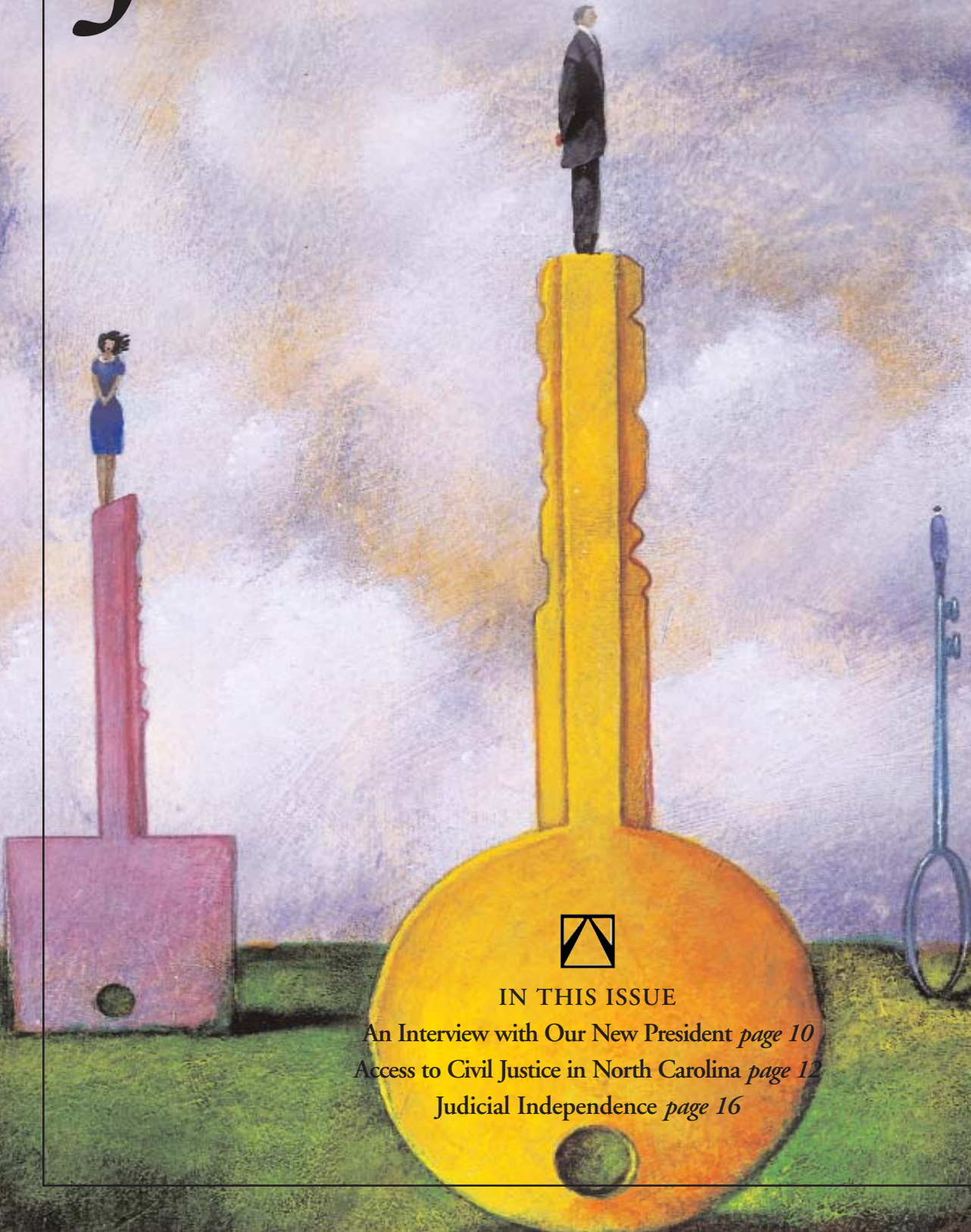


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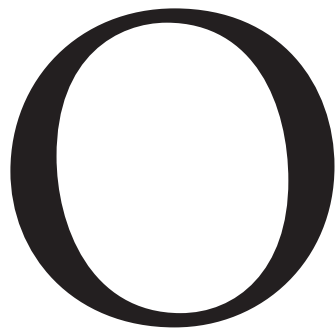


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Crossing Borders

BY SHERYL BUSKE



n a blazing hot

North Carolina

afternoon in July,

my research assis-

tant Carol Fletcher (3L), my seven-year-old daughter

Grace, and I set off for Arusha, the Tanzanian village at

the base of Mt. Kilimanjaro where my daughter and I



Sheryl Buske's seven-year-old daughter, Carol Fletcher, and Professor Buske on safari.

lived before moving to Charlotte. I was looking forward to continuing my work on children's issues and developing new relationships that will, hope-

fully, ripen into future opportunities for CharlotteLaw (CSL) faculty and students.

