

Hastings Race and Poverty Law Journal

Volume 17
Number 2 *Summer 2020*

Article 2

Summer 2020

Editor in Chief: Foreword

Virginia Millacci

Follow this and additional works at: https://repository.uchastings.edu/hastings_race_poverty_law_journal



Part of the [Law and Race Commons](#)

Recommended Citation

Virginia Millacci, *Editor in Chief: Foreword*, 17 HASTINGS RACE & POVERTY L.J. 205 (2020).

Available at: https://repository.uchastings.edu/hastings_race_poverty_law_journal/vol17/iss2/2

This Foreword is brought to you for free and open access by the Law Journals at UC Hastings Scholarship Repository. It has been accepted for inclusion in Hastings Race and Poverty Law Journal by an authorized editor of UC Hastings Scholarship Repository. For more information, please contact wangangela@uchastings.edu.

Editor in Chief: Foreword

It is with great pleasure to present to you volume 17 issue 2 of *Hastings Race and Poverty Law Journal*. However, it is an odd feeling to present to you this publication at this current time of the coronavirus global pandemic. I, like majority of the Bay Area and the United States (hopefully), have now lawfully been practicing social distancing for about a week, maybe a little more, with the running joke being that introverts have been practicing social distancing since the dawn of time. Right now, the United States has not flattened the curve on number of people infected or dying from the coronavirus in comparison to the number of people recovering.¹ But, there are changes happening. One of *Hastings Race and Poverty Law Journal* senior staff editors, Ethan Silverstein,² noted that in this time of uncertainty:

We're seeing vacant hotel rooms turned over to Oakland's homeless, evictions being stopped, arrests decreasing dramatically, people being let out of jail, even republicans are saying people should get money to meet their basic needs. None of this should require a global pandemic. Don't let anyone tell you these things aren't possible once this is all over.³

Ethan is right. Liberation, housing, basic needs should not require a global pandemic. But this is where we are. Scholars, such as Jennifer A. Cooke, argue that to some extent we have been here before, comparing the current pandemic to past plagues and the global sweeping of illnesses such as the bubonic plague in 1772, cancer, and HIV/AIDS.⁴ Cooke concludes in her article *Letter on a Plague Year* that global pandemics, including the current one, “need creative, generous, supportive thinking about how we

1. nCovid2019.live (last visited Mar. 23, 2020); see also Kurt Schlosser, *High School Student Near Seattle builds website to Serve as a Leading Place for Coronavirus Information*, GEEKWIRE (Mar. 3, 2020) <https://www.geekwire.com/2020/high-school-student-near-seattle-builds-website-serve-leading-place-coronavirus-information/> and CDC, *Coronavirus Disease 2019 (COVID-19)* (Mar. 23, 2020, 3:38 PM) <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

2. For more of Ethan Silverstein's brilliance, see Ethan Silverstein, *Life, Liberty, and Rental Property: Oakland's Nuisance Eviction Program*, 1 HASTINGS J. OF CRIME & PUNISHMENT 79, 79-134 (2019).

3. Ethan Silverstein, FACEBOOK (Mar. 17, 2020, 12:59 AM).

4. Jennifer A. Cooke, *Letter on a Plague Year*, COMMUNE (Mar. 19, 2020), <https://communemag.com/letter-on-a-plague-year/>.

want to restructure the future. Everything is thinkable.”⁵ Read together, Ethan and Cooke’s words reminded me of the power and process of decolonization. I think it is easy to acknowledge how this current pandemic has personally impacted each of us, but I am still hungry for the security of liberation and basic human rights once this is done, and I, like Ethan, won’t consider these changes an impossibility or impracticality. I turned to the power and process of decolonization, not because I believe that we live in a decolonized world or that post-colonial is synonymous with decolonized, but because I think the history and scholarship around colonialism and racism will help understand how to dismantle capitalism, including prisons and houselessness, in relation to the necropolitical sphere sustained through imperialism and globalized militarism. We are experiencing a global pandemic; we cannot view next steps solely in an insular first-world perspective.

Whatever the name used, we are experiencing something that has a glimmer of hope. Franz Fanon writes:

National liberation, national reawakening, restoration of the nation to the people or Commonwealth, whatever the name used, whatever the latest expression, decolonization is always a violent event . . . What is singularly important is that it starts from the very first day with the basic claims of the colonized. In actual fact, proof of success lies in a social fabric that has been changed inside out.⁶

Fanon was described by Angela Y. Davis as one of the twentieth century’s “most compelling theorist of racism and colonialism.”⁷ Fanon conceptualized the process of decolonization to require both institutional and hegemonic restructuring while he supported the Algerian National Liberation Front.⁸ Applying his crystallization of the relationship between the colonized and colonizer, I believe there is hope here, right now in this global pandemic, to liberate prisoners, provide homes and other basic needs, to regenerate not a future never imagined, but one that has been fought for centuries across the globe. Ethan’s words underscore Fanon’s directive to start with “the basic claims of the colonized” while Cooke’s historicization of plagues parallels with the destruction, the undoing, that Fanon’s decolonization necessitates. Taken together, all three brilliant minds remind me of our objective in this *Hastings Race and Poverty Law Journal*: To figure out ways to create and

5. *Id.*

6. Franz Fanon, *On Violence, in THE WRETCHED OF THE EARTH* 1 (S.A.R.L. eds. 1963) (reprinted in 2004 by Grove Press).

7. *Id.*

8. *See generally, Id.* at 1-61.

develop a just society.

