

MANDATED REPORT

VOL. I

VERDICT: *JUSTICE DENIED*
AMERICA: *GUILTY AS CHARGED*

BY SHODAI SENNIN J. A. OVERTON-GUERRA

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No one accomplishes entirely alone; nothing of stature is the result of a single individual in isolation, but rather of a cast of support characters that represent the unsung members of any successful team. This work is no exception. Of the numerous individuals who are responsible for providing me with the support I needed, often to literally stay alive, several stand above the rest: Inés Fernández Roldan, James Alexander Overton V, and Maria Guerra Overton. Words cannot begin to reflect my gratitude.

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PROLOGUE

I am and have been for many years first and foremost a systems scientist. Those of you who are not fluent in the Spanish language will most likely not have heard of me, other than through the present essay, as by far most of my contributions are in that tongue. There is the matter of my induction in 2006 into the US Martial Arts Hall of Fame; my Honorary Membership to the UK Hypnosis Research Society as a result of my prize-winning paper on *Shamanism and Clinical Hypnosis*; my Cognitive Neuroscience thesis published in the *Journal of Mental Imagery*, several other articles in another academic journal *Shaman*, as well as two entries in the cultural anthropological encyclopedia on shamanism. Not much to show really for a lifetime of dedication to academic study and martial training. However, perform a quick Internet search for Shodai Overton-Guerra and you will be flooded with a body of written, audio, and audiovisual materials, even television interviews, all of which will plainly attest to my more than entry-level competence in many fields of scholarly and creative discourse: poetry, novels, philosophical essays, short stories, children stories, psychology, martial arts, international relations, world history and civilization, etc. I am the closest thing you will find today to the scholar-warrior-poet-monk archetype – assuming your personal paradigm allows for such a thing.

First trained as a systems analyst and programmer analyst, my undergraduate and graduate training and degrees have been in many academic and non-academic areas: Spanish and Latin American literature, Spanish and Latin American studies (culture, civilization and international relations), world history and civilization, world religions, philosophy, various branches of psychology (including clinical, cognitive, and the psychology of religions and mystical experiences), the cognitive neurosciences, clinical hypnosis and psychosomatic medicine, eastern philosophies and religions, and *many* martial arts, to name the most outstanding that come to mind at the moment. In all of those areas I have made lasting and unique contributions, essentially applying my knowledge and understanding of systems theory.

What any systems scientist worth his salt knows is that when it comes to an integrated system, as in the case of a living being, a human society or a culture,

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even the smallest part of that system can reveal a great deal about the whole – but only if you really understand the system itself as well as the synergistic¹ relationship between the whole and its parts. The principles of systems science are applied consistently in many other sister sciences. The principle of “fractal relationship”² or of “self-similarity”³ between the parts and the whole is one according to which essential aspects of the whole are reflected, revealed, or replicated – to a greater or lesser degree – in all of its integrating parts. This principle is the very essence of *systems science*, the science dedicated to the study of systems.

It is also the essence of many modern sciences. Forensic science, for example, is a discipline which specializes in reconstructing an entire crime scene composed of a series of concurrent events in space and time, from the careful analysis of a limited number of small, minute details. In the medical sciences, for example, a biopsy of a growth, a blood test, a urine analysis, or the study of a saliva sample, etc. – all small pieces of material evidence – can significantly inform on the status of health or disease of the body as a whole. In any clinical science – psychology, for example – one is trained to detect broader patterns of an individual’s cognitive or affective schemata as reflected in small samples of behavior. This is precisely the reasoning behind psychometric testing: we obtain a limited amount of information from a subject in order to analyze and predict broad patterns of future behavior or performance. Similarly, artifacts found at a burial site tell the archeologist an important story about the entire culture itself, precisely because the cultural whole is reflected in individual items, often in a most significant manner.

Superior Court of California Case docket number D491 976 – Overton v. Dolansky, my case before the San Diego Family Court and alternately before the Appellate Court of California – manifests a “fractal similarity” or a clear “self-similarity” to... to *what?*... to everything that is wrong and has been wrong with this country, likely since its origins. The Case before the Superior Court of California officially began in August of 2005 when my ex-wife successfully filed an illegal,

¹ Synergy, also known as the “whole is greater than the sum of its parts” phenomenon, takes place when the interaction of the integrating parts within a system exceeds that which one would expect from observing the parts behave by themselves.

² “A fractal is ‘a rough or fragmented geometric shape that can be split into parts, each of which is (at least approximately) a reduced-size copy of the whole,’ a property called self-similarity.” Wikipedia: <http://en.wikipedia.org/wiki/Fractal> (Last accessed on October 10, 2012.)

³ By “self-similarity” I am referring to a concept in which a whole is similar or identical to a part of itself, i.e., the part reflects the whole or the whole is reflected in each of its parts.

fraudulent marital settlement agreement, and is still ongoing in the present, October of 2012 seven years later. We originally separated and filed for divorce on October 13 of 2004 and obtained an official divorce through the territory of Guam two months later. We decided on joint custody with 50% division of time with our two small children, and from the beginning the status quo followed exactly that arrangement. There was no child-support involved because the time division of the children was roughly equal and I was still a full-time graduate student and unemployed at the time, and she already had her PhD and was working as a lecturer in San Diego State University. If anything she would have had to pay me because of her higher income. The arrangement was at times tense, but for the most part cordial. Even after I moved to Tijuana, Mexico (due to financial constraints) while I finished my doctoral program in clinical and health psychology at Alliant International University, she still allowed me to take the children back and forth across the border to spend 3 full nights and days with me. The exception was when we negotiated her taking the children to Ottawa with her parents for a two-month period in exchange for a quid pro quo for lost time with me at my convenience and choosing.

Lingering in the background was the pending issue of her finding employment elsewhere in the country. However, part of our agreement was that she would pay for my relocation expenses as soon as I finished my doctoral program so that we would continue the current shared parenting plan with the children. Things progressed reasonably well – or as well one could expect sharing small children amongst a former couple – for a period of a year and a half. During that period of time, three days and three nights a week, I was dedicated to my children – teaching them martial arts, yoga, Spanish, chess, telling stories, watching movies, etc. – i.e., being a father. But then one day in March of 2006 I suddenly received an email from my ex-wife claiming \$13,000 or so in back child support, informing me that she was moving with the children to Boston, and telling me that she was agreeable to giving me two weeks of visitation time per year! The email also referred to a Court Order issued on November 28, 2005 pertaining to a (second) divorce in the state of California that I had never been made aware of and also to a marital settlement agreement that I had (allegedly) signed but (obviously) never seen. It is impossible to communicate to anyone how I felt at that very moment. It was even far worse, however, than when I was diagnosed with terminal cancer a year later – an integral story within the story of this Case.

Over the next couple of days I had to contact the lawyer whose office notarized the paperwork for the original divorce and then served as my ex-wife's

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attorney in the second divorce in California. I discovered that he had moved to Poway, CA since signing the papers on October 13, 2004 and that the proof of service regarding the notification of the California divorce hearing had been falsified – I had been presumably served at a location I had never seen before – as well as the marital settlement agreement itself. The entire situation would have been comical had it not been tragic; the document was so obviously a forgery it seemed almost pathetic. The notarized signature page⁴ –which authenticated the agreement we signed – was missing; the signature dates were whited-out and changed to reflect 2005 dates rather than the original 2004 signing dates; the division of assets (credit card debt of over \$35,000, the vast majority of which was in my name) pages were missing and several pages in the document had page numbers whited-out and retyped over in a different font; child support was set at \$1,000 a month (retroactive to October 2004); visitation was set at 2 days a week, rather than the 3 1/2 days a week which had been the status quo from the beginning. What's more was that it fully granted my ex-wife the right to move away ANYWHERE with the children. However, despite all of the above the most obvious evidence of fraud and forgery was the fact that the document, which my ex-wife and her attorney would swear was the “self-same” document I signed on October 13, 2004 in his former San Diego office, had references on page two to August 2005 events in the *past tense*. Obviously the document could NOT have been signed in its completed form on October 12, 2004, when page 2 of that document referred to events in the month of August 2005, almost a year later!

If you think that all that evidence of perjury, fraud, forgery and conspiracy to defraud the Superior Court of California would have led to convictions or at the very least some form of official inquiry or investigation then you would be very naïve and very wrong – just as I was. My ex-wife did not go to jail; she left to Boston with the children just as she had planned. I mentioned that I was a scholar; however, I am neither a lawyer nor am I a man of financial means capable of affording one – much unlike my ex-father in law, Dr. Bernard Dolansky, a prominent and wealthy member of the Ottawa Jewish community who has invested over \$200,000 US – to date – in support of his daughter's campaign to eradicate my existence from my children's lives. I deliberately failed to mention I am of African, Hispanic as well as Native American descent: an economically underprivileged, self-represented, non-White father facing a wealthy White mother and her \$400 an hour attorney in a United States Family Court, while at the same time battling a life-

⁴ A legal requirement to file a marital settlement agreement.

threatening disease in and out of the hospital – radiation therapy, chemotherapy, surgeries. It would either make for a dark comedy or for a Disney movie, if only it had a happy ending. It does not; nor is it funny. In fact, I received no quarter either from my ex-wife or from the Court for medical disability or state of infirmity throughout the Case.

Today, over six years after that ill-fated email, I have not seen my children in nearly four years. Their mother blocks or discards any gifts I send them and freely refuses to comply with any Court orders allowing me even minimal phone contact with my children. She has continuously and successfully perjured her way to every advantage imaginable – lying to have my income imputed, lying to obtain restraining orders, lying about my not having sent gifts to my children, etc. – as well as refused to comply with any Court order she found not to her convenience, with complete legal impunity, including a Court order, later rescinded as a result of her “lack of financial resources”, to provide my son with psychological assessment and treatment for the rape and sexual abuse he suffered while under her supposed supervision only weeks after moving to Boston. *Legally* but *unjustly*, I went from being a dedicated father to yet another parent completely alienated from his children, and my children went from being father-full to joining the endless stream of fatherless children that are becoming the new social trend in this decadent country – and of course, I accumulated while deathly ill and by way of income based on perjured testimony – over \$30,000 in unpaid child support debt, which of course pales in comparison to the over \$200,000 she spent in legal fees to obtain it.

Everything that I have stated and will state in this book is of public record, which is why I provided the Case No D491 976. Anyone can legally and readily verify the details of the Case and confirm what I am now reporting. I encourage you to do so for if you do you will discover, as I did, that the Overton v. Dolansky case bears a clear and present self-similarity to the whole of America, with virtually everything that is wrong and falling apart in this country – much of which is stemming from a corrupt, iniquitous and unaccountable judicial system – but more importantly it bears a self-similarity to the thinly guised fascist society that sustains it, and which in turn rests upon a culture so steeped in forms of legalized discrimination, corruption and injustice that it has lost any semblance of what one might remotely refer to as a moral compass.

Overton v. Dolansky is a stool sample from a putrid social and legal system; it is a biopsy of the cancerous state of American society, culture and jurisprudence. America is as doomed as I was as a poor Black and Latino man entering a US

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Courtroom seeking justice against a wealthy White woman, foolishly hoping that truth and justice would prevail over deceit and iniquity; and America is doomed for all the same reasons for which I was doomed and my children were doomed: it has lost all semblance of anything our forefathers had intended it to be; perhaps it never had it to begin with.

Therefore I do not write this book in hopes of seeking change – whether a change in my legal case or a change in American society. I write this book for my children. I write this book so that Julia Rachel Overton and Alexander Jesse Overton will somehow, someday, come to know the *real* father their mother in her vile selfishness conspired to deprive them of, and the American system in its contemptible iniquity facilitated. They were never forgotten –only sold down the river by the very people empowered to protect them.

Alexio and Julila: A father never forgets; a warrior never gives up. *Jujurra!*

INTRODUCTION

- ✧ Hosea 8:7 *“They have sown the wind; now they shall reap the whirlwind.”*
- ✧ Exodus 9:1: *“Let my people go...”*

I have, for quite some time, planned to write an indictment of America regarding the history of its exploitation and its depravation of other cultures within and without its territorial boundaries. The record and nature of crimes against humanity, in which European nations have played such a prominent role in every corner of the globe, finds many a case-study throughout the pages of American history and society. America is steeped in thoughts, acts and feelings of racial hatred; so much so that it has become the dominant theme in its culture. As a result of this history, the social and political byproduct of Anglo-American culture has become inhumanely immune to the foul stench of systematic injustice, corruption, exploitation, and cultural as well as physical genocide. Like a fish incapable of feeling wet, racism in all of its forms is ubiquitously invisible to the average Anglo-American. In psychology we call this ‘habituation’ – a form of non-associative learning in which repeated and continuous exposure to a stimulus diminishes a response from and within the subject.

Some may consider my characterization of Anglo-American culture as “racist”. This would be an oversimplification of the facts to the degree of a blatant misrepresentation of the truth. Culture and race, like genes and memes, are quite separate issues. As such, there are no lack of individuals of the “White” or “Caucasian” race that do not fit the profile of Anglo-American culture depicted herein, nor are we wanting for a lack individuals of other races – “Black”, “Red”, “Yellow”, or “Brown” – that qualify as Anglo American by their very behavior. That is the nature of culture. Furthermore, descriptions of cultural patterns (as is the case with statistics) apply to populations as a whole – not to individuals. Nevertheless, one cannot deny that Anglo-American culture has been the overriding dominant culture since the establishment of the first British colonies in the sixteenth century. As a result, virtually all American subcultures have been significantly influenced by this dominance. This is to say that if you are raised in

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America, nothing (good, bad, or indifferent) pertaining to Anglo-American culture – regardless of your race – is entirely alien to you. Nevertheless, inasmuch as it is undeniable that the historical and social events referred to within the context of this essay are the direct result of the majority rule of a race of peoples born in the United States of America and of Anglo-Saxon descent, they do pertain to that race of people – but not for their biology, rather for their social and political ideology. One can change ideology but not biology.