On a more personal level, for Grace and me, it was, in part, a journey back to our old home and the chance to reconnect with dear friends. Over the next month, we would travel to Tanzania and later on to South Africa, meet with lawyers and judges, both American and African, visit Tanzanian and South African law schools, meet with many, many organizations and non-government organizations (NGOs) working in children's rights, teach a CLE session on female genital mutilation (FGM), present at an international conference on Inter-Country Adoption, and even buy a goat and crash a wedding.

TANZANIA, EAST AFRICA

Three flights, three countries, and more than 24 hours after leaving Charlotte, we landed at the Kilimanjaro Airport about 9:00 at night. We descended off the airplane onto the tarmac in near complete darkness; but for the lights shining from inside the airport and the flashlights of the airport staff showing us the way inside, we would not have been able to see past our own hands. There are many things about Africa that simply can't be recreated anywhere else in the world. For me, the darker-than-dark that is an African night is one of those things.

The weariness that accompanies long-distance travel never ceases to evaporate when my feet hit the African ground. In a way that I can't explain, a knowing, a sureness that I am exactly where I am supposed to be settles over me every time I return. After claiming our bags (always a drama-laced half-hour watching as bags emerge from the belt one-by-one) and the obligatory stare down from the customs officials, we emerged through the doors to the chaos that is the arrival area. To mine and my daughter's great delight, our dear friend Ernest was there to meet us. I met Ernest years ago on one of my early trips to Tanzania when he was my driver. When we moved to Tanzania, much

of what I accomplished in the first few months, including renting and furnishing a house, having it fumigated for rats and snakes, having utilities connected, buying a car, and learning to drive there, was due to him.

The drive from Kilimanjaro Airport to the village of Arusha takes a couple of hours at night, roughly twice what it takes during the day. Several things necessitate extra time and caution at night: the absence of lights combined with the likelihood of animals or people on the road, poor road conditions, and, although less of a problem in the last year due to increased police presence, the possibility of ambush by bandits. As we entered the edge of town, I was struck by how much it has changed in such a short time. New, big hotels were going up. Old hotels no longer exist. And one of the biggest surprises? A huge video screen has been installed at the clock tower roundabout, the main traffic circle in the village. Advertisements and short animal clips play during the day. When it was first installed, it was such a shock that it caused enormous traffic jams and car crashes. Now, the circle is lined throughout the day with people who stand and watch it for hours on end as if it were a movie theatre! That night, as we settled into our hotel, I couldn't help but think about the changes I could see around me and wonder about the ones I couldn't.

UN International Criminal Tribunal for Rwanda

One of the reasons for being in Tanzania was to meet up with a group of Illinois Appellate and Supreme Court judges, lawyers, and physicians who had travelled to Tanzania as part of a CLE program sponsored by Global Alliance for Africa (GAA), a Chicago-based NGO that does amazing work with orphans and vulnerable children in Africa. I had been invited to teach a CLE course for the group later in the week, but on our first morning we met them at the UN International Criminal Tribunal for Rwanda. The tribunal was established in 1994 to prosecute those responsible for war crimes committed during the Rwandan genocide in 1994. After clearing security, we sat in and watched part of the trial of Dominique Ntawukulilyayo, the former sous-préfet in Butare Prefecture. He is charged with genocide, or alternatively, complexity in genocide as a result of his role in the massacre at Kabuye Hill, where 25,000 Tutsi were killed. According to the prosecution, Ntawukulilyayo ordered the Tutsi rounded up and killed on the hill after



In Arusha at the UN's International Criminal Tribunal for the Rwandan Genocide.

they had been told they would be protected. He's also charged with direct and public incitement of genocide as a result of his role in public demonstrations during which he gave instructions to "flush out and kill all remaining Tutsi who were in hiding."

After watching the trial for a bit, we had a private meeting with Charles Adeogun-Phillips, the senior trial attorney and lead prosecutor for the tribunal. He has been at the tribunal since its beginning and spoke with great candor and passion about the challenges the tribunal faces. Among those challenges is the difficulty in locating suspects, most of whom are no longer in Rwanda. Indeed, Dominique Ntawukulilyayo was apprehended in the French town of Carcassonne. Because the tribunal lacks jurisdiction over suspects outside of Rwanda, the UN must depend on the cooperation of member states. While it might seem that international cooperation with the tribunal could be expected, Mr. Adeogun-Phillips explained that many of the nations are politically "indifferent" to the prosecution of international war crimes. Some nations, African nations in particular, are torn between maintaining peace and pursuing justice. For some nations, the risk that cooperating in the prosecution of 15-year-old crimes could jeopardize newly achieved and relatively fragile peace by disturbing existing alliances is too high.

