



EDITOR'S NOTE

BY SILGAI MOHMAND

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To All our Readers,

My name is Silgai Mohmand, and it is my honor to serve as Editor-In-Chief of the Diversity and Social Justice Forum for the 2020-2021 year. I am proud to lead an organization committed to the notions of equality, social justice, and broadening diversity in the legal field. On behalf of the Diversity and Social Justice Editorial Board, I want to extend a warm welcome to all of our readers to our annual Publication, Volume 4: Wrongful Treatment: “Injustice Anywhere is a Threat to Justice Everywhere.”

Martin Luther King Jr. famously said in his Letter from a Birmingham Jail that “Injustice anywhere is a threat to justice everywhere.” He made this statement in 1963, but his words and their impact resonate deeply in these times.

In this past year alone, we have seen a pandemic ravage the world, causing the separation of loved ones, countless deaths, and an impact on our way of living that will be felt for years to come. Yet, along with this

pandemic, there is a harsher truth that has been unraveled, the racial inequities and injustices that exists in the fabric of this country. This is not a new truth; rather, these inequities and injustices have been ingrained in our institutions, in some parts of the legal system, and in the minds of many Americans. America was founded upon the notion of freedom, liberty, and equality for all, but we have seen firsthand that this is sadly not the reality.

We witnessed the horrors of police brutality in the upsetting deaths of Breonna Taylor, George Floyd, and Ahmaud Arbery to name a few. We saw how many Black people and people of color have disproportionately been placed in prisons. We have heard of the disparate treatment of the BIPOC (Black, Indigenous, and People of Color) community affected by COVID-19 in the healthcare system. Hundreds of families have been separated from each other at the border due to the immigration policies placed by those in power. These are injustices occurring all across

America, which many have turned a blind eye to. However, as Martin Luther King emphasized in 1963, these injustices are a threat to the very justice that our country has been founded upon. And the time has come for us to wake up and rectify these injustices. The time has come to stop being silent.

The Diversity and Social Justice Forum chose this theme for our Journal to raise awareness of the wrongful treatment occurring to people every day. What we hope you take away from the Journal is an understanding of what issues are affecting various communities and how we as law students, lawyers, and humans can do our part to ensure justice, freedom, and liberty are accessible to all. Where there is a threat to justice, we have a duty to do our part to cure those wrongs. We hope that by the end of this Journal, you leave with a commitment and dedication to fix injustices anywhere and everywhere.

INTRODUCTION

SCOTT W. HOWE

The quest for justice lives or dies within each one of us. There are multiple rationales that we can use to let the passion die. For example, we struggle over how to define justice, despite the efforts of some of the greatest thinkers in history. What exactly is my definition of “justice?” Also, whatever our personal sense of justice, we know that our world would remain hugely unjust even if we were to dedicate our life fully to trying to advance some just cause. Won’t my influence be miniscule, at best? Moreover, there may be sacrifice--potentially great--involved in working for justice even on a modest scale. What price might I have to pay? We can readily use these sorts of rationales to look away from the cause of justice and focus entirely on advancing in some limited way our personal well-being and that of our family and close friends. Yet, a nagging sense may linger that a commitment to justice is inherent in

pursuing a good life and that justice thrives not primarily as an abstract idea revealed through some universal and precise definition but, rather, within us--as a call from our conscience to engage for the betterment of others in the larger world.

Lawyers have sometimes played an important role in the quest for justice. There is room for debate over whether the legal profession should be especially proud of its role in promoting justice. We can say that lawyers, by virtue of their training and their potential for influence in governmental and other powerful spheres, can help better the human situation at least as much as other professions. But has the legal profession been more an instrument for justice or more an instrument for unjust oppression? Shakespeare, through the words of Dick the Butcher, a plotter of treachery, may have implied that, at least in England in the era of Henry

VI, it was the former (“The first thing we do, let’s kill all of the lawyers.”). However, we should recognize that the legal profession in the United States has in some eras largely looked away from injustice or even aided unjust oppressors, although lawyers have also helped humanity over the long arc of history pursue its better aspirations. And, in any event, the crucial point is that the profession should not rest on its laurels. Justice is about an ongoing struggle that is never finished during our worldly existence.

It is with a passion for justice that students at the Chapman University Fowler School of Law carry on the mission of the Diversity and Social Justice Forum. In past years, the Forum has sought to explore how the legal profession might address various social ills and inequities. And, while injustice seems always ready to overwhelm and harden

us, kill our notions of fairness, and dull our sense of outrage, the present dangers seem especially clear. Justice requires truth, and we have seen the truth too often distorted, suppressed and ignored at some of the highest levels of our government. Persons who care about justice should be committed to the truth. This year’s Forum participants seek to find the truth about several aspects of our justice system and to ask whether the truth calls for change. I invite you to join their inquiry if you have a passion for justice.

Sincerely,

Scott W. Howe

Frank L. Williams Professor
of Criminal Law



Scott Howe has been a professor at the Chapman University Dale E. Fowler School of Law since August 1996. He has substantial experience both as a criminal defense lawyer and as a teacher in the fields of criminal law, criminal procedure and evidence. He earned his B.A., summa cum laude, in economics, from the University of Missouri, where he was inducted into Phi Beta Kappa. He earned his JD, cum laude, from the University of Michigan, where he was Administrative and Articles Editor on the Michigan Law Review.

After law school, Professor Howe worked for five years as an attorney for the Public Defender Service for the District of Columbia, defending indigent persons charged with serious crimes, including first degree murder. He subsequently served as Deputy Director of the Texas Death Penalty

Resource Center, in Austin, Texas, representing inmates under execution warrants on Texas' death row. His representation during this period of death-row inmate Kerry Max Cook is recounted in Mr. Cook's acclaimed memoir, *Chasing Justice: My Story of Freeing Myself After Two Decades on Death Row for a Crime I Didn't Commit*.

At Chapman, he has been voted Professor of the Year three times by the graduating class. His articles have appeared in a variety of leading law journals, including the University of Pennsylvania Law Review, the Northwestern University Law Review, and the Vanderbilt Law Review. Professor Howe served as Associate Dean for Academic Affairs from 1999 to 2007 and twice served as Interim Dean, from 2010 to 2011, and again during the spring of 2016.