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Justice in the Deep South: Learning from History, Charting our Future

An Introduction

by Sarah Gerwig-Moore*

Opinions differ on the principal role of academic institutions. Should Universities be primarily concerned with scholarship and research? With classroom instruction? With producing well-rounded citizens? Mercer University has long been committed to each of these three priorities. Decades before I joined the faculty at Mercer Law School, schools within the University were already working to make public service a priority, in addition to teaching and scholarship.¹

Following suit, this year's Mercer Law Review Symposium boldly moved to address controversial social justice issues.² The Symposium, "Justice in the Deep South: Learning From History, Charting Our Future," featured a powerful and varied panel of speakers and writers

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1. A pioneer of this ethos of service was Dr. Joseph M. "Papa Joe" Hendricks, a true Mercerian with the enduring belief that Mercer was a family rather than just an institution. An instrumental figure at Mercer during the Civil Rights Movement, Papa Joe was instrumental in promoting and effecting Mercer's desegregation in 1963. Though not directly a member of the law school community, we mourned his loss earlier this year, and are the richer for his influence throughout the University. Kyle Sears, *Mercer University Icon 'Papa Joe' Hendricks Dies at 81*, NEWS ARCHIVES, Dec. 20, 2015, <https://news.mercer.edu/articles/2015/mercer-university-icon-papa-joe-hendricks-dies-at-81.cfm#.VusmxuYzwtE>.

2. Mercer's Research that Reaches Out initiative is another example of the University's continuing efforts to confront social justice issues from an academic perspective.

who offered their expertise, background, and perspectives on injustices that are particularly pronounced in former Deep South slave states.

United States Supreme Court Justice William Brennan once said, “We cannot escape the grip of the historical legacy spanning centuries of racial oppression and we remain imprisoned by the past so long as we deny its impact on the present.”³ In the spirit of reconciling the collective discomfort, we gathered from across the country to discuss our past and present in the Deep South. Of course, there are many threads to the tapestry of this conversation: voting rights and other civil rights issues; poverty; challenges in public education; concerns about militarization and accountability of local police forces. The Symposium could have addressed any number of these issues and had plenty to discuss, grapple with, and write about.⁴

However, in planning for the Symposium, a focus emerged upon the criminal justice system. There are 2.3 million people incarcerated in the United States—the highest incarceration rate in the world.⁵ What is going on, and how did we get here? Specifically in the South, how many of these issues can we trace to social, historical, religious, and political legacy? These are some of the questions the theme of this Symposium sought to answer. Far from merely asking questions or casting stones, however, the program also fostered conversation around shared concerns and values as well as possible solutions to these issues that have both deep social and fiscal consequences.

Within the realm of criminal justice, there are a number of factors at play: our regional identity; our love for where we live or our home; and our own moral responsibility, whether we are prosecutors or defense attorneys, or judges or scholars. All of these lend to the collective moral responsibility to our universe and to our children.

We have to look at our history to effectively address the “complex, tortured, and tragic racial history” of the South.⁶ Our work is political and our social conscious knows no way around that fact. When an attorney, representing a client in superior court in the Caddo Parish in Louisiana, walks past a Confederate flag on her way to the court, what

3. *Mercer Law Review Transcript*, 67 MERCER L. REV. 487 (2016).

4. Prisons of Poverty, Uncovering the Pre-Incarceration Incomes of the Imprisoned (Apr. 27, 2016), <http://www.prisonpolicy.org/reports/income.html>; Felony Disenfranchisement: A Primer (Apr. 30, 2016), <http://www.sentencingproject.org/publications/felony-disenfranchisement-a-primer>; War Comes Home, The Excessive Militarization of American Policing (May 2, 2016), <https://www.aclu.org/issues/criminal-law-reform/reforming-police-practices/police-militarization>; What is the School-to-Prison Pipeline (May 2, 2016), <https://www.aclu.org/fact-sheet/what-school-prison-pipeline>.

5. See *supra* note 3, at 512.

6. *Id.* at 500.

is the contextual message being sent to the client in that moment?⁷ In Alabama, the work of the Equal Justice Initiative (EJI) is cognizant of this history as they work to erect historical markers true to the demographics that exist in Montgomery, Alabama – against a landscape that has more than fifty-nine historical markers to the Confederacy.⁸ In our own small town Southern city, the train station that stands in downtown Macon is another such example of our past. In all its magnitude, the building stands with the words “colored waiting room” etched in the side of one of its walls. As years have passed, we acknowledged the history of what such a marker stands by not only remembering it, but adding to the narrative by erecting other social markers like the Tubman Museum close by. These feats, that seek to give us a more authentic representation of our dealings with history, contribute to our steady momentum forward.

Symposium panelists stressed, “[n]o matter how corrupt the system is, no matter how bad . . . things are, to take the case of a human being, [to] have a person’s life in your hands . . . [and] to give client centered representation is to guide a person” through what seems like a “foreign land,” the court system.⁹ Lawyers and historical figures alike must “not allow fear to be a hindrance to progression” because as lawyers, we wield great power and “to those whom much is given, much is expected.”¹⁰

The criminal justice system is the part of our society that has been least affected by the Civil Rights Movement,¹¹ and the only bipartisan agreement that we seem to have in the United States today is that the criminal justice system is broken.¹² All those involved with the 2015 Symposium hope to see Mercer continuing to be present as a Southern regional university and more importantly, a Southern university willing to tackle hard issues in the classroom and beyond.

7. *Id.* at 490.

8. *Id.* at 491.

9. *Id.* at 569.

10. *Id.* at 523.

11. *Id.* at 512.

12. *Id.* at 556.