Another challenge is how the tribunal is perceived by Rwandans. Many Rwandans have mixed feelings about the tribunal. This is not surprising given their deep belief that the international community abandoned them during the genocide. Indeed, as the UN secretary-gen-

eral acknowledged in 1994, the international community must share some of the responsibility for the genocide due to its failure to intervene quickly. Some have even suggested that Rwandans themselves are conflicted about the ongoing trials, torn between pursuing justice through criminal accountability and moving past that to working towards national reconciliation. One result, according to Mr. Adeogun-Phillips, is that, today, many Rwandans have lost interest in the tribunal and have very little idea about what it is actually doing and are, for the most part, unaware of the convictions resulting from the prosecutions. He believes this is a critical failing of the tribunal. In his opinion, Rwandans must actually see the workings of the tribunal for justice to have any real meaning. Otherwise, the convictions are little more than hollow political victories unconnected to the true victims and their suffering. That is why, according to him, it was important that the Special Court for Sierra Leon be located in Freetown, in the country where the atrocities were committed.

The tribunal's presence and purpose are complicated issues. Some have questioned, even criticized, the millions of dollars the tribunal has cost and have argued that the money would have been better spent on social development programs in Rwanda. Others have criticized the slow pace at which the trials have moved. Even among the local Tanzanians in Arusha, the tribunal is controversial. Arusha has a long history of expat families; until the tribunal, most expats were missionary-based whose standard of living was not terribly different from the average Tanzanian. The arrival of



Left, the tent that Carol and Professor Buske (and her daughter) stayed in while in Tanzania. Below, Carol Fletcher with a Massai warrior.



the tribunal fundamentally changed the makeup of the expat community. Instead of missionary families of limited means who lived lives similar to Tanzanians, tribunal families arrived with their container shipments and a standard of living that was unrecognizable to most Tanzanians. The gap in the standard of living between the expat community and the local Tanzanians has gotten wider and wider. While the locals recognize that the tribunal directly and indirectly employs huge numbers of Tanzanians, they also point to the resentment over the gap between the wealthy expats and the local community as the reason behind the rise in violence and crime in the last few years.

The tribunal does cost an enormous amount of money. There are lots of people, including genocide survivors, who would rather the tribunal ended. There is also no doubt that its presence has forever changed Arusha from the small village it once was. Still, despite the cost and the problems, I believe the tribunal must continue. I've spent too many evenings over long dinners with friends from the tribunal and Joe, a quiet and dignified man whose machete scars are a constant reminder that he is the only member of his family to have survived the genocide, to believe otherwise.

Safari & CLE

No trip to Tanzania is complete without a safari. This time, we traveled with the GAA group to Tarangire National Park. We left Arusha early one morning and headed out across the Tanzanian plains. As Americans, in safari trucks with African drivers, we couldn't have signaled "TOURIST" any louder if we

had tried. It wasn't surprising then when we were pulled over by the traffic police about 20 miles outside of Arusha. Given that the traffic police have no authority outside of town, it seemed a tad suspicious. In the end, though, it was just easier (as it usually is) to give a "gift" to the officers than return to town to debate their authority. Once on the road again, we passed the occasional Tanzanian walking along the road, groups of Massai herding goats and cattle, and patches of children who ran to the road to point, wave, and squeal with laughter as we passed them.

At the lodge where we'd spend the night, we were first welcomed and then warned about the animals that roam the property. We were told that while we were free to wander about on our own during the day, we had to be escorted by Massai warriors after dark. If you've ever watched documentaries about Africa, you've likely seen this tribe and know they have a great warrior tradition. They live in the grasslands between Kenya and Tanzania and are easily recognized by their bright clothing and beaded jewelry. They are extremely independent and have maintained their traditional lifestyles when most other tribes have gradually assimilated. Known for their honor and strength, they often work as "askaris" (guards). When we lived in Arusha, two brothers, Ngaranpusi and Joseffii, worked for us as guards. In their "shukas" (the bright cloth they wear wrapped around their waist and over their shoulder) and with spears and the ever-present machetes, they stood guard over us every night while we slept.