And nature has done interesting things to our biology indeed! As the result of the evolution of the neuro-cognitive faculty we may refer to as imagination, we humans also possess a degree of empathy no other animal has the capacity to experience. We can ‘feel’ the sadness, or anger, or despair, or indignation of others from reading a book, watching a documentary, or watching a movie – even when we know the events are not real and the characters are following a script. This capacity to empathize, even with the plight of other, ‘lesser’, species, is a key component to our inherent potential for moral action. Without empathy we lose an important part of our own humanity. Racial hatred and the physical, economic, psychological, and spiritual violence it causes and supports is not only damaging to those who are the recipients of such actions and sentiments, but also to those who perform or indirectly benefit from them. I remember studying the Holocaust and learning about the propaganda campaign of dehumanization required prior to instituting genocide as an official governmental and social policy in WWII Germany. I also remember reading accounts of the inevitable traumatic effects caused by first-hand participation in the Holocaust; many German soldiers, even hardcore Nazi SS officers, suffered a form of post-traumatic stress disorder even as they performed their ‘patriotic duty’ in cleansing their country from the so-called ‘defiling pestilence of the Jew’. Many of these individuals became psychologically traumatized as the perpetrators of violence, their minds never fully recovering afterwards from the recurring images of their own inhumanity reflected in their actions. Routinely suffering, performing, witnessing or even hearing inhumane acts desensitize us to their effects and therefore deprive us of our own capacity to feel, deprive us of our own humanness. I worked for several years as an interpreter in various prisons in Canada having ample opportunities to interact with prisoners and guards alike. In the words of the leader of a hostage rescue team (HRT): “both prisoners and guards share the same prison”. But I also witnessed it as a psychology intern working at a juvenile detention facility. While there I primarily treated gang members, providing psychotherapy for individuals, groups and families. Steeped in a social environment of loss, lack of opportunity, and

hopelessness – all of which are forms of violence – gang members live a life of constant brutality and hostility, upon themselves and upon others. I recall one patient crying desperately as she described her participation in the brutal beating and rape of another individual. She asked me why she still carried those feelings of pain every time she recalled the act. I said the time to really start worrying was when she could think about it and feel nothing. America feels nothing. It has become numb to the violence and the suffering its society is steeped in, because it is a society built upon the suffering of others within its borders and so in order to live without that guilt it inexorably distances itself from its feeling, and thus from its own humanness. For example, American Border Patrol agents routinely shoot and kill Mexican citizens while trying to enter the US illegally; the death penalty is instantly applied for an offense that at most and in all practicality would lead to merely several months of incarceration. You cannot really reconcile these acts with any notion of rational behavior, let alone justice, until you first reconcile yourself with America's inherent despise for all non-White races – only then does it all make sense.

Once you understand this vital, key, and essential aspect of Anglo-American culture you can also understand and make sense of the historical and social accounts of Anglo-America's 'clinical record' you will read throughout these pages. You will also understand the details of the Overton vs. Dolansky case I will describe herein. Recall that we are analyzing an entire system from a close examination of one of its parts. The US Family Court system is not a foreign or alien element to American Jurisprudence at large, no more so than American Jurisprudence is foreign or alien to dominant American culture – Anglo-American culture. I will, as we proceed through the details of this Case, give you ample historic precedent to explain how the various material details of Overton vs. Dolansky reflect this history. I will also provide you with ample social statistics to show you how the Case reflects the most compelling social issues affecting American society today. America is as rotten as the Judges who have tried this Case. Suffice it to say that the last presiding judge on my case, the one who has done the most damage insofar as restricting access and contact between my children and I, was a convicted drunk driver prior to the Case, yet was never removed from the bench. Superior Court Judge Judy Schall was "stopped by the Escondido Police Department on September 12, 2007, for driving the wrong way on Centre City Parkway, a street classified as a four-lane divided highway. After failing a field sobriety test, she was arrested for drunk driving as a violation of the

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California Vehicle Code 23152(a).”⁵ This absurdity sums up the American system’s commitment and concern for the credibility of its justice system. As you read the pages of this book you will read not only how my Case was tried, but you will read the trial of America. Together, we will put America and Anglo-American culture on trial; together we will determine America and Anglo-America’s sentence.

Throughout our close examination of this dual Case – *Overton v Dolansky* and *Humanity v America* – you will see American jurisprudence and

- Its selective application of due process and other rights guaranteed under the Constitution;
- Its indifference towards the effects of fatherlessness on children;
- Its acquiescence to crimes of moral turpitude (perjury, fraud, and forgery) when perpetuated of course by the privileged White party against an underprivileged visible minority;
- It’s disregard for the biopsychosocial severity of child rape and sexual abuse;
- Its negligence regarding the needs and rights of child-victims of rape and sexual abuse to receive psychological treatment;
- Its contempt for the rights, human rights – and needs – of children to develop an identity in accordance with their ethnic and linguistic heritage – in particular when that heritage consists of visible ethnic minority roots;
- Its disdain for the rights of the critically infirm and medically disabled;
- Its total bias in favor of the preferences if not conveniences of the custodial parent – most usually the mother – with complete and total disregard to those of the children themselves;
- The manner in which the entire judicial process is subject to the highest bidder: in America you get only as much justice as you can buy.

⁵ <http://angiemedia.com/2010/01/22/why-is-san-diego-judge-lisa-schall-still-on-the-bench/> (Last accessed on October 10, 2012.)

- Finally, racism. There is no other way to adequately explain the systematic manner in which virtually every shred of material evidence I presented before the Court was disregarded in favor of the verbal testimony of someone who had been a demonstrated liar throughout the case, even to the point of gaining the admonishment of a judge for her “perjury”. She was, of course, never penalized for it.

Most of all, as I stated earlier, you will clearly see how the details of this Case hold a “self-similarity” to everything that is wrong with America: its decaying economy; its deteriorating infrastructure, its failing education system; its lack of global competitiveness; its alarmingly increasing rates of fatherlessness and juvenile violence; its immature obsession with God; its political and legal corruption combined with the hypocrisy with which it points a morally accusative finger at other nations and societies; and the systemic hatred, that pattern of crimes against humanity it has perpetuated on any ethnicity of color – any non-White race – with which it has entered into conflict, within or without its borders, throughout its history:

On June 26, 2011, James Craig Anderson, 49, was killed in Jackson Mississippi by a group of white youths who – allegedly yelling racial epithets and crying out “White Power” – first beat him, then backed up their pickup truck and deliberately drove him over. On June 21, 1964, 47 years earlier almost to the day and not far from that same location, 3 civil rights activists – James Chaney, a 21-year-old black man from Meridian, Mississippi; Andrew Goodman, a 20-year-old white Jewish anthropology student from New York; and Michael Schwerner, a 24-year-old white Jewish Congress of Racial Equality (CORE) organizer and former social worker also from New York – were lynched by a group of police and civilian members of the Knights of the Ku Klux Klan. During the extensive search the bodies of at least seven other Mississippi Blacks, “whose disappearances over the past several years had not attracted attention outside of their local communities” were discovered.⁶

Laws may have changed, but culture and society have not. You may wonder about the relationship between the Overton vs. Dolansky case in California and the Mississippi murders; you may wonder how they are related. They are both symptoms of a crippling social and fatal cultural disease that will claim its host as surely as brain cancer or lymphoma will ravage a human body. The dehumanizing

⁶ http://en.wikipedia.org/wiki/Mississippi_civil_rights_workers_murders (Last accessed on October 10, 2012.)

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process of slavery, racial discrimination, segregation of the African American, as well as the genocide and dispossession of the Native American have left the United States and all levels of its social, cultural, legal, and governmental institutions morally bankrupt and devoid and deprived of their basic humanity. Overton vs. Dolansky is but a tissue sample of the gangrenous state of this country – that is how they are inextricably related, and that is exactly what this book is about: making that relationship clear and present in the reader's awareness.

The most controversial issues in a country's history are always those most central to its National identity, the keystone to its cultural paradigm. In the case of the United States those issues are quite clear: the brutal enslavement and subsequent suppression of the African and the genocide of the Native American. Historically, socially, economically, legally, and of course, culturally those two central issues have had many manifestations. The first legal importation of African slaves in 1619 initiated a series of human events that would leave indelible and disgraceful scars on the face of American society and its jurisprudence. Slavery created a caste system in which a category of human beings was legally designated as property to another category based strictly and solely on their ethnic and racial heritage. This default classification of legal discrimination created, of necessity, a social, educational, economic, and cultural inequity and inequality which continues to this day. As a result, no issue has created more conflict and controversy, be it social, economic, political, or moral throughout the history of the United States than the issue of race – *an issue which is central to my Case.*

During the 1787 Constitutional Convention, which began in Philadelphia on the second Monday of May of that year, slavery became legally ratified by the Constitution in a political move known as the "Great Compromise." In order to prevent the southern slave-owning slaves from derailing the entire constitutional enterprise, slavery would be legally recognized in three provisions under the Constitution: 1) slaves would be counted under the Constitution as three-fifths a person; 2) northern States would be required to return fugitive slaves; and 3) Congress could not ban the further importation of slaves before 1808. Thus were the historical and legal binding between politics, economics, and racism in America cemented in the very Constitutional foundations of our nation.

From this point on, the history of the United States demonstrates that no subject has challenged its honor and integrity as has the issue of slavery and its

legacy: racism. During the Convention, George Mason (a delegate from Virginia) prophetically made the following admonishment:

Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations cannot be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities.” - George Mason, Aug.22, 1787⁷

It is relevant to the present treatise to bear in mind that the institution of slavery did not solely involve forced labor under inhumane conditions. Rather, it involved a series of degrading and dehumanizing processes that stemmed from a perspective that the slave was less than human – indeed, only three-fifths so. As such, and as no more than property, the slave was subject to the degradation of having his wife and daughters raped by White masters, and **the dissolution of his family** through the sale of his children, **in almost all cases for financial profit**. Additionally, and equally relevant to the argument at hand, the slave became **dispossessed of his own identity by the forced privation of his ethnic and linguistic heritage**. **Loss of language of origin** was enforced by preventing slaves from interacting with others who spoke the same language. It was feared that communication amongst others of the same ethnicity would provide the ego-strength, sense of community and joint destiny, and means for active coordination that would lead to a rebellion against their masters. Thus slavery, in its need to affirm a demoralized and subservient population, **demolished at once ethnic and linguistic identity as well as family bonds**. In further efforts to prevent incidents of the likes of the Stono Rebellion of September 9, 1739 (in which scores of slaves near Charleston, South Carolina revolted and killed their masters⁸) and the burning of plantations, laws were enacted to prevent slaves from being taught to read or write – thereby promoting illiteracy and general ignorance as a means of control. Since then the official policy of all forms and manifestations of the United States government has been to deny or disregard the rights of members of visible minorities to their ethnic heritage and linguistic heritage – a central issue in the Overton vs. Dolansky case.

⁷ George Mason University, Mercer Library Newsletter, Vol. 2, Number 11 | Sept/Oct 2006

⁸ Civil Rights Chronicle: The African-American Struggle for Freedom, Clayborne Carson et al, 2003, p. 14.

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The affirmation of slaves as legal property was firmly upheld by various United States Supreme Court cases such as *The Antelope* case.⁹ The *Antelope* was a slave ship seized by a US naval patrol off the coast of Georgia in 1825. The owner of the *Antelope* had raided Spanish and Portuguese slave ships and planned to bypass the US boycott on the importation of slaves placed into effect by Congress in 1808. As a result, under American law, the Africans on the slave ship were free and should have been returned to Africa. Nevertheless, as the Spanish and Portuguese governments filed claims for the recovery of their stolen property the *Antelope* presented “claims in which the sacred rights of liberty and of property come in conflict with each other.” The status of the slaves as property would prevail over the claims of liberty as Chief Justice John Marshall’s opinion held that although “it is contrary to the law of nature will scarcely be denied” the federal courts must recognize another nation’s right to engage in the slave trade even if the laws of that nation did not permit the trade. His opinion ends with: “It follows, that a foreign vessel engaged in the African slave trade, captured on the high seas in time of peace, by an American cruiser, and brought in for adjudication, would be restored.”¹⁰

Therefore it is in slavery primarily, I will argue, that the American justice system learned to treat humans as merchandise and in the same manner Family Courts treat children as the primary custodian’s personal property. I find little difference between a trial court endorsing the destruction of father-child bonds by authorizing a move away for the financial benefit (usually) of the mother – without even charging her with the full financial responsibility of ensuring the same degree of contact with their father **prior** to the move away – and the destruction of those same bonds via the sale of children for financial gain. Severity aside, the spirit of the issue is the same: **profit over family, property over humanity.**

In 1842 another case came before the Supreme Court that would again involve the kidnapping of slaves, assert the rights of slave owners to retrieve their property and affirm the less-than-human status of Black Slaves. In *Prigg v. Pennsylvania*, under Chief Justice Taney, the Supreme Court ruled that no state can enact laws which would hinder a master’s right to retrieve his lawful property, even

⁹ Federal Judicial Center, www.fjc.gov, Teaching Judicial History: Federal Trials and Great Debates in United States History, http://www.fjc.gov/history/amistad.nsf/autoframe?openform&header=/history/amistad.nsf/page/header&nav=/history/amistad.nsf/page/nav_legal&content=/history/amistad.nsf/page/legal_issues

¹⁰ *The Antelope*, 23 U.S. 10 Wheat. 66 66 (1825)

if the manner in which that property was retrieved (kidnapping as was the case), was unlawful in that state or if slavery was not legal in that state.”¹¹

In 1850, Congress passed the Fugitive Slave Act of 1850 as part of the Compromise of 1850. It was an attempt to keep the country together by making concessions to slave-owning states. Frederick Douglass would state that it was “*designed to involve the North in complicity with slavery.*” The new legislation eliminated due process for those accused of being fugitives, and stiffened the penalty for those who aided and abetted those seeking freedom from (legal but immoral) bondage. “*The law also made it a federal crime for any citizen to refuse to aid in the recapture of a fugitive slave... [it] allowed any claimant of a fugitive to place him or her in custody without a warrant, jury trial, or hearing.*” Consequently, “*many free blacks were kidnapped and sold into slavery.*”¹² **In effect, what the Fugitive Slave Act of 1850 did was contribute to the formation of a culture in which the inhumane persecution of Blacks became a social requirement as well as a legal institution.** We need not ask ourselves why those White youths in Mississippi, on June 26, 2011 suddenly decided to “mess with some niggers” – leading to the brutal death of James Craig Anderson¹³ – when the immoral persecution of Blacks has been a social institution imposed by law and made manifest in Anglo-American culture.

Perhaps the most controversial ruling of the Supreme Court with respect to the politics and economics of race, one which left an indelible stain on the legitimacy of the Supreme Court to dispense justice in racial issues, one which tainted the history of the United States and the premise of *freedom and justice for all*, and one which is considered to be an indirect cause of the Civil War, is the 1857 *Dred Scott v. Sandford* case. The decision of the Supreme Court was to affirm that no Black person, free or otherwise, was a citizen of the United States and therefore was not entitled to rights and protection under the Constitution. Justice Taney further emphasized that Blacks were “*beings of inferior order*” with “*no rights that the White man was bound to respect*”¹⁴. In the *Dred Scott* Case, the Court's majority opinion was that, because Scott was black, he was not a citizen and therefore had no right to sue. “The framers of the Constitution,” he [Chief Justice Taney] wrote,

¹¹ Civil Rights Chronicle: The African-American Struggle for Freedom, Clayborne Carson et al, 2003, p. 22.