Volume 17 issue 2 presents a total of 9 articles:

Professor W. Sherman Rogers opens the volume by focusing on the power of strategic relationships and cooperative economics in strengthening the human and social capital of the black⁹ community. Applying theoretical frameworks from the fields of law, economics, sociology, history, and political science, as Professor Rogers writes, “the central thesis that underlies the entirety of this article can be found in the simple exhortation of the African Proverb—‘If you want to go fast, go alone. If you want to go far, go together.’”

Thomas B. Stoel, Jr. proposes enactment of a law to provide reparations to the African Americans who suffered economic, physical, and psychological harm because they were victims of legally imposed racial segregation. Stoel is an attorney in Washington D.C., former law clerk to Supreme Court Justice John M. Harlan, and former Deputy Director, U.S. Cabinet Committee on Education. Stoel makes the case that the federal government should pass a statute approving reparations by addressing questions of possibility of reparation, procedure for implementation, and constitutionality of the statute.

Professor Bill Ong Hing is one of the leading legal experts in the field of immigration, asylum, and refugee law. In this volume, he catalogues the continuation of the history of mistreatment towards Central American refugees. He ultimately argues that “we should be implementing policies and procedures that are cognizant of the reasons migrants are fleeing today, while working on sensible, regional solutions” instead of “spending billions on harsh border enforcement that preys on human beings seeking refuge.”

Professor Michael Milleman has teamed up with actor Professor Elliot Rauh and founding partner of Bowie & Jensen LLC Professor Robert Bowie, Jr. to present an innovative, unprecedented way of teaching professional responsibility to law students. Professors Milleman, Rauh, and Bowie illuminate the importance of professional responsibility to mitigate miscarriages of justice. Using theatrical teaching methods typically honed by actors, these three professors present a way of teaching professional responsibility as well the ripple effects on many people and communities, not solely the parties, of unethical lawyer behavior.

Professor Raymond H. Brescia, Bahareh Ansari, and Hannah Hage present to us an empirical study of non-profits in New York to assess the legal needs of non-profits. Though their research focuses on New York nonprofits, their article illuminates key discrepancies similar to San Francisco and the bay area which is a very resource-rich, nonprofit hot spot

9. In this article, Rogers intentionally refers to African Americans as black people with the “b” in the word black typed in lower case.

in the United States. Their research is crucial and timely because there is a reduction in public sector lawyering. Could this research begin to address this decay in interest? From the research, it may be that the cost of law school increases coincides with how the legal needs of non profits are not fully met, and as such, the incentive and practicality of public sector lawyering is minimized. As a law school which prides itself on the work we do “for justice,” this research provides a critical counterpoint that must be taken into account in order to address discrepancies.

Engy Abdelkader, J.D., LL.M. continues our volume by expanding upon the controversies surrounding curriculum and instruction about Muslims and Islam in U.S. This essay briefly employs a case study approach to promote critical reflection, analysis and discussion about the subject particularly as it relates to Muslims and Islam. Through Abdelkader’s case analysis presented to us how “controversies and curricula illustrate how popular anxieties surrounding the integration of immigrant populations, particularly Muslims, are increasingly infecting classrooms, school districts and communities [yet] also provide a unique lens through which to glimpse the status of and tensions surrounding multiculturalism—the coexistence of diverse racial, religious or cultural groups—in contemporary America.”

Professor George A. Martinez additionally presents to us an essay outlining how various instances of law construe an “epistemology of ignorance” towards race and racism in this country. Philosophers and scholars define “epistemology of ignorance” as an examination of the complex phenomenon of ignorance that seeks to describe different forms of ignorance, examining how they are produced and sustained, and what role they play in knowledge practices.

The volume closes with two articles by current members of *Hastings Race and Poverty Law Journal*: Josiah Pak and Aaron Chase. Pak is currently a second-year law student and an incoming member of the *Hastings Race and Poverty Law Journal* executive board. In his article, Pak recounts Korean immigration to the United States, the role of the Protestant Christian church to these newly immigrated Koreans, and the influence of the Korean American Protestant Christian church in previous LGBTQ-related battles to understand Korean American Protestant Christian attitudes regarding future LGBTQ issues.¹⁰ Chase is a third year law student and our current Executive Editor of Production. Chase closes our volume by examining the Supreme Court concerns about technology that could lead to heightened Constitutional protection for biometric information. Chase’s essay in turn argues that such protection, based on a more conjoined reading of the Fourth and Fifth

10. In this article, Pak uses “LGBTQ” to refer to the larger community of non-heterosexual individuals. The LGBTQ community broadly encompasses individuals who identify as questioning, intersex, allies, asexual, pansexual, and two-spirits, to name a few.

Amendments, is necessary to prevent a new era of law enforcement intrusion into the personal sphere.

The articles presented in this issue offer different ways of redefining or reimagining what a just society looks like. There is not one single idea I could present to you that would string together all of the articles, but instead I ask that as you read these articles, ask yourself: “How does this article move us forward toward liberation as a community and on a global scale? What is missing here?” I ask you to be critical in this way and apply this lens to our journal because there will never be one path to liberation, but we cannot avoid the role destruction plays in each path. To be critical, in my opinion, is to acknowledge and embrace the role of destruction in liberation.

Live Long and Prosper,
Virginia Millacci
Editor in Chief
Hastings Race and Poverty Law Journal
