

INTRODUCTION TO THE SYMPOSIUM

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We are living through an inflection point in American history. America's foundational principles, and the mechanisms we rely on to defend them, are under profound and sustained attack. The work to advance civil rights and racial justice in America has never been easy. But some days, some years, it can feel like we are losing more than we are winning. And the losses become harder to bear.

During times like these, many of us who care about racial justice may find it difficult to keep the struggle going; to get up and keep fighting. On my office wall, I have posted several quotes and phrases that give me the kick I need when I am finding it difficult to keep moving forward. One is from civil rights leader Mary McLeod Bethune. It says: "If we have the courage and tenacity of our forebears, who stood firmly like a rock against the lash of slavery, we shall find a way to do for our day what they did for theirs." This is our challenge—it is what I wake up thinking about in the morning and what helps me get through the challenges of the past several years. Our forebearers faced steeper challenges and longer odds. We must find the strength to do our part for the next generations, just as our forebearers set the table for us.

To find that strength, we must start by acknowledging the breadth of the challenges we face. As clinicians, if we claim that the clinics we teach are fighting for racial justice, or that our clinics are anti-racist, our work must rise to the level of that fight.

America is fundamentally an idea, an ethos, a set of principles and demands. The story of America is, at its heart, the story of Americans' struggle to protect and implement those principles and demands. Who gets to feel like they belong? Who gets to benefit from the unprecedented wealth of this nation? Who has access to the opportunities that being in America offers? Who gets to receive the equal protection of our laws? Who gets to live with safety and dignity? And who gets to decide the answers to these questions?

You cannot seriously wrestle with these questions without understanding systemic racism.

Systemic racism is America's operating system. And what is so

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remarkable, and so heartbreaking, about America, is how durable and effective that operating system has been. The systems of racial separation and oppression have thrived, in part, because they are so malleable. Systemic racism is creative. Systemic racism constantly evolves.

America ratified the Fifteenth Amendment and guarantees Black men the right to vote, and America responds with poll taxes, grandfather clauses, and voter identification laws.

America makes Jim Crow and housing discrimination illegal, and America responds with redlining, racially exclusionary housing policies, the criminalization of poverty, and living while Black.

America makes slavery illegal, and America responds with mass incarceration, police brutality, and racial terror.

The genius of America's systemic racism lies in its ability to adapt.

In his famous poem, *Let America Be America Again*, Langston Hughes wrote:

O, let America be America again—
The land that never has been yet—
And yet must be—the land where *every* man is free.
The land that's mine—the poor man's, Indian's, Negro's, ME—

This is our constant struggle—bridging the gap between the American that was promised—and the America that is. We have the power to make America be America.

To bridge that gap, and to respond to the creative and evolving nature of racial oppression, our work as law school clinicians must evolve. Yet so much—I would say too much—of clinical legal education looks like it did when I was a law school student almost 30 years ago.

Over the past several years, we have seen a transformation in the national dialogue on racial justice. Activists and advocates have shone a piercing light on practices that are not only part of America's racist past, but that remain central to America's present de-humanization of Black bodies, Black communities, and Black identity. And I have found myself encouraged over these past few years, as more and more Americans have been unable to deny the ugly truth that the light has made clear and plain. More Americans have come to understand that the source of Black America's problems are not in Black people, but in the racism systemically woven into the fabric of America. Activists and advocates are pulling on the threads that connects so much of America's systems, laws, and structures—the need to control, regulate, exclude, and devalue Black people.

But what role will we as clinical faculty play in meeting the demands for racial justice? Are we doing our part to finally transform

these systems?

Too often, and sometimes exclusively, clinical education is focused on specific acts of injustice before us: a wrong done by one person, or business, or institution against another. And our efforts are too often limited to correcting that individual wrong. Too often, we declare victory when we hold one person accountable for their evil actions.

Now do not get me wrong. Individual cases are important. And certainly, for the plaintiff whose illegal eviction is overturned or who receives damages for their illegal termination, the individual case means everything. But we also know that those cases do not usually change the systems that lead to illegal evictions or terminations.

I want more clinicians to join the fight to challenge structural racial inequality. It is not enough to speak to our students about systemic and structural racism. We must give them the tools to challenge those systems and structures.

We bring cases challenging student suspensions, but don't have a strategy to address the racism that requires parents to send their children to under-resourced, heavily-segregated public schools which consistently under-prepare their students for college and life and put them on track for involvement with the criminal legal system. Importantly, we are challenging acts of employment discrimination. But limiting our clinics to individual employment discrimination cases misses the racism of systems that require people to live an hour and a half away from decent jobs because their communities are ill-served by public transportation. It ignores the racism of a lack of access to supermarkets providing affordable and healthy food, while your children are sick because they are exposed to environmental stressors, and you cannot access regular health care. Indeed, we are fighting evictions and helping to keep people, families, and communities stable. But that work does not address the long-time damage to communities of color that were ripped apart through highway development and systemic underdevelopment, at an incalculable cost to wealth, health, and community. It will be difficult if not impossible, to find a single actor to hold responsible for these harms. But these are all faces of systemic racism.

Systemic racism speaks to the fact that the systems on which our society functions—the economic, education system, health care, transportation, criminal legal system—and our structures—physical, cultural, and social—are all infused with and impacted by the racism within which they were created and maintained.

To effect change, then, not only for our individual clients but for their communities and for the generations that follow, we must iden-

tify the systems that come together to drive racial inequality—and challenge them.