¹² Civil Rights Chronicle: The African-American Struggle for Freedom, Clayborne Carson et al, 2003, p. 27.

¹³ <http://www.cnn.com/2011/CRIME/08/06/mississippi.hate.crime/index.html> (Last accessed on October 10, 2012.)

¹⁴ *Dred Scott v. Sandford* 60 U.S. 393 (1857),

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“believed that blacks had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold and treated as an ordinary article of merchandise and traffic, whenever profit could be made by it.” Referring to the language in the Declaration of Independence that includes the phrase, “all men are created equal,” Taney reasoned that **“it is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration...”**¹⁵

Justice Taney’s is an opinion that is clearly and repeatedly reflected in the findings and orders of the Family Court judges I have faced to date as well as the Appellate Court ratifications of those judges’ rulings and the Supreme Court of California’s refusal to hear my case. And so my case is now before the highest court in a democratic country: the Court of Public Awareness. Justice Taney’s is an opinion that was clearly and repeatedly reflected in the acquittal of all police officers involved in the 1992 Rodney King Trial in Simi Valley California and which left hundreds of millions – if not billions – of citizens of all countries of the world asking ‘Why did the twelve members of the jury fail to convict any of the officers?’ It was an opinion which has been all too often repeated throughout the legal history of this country and which has resulted in such cries of desperation as those demonstrated by the LA riots following the King Trial in 1992, as well as many others of its kind, such as the 1965 Watts riots of my childhood, and the race riots of Wilmington, N. C. (1898), Atlanta, Ga. (1906), Springfield, Ill. (1908), East St. Louis, Ill. (1917), Chicago, Ill. (1919), Tulsa, Okla. (1921) and Detroit, Mich. (1943). And it is an opinion which the White Respondent herself flaunted as governing the perception of trial court in this case:

“But, stated simply, without question, the trial court accepted the declaration testimony of Respondent [Ms. Dolansky] over that of Appellant [Mr. Overton]. And that should not be surprising as the trial court could not reconcile the evidence from one parent with that of the other.” [Page 15 Respondent’s Opening Brief].

Any court of law should cringe at the manner in which a White female judge, under conflicting information from the litigants which she “could not reconcile,” would unequivocally take the word of the White female litigant over

¹⁵ <http://www.pbs.org/wgbh/aia/part4/4h2933.html>, emphasis mine. (Last accessed on October 10, 2012.)

that of an Hispanic/African/Native American male litigant without as much as giving the slightest care or consideration for material evidence at her disposal – **any court of law save that of the Supreme Court of the United States under Chief Justice Taney.**

Justice Taney also ruled that Congress had no right to ban slavery in the US territories. His ruling in the *Dred Scott* case had the effect of leaving Blacks without hope of challenging their status of legal bondage in state or federal courts. Taney's opinion had nationalized slavery by asserting the rights of White slave owners to bring their (sub-) human property into free states without fearing challenges to their ownership, and by allowing the expanding territories to apply for statehood with slavery integrated into their Constitutions.¹⁶

Even prior to the *Dred Scott* ruling, Hezekiah Ford Douglass, a free African American from New Orleans, in his lengthy address in Cleveland, Ohio, on 27 August, 1854 made the following remarks as part of his anti-emigration speech at the convention:

*When I remember the many wrongs that have been inflicted upon my unfortunate race, I can scarcely realize the fact that this is my country. I owe it no allegiance because it refuses to protect me. It is a maxim in Governments, "That each individual owes allegiance in proportion to the protection given." ... When I remember that from Maine to Georgia, from the Atlantic waves to the Pacific shore, I am an alien and an outcast, unprotected by law, proscribed and persecuted by cruel prejudice, I am willing to forget the endearing name of home and country, and an unwilling exile seek on other shores that freedom which has been denied me in the land of my birth.*¹⁷

With slavery came segregation, Jim Crow, the KKK, the *Dred Scott* ruling, *Plessy v. Ferguson*, lynching, and also the Tuskegee syphilis experiment:

For forty years between 1932 and 1972, the U.S. Public Health Service (PHS) conducted an experiment on 399 black men in the late stages of syphilis. These men, for the most part illiterate sharecroppers from one of the poorest counties in Alabama, were never told what disease they were

¹⁶ *The History of the Supreme Court*, by Peter Irons, (Lecture 8) The Teaching Company 2003.

¹⁷ *National Humanities Center Resource Toolbox, The Making of African American Identity: Vol. I, 1500-1865. Emigration & Colonization: The Debate among African Americans, 1780s-1860s.*

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*suffering from or of its seriousness. Informed that they were being treated for “bad blood,” their doctors had no intention of curing them of syphilis at all. The data for the experiment was to be collected from autopsies of the men, and they were thus deliberately left to degenerate under the ravages of tertiary syphilis—which can include tumors, heart disease, paralysis, blindness, insanity, and death. “As I see it,” one of the doctors involved explained, “we have no further interest in these patients until they die.”*¹⁸

When confronted with such details as the Tuskegee syphilis experiment it is virtually impossible for citizens of other countries to fathom the monstrous nature of the United States’ inherent inhumanity, which in facts, figures, fatalities and historical extensivity pales in comparison to even Nazi Germany. American President Bill Clinton would offer on May 16, 1997 a formal apology for the Tuskegee syphilis experiment to the eight remaining survivors, stating: *“The United States government did something that was wrong—deeply, profoundly, morally wrong. It was an outrage to our commitment to integrity and equality for all our citizens... clearly racist.”* The United States government has much for which to apologize; the Tuskegee syphilis experiment is but a snowflake on the tip of the iceberg.

The plight of the Native American, like that of the African American, has also occasioned too many outrageous incidents to list. Experts in the history of genocide, such as Holocaust expert David Cesarani, have argued that “the government and policies of the United States of America against certain indigenous peoples in furtherance of Manifest destiny constituted genocide”, and that “in terms of the sheer numbers killed, the Native American Genocide exceeds that of the Holocaust”.¹⁹ Certainly the lives lost during the centuries of the legalized African slave trade in America also exceed that number.

However I am very well aware that many of you will claim that you simply don’t care. White Americans wash their hands of the past by claiming no responsibility in the present. In their naiveté they fail to understand that when the ship is sinking blame is of little consequence – especially when you are also a

¹⁸ <http://www.infoplease.com/spot/bhmtuskegee1.html>. (Last accessed on October 10, 2012.) For more information read Tuskegee Syphilis Experiment (History, Facts, Bad Blood, Bad Science) – Infoplease.com

¹⁹ <http://www.infoplease.com/spot/bhmtuskegee1.html#ixzz1U5WBleo2>
http://en.wikipedia.org/wiki/Genocides_in_history#United_States_of_America (Last accessed on October 10, 2012.)

passenger on that ship. Yet many, many White fathers have experienced righteous indignation in being assigned to “Negro status” – that is, all financial responsibilities and no legal rights – in the Family Court system. This book will show you how that status came about and how it affects your rights as well, for example, under the Patriot Act. The legal, social, and cultural precedent of the “Negro status” has given American Government an inherently fascist nature.

Hispanic Americans, often too uneducated to read the writing on the wall, may stand by, oblivious, to the plight of their slightly darker fellow visible minority and fail to realize that, as the greatest growing threat to continued Anglo-American political dominance, and therefore socioeconomic hegemony, they are already experiencing the effects of a steady increase in hate crimes, tighter immigration policies, and racial profiling leading to incarceration and en masse loss of their voting rights – the key to integrated citizenship.

As a former university lecturer and teaching assistant I am very familiar with the typical American student’s dismissal of past events as merely “ancient history”. But history is not just a matter of “past events”; it a continuum, as the past bears strongly on current and present trends and realities. To understand America today is important not only for Americans, regardless of race, gender, or religious creed, but for all the citizens of the world. America is the last superpower standing, the only remaining true empire and, like it or not, its military and its economic might dominate world political and social trends. But to fully understand America is to know the history, nature, and social, economic and cultural impact of the United States of America’s official government racist and genocidal policies, policies which remain largely unknown and for which America remains unaccountable – until now.

Rodney King, Oscar Grant, James Anderson, etc., and the recent killing of Kenneth Harding, a 19 year old African American shot and killed by San Francisco police on June 16th, 2011, are all part of a regular and ongoing holocaust of the non-White ethnic minority. And what was Mr. Karding’s ‘crime’? Not having a valid \$2 transfer pass and fleeing from police. He was shot over ten times. Victim to a pattern of socially accepted if not legalized crimes against humanity.

Prejudice in some fashion or other is human; which is to say that it is represented in every human society. But America has the dubious distinction of being quite unique in this regard. No other country or society – save for example Hitler’s Nazi Germany during WWII or South Africa during Apartheid, for example,

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both appropriate comparisons – has been so fearfully obsessed with the categorization of peoples by race and/or ethnicity as America, leading to the “Who is Black?” question answered, only in America, by the “One drop rule” – one drop of African ancestry is sufficient to determine one’s racial – and social – identity.

Although an individual of African descent has reached the pinnacle of power in the United States by occupying the position of President in the White House – an edifice constructed at least in part by Black slave labor²⁰ – Hezekiah Ford Douglass’ remarks echo in the hearts and minds of many if not most African Americans today as clearly as they did 150 years ago. While it is difficult for members of the White majority, or even other ethnic minorities to understand let alone accept this claim, a simple reference to 2011 the nationwide statistics which show the incarceration rates for Blacks as being 397% higher (i.e., *five times more*) than those of Whites should facilitate the change of viewpoint that will open one’s mind to the reality of this perception.

The point to keep in mind is that whether these incarceration rates reflect a) *the increased attention, persecution, and prosecution of Blacks by the justice system nationwide*; b) *a high degree of criminal behavior inherent to Black culture and society*; or c) *a combination of the two*, the root cause is the same: **social and economic circumstances forged and fomented by incessant legal determinations throughout the history of this country, of which the *Dred Scott* verdict is but one.**

The *Dred Scott* ruling became central to American politics between 1857 and 1861.²¹ It is an example of how judicial legal decisions can have great social impact on a country and why in particular the rulings of the Supreme Court cannot in any reasonable conscious manner divorce themselves from the social and historic context in which they take place. The *Dred Scott* disposition had not only the effect of establishing legal grounds to perpetuate and nationalize slavery, but was also tremendously instrumental in provoking the United States Civil War,²² a brutal confrontation within our own soil in which 600,000 American lives were lost. *Dred Scott* is also a clear and present example of how American jurisprudence, when it comes to issues of race, has established an unequivocal pattern of making

²⁰ The White House's History of Slave Labor in the CBS Evening News: *Records Show Slaves Helped Build The Presidential Mansion*. WASHINGTON, Dec. 10, 2008.

²¹ *The History of the Supreme Court*, by Peter Irons, (Lecture 8) The Teaching Company 2003.

²² Columbia Journal of Transnational Law, *Dred Scott* and International Law, p. 782, Janis Print Version.doc, May 20, 2005.

short-sighted decisions with long-term social implications that separate and distinguish law and order from morality and justice.

Although the Dred Scott case and its relation to slavery were the primary focal points of the seven presidential debates between Senator Douglas and Abraham Lincoln in 1860, it is important to note that the abolition of slavery did not imply equality between the races; that is a point which needs to be understood and which Abraham Lincoln himself made very clear in 1858:

*I will say then that I am not, nor ever have been in favor of bringing about in any way the social and political equality of the white and black races, [applause]---that I am not nor ever have been in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say in addition to this that there is a physical difference between the white and black races which I believe will for ever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I as much as any other man am in favor of having the superior position assigned to the white race... very frankly that I am not in favor of negro citizenship.*²³

Therefore, the future President of the United States who would be responsible for the Emancipation Proclamation on January 1, 1863 and who vehemently attacked Justice Taney's ruling in *Dred Scott*, was in complete agreement with the Chief Justice's opinion regarding the lack of citizenship status of "negroes". Moreover, it was only the fear that extending slavery into the Territories would tear apart the Union that distinguished him from Senator Douglas.

There are other dimensions in which *Dred Scott* must be interpreted. In a similar manner in which the Jews were the victims of a campaign of dehumanization in Hitler's Germany, Blacks were dehumanized by way of even religious and biological arguments in order to justify the inhumane horrors of slavery: human beings cannot effect such treatments of other fellow human beings unless they believe them to be inferior or sub-human. The *Dred Scott* ruling is reflective of a deeply seated venom that has deprived millions in our country of "Life, Liberty and the pursuit of Happiness" to this day. It is important to recognize the role that the Highest Court in the land, the Supreme Court, played in this

²³ Lincoln's Fourth Debate with Douglas at Charleston, Illinois, September 18, 1858.

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matter, for not only did it convert all of those dehumanizing prejudices into the official law of the land, but it also *legally* equated – for the first time in history – ***slavery with a race of people.***

Even such a noteworthy anti-slavery proponent as Abraham Lincoln was infected by the view of his time – that Blacks were inherently inferior to Whites, even if that inferiority did not merit slavery. And if the people themselves were inferior and not meriting equal treatment under the law, then anything produced by those people – such as culture, language, and all aspects of ethnic heritage – are equally unworthy of protection by the law. This campaign of systematic denigration not only became the official culture of much of the United States, affecting White's perception of Blacks, but it also had a tremendous impact on Blacks themselves, creating an internecine conflict in which darkness of skin, type of hair, or facial features such as thick lips are often valued in terms of the racist esthetic views of White supremacy (e.g. the so-called 'good hair'). It has been argued that the extent to which Blacks themselves have been the victims of the dehumanizing and undervaluing propaganda of White supremacists is reflected in the use of the 'n' word by Blacks themselves in open reference to each other, and are the only ethnic minority to refer to each other in the same derogatory and demeaning terms employed by the discriminating majority. Even if the "separate by equal" status conferred perfect equality of condition and circumstances, it is *internally* degrading to a group of people to be considered unfit to freely intermingle with another group.

Since that time, and for the following century the Negro, Black, or African-American experience in this country has been dominated by the fight for equal rights and the freedoms promised to all under the Constitution. During the first decade of that century progress was inhibited by Supreme Court rulings of *Congress giveth and the Supreme Court taketh away*:

Congress giveth:

- January 31, 1865: Congress passes the 13th Amendment to the Constitution, which abolishes slavery; it is ratified by the states in December of 1865.
- July 9, 1868: Congress passes a strong civil rights act in 1866 and enacts the 14th Amendment to the Constitution, granting full citizenship to all individuals born in the United States or

naturalized – except Native Americans – thus reversing the Supreme Court’s ruling under *Dred Scott*. The 14th Amendment made certain key provisions that would give the Supreme Court the power to enforce and protect Black rights:

- No state could abridge “the privileges and immunities” of citizens.
 - States could not “deprive any person of life, liberty, or property without due process of the law.”
 - States could not deny any person from “equal protection of the laws.”
-
- February 3, 1870: The 15th Amendment to the Constitution is ratified, guaranteeing all adult male citizens the right to vote. Supposedly, the rights could not be “denied or abridged ... on account of race, color, or previous condition of servitude.”
 - 1870-71: Congress enacts the Enforcement Acts intended to help African Americans achieve the rights to which they are entitled under the 14th and 15th Amendments and granting the President the right to use force in the protection of those rights.
 - March 1, 1875: Congress passes the Civil Rights Act of 1875 which prohibits discrimination in public accommodations such as restaurants and hotels.