Tarangire, with volcanic mountains in the

background, is known for the wide range of animals that roam through the 1,600 square miles due to the reliable water source of the Tarangire River. On that first afternoon, and the following morning, we saw more herds of zebras, elephants, giraffes, tiny dik-diks, and other animals than we could keep track of. Much to our excitement, many of the animals wandered within feet of the truck. Although I've been on many safaris, the magic of seeing such animals in such a magnificent setting never gets old.

That evening, before dinner, I taught a CLE session on FGM (female genital mutilation) for the GAA group. Because the group included attorneys and doctors, the discussion was fairly heated. There was a split among the group as to whether the more benign versions of FGM cause long-term health problems and, if they don't, whether advocacy around the issue is necessary or even appropriate.

Just when the discussion was getting really animated, it was time for dinner. Dinner was a spectacular bush dinner. A bush dinner is just that—dinner served in the bush. Our group was escorted by five or six Massai to the dinner spot and there were another five or six Massai where dinner was set up. Dinner was served at the edge of a cliff overlooking a huge valley.

Dinner was set up at a long table with linens, crystal, and china and lots of candles. We were treated to a fabulous three-course meal under the starry sky with animal sounds in the background and Massai warriors standing guard. It was a great night, full of great food, interesting people, and a little African magic. After dinner, a Massai warrior escorted us back to our tent. The jokes about wild animals in the dark were a little less funny then! We were so tired that we cleaned up and went straight to bed. We expected to sleep like the dead...but, instead, we listened to unknown animals roaming around and bumping up against the tent all night!

OVC: Orphans & Vulnerable Children

The primary reason for being in Tanzania was to continue my orphans and vulnerable (OVC) research and give Carol an opportunity to see how NGOs are working to improve the conditions for children in the Kilimanjaro region. OVCs are a large and diverse group. Some have lost one or both parents (in most parts of Africa, even children with one surviving parent are considered orphans), some are living with extended families, some are living in child-headed households, and some are surviving on the streets. My research has focused on the children who "live" on the street—those who spend all or part of their days on the street. Many of those "street children" have ended up on the street as a place of last resort; others have chosen the streets because it is better than the abusive conditions at home.

Arusha is a magnet for street kids in the Kilimanjaro region. They flock there from the rural areas for several reasons. First, as a larger town, it offers places to "disappear." More importantly, because of the high-end safari and Mt. Kilimanjaro tourist traffic that continually goes through Arusha, there are always tourists who can be depended on for spare change and odd jobs. Finally, word has gotten out that there are several well-respected NGOs who work with street kids.

The relationship between the street kids and the local police in Arusha is difficult. Time and time again, the police have conducted "round-ups" of street kids in which they have done sweeps and arrested as many as they could find, some as young as five-years-old. The sweeps were predicated on an old colonial-era law—the Undesirable Persons Act. As defined by the act, "undesirable persons" include "lunatics, prostitutes, and the homeless." Once arrested, the children were either beaten before they were released, placed in jail

with adult offenders, or, sometimes, driven miles out into the plains and simply dumped out.

Carol and I visited some of the NGOs working with street children in the Kilimanjaro region. Some, like Amani (Kiswahili for "peace"), are residential centers which operate, in many ways, like a shelter. The children who live there have not been "placed" or "committed" there by any official authority. Instead, the children go there on their own and stay only as long as they wish. Amani never turns children away based on space, and the number of children varies from 70-100, ranging in ages from three to 17. Other NGOs, like Mkombozi (Kiswahili for "liberator"), provide direct services to fewer children and focus instead on advocacy and impact litigation. Recently, for example, in conjunction with the East Africa Law Society, Mkombozi challenged the round-ups, arguing that the Undesirable Persons Act violates not only the Tanzanian Constitution, but also the Convention on the Rights of the Child and the African Charter.

There are NGOs working with other OVCs as well. Cradle of Love is a baby home in Arusha. A baby home is short-term residential care for infants who can't be cared for by their families for a variety of reasons, primarily due to the death or poor health of the mother. In a country where baby formula is difficult to get and very expensive, infants who can't be breastfed often die. Baby homes address this specific need by taking in infants and toddlers until they are about two years old. Then, they are either returned to their families, moved to another orphanage, or, in rare cases, adopted.

There are other orphanages for older children as well. In all of Tanzania, there is only one "official" government orphanage. Called Kursini, it is located in Dar es Salaam and has a capacity of about 110 children. There are



Carol Fletcher with children from SSOS Children's Village.

another 250 or so NGO-run orphanages scattered around the country, many of which are faith-based organizations that provide orphanage care for the majority of the children. Some of the orphanages, like the Green Door Home in Dar es Salaam, are small and care for less than ten children. Others, like SOS Children's Village, are very large and care for several hundred children.