I want us to challenge ourselves to think about how we can work with people of color to advocate for systemic change and to build power. This will require a deeper focus on systems and power, and the complexities facing impacted communities who envision a more just future.

We need to tear down the legal and policy foundations of racial inequality.

This includes, of course, a commitment to reconcile with the past. The roots of racism in 2023 have a direct line to the racist policies and practices of the past. We cannot dismantle racism today unless we take the time to acknowledge and explore those connections. You cannot have healthy fruit if you won't root out the poison in the tree.

This includes work to address slavery and its legacy. Slavery was a system of theft. It was theft of life as people were stolen, enslaved, and brutalized. Slavery was theft of property through forced labor. It was the theft of identity and home, as people were repeatedly ripped from the community and culture that are central to human experience. It was theft of happiness, dignity, and potential. Slavery became imprinted onto the DNA of the nation and remains the foundation of racial inequality. After the abolition of slavery, new systems of white supremacy evolved in its place, to continue the theft and exploitation that were at slavery's core.

Today we see the vestiges of slavery in mass incarceration and mass criminalization. We see it in police violence and brutality. We see it in the racial wealth gap and the education gap. The systems that replaced slavery are all operating in the same vein—as systems of theft. Theft of life, theft of property. Theft of identity and home. Theft of happiness, dignity, and potential. They have adapted, as racism always does. But their work is the same.

Tearing down the legal and policy foundations of racial inequality also requires us to support communities of color as they build true political power and tear down the barriers to full participation in the democratic process. In so many areas of civil rights and civil liberties, we are fighting a battle of ideas. But those on the side of racial justice will find it difficult to win if those who currently exercise disproportionate political power are able to use it to systemically disenfranchise people of color, to silence their ideas and undermine their interests. Systematic barriers to democratic participation not only undermine the ability of people of color to protect their interests; it discourages those people from participating in what they rightfully experience as a rigged contest. And that is how democracies die: when people believe

they don't have any political power and worse when they may in fact be right.

Law school clinics must also engage in the struggle to build economic prosperity. Gaps in wealth between people of color and white households expose accumulated inequality and discrimination, as well as differences in power and opportunity that can be traced back to this nation's inception. Economic justice and racial justice are two sides of the same coin. Economic justice work is critical because it supports our ability to access and enjoy other civil rights and civil liberties. As Dr. King put it, "What does it profit a man to be able to eat at an integrated lunch counter if he doesn't have enough money to buy a hamburger?" Racial justice requires stable jobs and incomes, affordable housing, the provision of basic financial services, and meaningful and equal access to the mainstays of an economically vibrant life.

And we need to challenge justice by geography. We are only as strong as our individual parts, and as a country we are only as strong as our individual states. There is work we all must do to build a future where "we the people" means that everyone, everywhere, can access their fundamental rights, regardless of where they live; where everyone, everywhere can live a choice filled life with dignity and respect.

Justice by geography has been a part of America's story from the very beginning. Place and space have long decided whether one is free or faces injustice and whether one has access to opportunity. This truth is as clear today as it has ever been. Our country's union is barely being held together, and the nation's past and present are being mapped across regional lines. We live in two Americas, and geography increasingly determines whether one receives the full rights of citizenship and belonging.

Today, the right to vote, the right to make healthcare decisions, and the right to marry whom you love depends on whether you live in California or Arkansas, Florida or Illinois. Black voters stood in the baking sun for hours to vote in a Senate race simply because they are Georgians. Classrooms have been censored and students have been silenced and fed an alternate version of American history—one that erases the legacy and reality of racial inequality and systemic racial oppression—because they live in Florida. Fighting for justice by geography requires us to support the people and communities fighting the fight against white supremacy in many of the communities that perfected it—many of the communities at the forefront of creative resistance to racial justice and equality.

We all must rise to the moment. At this inflection point in our history, clinical legal educators must take advantage of this window of opportunity to deepen and expand our work to challenge racism in all

its forms. We have an opportunity to tear down the architecture of inequality and build the foundation for equality, challenging the systems and structures through which racism continues to constrain the life outcomes of some and expand the life outcomes of others. Or we can squander the legacy of our ancestors, and watch our nation go backwards.

If we are all serious about racial justice, there are two questions we must ask ourselves. What are we prepared to help dismantle? And what are we prepared to help build? You and your universities have extraordinary power and influence. Use those resources to tear down the infrastructure of racial inequality and help to build a new American infrastructure—one with equity and justice at its core.

Law professors often speak about the power of our scholarship to shape the law. The work we do in our clinics has as much potential, if not more. Challenging deeply embedded racial inequality will involve a reimagining and rethinking about how we can use the law to strengthen communities of color and allow the people who live in those communities to thrive. We must rethink what it means to challenge imbedded systems of racial inequality. Our civil rights laws have the potential to dismantle the structures and systems that stand as monuments to institutional racism. But to do so, we must re-envision these laws as tools for community equity and distributive equality. We must also grapple with how civil rights laws can more effectively address the intersectional harms and the mingling of public and private discrimination.

Toward the end of his poem, Langston Hughes makes a promise. It is a promise we are all called upon to embrace every day.

America! O, yes,
I say it plain,
America never was America to me,
And yet I swear this oath—
America will be!

As we think about racial justice work, we have to recommit to doing the work—all of the work—to make America be America.