The Supreme Court taketh away:

Beginning with two important decisions which virtually crippled the establishment of Civil Rights for Blacks in the Supreme Court for over a century – not surprisingly making use of former Chief Justice Taney’s argument in the *Dred Scot* case.

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- 1873: *The Slaughterhouse Case*. The Supreme Court makes an important ruling in a 14th Amendment case, using an argument made by former Chief Justice Taney regarding the distinction between ‘state’ and ‘federal’ and also establishing the so-called “state action” doctrine in which only actions by the state itself could be prosecuted under the 14th Amendment. The Supreme Court rules that the 14th Amendment only protects those rights guaranteed under “federal” but not “state” citizenship.
- 1875: *Cruikshank v. United States*. Using the previous case as a precedent, the Supreme Court reversed the convictions of several Whites who took place in the greatest massacre of Blacks in US history, stating that their actions had not been the result of “state action” and therefore not subject to the 14th Amendment.

The Supreme Court would then continue with a series of racist decisions that paved the way for and supported Jim Crow “separate but equal” laws which remained in effect for nearly a century until the 1954 *Brown v. Board of Education*.

- 1876: In *United States v. Reese* the Supreme Court rules that the 15th Amendment does not guarantee Blacks the right to vote.
- 1878: In *Hall v. DeCuir* the Supreme Court rules that states cannot prohibit segregation on interstate public transportation.
- 1883: The Supreme Court rules that aspects of the Enforcement Acts of 1870-71 are unconstitutional. The court holds that *states* not *individuals* are constitutionally bound to respect the rights of Blacks.
- 1890. In *Louisville, New Orleans and Texas Railway Company v. Mississippi*, the Supreme Court rules that states may permit segregation in public transportation.

- May 12, 1896: In *Plessy v. Ferguson*, the Supreme Court ruling establishes the “separate but equal” policy. Justice John Harlan, the sole dissenter, equated the *Plessy* decision with that of the *Dred Scott* case of 1857, predicting it would rouse racial hatred for generations; he was right. Much as being Jewish in Nazi Germany, the *Plessy* case also established the “one-drop” rule for being Black; that is, if one had an identifiable Black ancestor then one would be legally considered Black, regardless of the color of one’s skin or the appearance of one’s features. Since my father is identifiably Black, I am therefore also Black. ***My children Alex and Julia, having a father as well as one grandparent – my father – who is Black, would be considered by any rule of law to be Black.***
- 1900. The Supreme Court validates segregation in railroad cars even if travel is between states in which segregation is illegal.

Between 1900 and the *Brown vs. Board of Education* in 1954, a desperately deprived people would engage in an epic battle for their dignity, self-esteem, and freedom; a battle in which their chains were firmly anchored by the racist rulings of an unjust Supreme Court system. Many White people, still committed to the legacy of inequality and the notion that a Black man is entitled to “no rights that the White man was bound to respect”, often would characterize those of us refusing to accept the shackles of racial inequity as being “uppity negroes,” a term for

*a black person who has been reprimanded or persecuted for voicing his dissatisfaction with or rejection of the sub-standard treatment of himself or other black people. The term was very popular among slave masters who often used the term to refer to blacks that were rebellious or, in other words, blacks who required and demanded respect, fair treatment and regard. In his day, Frederick Douglass was considered to be an "Uppity Negro" because he never tried to assimilate to the white way of life. Douglass never begged or asked for respect – he demanded it.*²⁴

²⁴ <http://www.thehilltoponline.com/campus/uppity-negro-infiltrates-howard-s-campus-1.470137>

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The issue of a confident Black man being labeled “arrogant” is well understood by social scientists in this country. Socially threatened Whites refer to African Americans who take the requisite legal measures to defend their rights and therefore “do not know their place” not by the politically incorrect term “uppity negro”, but rather by social euphemisms such as being “*narcissists who hate losing*” or legal terms such as “*vexatious litigant*” – a ruling I earned after refusing to accept the Court’s repeated refusal to apply any form of legal penalty against my opponent’s incessant efforts (and repeated success) to usurp the Court’s authority by lying and deceiving it.

Evidently, despite the great advances of the Civil Rights movements in bringing Jim Crow to a close, the wounds accumulated in the process of those battles have not healed to this day, nor have the misguided perceptions of a racist majority. These rights we have fought for, these rights we still fight for. Being designated a *vexatious litigant* is nothing compared to being hung from a tree. That is how “we” feel on that issue.

With a Black President in the White House the issue of Black “arrogance” is far more on the surface than White America is accustomed:

Karl Rove says Barack Obama is arrogant.

We've heard that; we've heard the pejorative "arrogant" before. When I say "we" I mean those of us who are "others" in America; people of color. Minorities. [...] We hear the word all the time from a select section of privileged white guys; the codifying they use when they fear the silver spoons are about to be snatched from their lily palaces: "Those people... How dare they think they can work jobs like ours or live in neighborhoods like ours or send their children to school with ours? Those people are just so damn arrogant."

Arrogant, of course, is a euphemism. In the monochromatic bunkers from which old-schoolers cling to power the true word they use is "uppity" when hurled at blacks. [...]

Arrogant?

The only arrogance Obama is guilty of is the same "Unforgivable Blackness" so many exceptional people of color have demonstrated

*throughout the history of this country: a refusal to bend to the will of the Retro Guard. [...] Back in the day such "arrogance" was met with a strong rope and tall branch...*²⁵

Back “in the day”, when I was only five years old, such “arrogance” was met by two White teenagers from North Carolina who decided they wanted to see a “nigger” fly. So they picked me up and tossed me off a 10 foot incinerator roof. I lost consciousness before I fell, somewhere in mid-flight, from sheer terror. I was left for dead and was revived who knows how much later by my visiting maternal grandmother, quite a distance from where I must have fallen. I could not turn my neck to my right, nor could I stop crying in pain. I had to wear a neck brace for several weeks, and I was lucky to be alive. It was not the first, nor would it be the last of such racially motivated acts of violence. Finally, before I was eight years old, the principal of my all-white school called my parents and asked them to remove me as he could not guarantee my safety. I refused to submit to groups of White children who would harass me. We moved to Europe then. I vowed no child of mine would suffer like that. Like my son Alex, I know what it is like to be a small child and feel helpless against overwhelming violence. Thanks to the iniquity and corruption of the California Family Court system which did not consider crimes of moral turpitude as “dispositive” to custody, my five-year old son was left routinely unattended by his mother in the hands of several much older youths who played “doctor”, with him as the patient. The same Court system refused to remove custody from the mother for denying my son psychological therapy for the very crime he suffered while under her supervision.

There are ready and factual explanations for this so distinctively American racist and genocidal behavior. America was founded and defined in terms of race, and no issue has been more prevalent in defining American history and the establishment of its identity as a nation and a culture: Racism is the American cultural institution, and as such is the synthesis of race, religion, politics, economics, and jurisprudence. America begins with White Europeans – prominently Anglo Saxons – of Protestant descent using the argument of “right of might” to define their own geopolitical space and forcibly removing all other cultures and races from the same; this includes not just the subjugation and attempted genocide of Native Americans and the exploitation and denigration of

²⁵ SOURCE, When Rove Calls Obama Arrogant, He Means "Uppity," by John Ridley, http://www.huffingtonpost.com/john-ridley/when-rove-calls-obama-arr_b_109639.html (Last accessed on October 10, 2012.)

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African Americans, but also the military conquest of the vast territories of Texas, Arizona, California, and Nevada from the sovereign state of Mexico.

The historical, cultural, social, economic, religious, and legal repercussions of American racism have not only been devastating to the first unfortunate races – the Native American and the African – to encounter its social, political, military, and economic policies, but it has been an experience shared by most visible minorities in this country. Dispossessed of their properties and possessions, Japanese Americans, some third generation US born, were interned in concentration camps once America was at war with Japan, yet – not surprisingly – note that German Americans suffered no such fate. One former judo master of mine related the painful story of his family being interned **while he fought with allied troops on the German front**. His story was completely cogent with the historical reality of his times:

Following the Japanese attack on Pearl Harbor on December 7, 1941, President Franklin D. Roosevelt issued Executive Order 9066, which permitted the military to circumvent the constitutional safeguards of American citizens in the name of national defense.

*The order set into motion the exclusion from certain areas, and the evacuation and **mass incarceration of 120,000 persons of Japanese ancestry** living on the West Coast, **most of whom were U.S. citizens or legal permanent resident aliens**.*

***These Japanese Americans, half of whom were children, were incarcerated for up to 4 years, without due process of law** or any factual basis, in bleak, remote camps surrounded by barbed wire and armed guards.*

They were forced to evacuate their homes and leave their jobs; in some cases family members were separated and put into different camps. President Roosevelt himself called the 10 facilities "concentration camps."

Some Japanese Americans died in the camps due to inadequate medical care and the emotional stresses they encountered. Several were killed by military guards posted for allegedly resisting orders.

At the time, Executive Order 9066 was justified as a "military necessity" to protect against domestic espionage and sabotage. However, it

was later documented that "**our government had in its possession proof that not one Japanese American, citizen or not, had engaged in espionage, not one had committed any act of sabotage.**" (Michi Weglyn, 1976).

*Rather, the causes for this unprecedented action in American history, according to the Commission on Wartime Relocation and Internment of Civilians, "were motivated largely by **racial prejudice**, wartime hysteria, and a failure of political leadership."*²⁶

For all its anti-Soviet, anti-socialist, anti-communist rhetoric, America remains the only nation to have used the atomic bomb – not once but twice – and it did so against a non-White and militarily defeated nation, against civilian targets; something it no doubt would not have done against Germany or any other White Protestant enemy nation. American war crimes in Vietnam and Iraq remain largely the untold history of a country that wishes to portray itself internationally in the same moral image as that of the superheroes it packages and exports. The reality is quite different: the legacy of American racism in its foreign politics is simply a reflection of its own internal history. Could it be any other way?

However, America's history of racism, genocide, and crimes against humanity, has not just had an impact on its foreign politics, but rather on its domestic policies as well – particularly on the nature of the operation of its justice system. Nowhere is this more self-evident than in Family Court – and this is a readily demonstrable premise of the present book: the institutionalization of slavery, genocide, and crimes against humanity that has been the central and dominating theme in American history and its cultural identity has had both a dehumanizing and a perverting effect on American culture and the American sense of justice itself. As a result, America does not understand *justice*; it can only comprehend *law and order*.

The chickens come home to roost in the US Family Court system, a legal institution with which my children and I have had the terrible misfortune of experiencing and which is a clear and present reminder of the following: **when it comes to justice, America is morally bankrupt**. Law makes justice in America, no matter how dehumanizing the law may be, for the ultimate purpose in American law has been ensuring the dominance of White American culture over the rights of visible minorities and the furtherance of private property and trade, both agendas

²⁶ <http://www.pbs.org/childofcamp/history/index.html>, emphasis mine. (Last accessed on October 10, 2012.)

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which have gone hand in hand in America throughout its history. For centuries the United States government has encoded and defended the inhumanity within its legal system as a necessary step in order to continue the denial of a people's right to be human for the sole purposes of economic gain and material profit (e.g. ask American Indians what they think of *Manifest Destiny*). The mere establishment of such precedent for the legalization of what can only be considered crimes against humanity has normalized the same, to the point that American society is at its root a culture of fear and hatred, racism and genocide, injustice and prejudice. The moral, political and economic justification of such policies under the belief – misguided and perverse as it is – that they would be applied exclusively to non-White Anglo Saxon Protestants is akin to releasing a lethal strain of a viral infection within a geographic area and assuming its toxic effects will remain there, safely contained. It is foolhardy! At the very core of any egalitarian society must be the dispensation of justice *above and beyond* law and order.

This work is actually several condensed into one, albeit with a single unifying theme: to reveal the endemic racist and corrupt nature of the American jurisprudence and legal system, society, economy, education, and foreign and domestic policy. On the one hand it documents my own personal experiences with the San Diego Family Court as well as the California Appellate Court system. Family Courts across the nation are routinely the focal point of scandal: due process is denied; perjury – by the custodial parent, usually the mother – is not only permitted but rewarded; parental alienation against the non-custodial parent is the norm; children's rights to access both parents are ignored; and the rights of the non-custodial parent are limited to their obligation to pay child support. In colloquial terms, if you are a father in Family Court you have "Negro status", which is to say you have "*no rights which*" a Judge is "*bound to respect*". And that is a central point of this argument: said "negro status" has been an unconscious archetypal reference point in all aspects of American society, international politics, and jurisprudence. If you happen to be, like me, a poor father of African, Latino and Native American descent against a wealthy white woman in Family Court – any court – then you clearly have no rights a judge is even bound to acknowledge, much less respect, never mind uphold. On the other hand this text recaps the historical record of America's domestic and foreign racisms, the present socio-economic effects of said history, and the inherently corrupting nature of racism to American jurisprudence.

On the other hand, the United States of America has not had to come to terms yet with its own legacy of injustice, prejudice, discrimination, intolerance, and religious fanaticism. “One nation under God” is really one nation built upon the enslavement of one people, the dispossession of another, and the subjugation of many to serve its own interests. Nothing new as far as the history of Empires is concerned, but in the process America, its own institutions of government, law-enforcement, and justice have also suffered: they have become a reflection of the very inhumanity they have so consistently dispensed. One cannot help but arrive at such conclusions observing the operations of any number of the branches of these three institutions – family court in particular.

Meanwhile, millions of Blacks, Native American, and Latinos live in a psychosocial state known as Post-Traumatic Stress Syndrome or PTSS. PTSS occurs when the history of a people, its social reality and therefore its cultural identity, is the result of a concatenation of recurrent trauma. When I was asked by a Jewish friend and former colleague what life was like as an African American – i.e., what was the nature of African American Identity as a culture? – I found no other response than the Middle Passage, Slavery, Segregation, the Civil Rights Movement, the assassination of Martin Luther King, Jr., the Tuskegee syphilis experiment, Rodney King and the Overton v. Dolansky case. It is tragic that an entire People would define their identity primarily in terms of the centuries of injustice and inhumanity they experienced as a result of the discriminatory laws and rulings of an entire Nation – a Nation supposedly “under [a just] God”.