We visited these places, and a few others, while we were in Tanzania. There are no easy answers here and there's some degree of controversy around most of the NGOs that work with vulnerable children. For example, some critics argue that NGOs that provide services to street children only encourage more and more children to run to the larger towns and cities. The baby homes are also controversial: critics argue that the money that is spent on baby homes could be better spent by supporting the families so that the infants could stay at home. Orphanages also have their share of critics who take the position that institutional care is never in a child's best interest.

Working on children's issues here sometimes makes me want to throw my hands in the air in frustration. If the truth be told, I have done that and more on occasion. But as frustrating as it can sometimes be, quitting is not an option.

Makumira University College, Faculty of Law

I was a visiting professor at Makumira's law school when we lived there and I was excited to introduce Carol to some of the Makumira students on this trip. We spent one morning at the law school, talking with my friend Dean Pallangyo and some of the students. It was interesting to watch Carol and the Makumira students compare their law school experiences and share their concerns about their futures. I think they found they have much in common, but I think Carol also came away with a new understanding of how much we take for granted with regard to education.

The UN has set universal primary school education as the second millennium development goal (MDG). While the Tanzanian government has made some progress in education, Tanzanian children continue to struggle to attend school. In 2002, Tanzania did away with school fees for primary school, making it, theoretically, free. Nonetheless, the "free" primary school education is still beyond the means of many average Tanzanians due to the inability of families to afford the cost of uniforms, lunch fees, and chalk fees (an administrative fee intended to cover the cost of supplies, including chalk). At the secondary level, there are even more challenges. Tanzania has the lowest secondary-school enrollment rates in sub-Saharan Africa. Less than 20% of primary school students who score well enough on exams to be eligible to attend secondary school actually do so. The low enrollment is attributed to the inability of families to afford school fees and the severe shortage of secondary schools. The shortage of secondary schools has resulted in extreme over crowding—in some schools the students-to-teachers ratio exceeds 70 -1. Given the obstacles students must overcome, the ones who make it to university are nothing short of remarkable.

In addition to the challenges faced by law students the world over, Tanzanian law students must also cope with the lack of resources. Unlike their American counterparts, Tanzanian students do without laptops, the internet, or their own books. Instead, they rely on the books in the law library, copying the material by hand. As I well remembered, and Carol discovered, the "law library" at Makumira is really just three shelves of books in the "main" library. Those three shelves are made up of casebooks from the US, UK, and parts of Africa, but very few from Tanzania. Recognizing this need and their ability to help,

a group of CharlotteLaw students has taken on the task of raising money to purchase Tanzanian law books for Makumira students. More information about the project can be found at <http://cslegallybound.blogspot.com>.

After touring the school, including the classroom in which I once ended class early because a snake had gotten in a back window, Dean Pallangyo and a group of students joined Carol and me for lunch at a little local place near the school. They were full of questions, including why the divorce rate is so high in America, what we think about Iraq, and crime in America. Some of the liveliest discussion was around marital rape. The Tanzanian students were shocked to hear that American husbands can be charged with raping their wives. Such criminal charges are in stark contrast to Tanzanian law that permits either spouse to sue the other in civil court to enforce their right to sexual intercourse. It was a great day, in part because of the budding friendships between Carol and the Tanzanian students.

A Goat and a Wedding

One day we bought a goat and crashed a wedding. Buying the goat was an experience in itself. First, we picked up John, the goat-sitter. Then we drove out to a field on the edge of town and found a herd of goats being tended by a Massai. Ernest and John walked across the field and negotiated for the goat. We had given specific instructions about which goat we wanted—because it was going to have to ride inside the van with us, we wanted a CLEAN goat. Ernest, John-the-goat-sitter, and the Massai haggled over the price and we ultimately paid about \$35USD for it. We watched as they tried to "herd" the animal across the field to the van. In the end, they simply picked it up and carried it. The bewildered animal was put into the back of the van, much to my daughter's delight, and off we went.

John-the-goat-sitter and the goat waited beside the road while we changed clothes at the hotel. We hadn't planned to attend a wedding and hadn't packed appropriate clothes, but Ernest swore we didn't have to dress up, so we didn't. Between Carol and me, one of us was dressed alright and the other was in jeans and gym shoes. Even so, we convinced ourselves it would be fine—until we saw the other guests. We were ridiculously underdressed...and we had a goat.

