primary purpose of this essay is to create dialogue and debate regarding this new movement within the evangelical Christian churches in the United States. It would not be wise or prudent to receive such a strong set of new theological claims without examination.

This essay is a critique. It is not designed to provide an assessment of what the movement has gotten right, but to focus on the (alleged) errors of the movement. The necessity of this approach stems from the abundance of writings on behalf of and praising the movement, and the lack of a sustained critique in theological terms. This essay seeks to fill that gap. Hopefully, such a critique can be a part of a larger process of debate and dialogue that will lead to substantive reform of the movement. Certainly this author is open to such a process, and can hope that those involved in the Christian adoption movement will evidence a similar willingness.

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225 *See* CRUVER ET AL., *supra* note 3, at 12.

226 *Id.* at 8.