This book will open your eyes to the reality of America that every other cultured and educated member of the Global Village has come to know all too well: Anglo-American culture, its social, political, and legal institutions of which the Family Court system is but a flower on a stem off a branch from a tree with such deep-seated roots in hatred, racial prejudice, and mercantile exploitation that most Anglo-Americans – and some white-washed visible minorities – cannot see it; it seems perfectly normal to them.

Nonetheless, the book is not entirely critical in its focus or apocalyptic in its views, for it also provides and justifies several recommendations:

1. Deception in Court, any Court, (even by White mothers in a Family Court) for the purposes of perverting justice must be punishable; excusing the practice of perjury and subornation of perjury as a

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consequence of the “emotional nature” of the forum is to encourage the perversion of the legal process.

2. The use of deception of any form – even if it does not qualify as perjury – should be dispositive in a custodial hearing: a parent who lies and deceives to the detriment of the other parent to a Court should be rendered morally unfit and not be entrusted to raise their children.
3. Racial Identity must become a constitutionally acknowledged right to all citizens of the United States; this includes the rights of children to be raised in environments which foster the languages, customs, history and identity of their forefathers.
4. A child must have the right to psychological treatment for traumas of a nature punishable by law, such as but not limited to child sexual abuse and rape.
5. Failure to provide a child victim of rape or sexual abuse must be a federal crime punishable by law under child abuse and medical negligence acts.
6. Parental alienation, the deliberate and demonstrable use of a parent’s access, power, and influence over a child to denigrate another in their eyes must also be considered an act of child abuse, punishable by loss of custody and subject to criminal charges.
7. Legal fees paid by third parties, such as grandparents and disguised as “gifts” or “loans” must be recognized for what they really are: income used as a legal instrument to gain advantage in the proceedings. As income they must be factored into all forms of court-assessments of a parent’s resources such as the imputation of child support costs.
8. In Move-Away situations, the parent(s) seeking the move away, regardless of the custodial agreements must carry the burden of proof that the relocation will not damage the relationship with the non-custodial parent in any way, shape or form.

9. Financial gains, in the form of child support, cannot be sustained when perjury, forgery, fraud or any form of deception of the Court has been proven: cheaters cannot be seen to prosper.
10. Disability in the form of life-threatening diseases, such as but not limited to cancer, must be recognized as a reasonable exemption from child-support payments.
11. No financial burden in the form of changes of child-support payments can be calculated as a result of relocation by the custodial parent – they do so at their own cost and detriment.
12. Both parents must have a *de facto* legal right to equal time with their children, save cases in which a parent has been demonstrated to be ineligible or incompetent – such as for medical neglect, acts of moral turpitude, parental alienation, or other acts and conducts.
13. Judges must be held personally and criminally accountable for their findings and orders in the same manner as other professionals – doctors, engineers, dentists, psychologists, etc. – when they have blatantly refused to take measures against those who have either subverted the authority of the Court by relying on deception, and also when they refuse to comply with logical and common sense consideration such as requiring a parent to provide clinical treatment to its child victim of sexual rape and abuse. Had Judge Oberholtzer of the Superior Court of California taken legal action against the mother for repeated acts of perjury, fraud, and forgery, or at the very least considered her inability to cooperatively parent as dispositive to her custodial status, particularly in a move-away situation, my son would not have been the victim of sexual abuse.

In many states of the US as well as in Australia certain professionals are required by law to report any abuse they witness carried out upon the defenseless members of their society. I write this book in response to a higher law, a *moral law*, which compels me to report on the abuses of America and Anglo-American hatred and injustice on the defenseless people within and without its borders who are and

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have been the victims of said hatred and injustice. This book is therefore a “Mandated Report” for my grandchildren and for my two youngest children, Alexander Jesse Overton and Julia Rachel Overton, both of whom for the initial period of their lives were an integral part of mine and I of theirs and whom, due to the perfidy of their mother and the iniquity of a system which empowered her, have been denied the most fundamental and basic right any person should have in a free society: the right to be who they are. To them I say, “A father never forgets”. To the system, the American system of injustice responsible for not only the breakup of my family, the rape of my son, the innumerable potential and indubitable psychological future damage to my children occasioned by the loss of identity and fatherlessness, but also to the historical and social patterns of crimes against humanity which my ancestors have been subject to for generations and that have become the dominant pattern in its culture, I cite for you Hosea 8:7, *“they have sown the wind, and they shall reap the whirlwind: it hath no stalk: the bud shall yield no meal: if so be it yield, the foreigners shall swallow it up.”* America has a choice – either it comes to terms with the racist tumor it has so jealously secured and hatefully fostered, or it will be destroyed from within. I leave you two other quotes:

(1) *“America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves”* – Abraham Lincoln. The first and foremost of such freedoms, which was lost the moment the first human was shackled and enslaved and when the first Native American was dispossessed of his land, is justice.

(2) *“The day that the black man takes an uncompromising step and realizes that he's within his rights, when his own freedom is being jeopardized, to use any means necessary to bring about his freedom or put a halt to that injustice, I don't think he'll be by himself”* – Malcolm X. There can be no freedom without justice, and since I have received none other than injustice throughout my case I have been denied my freedom. Therefore, this book about the story of American injustice is written precisely by such a Black man taking *“an uncompromising step”* and willing to *“use any means necessary to bring about his freedom or put a halt to that injustice”*.

CHAPTER ONE

“THE FITTEST CHARACTERS TO EXPOUND THE LAW, AND DISPENSE JUSTICE”

- ✧ “What country can preserve its liberties if its rulers are not warned from time to time that their people preserve the spirit of resistance?”
- ✧ “The majority, oppressing an individual, is guilty of a crime, abuses its strength, and by acting on the law of the strongest breaks up the foundations of society.”
- ✧ “When wrongs are pressed because it is believed they will be borne, resistance becomes morality.”
- ✧ “The price of freedom is eternal vigilance.”
- ✧ “Law is often but the tyrant’s will, and always so when it violates the right of an individual.”
- ✧ “Timid men prefer the calm of despotism to the tempestuous sea of liberty.”
- ✧ “A free people [claim] their rights as derived from the laws of nature, and not as the gift of their chief magistrate.”
- ✧ “When governments fear the people, there is liberty. When the people fear the government, there is tyranny.”

Like the difference between a terrorist’s bomb and a sniper’s bullet, there is a great difference between *anger* and *righteous indignation*. Both are strong emotions that tend to elicit action, but the similarity ends there. Anger is a reaction to fear, to frustration, to impotence; from an evolutionary perspective it is an emotion evolved to instantly jolt us out of the self-defeating paralysis of fear, as when we are trapped in the cave facing the raging bear and when our options are to fight or to be eaten: better to die fighting than be devoured while still breathing. Indignation is different; it is a reaction to an affront against one’s honor and dignity, especially against one’s human dignity. To feel indignation one must therefore identify the cause; one must also have a sense of dignity with which to begin. To qualify for *righteous indignation* one must have a reasoned argument to

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substantiate one's indignant outrage; that requires information, useful information which in turn becomes knowledge as it ignites the inner light of understanding. Anger leads to impulse and is like a bomb, rather indiscriminate in its effects and victims; righteous indignation leads to directed action and is precise, like a sniper's bullet.

When I am asked, "*Shodai, for whom are you writing this book?*" the answer is, "*I already answered that: myself, my children, my followers, my students, and my apprentices*". If asked however, "*Why are you writing this book? What is its purpose?*" my response is now different: "*To transform the self-destructive anger of the disenfranchised into the righteous indignation of the soldiers of change.*"

Throughout the United States there is an anger that is running rampant amongst those underpowered, abused, and victimized by the Anglo-American Socio-Economic System – AASES for short. These individuals amount to millions, if not tens of millions, and they are White, Black, Brown, Red, and Yellow. All they feel is anger and pain, but they do not know why. I write to convince no one, only to inform anyone open minded enough and willing to learn. I need not convince anyone of their own anger and pain, only to inform them of their cause: once diagnosed, the etiology of a pathology or disorder is a prior step to its treatment.

Reason in and of itself does little to motivate change; if it did then tobacco companies would have gone out of business the very moment the despicable truth about their product became known to the general public. We are not animals of reason; we are animals of emotion *capable* of reasoning. In the human sphere conduct is determined not by reason, which rules the conscious, rational mind, but rather by emotion, which is the motivational currency of the unconscious. It is in the unconscious where the cognitive-affective schemata leading to hatred, fear, anger, resentment, etc., find their place of residence. White, Black, Brown, Yellow, or Red, those select individuals who read this material will – even they if they are only even dimly aware of their anger and pain – automatically fall into one of three categories: empathizers, deniers, or the pathetically apathetic.

The empathizers themselves, as they become familiar with the details of the Overton vs. Dolansky Case and its relationship to the historical and social reality of the United States, will in turn begin to recognize how the broader patterns of the system are reflected in their own personal lives. This is in accordance with the principles of self-similarity which I referred to in the Prologue. Their anger will be

gradually elevated to righteous indignation and in doing so they will be primed and motivated to follow proper leadership in pursuit of positive change.

The deniers are hopeless given that the essence of their denial is that they refuse to acknowledge that Rome is burning and no one is safe from the flames. I waste no time on them, save to state they disgracefully include Blacks and Latinos who forget who they are, or never knew to begin with, and vote conservative in federal and local elections.

Finally, the pathetically apathetic – White, Black, Brown, Yellow, or Red: they are not limited by colors – who are largely representative of a widespread social and cultural manifestation of learned helplessness. Learned helplessness *“means a condition of a human person or an animal in which it has learned to behave helplessly, even when the opportunity is restored for it to help itself by avoiding an unpleasant or harmful circumstance to which it has been subjected”*²⁷. Learned helplessness is considered a sign of chronic (in this case, *social*) depression. The universal allegory of learned helplessness is the grown elephant who, though massive and mighty, obediently remains anchored to a thin tether tied to a small post. As a weak calf it struggled and struggled against the same structure, but to no avail, and so it learned to give up and accept its lot in life. Later as an adult, even while employed in carrying logs and uprooting trees with its powerful trunk it fails to consider applying the same procedure to liberate itself. The classic experiment in learned helplessness involves the repeated dropping of a mouse into a pail of water where it struggles impotently to escape drowning. At the beginning it battles a watery grave until utter exhaustion overwhelms its will to live and sinks; it is then rescued and allowed to rest and recover. Again it is plunged, and again it resists, but not as long, once more being rescued at the brink of death. Each and every time its efforts become more and more short-lived, less and less in earnest, until finally it does nothing at all, allowing itself to sink immediately and powerlessly to the bottom: it has learned to yield helplessly to either death or to the expectation of the hand that rescues it. So are the millions of Americans who no longer vote let alone even march in protest to defend the rights their fathers and grandfathers *fought* for in the sixties. Civil disobedience has given way to a life of evasive addiction: addiction to alcohol and drugs; addiction to material objects; addiction to food and pleasures of the senses; and addiction to escapist television or other forms of electronic entertainment. They live out their pitiable existences like a hamster in its cage, running their wheel in mindless and fanatic pursuit of

²⁷ http://en.wikipedia.org/wiki/Learned_helplessness. (Last accessed on October 11, 2012.)

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material gain hoping someday to reach the higher wrung on the curved ladder of happiness. When the wheel does break and they do manage to climb to the top, as represented by some measure of socioeconomic comfort and security, they quickly realize their existence is just as meaningless as it was before and all that has really changed is their vantage point within their existential and materialistic cage. It is no wonder that “the United States has the highest rate of drug abuse in the world in regards to marijuana and cocaine”²⁸ and that Americans are “four times more likely to report using cocaine in their lifetime than the next closest country, New Zealand (16% vs. 4%)”²⁹.

Nevertheless, as Mao Zedong (Mao Tse-tung) – one of the most successful revolutionaries of all time – stated, a revolutionary must prepare the waters in which he will swim, meaning that the process leading to successful and radical social change takes time and must be preceded by the procedure of educating those who most stand to benefit from significantly altering the status quo:

“We must patiently explain,” says Mao Tse-tung. “Explain,” “persuade,” “discuss,” “convince” these words recur with monotonous regularity in many of the early Chinese essays on guerrilla war. Mao has aptly compared guerrillas to fish, and the people to the water in which they swim. If the political temperature is right, the fish, however few in number, will thrive and proliferate. It is therefore the principal concern of all guerrilla leaders to get the water to the right temperature and to keep it there.”³⁰

Social change requires numbers of humans committed to that change, not just words. Words can educate and inspire, but ultimately massive numbers of people, people properly cultured, people properly trained, people properly guided will bring about change through force. How that force is delivered remains to be discussed, but force it must and shall be. There are literally millions of individuals, tens of millions of citizens and residents in the United States – White, Black, Brown,

²⁸ <http://www.parentsanon.org/comparing-americas-drug-abuse-with-the-rest-of-the-world.htm> (Last accessed on October 11, 2012.)

²⁹ <http://www.cbsnews.com/stories/2008/07/01/health/webmd/main422322.shtml> (Last accessed on October 11, 2012.)

³⁰ Mao Tse-Tung on Guerrilla Warfare, FMFRP 12-18 United States Marine Corps. <http://prernalal.com/banned%20books/U.S.%20Marine%20Corps%20-%20FMFRP%2012-18%20-%20Mao%20Tse-Tung%20-%20On%20Guerilla%20Warfare.pdf>

Red and Yellow – whose daily lives are devastatingly impacted by the realities and consequences of the facts and truths I am rendering accessible and comprehensive in the present volume. Their anger, frustration, and hopelessness is only matched by their ignorance and lack of understanding of the forces which have conspired to shape their lives, seal their fates, and determine their destinies long before they were born. They must come to realize that their state of ignorance and hopelessness – their status quo – is by design and is no more necessary or reasonable than a speed limit or a tax no one wants or respects, but which only serves to provide corrupt officials of cities and states ample opportunity to legally extort forms of income. Once they have absorbed this information, they will need little or no convincing to empathize with the perspectives provided in these pages; what they do need is a means to understand the why, how, who, what, and when of their reality. The masses are ignorant, and their leaders, presently lacking, must come from within their own ranks and files. They will only emerge with access to the proper information – knowledge – which will serve to channel and guide their negative emotional energy into effective mechanisms for positive change. Mao Zedong also stated, “An army without culture is a dull-witted army, and a dull-witted army cannot defeat the enemy.” Who is the army? That we know. Who is the enemy? To understand who the enemy is we must understand our rights and responsibilities as citizens according to the social “contract”.