The Tanzanians were naturally curious about who we were and what we were doing there (whether we were, in fact, officially invit-

ed was still not clear), but they were incredibly kind and welcoming. We were seated in the front row in seats of honor, we were welcomed into the dancing, and assigned our own babysitter to translate and look out for us. At the reception, there were the usual toasts and speeches followed by dinner. The big event followed dinner: the gifting. The bride and groom and their families formed a receiving line and everyone went through it and gave the couple their gifts. We were at the very end of the line. Giving a goat as a wedding gift is a "big deal." Carol, Grace, and I (and the goat) were announced and joined by the bride's sister. We then proceeded down the main aisle, singing, dancing, and clapping the whole way until the end when we presented the couple with the goat-on-a-rope.

We were never sure whether we were actually invited to the wedding. Although Ernest swore we were, the bride certainly seemed surprised to see us. Even though our invitation was questionable and we were underdressed, the Tanzanians made us feel as if we had somehow honored them with our presence.

I'm sometimes asked why I spend so much time in Tanzania. I've always had a hard time describing the pull it has on me. Years ago I fell in love with the place, with the people, and with the opportunity to really use my legal education to help improve the lives of children. There is great need there. But there is also an amazing thing happening—committed, creative, and compassionate people from many disciplines are taking the best of what they know from where they come and are creating child welfare systems from scratch. It's a fascinating process and, while I am privileged to have some small part in it, the truth is I need Tanzania's children more than they need me.

SOUTH AFRICA

Too soon it was time to leave Arusha, and Ernest drove us back to the Kilimanjaro Airport for our flight to Bloemfontein, South Africa. I was full of mixed feelings during the ride to the airport. I was looking forward to the next phase of our trip, but leaving Arusha is always hard for me because it makes me hyper-aware of the privileged life I lead. I know that Ernest and his wife Ava have the same hopes and dreams for their daughter as I do for my mine. And, while I also know that much of what my daughter ultimately achieves will be determined in a large part by what she wants and how hard she works, I know the same is not true for Ernest's daugh-

ter. The unfairness of this weighs on me every time I leave Tanzania.

University of the Free State, Faculty of Law

Charlotte School of Law and University of the Free State, Faculty of Law (UFS) are forging a new relationship that will result in future collaborative projects for CharlotteLaw and UFS faculty and students. UFS showed itself to be a grand host, filling our days with opportunities to guest lecture at the school, present at an international conference on adoption, and to spend a significant amount of time in the community with a variety of children's NGOs. I was delighted to have the opportunity to guest lecture in several law school classes, in both clinical and substantive courses. Legal education in South Africa follows a British model in that law school is an undergraduate program instead of graduate school and the students are, therefore, generally younger than their American counterparts. Despite those differences, I found the UFS students to be engaged and more than a little curious about our legal system. Most surprising, however, was the discovery of their well-developed opinions about our criminal justice system. The right to a (criminal) trial by a jury of one's peers is one of our oldest individual liberties, developed in response to attempts by the British to deny American colonists fair trials. While the jury process itself has had a spotted history, with a few blemishes along the way, it is generally perceived to be essential to a just system. Not so to the UFS students—they were surprisingly vocal about their belief that criminal defendants cannot get a fair trial in a jury system and that it should be abolished. They also found our dual system of federal and state government to be confusing and unnecessary. They found it extraordinary that someone could face both federal and state prosecution from a single event. We, on the other hand, found it equally surprising that South Africa has a special Court of Equity which hears cases and permits plaintiffs to recover for ordinary insults. Essentially, name calling and the like that does not rise to the level of a tort is still actionable.

We also spent a great deal of time outside the classroom with UFS faculty and students. On one of our last nights in Bloemfontein, one of the UFS professors invited us, along with other UFS faculty and a few students, to her home for a traditional South African brie (a barbeque dinner). As is the way with dinner parties, the conversation was wide-ranging,

skipping across a variety of topics, ultimately landing on higher education in South Africa post-apartheid. With the exception of Carol and me, everyone else was South African and had lived there their entire lives. The differences in their age, gender, and race, however, gave them all very different perspectives about what legal education should look like and what it should be trying to accomplish. For starters, there was debate about in what language(s) classes should be conducted. On the one hand, the official language of the court system is English. On the other hand, a significant percentage of the South African population does not speak English. This has led UFS to require all professors to teach every class twice: once in English and then again in Afrikaans. It also appears that UFS will require a third language in the near future. The bigger debate was around how to create and maintain a rigorous and demanding legal education in the current circumstances. The primary and secondary education in South Africa, like Tanzania, is severely lacking in many respects—rural schools in particular are overcrowded, underfunded, and lack basic necessities such as books and paper. Additionally, because of current government policies which tie school funding to graduation rates, primary and secondary schools have an incentive to promote and graduate students even if they are not performing at grade level. Furthermore, due to the grade inflation combined with the absence of any "leveling-factor" such as an LSAT score, universities find themselves with incoming classes of students who are performing at wildly different levels...and in different languages. On top of all this sits race relations in South Africa post-apartheid. It is much more complex than I imagined.