The concept of a “social contract” is critical to the legitimacy of any government and its courts. It determines the degree and nature of the force any government may *morally* exercise over the people within its designated territorial boundaries or sphere of influence. While the *concept* of a social contract that binds rulers to those under its control is indeed a much older one; the term itself dates to a work entitled *Of The Social Contract, Or Principles of Political Right* (*Du contrat social ou Principes du droit politique*) written in 1762 by Jean-Jacques Rousseau. In a nutshell, as I have often summarized and interpreted for my students, the essence of “social contract theory” is that in society an individual gives up a certain degree of his freedom in exchange for the *guaranteed* benefits of social living. In other words, we submit to the laws of government in exchange for the protections and *vantages* said government guarantees us. Should the government fail to deliver its side of the contract, so then expires its *moral* recourse to curtail our freedom, to impose its laws upon us, and to apply its punishments through its courts when we fail to comply with said laws. In other words: *a society that does not provide the opportunity for gainful and legal employment has no moral authority to punish those driven by hunger who seek illegal means to feed themselves*. Clearly, in order to operate within the *might of right* the government has obligations to its citizens and

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residents; when it fails to live up to these obligations it loses moral legitimacy. Its rule is therefore no longer the *might of right*, but rather the *right of might* – it has transgressed the boundaries of legitimate government into tyranny.

We must now consider what this means. As the social-political keystone of any form of legitimate government, the “social contract” provides the guidelines within which any government must operate in order to retain its moral legitimacy. It means, among other things, that government must, in the application of its force, be limited to representing the will of the People or – in lieu of that will – represent a clear benefit to society particularly in accordance with a Principle the People recognize as legitimate. “*The legislative power belongs to the people, and can belong to it alone.*”³¹ Laws cannot be arbitrary; they must be for the benefit of the People and in accordance with a Principle the People themselves recognize as a moral. Punishment cannot be arbitrary; it must be dispensed in accordance with a Principle that (once again) furthers the benefit of the People and is in accord with said Principle – “social contract” is at the core of this Principle.

The essential nature of man is to be free. Therefore, in order to deprive him of this natural state, as the laws of society impose upon him, society must enter into a covenant with him in fair exchange for his liberty. Indeed, the concept of freedom is so cherished, honored and accepted as “natural”, that he must receive more in society than alone in a solitary state of one. Consequently, the social contract also authorizes, indeed obligates, the individual within that society to resist the immoral oppression of such a government which would infringe upon his freedom without his reasoned and negotiated recompense. Rebellion – that is, to rise against tyranny – is therefore a *right* conferred upon the human being by birth – by membership to the human race. “*The Sovereign*”, Rousseau informs us, “*having no force other than the legislative power, acts only by means of the laws; and the laws being solely the authentic acts of the general will, the Sovereign cannot act save when the people is assembled.*”³² In society we give up certain freedoms but we never give up the *right* to be free.

These are all Enlightenment Ideals; ideals originated by philosophers such as Baruch Spinoza (1632–1677), John Locke (1632–1704), and the scientist Isaac Newton (1643–1727). The Age of Enlightenment or the Age of Reason as it is also known, was an elite philosophical movement dating to 18th century Europe “that

³¹ *The Social Contract*, Book III, Chapter 1: *Government in General*.

³² *The Social Contract*, Book III, Chapter 12: *How the Sovereign Authority Maintains Itself*.

sought to mobilize the power of reason in order to reform society”, “advance knowledge”³³ and oppose the abuses of power of Church and state. It was, to be sure, a revolutionary movement and as such its ideals became the sparks that ignited and fanned the furnaces of independence and the flames of revolution throughout the end of the 18th century, including those of our own *Declaration of Independence* as redacted by Thomas Jefferson in 1776. Jefferson himself was profoundly shaped by Enlightenment ideals. The quotes at the beginning of the chapter are all his and they reflect, to perfection, the very same arguments of social contract theory I have summarized above. Pay close attention to those 8 quotes, for they summarize the ideological essence upon which our forefathers brought this country into being: “*We hold these truths to be self-evident, that **all men are created equal**, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness*” is a rebuttal to the dominating political theory of the *Divine Right of Kings* or of any elite group of human beings – such as judges – over another group. It states, unequivocally, that the Law must be applied equally to all; that no human being is above the application of the law, and that no human being is beneath its protection.

In accordance to the very same Enlightenment principles I have summarized for you earlier, and in concordance with the 8 quotes from its original redactor, we can appreciate the previous statements in the broader context of the opening phrases of the United States Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed;

“Self-evident” truths, truths upon which to base government and society, which are: (1) that “*All men are created equal*”; that they are (2) endowed with “*unalienable rights*”, which include (3) “*Life, Liberty, and the Pursuit of Happiness*”; that (4) governments are “*instituted*” precisely to “*secure these rights*” – to serve them not to deprive us from them – and (5) “*deriving their **just** powers from the consent*” of those under their rule. Even today as I read these words, at this very moment, and as has occurred on countless occasions throughout my lifetime, I am moved to a higher plane of human social consciousness and hope; my eyes fill with

³³ http://en.wikipedia.org/wiki/Age_of_Enlightenment. (Last accessed on October 11, 2012.)

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veritable tears as I fully and so humbly embrace the meaning of these most momentous phrases, delivered to us not by gods, nor their messengers, nor their prophets but by godly men, by human Titans. They are decrees that raise, affirm and define our humanity in terms of its essential nature, providing definition and meaning to ‘being human’: *free living beings in pursuit of happiness*. They are sentences which denounce as *violation* any form of despotism or tyranny be it by gods, kings, presidents, or judges, which imposes upon that unquestionable freedom without the agreement of those upon which they rule. In a very comparative sense, these opening phrases mirror in magnitude and in nature the essence of the covenant between the People of Israel and their God Yahweh who, in exchange for the rule of his law delivers them from the bondage of Egypt and vows to provide his protection: Not even a god, or perhaps better said, especially not a **just** God, can impose upon our freedom without **just** benefit.

The Declaration of Independence provides us with the moral weapons to stake our claim... our claim to what? Our claim to **justice**: for it is through justice – “*deriving their **just** powers*” – that governments gain and retain their legitimacy. **Justice** is the Principle to which I indirectly referred to in the beginning paragraphs of this chapter; the Principle against which a legitimate government must prove itself at all times. Reread those sentences and substitute ‘justice’ for ‘Principle’ and you will better appreciate the meaning I am trying to convey. So important, so critical, so deterministic was this concept of **justice** in the minds of our forefathers that George Washington himself was

*Impressed with a conviction that the **due administration of justice** is the firmest pillar of good Government, I have considered the first arrangement of the Judicial department as essential to the happiness of our Country, and to the stability of its political system; hence the selection of the fittest characters to expound the law, and dispense justice, has been an invariable object of my anxious concern.*³⁴

We therefore understand the role of **justice** as “the firmest pillar of good government”, its dispensation being decisive to its role as the protector of the inalienable rights of any and all human beings under its rule. Likewise, if the dispensation of justice is of the utmost importance to the functioning and legitimacy of good government, so too is “*the selection of the fittest characters to expound the law, and dispense justice*” – the appointment of judges. The

³⁴ **George Washington**, in a letter to Attorney General Edmund Randolph concerning the selection and qualification of U.S. attorneys and judges (1789)

dispensation of justice and the appointment of good judges ensure, determine, and demonstrate a country's adherence to its side of the social contract. We consider this a universal concept – so universal, that another great giant of American moral philosophy, the late Martin Luther King, Jr., would state, “*Injustice anywhere is a threat to justice everywhere*”³⁵. Why would this be so? Because, like a single cancerous cell threatens to metastasize throughout the entire physiological system we call ‘body’, rendering cancerous any and all healthy tissue, a single instance of injustice can ravage an entire legal system as it infects it with its immoral, and convenient, precedent.

If the smallest incidence of injustice is a threat to an entire justice system, how much more so was the perverting influence of slavery and genocide? The answer has been historically so obvious and is socially so self-evident it has become ubiquitously transparent save to those educated enough to see that the emperor has no clothes, and that the American Democracy pronounced into existence by the Declaration of Independence is, and has been, in actuality a thinly democratically veneered form of fascist capitalism. And so, just as I considered the magnanimity of those illuminating phrases of the *Declaration of Independence* and just as I was moved to a *higher plane of human social consciousness and hope* I am plummeted headlong into the depths of the harsh reality of American history and society within which they were and are never applied, freefalling into the dire specter of the hypocrisy which is Anglo-American culture and American society. Where, in the history of *legal* slavery and segregation, can there be reconciliation within a culture with the ideals of the “*unalienable Rights*” of “*Life, Liberty, and the Pursuit of Happiness*”? Where do the laws which sanctioned the dispossession of the Native American, such as the Indian Removal Act which was signed into law by President Andrew Jackson on May 28, 1830, reflect “*self-evident*” ideals that “*all men are created equal*”? They do not, and they cannot, and the inherently corrupting nature of those two historical patterns, that iniquitous indelible of disgrace and hypocrisy has corrupted the very core of America's sense of justice, is ubiquitously present in the Overton vs. Dolansky Case.

The very character and nature of the current judge, Judge Lisa Schall, formerly Lisa Guy-Schall, presiding over the Overton vs. Dolansky case is an affront to the concept of every Enlightenment value, not to mention George Washington's concern for the “*fittest characters to expound the law, and dispense justice*,” and it reflects clearly and unequivocally the inherent hypocrisy of the system who would

³⁵ **Martin Luther King Jr.**, *Letter from Birmingham Jail*, April 16, 1963.

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lead us to believe that it has any remote care or consideration for those Enlightened ideals and values. Her continued presence on the bench of the Superior Court of California denotes a clear and unequivocal violation of the social contract between the government of the state of California and its residents and citizens. Let us examine closely the case against Judge Schall, beginning with her last Public Admonishment by the Judicial Commission's Public.

PUBLIC ADMONISHMENT OF JUDGE LISA GUY-SCHALL³⁶

The Commission on Judicial Performance has ordered Judge Lisa Guy-Schall publicly admonished pursuant to article VI, section 18(d) of the California Constitution and commission rule 115, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

Judge Lisa Guy-Schall has been a judge of the San Diego County Superior Court since 1989. Her current term began in January 2003.

On the night of September 12, 2007, around 9:00 p.m., Judge Guy-Schall drove a vehicle in a reckless manner while under the influence of alcohol, and with a blood alcohol level of approximately 0.09 percent. She drove on the wrong side of a divided highway in Escondido, San Diego County; specifically, she drove southbound in the northbound number one lane of Centre City Parkway, at Grand Avenue. She turned onto Grand Avenue and then rapidly accelerated into a left turn. She was stopped by an officer of the Escondido Police Department who observed her conduct. She failed the field sobriety test and was placed under arrest. A blood test was performed within approximately an hour and yielded a result of approximately 0.09 percent blood alcohol. On October 10, 2007, a complaint was filed charging her with driving under the influence of alcohol, a violation of section 23152(a) of the Vehicle Code, and driving while having a 0.08 percent or higher blood alcohol level, a violation of section 23152(b) of the Vehicle Code.

³⁶ http://cjp.ca.gov/res/docs/Public_Admon/Guy-Schall_99.pdf (Last accessed on October 11, 2012.)

On March 14, 2008, Judge Guy-Schall entered a plea of guilty to alcohol related reckless driving, a violation of Vehicle Code section 23103(a), pursuant to section 23103.5. She was found guilty and convicted of that charge. Judge Guy-Schall's unlawful action described above evidences a serious disregard of the principles of personal and official conduct embodied in the California Code of

Judicial Ethics, including failure to observe high standards of conduct so that the integrity and independence of the judiciary will be preserved (canon 1), and failure to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary (canon 2). Judge Guy-Schall's conduct described above was, at a minimum, improper action pursuant to article VI, section 18(d)(3) of the California Constitution.

In determining that a public admonishment was appropriate, the commission noted that Judge Guy-Schall has been the subject of prior discipline. Specifically, Judge Guy-Schall received a private admonishment in 1995 and a public admonishment in 1999. The judge's 1995 private admonishment addressed her embroilment in a juvenile dependency case. The judge's 1999 public admonishment addressed her abuse of the contempt power. Commission members Hon. Frederick P. Horn, Mr. Peter E. Flores, Ms. Barbara Schraeger, Ms. Maya Dillard Smith, Ms. Sandra Talcott and Mr. Nathaniel Trives voted to impose a public admonishment. Hon. Katherine Feinstein would have imposed a private admonishment. Commission members Hon. Judith D. McConnell and Mr. Marshall B.

Grossman were recused. Mr. Samuel A. Hardage and Mr. Lawrence J. Simi did not participate.

Dated: September 5, 2008

The most immediate question that may come to mind is one that many people who have suffered or even witnessed Judge Schall, formerly known as Lisa Guy-Schall prior to her divorce to Steven Guy³⁷, is "why is this Judge still on the Bench?" Several blogs and many articles³⁸ exist on the Internet asking the same

³⁷ The separation from husband Steven Guy took place found in 2006 in SDSC Case DN144055 and the divorce in 2007 found in SDSC Case DN147397.

³⁸ For example, [The Committee to Expose Dishonest and Incompetent Judges, Attorneys and Public Officials](http://www.noethics.net/News/index.php?option=com_content&view=article&id=1547:is-judge-lisa-schall-of-san-diego-lush-repeat-offender-and-lifelong-porker) has a page entitled *Judge Lisa Schall of San Diego; lush, repeat offender and lifelong porker* at [http://www.noethics.net/News/index.php?option=com_content&view=article&id=1547:is-](http://www.noethics.net/News/index.php?option=com_content&view=article&id=1547:is-judge-lisa-schall-of-san-diego-lush-repeat-offender-and-lifelong-porker)

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question and there is no lack of criticism regarding her professional malice and incompetence:

People often complain about incompetent, biased, and even vicious judges. That's especially the case for litigants cursed with enduring the injustices of family law courts in the Western world. Often the judges are causing more destruction by following bad laws as judges can't make law on their own, aside from the judicial activists who may try only to be often overturned by a higher court. Many times the judges may be more concerned with saving their political futures than with following the laws or dispensing fair rulings. Hence we get illegal and immoral "guilty until proven innocent" rulings that kick a person out of his or her home, ban contact with the kids, and label the person as a pseudo-criminal all without a shred of evidence based upon false allegations or distortions for which the false accuser will never be punished even if his or her lies are proven. For many suffering from the wrongs of the family law courts, this is business as usual. Sometimes, however, a judge really is notably bad in ways beyond the typical judicial incompetence, selfish disregard for the rights of others, and maliciousness when displeased. Based upon public records and accounts of people who have been in her courtroom, Judge Lisa Schall of San Diego County, California, is one such judge.³⁹

While their point is no doubt valid, it missed the proverbial forest for the trees, for her continued presence on the Bench as a Superior Court Judge in the state of California is a seemingly small but exceedingly important piece of evidence of a much larger crime scene that we must, as systems scientists, examine closely in order to get a full appreciation of the system itself. One tree can tell us a lot about a forest if we know how to look and how to interpret. Let's begin with the obvious evidence of corruption in both the Escondido Police Department as well as in the San Diego District Attorney's Office: the reported blood alcohol level. According to the Judicial Commission's Public Admonishment, "Judge Guy-Schall drove a vehicle in a reckless manner... on the wrong side of a divided highway in Escondido, San Diego County; specifically, she drove southbound in the northbound

[judge-lisa-schall-of-san-diego-lush-repeat-offender-and-lifelong-porker-&catid=34:judicial-misfits&Itemid=55](#) (Last accessed on October 11, 2012.)

³⁹ "Why Is San Diego Judge Lisa Schall Still On The Bench?" at <http://angiamedia.com/2010/01/22/why-is-san-diego-judge-lisa-schall-still-on-the-bench/>

number one lane of Centre City Parkway, at Grand Avenue. She turned onto Grand Avenue and then rapidly accelerated into a left turn.” Having driven in that same area, when I first read the report what struck me was “how bloody drunk was she to have turned the wrong way?” followed by “o.09? What? No way was she *only* that drunk!” If you look at a satellite photograph⁴⁰ of the area or (better yet) a street photo⁴¹ you would be taken aback by the fact that the northbound and the southbound are quite separated indeed, which means that Judge Schall must have been quite inebriated to have been so confused as to have made a wrong turn on such an intersection. A blood alcohol level of 0.09 is only slightly above the legal limit of 0.08, minimally so. It does not stand to reason that suddenly, at the smallest measureable quantity above the legal limit one would be so cognitively impaired as to drive the wrong way down a multiple lane, divided highway, in a clearly lit and well designated area. The legal limit for BAL is precisely set at a reasonable level in order to prevent such actions on the part of motorists. We are more likely to correctly conclude that the Judge’s alcohol level was significantly higher than that recorded on the report, or even that the original report was altered to allow for a lesser conviction. A review of the research relating impairment to blood alcohol levels supports this:

BAL .05%-.06%: *You feel warm and relaxed. If you're the shy type when you're sober, you lose your feelings of shyness. Your behavior may become exaggerated, making you talk louder or faster or act bolder than usual. Emotions are intensified, so your good moods are better and your bad moods are worse. You may also feel a mild sense of euphoria.*

BAL .08%-.09%: *You believe you're functioning better than you actually are. At this level, you may start to slur your speech. Your sense of balance is probably off, and your motor skills are starting to become impaired. Your ability to see and hear clearly is diminished. Your judgment is being affected, so it's*

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<http://maps.google.com/maps?q=Centre+City+Parkway,+at+Grand+Avenue+Escondido+California&hl=en&ll=33.119267,-117.086535&spn=0.002462,0.004399&t=h&z=17&vpsrc=6> (Last accessed on October 11, 2012.)

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<http://maps.google.com/maps?q=Centre+City+Parkway,+at+Grand+Avenue+Escondido+California&hl=en&ll=33.119195,-117.08662&spn=0.002462,0.004399&sll=33.119166,-117.086599&sspn=0.006295,0.006295&layer=c&cbp=13,152.26,,0,8.05&cbll=33.119195,-117.086617&t=h&z=17&vpsrc=0&iwloc=A&panoid=07Jhh9KUEG-5rxrls-vc-A> (Last accessed on October 11, 2012.)

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difficult for you to decide whether or not to continue drinking. Your ability to evaluate sexual situations is impaired. Students may jokingly refer to this state of mind as beer goggles, but this BAL can have serious repercussions. See the pages on Sex and Alcohol: A Risky Relationship for how to protect yourself.

BAL .10%-.12%: At this level, you feel euphoric, but you lack coordination and balance. Your motor skills are markedly impaired, as are your judgment and memory. You probably don't remember how many drinks you've had. Your emotions are exaggerated, and some people become loud, aggressive, or belligerent. If you're a guy, you may have trouble getting an erection when your BAL is this high.

BAL .14%-.17%: Your euphoric feelings may give way to unpleasant feelings. You have difficulty talking, walking, or even standing. **Your judgment and perception are severely impaired.** You may become more aggressive, and there is an increased risk of accidentally injuring yourself or others. This is the point when you may experience a blackout.⁴²

In order to drive on the wrong side of a divided highway your blood alcohol level is much more likely to be in the last category of **BAL .14%-.17%**, rather than in the first illegal category. In fact one source states precisely this: "A blood test proved an alcohol content twice the legal limit."⁴³ What is the penalty for a violation of section 23152(b) of the Vehicle Code? We discover that a violation of said Vehicle Code as a **first offense** is a fine of \$1,560.00 to \$1,800.00 plus a 6 month loss of license, plus **mandatory jail time**⁴⁴. However, Schall was allowed to *plea-bargain* by the district attorney's office to a lesser reckless driving charge of "driving the wrong way" in March 2008, which carries the significantly lesser penalty of a **court fine of \$594.00**⁴⁵: a slap on the wrist to be sure. It is clear now why the police report would be altered or originally censured to show the lowest possible amount of illegal alcohol present in the Judge's blood to justify the DUI arrest while at the same time not making the offer for plea bargain to a minor

⁴² http://www.factsontap.org/factsontap/naked_truth/by_the_numbers.htm

⁴³ http://www.noethics.net/News/index.php?option=com_content&view=article&id=1547:is-judge-lisa-schall-of-san-diego-lush-repeat-offender-and-lifelong-porker-&catid=34:judicial-misfits&Itemid=55

⁴⁴ <http://www.sebastiangibsonlaw.com/california-vehicle-code-section-23152abc-traffic-ticket-court-fine-cost.html>

⁴⁵ <http://www.sebastiangibsonlaw.com/california-vehicle-code-section-23103ab-traffic-ticket-court-fine-cost.html>

offense seem what it is: an outrage, a disgrace, and an affront to the very concept of justice itself. Telling the truth on the police report would have made the offer of a plea bargain a political liability – if not impossibility – to the district attorney’s office, all of which again denotes corruption by the Police Department as well the District Attorney’s Office.

If you were alive and/or awake during Watergate or Iran-Contra this will be no surprise to you; it will be just another wonderful reminder that the fish rots from the head down, but stinks all over. Moreover, as the average reader may likely not be schooled in college-level statistics you may not fully comprehend how outrageous this entire incident is until I provide you with another bit of useful information pertaining to implications behind that single ‘event’: According to Kelly Larkin, executive director of Mothers Against Drunk Driving (MADD), “*the average driver drives drunk eighty-seven (87) times before their first arrest*”⁴⁶. This is to say that Judge Schall is very likely not only a drunk driver but also a habitual one, which makes her an *alcoholic* or someone suffering from alcoholism, which opens another can of worms *per se*, in and of itself. We are confronted at once with a representative of the law with no respect for the law, and also with someone affected with a profound psychological, emotional, and behavioral disorder known to impair judgment – and it is precisely that judgment upon which the government of the state of California, and through it the government of the United States, fulfills its commitment to its end of the social contract.

*"Alcoholism is a primary illness or disorder characterized by some loss of control over drinking, with habituation or addiction to the drug alcohol, causing interference in any major life function, e.g. health, family, job, spiritual, friends, legal."*⁴⁷ Alcoholism affects all aspects of a person’s mind-brain functioning including decision making, emotional regulation, and conduct or behavior control. Unlike artists, who have been known to struggle with various forms of addiction, perhaps even related to the management of their creative genius, a Judge depends upon clarity of thought, regulation of their emotions, as well as control over their behavior. People’s lives depend on it, and as the government’s front-line service, as officers in the fulfillment of its side of the social contract, they are the direct and best representation, together with police officers, of its commitment to those *self-evident truths* listed in the Declaration of Independence: “*all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among*

⁴⁶ <http://www.arizonadui.com/duiblog/average-driver-drives-drunk-87-times-dui-charges-contactphoenix-dui-lawyer-today.html>

⁴⁷ <http://www.alcoholism-and-drug-addiction-help.com/definition-of-alcoholism.html>

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these are Life, Liberty, and the Pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed”. What about George Washington’s commitment to “the selection of the fittest characters to expound the law, and dispense justice”? I have treated alcoholics in private as well as group therapy; their problems are profound and all-pervasive in their lives. Not to say anything disparaging about my former patients, but no one should consent to being judged by a drunk-driver, on both moral as well as professional grounds.

We do not consent to the likes of Judge Schall on moral grounds because, when we consider that any adolescent is fully aware of the “don’t drink and drive” ethical obligation of a responsible citizen entrusted with the privilege of driving, or when we consider that in 2007 drunk driving killed 15,387 people in the United States, or that in 2008 1,198 people were killed by drunk drivers in the state of California⁴⁸ we do not find Judge Schall apt to pass judgment on anything – not even an ice-skating contest. According to the Jellinek Chart of Alcohol/Drug Addiction and Recovery, Judge Schall is (optimistically speaking) much like the country itself – somewhere between the CRUCIAL PHASE where Efforts to Control Fail Repeatedly where one tries unsuccessfully to prevent excessive drinking and the CHRONIC PHASE of Moral Deterioration where one’s code of ethics breaks down.⁴⁹ In retaining her position as legal adjudicator in the critical position of dispenser of law and justice, the state of California stands in total hypocrisy, effectively undermining – even mocking – all efforts to educate our youth on the social values of morality and common decency. That a Judge, especially a Family Court Judge, empowered with sentencing parents based on their moral and cognitive ability to properly raise their own children, be allowed to continue to exercise that position is indeed a “serious disregard of the principles of personal and official conduct embodied in the California Code of Judicial Ethics,” for it indeed proves that in practice there is no such code. It does not fail “to observe high standards of conduct” because the judiciary has no “integrity” to be “preserved”. And as far as “public confidence in the integrity and impartiality of the judiciary”, the state of California need not continue to feign to concern itself with public opinion because the opinion of the (informed) public shows no such “confidence” – it drowned long ago in an ocean of righteous indignation.

⁴⁸ <http://www.alcoholalert.com/drunk-driving-statistics.html> (Last accessed on October 11, 2012.)

⁴⁹ http://www.dioceseoflansing.org/catholic_charities/bcoaaod/jellinek_chart.pdf

We object to Judge Schall professionally because (be it because of the content of her character or of her bloodstream) her judgment is bad, often maliciously so, as an earlier Public Admonishment also by the Judicial Commission resulted from her abuse of the contempt of court power which spitefully landed an innocent woman in jail for five days:⁵⁰

PUBLIC ADMONISHMENT OF JUDGE LISA GUY-SCHALL

The Commission on Judicial Performance has publicly admonished Judge Lisa Guy-Schall of the San Diego County Unified Superior Court. The admonishment is attached.

The commission is composed of six public members, three judges and two lawyers. One of the public member positions is currently vacant. The Chairperson is the Honorable Daniel M.

Hanlon of the Court of Appeal, First Appellate District in San Francisco.

PUBLIC ADMONISHMENT OF JUDGE LISA GUY-SCHALL

The Commission on Judicial Performance has ordered Judge Lisa Guy-Schall publicly admonished pursuant to Article VI, section 18(d) of the California Constitution and Commission Rule 115, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

On December 18, 1995, Joanna Slivka appeared before Judge Guy-Schall for a hearing on a petition for a restraining order against Ms. Slivka. During the hearing, Ms. Slivka began yelling and acting aggressively, and Judge Guy-Schall ordered her out of the courtroom. While Ms. Slivka was outside the courtroom, Judge Guy-Schall had her bailiff ask Ms. Slivka if she would be willing to reappear in court and keep herself under control; the bailiff reported to the judge that Ms. Slivka had responded that if the judge would not allow her to tell her story, she would probably “go off” again. In Ms. Slivka’s absence, without citing her for contempt or having her returned to the courtroom, Judge Guy-Schall found her in contempt and sentenced her to five days in jail. The order issued by Judge Guy-Schall stated that Ms. Slivka was in direct contempt and was to serve five actual days in jail. With respect to the facts underlying the finding of contempt, the

⁵⁰ http://cjp.ca.gov/res/docs/Public_Admon/Guy-Schall_99.pdf (Last accessed on October 11, 2012.)

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order stated, “full order and findings are set forth in the reporter’s transcript that is order [sic] this date.”

Ms. Slivka was taken into custody outside the courtroom and remained in custody for five days.

Judge Guy-Schall’s actions constituted an abuse of the contempt power. By failing to return

Ms. Slivka to court to inform her that she was in contempt, failing to give her a chance to respond to the contempt order, and finding her in contempt in her absence, Judge Guy-Schall failed to follow the required procedures for holding an individual in contempt of court. (See, *Ryan v. Commission on Judicial Performance* (1988) 45 Cal.3d 518, 533, in which the commission and the California

Supreme Court found that a judge committed willful misconduct by holding a litigant in contempt in her absence and incarcerating her, for a remark uttered as she left the courtroom.) The contempt order entered by Judge Guy-Schall failed to state on its face facts sufficient to constitute a contempt, as also required by law. (See, *In re Baroldi* (1987) 189 Cal.App.3d 101, 110; *Cannon v. Commission on Judicial Qualifications* (1975) 14 Cal.3d 678, 694.) Judge Guy-Schall, who had been a judge for ten years at the time of the incident, was obligated to know or research proper contempt procedures. (See, *Cannon*, supra, 14 Cal.3d at p. 694; *Ryan*, supra, 45 Cal.3d at p. 533.)

The contempt power, which permits a single official to deprive a citizen of his fundamental liberty interest without all of the procedural safeguards normally accompanying such a deprivation, must be used with great prudence and caution. It is essential that judges know and follow proper procedures in exercising this power. (See, *Furey v. Commission on Judicial Performance* (1987) 43

Cal.3d 1297, 1314; *Ryan v. Commission on Judicial Performance*, supra, 45 Cal.3d at p. 533;

Cannon v. Commission on Judicial Qualifications, supra, 14 Cal.3d at p. 694.) Judge Guy-Schall has informed the commission that this is the only instance in which she has found an individual in contempt. However, she has acknowledged no problems in her handling of this matter.

“She has acknowledged no problems in her handling of this matter”.