Inter-Country Conference on Adoption

The statistics on AIDS and orphans in Africa are staggering. UNICEF estimates that there are more than two million orphans in South Africa alone. The traditional safety nets of extended families and community services are stretched to the point of breaking and can no longer keep up with the number of orphaned children. Like other countries hit hard by the HIV/AIDS pandemic, South Africa is forced to come up with new responses to the growing numbers of orphans. One response is to recognize and provide support for child-headed households—households in which the oldest child, rarely over the age of 12, functions as the "head" of a household

made up of children. Another response is to actively pursue adoption, specifically inter-country adoption, as an option for children in need of a family.

Some African countries, such as Ethiopia, have embraced inter-country adoption as a permanency option. South Africa, on the other hand, has not done so despite there being no express prohibition against children being adopted by residents of another country. Two explanations are offered: 1) as a practical matter, South African adoption agencies are not equipped to take on the logistical aspects, such as post-adoption follow-up, necessary to ensure good placements; and 2) there is a cultural reluctance of most South Africans to permit, much less actively encourage, the removal of a South African child from South Africa to be raised in another culture, even another African culture.

This reluctance is sometimes hard for Americans to understand. To many Americans, and others, that a child needs and deserves a home with a loving family is more important than debates about taking children from their "culture." On the flip side, many people feel strongly that a cultural identity is so important that it outweighs whatever other "benefits" adoption could provide. Indeed, these are the very concerns that lead to our own Indian Child Welfare Act (ICWA). Concerned that Native American children were being removed in large numbers from Native American families and communities, child advocates lobbied for the passage of ICWA, which created certain presumptions and procedures in favor of Native American children remaining within their communities.

We heard the "cultural concerns" expressed over and over at the inter-country conference on adoption at which we were invited speakers. One man in particular stands out in my mind. He was not South African, but he acknowledged that his country struggles with a growing number of orphans as well. Nonetheless, he opposed inter-country adoption as a permanency option. As he so eloquently explained, because civil war, famine, and the AIDS epidemic have robbed his country of an entire generation, they cannot afford to lose more of their people, particularly their children. As a mother, and more specifically as an adoptive mother, I wrestle with this issue all of the time, but ultimately find myself in agreement with UNICEF's position.

The Convention on the Rights of the Child (CRC), which guides UNICEF's work and

was unanimously adopted by the United Nations in 1989, incorporates the full range of children's human rights into a single document. With regard to inter-country adoption, Article 21 of the CRC recognizes that inter-country adoption may be considered if a child cannot be properly cared for in their country of origin. This reflects what I tend to think of as "up-river" and "down-river" interventions. "Up-river" interventions are those early interventions which address problems and may make later drastic measures unnecessary. For example, the creation of support networks such as the Go-Go Getters ("gogo" is Zulu for grandmother), groups of South African grandmothers who come together to learn from and support each other in their roles as caretakers to their orphaned grandchildren, provide resources and support to grandmothers, which in turn makes it possible for them to continue to care for their grandchildren. Adoption, on the other hand, is an example of a "down-river" intervention and should only be used in extreme cases. To be sure, in countries battling growing numbers of orphans, extreme cases may be common. I have no quarrel with inter-country adoption and I believe it is a valid option, perhaps the only option, in many cases. Going forward, however, I do believe that the international community must do more to support the children "up-river" and not default to "down-river" inter-country adoptions as the preferred option for children who cannot be cared for by their parents.

Child Welfare

We visited a wide range of children's NGOs and organizations in South Africa, including private adoption agencies, domestic violence shelters, after-school programs, orphanages, facilities for street kids, juvenile justice programs, and hospice care facilities. I was immediately struck by how different things are in Bloemfontein from Arusha, even taking into account Bloemfontein is a much larger city than Arusha and South Africa's greater resources. One of the most notable differences was the "invisibility" of the street kids in Bloemfontein. There's hardly a place a person can go, local and tourist alike, in Arusha where street kids aren't visible standing in front of shops, sleeping in open areas, and hustling everyone who passes for spare change. In Bloemfontein they were considerably less visible. This was surprising, especially as local NGOs told us that, unlike the Arusha police, the Bloemfontein police have

very good working relationships with street kids and advocacy organizations.