Abusing the “contempt power”, which enables a Judge, by the power vested in him or her as a representative of the state “to deprive a citizen of his fundamental liberty interest without all of the procedural safeguards normally accompanying such a deprivation” is of course not a problem for Judge Schall because she holds the

words “Liberty and Justice for all” in as much contempt as one would expect from a person not only publicly admonished, but also privately admonished in 1995 by the same Commission on Judicial Performance for her Misconduct in a Juvenile Dependency case:

Prior to her current involvement in San Diego family law cases, Schall was previously a judge in civil cases. Prior to that, she was a judge in juvenile court. In 1995, she was privately admonished over his misconduct in a juvenile dependency case. Details are not available as the Commission on Judicial Performance has not yet published adequate information on her actions.⁵¹

Judge Schall’s iniquities fill pages of Internet blogs and websites, including her alleged improper involvement in political activities⁵² – and I have yet to denounce her collusive contribution to the judicial abomination known as Overton vs Dolansky. The answer to the obvious question, “Who made her a Judge?” is California’s then-Governor Deukmejian did back in 1985, and she has continued to be re-elected term after term since that point in time. Provided her ongoing pattern of delinquent, incompetent and/or malicious behavior, how did she manage to retain her position on the bench? A local website provides three potential reasons. I will list the first two here:

1. *Nobody bothers to run against her. In the June 2008 election immediately after her drunk driving fiasco, she wasn’t even on the ballot and won automatic re-election simply because nobody else ran for the office. When you look at the judicial races for that June 2008 election, you see that out of 51 judges up for election, only 3 races were contested. The other 48 judges won by default.*

⁵¹ <http://crispe.org/blog/2010/11/convicted-drunk-driving-judge-lisa-schall-is-still-on-the-bench-after-harming-the-public/>

⁵² “Attorney Michael Aguirre filed a complaint against Schall for her involvement in the re-election campaign of Governor George Deukmejian in what appears to be a possible violation of the Code of Judicial Conduct. This is the same person who appointed her to San Diego Municipal Court in 1985 and then to San Diego Superior Court in 1989.”
<http://crispe.org/blog/2010/11/convicted-drunk-driving-judge-lisa-schall-is-still-on-the-bench-after-harming-the-public/>

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2. *Incumbents have an excessive advantage, especially in elections in which the public has little idea of the basis for selecting the best candidate. Judicial elections are a prime example of this sort of election.*⁵³

The third reason is the most interesting, albeit the most iniquitous one because it speaks directly to the inherently *self-corrupting* and *self-perpetuating* nature of the entire system, with the Commission on Judicial Performance just as guilty as the Escondido Police Department and the San Diego District Attorney's office:

3. *... Schall's abusive behavior in December 1995 wasn't publicly reprimanded until October 1999, nearly four years later. That's conveniently long after she stood for re-election in 1996 and well before she stood for re-election again in 2002. Schall's drunk driving conviction in March 2008 wasn't publicly reprimanded until half a year later, conveniently after the election in June 2008.*

What kind of confidence can the public have in courts that employ obnoxious drunk drivers who abuse people's civil rights? (Or in governments that collude to have them re-elected by manipulation or withholding of evidence material to their campaign?) It's no wonder the public sentiment in California is that its courts are corrupt, slow, unjust, and even abusively illegal when the entire judicial system, from police officers, to the district attorney's office, to judges, and finally the Commission on Judicial Performance form what amounts to a syndicate of black-collar crime.

We have now arrived full circle to revisit some of the Jefferson quotes presented at the opening of the present chapter. Jefferson realized that “*When governments fear the people, there is liberty*”; and when to the contrary, “*When the people fear the government, there is tyranny*.” Judge Schall, as well as the rest of the judges in *Overton vs. Dolansky*, is a vivid example of such tyranny. We Americans came into being with the Declaration of Independence and the universal values it captures; but we also came into being as the greatest slave owners and land thieves in the history of our species. Judge Schall is a perfect example of the manner in which “*Law is often but the tyrant's will, and always so when it violates the right of an individual*.” Why does the government not fear its People? Because

⁵³ <http://crispe.org/blog/2010/11/convicted-drunk-driving-judge-lisa-schall-is-still-on-the-bench-after-harming-the-public/>

all too often, “Timid men prefer the calm of despotism to the tempestuous sea of liberty”; the system is abusive because it can be, because as the People we have been so busy carried away with our own private interests that we failed to realize that even a relatively small injustice to one is a potentially great injustice awaiting us all. In the words of Friedrich Gustav Emil Martin Niemöller (14 January 1892 – 6 March 1984), a German Protestant pastor and social activist,

*When the Nazis came for the communists,
I remained silent;
I was not a communist.*

*When they locked up the social democrats,
I remained silent;
I was not a social democrat.*

*When they came for the trade unionists,
I did not speak out;
I was not a trade unionist.*

*When they came for the Jews,
I remained silent;
I wasn't a Jew.*

*When they came for me,
there was no one left to speak out.⁵⁴*

What the White People of this country did not understand is that when their government continued to allow the enslavement and the segregation of the Black, they were allowing the potential enslavement and segregation of ALL Americans; when they allowed their government to break treaty after treaty, and to illegally dispossess and commit war crimes against the Reds, they were potentially allowing their government to commit such acts against ALL Americans; when the White People allowed the government to treat Blacks as lab rats for forty years – four decades – in the Tuskegee syphilis experiment, they allowed themselves to be potentially treated as lab rats; any and every crime the government commits against one of us is a precedent, a standard operating

⁵⁴ http://en.wikiquote.org/wiki/Martin_Niemöller

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procedure, the government will use against us all – White, Black, Brown, Yellow or Red, to the government who in the end only recognizes and serves GREEN, our race and humanity matters little.

“What country can preserve its liberties if its rulers are not warned from time to time that their people preserve the spirit of resistance?” asks Thomas Jefferson, and the answer is obvious given the present reality of this country. We cannot pay the price of freedom because we are too ignorant to realize what is happening and too apathetic to care. We as a nation have been, and are, too overtly anesthetized in the self-righteous delusion of our own hype to be able to even vaguely interpret the meaning of the phrase: *“The price of freedom is eternal vigilance.”* What is blatantly obvious is that nothing remains – if there ever was – of the values that represented the Declaration of Independence and that inspired the Constitution. As the details unfold of Overton vs. Dolansky, and we compare the corruption of several Judges, we will come to realize just how deep the rabbit hole of Anglo-American injustice runs.

However, some of us still believe that *“A free people [claim] their rights as derived from the laws of nature, and not as the gift of their chief magistrate”* and that *“When wrongs are pressed because it is believed they will be borne, resistance becomes morality”*. As a Native American, a proud descendant of the Cherokee, my father taught and encouraged the study of the Native American peoples resistance to the U.S. government, lessons which I in turn taught and encouraged among my own children. The Native American stands unique in his moral resistance against the inhumane tyranny and genocide of the United States. At the present moment, and like so many other times during the years I have struggled in vain against the injustice of the California Courts, I am reminded of Chief Joseph of the Nez Perce. Known to his people as In-mut-too-yah-lat-lat (“Thunder coming up over the land from the water”), he is best remembered for his resistance to the U.S. Government's attempts to force his tribe onto reservations. In 1855 “Old Joseph” or “Joseph the Elder”, Chief Joseph's father, signed a treaty with the U.S. government that allowed the Nez Perce to retain much of their traditional lands. However, in 1863 the U.S. government redacted another treaty that rescinded their previous commitment, drastically reducing the amount of land agreed upon in the previous treaty. Old Joseph maintained that this second treaty was never to be agreed to by his people.⁵⁵ The Nez Perce became divided between Head Chief Lawyer and one of his allied chiefs who signed the treaty on behalf of the Nez

⁵⁵ <http://www.powersource.com/gallery/people/joseph.html>

Perce Nation, and Old Joseph and several other chiefs who, opposed to selling their lands, did not sign. "The 'treaty' Nez Perce moved within the new Idaho reservation's boundaries, while the 'non-treaty' Nez Perce remained on their lands. Joseph the Elder demarcated Wallowa land with a series of poles, proclaiming, 'Inside this boundary all our people were born. It circles the graves of our fathers, and we will never give up these graves to any man.'"⁵⁶

Chief Joseph succeeded his father as chief in 1871. Prior to his death, the Joseph the Elder advised his son:

My son, my body is returning to my mother earth, and my spirit is going very soon to see the Great Spirit Chief. When I am gone, think of your country. You are the chief of these people. They look to you to guide them. Always remember that your father never sold his country. You must stop your ears whenever you are asked to sign a treaty selling your home. A few years more and white men will be all around you. They have their eyes on this land. My son, never forget my dying words. This country holds your father's body. Never sell the bones of your father and your mother.

Chief Joseph commented "I clasped my father's hand and promised to do as he asked. A man who would not defend his father's grave is worse than a wild beast."⁵⁷ In 1873 Chief Joseph successfully negotiated a treaty with the U.S. government which allowed his people to remain in the Wallowa valley, but again in 1877 the government went back on its word and required the Nez Perce to vacate the area or come under attack by the U.S. Army, and so began Chief Joseph's legendary moral resistance to the immoral tyranny of the U.S. government as he tried to lead 800 of his people – with 2,000 U.S. soldiers in pursuit – on a 1100 mile journey across Idaho and Montana to Canada, fighting the U.S. Army all along their way. He was trapped just forty miles from Canada, and after a five-day fight, Chief Joseph and his remaining 431 remaining Nez Perce were defeated. On October 5, 1877 at Bears Paw, he made his speech of surrender:⁵⁸

I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohulhulsote is dead. The old men are all dead. It is the young men who say yes or no. He who led the young men is dead.

⁵⁶ http://en.wikipedia.org/wiki/Chief_Joseph

⁵⁷ http://en.wikipedia.org/wiki/Chief_Joseph

⁵⁸ <http://www2.gsu.edu/~eslmlm/chiefjoseph.html>

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It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills and have no blankets, no food. No one knows where they are--perhaps freezing to death. I want to have time to look for my children and see how many I can find. Maybe I shall find them among the dead.

Hear me, my chiefs. I am tired. My heart is sick and sad. From where the sun now stands, I will fight no more forever.

For his principled resistance to the removal, Chief Joseph became renowned as a humanitarian and peacemaker. “In his last years Joseph spoke eloquently against the injustice of United States policy toward his people and held out the hope that America's promise of freedom and equality might one day be fulfilled for Native Americans as well. An indomitable voice of conscience for the West, he died in 1904, still in exile from his homeland, according to his doctor “of a broken heart”.⁵⁹

Throughout the many years of Overton vs. Dolansky, and the numerous fought battles, and mostly lost, in the Superior Court and all of the lost battles in the Appellate Court, many while I myself was literally fighting for my life on another plane, I have had ample opportunity to reflect and empathize with Chief Joseph’s predicament in particular, and with the predicament of the Native, Hispanic, and African Americans in general. Overton vs. Dolansky, where corruption, perjury, and inhumanity have prevailed over truth, honor, and justice, is but a microcosm of the history and the reality of the United States. Judge Schall, like the three other judges that preceded her in this case, holds a perfect self-similarity to the government that grants her the authority to abuse her power as she wills and sees fit. Overton vs. Dolansky is a series of losing battles in which I was illegally forced by a corrupt legal system to concede more and more of the rights of my children – their rights to their multi-ethnic identity, to a father and my son Alex’s right to proper care and treatment – to the will and convenience of an opponent whose only considerations have been to make our children Jewish to the exclusion of all else, and her own property to the exclusion of “our children”. And, as in all else throughout American history and society, the prime mover and

⁵⁹ http://en.wikipedia.org/wiki/Chief_Joseph

motivator has not been White or Black, or Brown or Yellow or Red, but *Green* – money – and lots of it.

I am conscious of Judge Schall's Court Order that quite conveniently forbids me from publically divulging details of this Case, but I refuse to recognize her moral authority over me. Hers, as that of the other three judges in this Case, is the hand of tyranny, which by natural law I am morally bound to resist by any means at my disposal. Therefore, knowingly do I continue to engage in my personal campaign of civil disobedience as part of a moral obligation to an ongoing five-hundred year resistance to the tyranny of racism, corruption, genocide and injustice to which my People, the African People, the Hispanic People, the Native People – the American People – have been subjected since even prior to the founding of the United States. In honor of Chief Joseph, who had no other option than to surrender and to *"fight no more forever,"* and in honor of my children who have been, are, and will always be, together with the ideals of *"Life, Liberty, and the Pursuit of Justice"* and *"Freedom and Justice for All"* the *real* collateral damage of this case, the *human* collateral damage of this case, I write and divulge this manuscript. For with the truths and ideas described in its immortal pages I say to my ancestors, to my children, to my students and followers, and to the citizens of the entire world: *yesterday, today and tomorrow, I have and will fight forever evermore.* In doing so, my own heart soars.

CHAPTER TWO

“I AM WHAT I AM BECAUSE OF WHO WE ALL ARE”⁶⁰

The New York Times: “U.S. prison population dwarfs that of other nations”

The United States has less than 5 percent of the world's population. But it has almost a quarter of the world's prisoners. Indeed, the United States leads the world in producing prisoners, a reflection of a relatively recent and now entirely distinctive American approach to crime and punishment. Americans are locked up for crimes — from writing bad checks to using drugs — that would rarely produce prison sentences in other countries. And in particular they are kept incarcerated far longer than prisoners in other nations. Criminologists and legal scholars in other industrialized nations say they are mystified and appalled by the number and length of American prison sentences. The United States has, for instance, 2.3 million criminals behind bars, more than any other nation, according to data maintained by the International Center for Prison Studies at King's College London. China, which is four times more populous than the United States, is a distant second, with 1.6 million people in prison. (cont...)⁶¹

“No Future Without Forgiveness”, Chapter 6, “A Victim Hearing”

In a real sense we might add that even the supporters of apartheid were victims of the vicious system which they implemented and which they supported so enthusiastically. This is not an example for the morally earnest of ethical indifferentism. No, it flows from our fundamental concept of ubuntu. Our humanity was intertwined. The humanity of the perpetrator of apartheid's atrocities was caught up and bound up in that of his victim whether he liked it or not. In the process of dehumanizing another, in inflicting untold harm and suffering, inexorably the perpetrator was being dehumanized as well. I used to say that the oppressor was dehumanized as much as, if not more than, the oppressed and many in the white community believed that it was just another provocative hatemongering slogan by that irresponsible ogre, Tutu, that most whites at the time most loved to hate.⁶²

Africa is the birthplace of our species. It is no wonder therefore that the most complete view of what it means to be human would also arise from within the African continent. The African cultural tradition of *ubuntu* as it is called in the Bantu language is known for its systems view of the human being. An integral part

⁶⁰ Ubuntu: “From a translation offered by Liberian peace activist Leymah Gbowee, found at [http://en.wikipedia.org/wiki/Ubuntu_\(philosophy\)](http://en.wikipedia.org/wiki/Ubuntu_(philosophy)).

⁶¹ <http://www.nytimes.com/2008/04/23/world/americas/23iht-23prison.12253738.html?pagewanted=all>

⁶² Tutu, Desmond (1999). *No Future Without Forgiveness*. eISBN: 978-0-307-56628-7, page 80.