Another difference was the degree of specialized child welfare services. In Tanzania, few NGOs are specialized and instead attempt to provide whatever services are needed. In Bloemfontein, most NGOs seemed to provide specialized services for specific needs. For example, we met with one organization that prepares child victims to testify in court but otherwise has no involvement with the child. It is likely that this specialization results in better services being provided to children; however, it also creates a system that is difficult to navigate because it isn't always clear which organization or NGO has the primary responsibility in any given situation.

This difficulty in identifying the appropriate organization became clear to us when we were approached for assistance by the family who ran the guesthouse where we stayed. One afternoon we returned to the guesthouse and it was clear the family was very upset. They told us that "Mary," the woman who had worked for them for the last 15 years and who they felt was family, had been arrested. Mary is the guardian to a young girl who had been assaulted. Mary was to testify, but due to a miscommunication with the police, she failed to appear in court. Later that afternoon, the police arrested her in front of the girl and the frightened girl ran away. We wanted to help but weren't sure who to contact. In the end, we contacted several UFS faculty members and some of the people at the various organizations we had met. Everyone responded immediately and it was rewarding to be able to put our friends in touch with people who could help them and who understood the system.

Conclusion

Over this past summer, Carol, my daughter, and I travelled through Tanzania and South Africa. Much of what we saw and experienced was familiar, but there were some surprises, too. One of the things that doesn't change is the astonishing beauty alongside palpable ugliness. Another constant is irrepressible joy and kindness amongst great deprivation and need. It is the beauty, joy, and kindness that found me years ago and the reason I will always return there. ■

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and Carol's blog about their trip is located at: <http://charlottelawinafrica.wordpress.com/page/2>. She'll be returning to South Africa in early October with two CharlotteLaw students to compete in an International Moot Court Competition. She can be reached at sbuske@charlottelaw.edu.

Endnotes

1. That it is, indeed, a small world never ceases to amaze me. Among the group of judges and lawyers from the GAA group was a woman I had met many years ago and a young man I would not have recognized had I not known who he was. Years ago, as a brand new lawyer just out of law school, I worked for the state foster care agency. I was assigned to a case which generated significant public attention, in part, because it involved foster parents who were prominent lawyers and allegations of racial discrimination. Standing before me that morning was the former foster mother (now guardian) and the young man who had once been a toddler in my office. He has grown into an admirable young man in a family that loves him deeply. Just as I once imagined.
2. For more information about Global Alliance for Africa, see their website at www.globalallianceafrica.org.
3. Report of the secretary-general on the situation in Rwanda, Doc. S/1994/640 (1994), para. 43.
4. To date, only 45 cases have been completed since the tribunal was established. ICTR Detainees Status - July 14, 2009 at www.icttr.org/default.htm.
5. For more information about Amani, please see their website at www.amanikids.org.
6. For more information about Mkombozi, their work, and their lawsuit, please see their website at www.mkombozi.org.
7. For more information about Cradle of Love, please see their website at www.cradleoflove.com.
8. For more information about the Green Door Home and the Boona Baana Center for Children's Rights, go to www.boonabaana.org/green_door_home.htm.
9. SOS Children's Village is a worldwide organization and operates children's homes all over the world. For more information, please see their website at www.soschildrensvillages.org.uk/sponsor-a-child/africa-child-sponsorship/tanzania.htm.
10. Makumira is located in Usa River, about 15 miles outside of Arusha. The college is part of Tumaini University - the national university for the Evangelical Lutheran Church in Tanzania. For more information, see their website at www.makumira.ac.tz/home.html.
11. Lewin, Keith, *Strategies for Sustainable Financing of Secondary Education in Sub-Saharan Africa*, World Bank Working Paper No. 136.
12. For more information about the law school, please see their website at www.uovs.ac.za/faculties/index.php?FCode=03.
13. www.unicef.org/southafrica/reallives_4265.html.
14. Convention on the Rights of the Child, Article 21.
15. I think the "up-river" and "down-river" metaphor comes from a parable about children drowning in a river. The story is about an entire village of people who rush to the river's edge to rescue drowning children as they float down the river. One man refuses to help. As he is walking away, a second man asks how he can abandon the drowning children. The first man answers that instead of pulling them from the river, he is going up-river to prevent them from falling in in the first place.