

# Co-Editor's Note



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To all our readers,

It is our honor to serve as Co-Editors-In-Chief of the Diversity and Social Justice Forum for the 2023-2024 academic year. We are proud to lead and be a part of an organization that is committed to implementing notions of diversity through the inclusion of a broad scope of unique perspectives, ideas, and backgrounds. To put our mission into metaphorical terms, diversity is having a seat at the table, and inclusion is having the opportunity to speak.

On behalf of the Diversity and Social Justice Editorial Board, we invite you to immerse yourself in this new issue of our annual publication, Volume VII – Intersectionality: The Critical Foundation of Diversity and Social Justice.

In this issue, we embark on a crucial journey through the lens of intersectionality. This powerful framework challenges us to move beyond singular narratives of oppression and embrace the complex tapestry of identities that shape our lived experiences.

It is easy to fall into the trap of viewing marginalization as a series of isolated categories: race, gender, class, sexuality, ability among others. Yet, intersectionality reminds us that these identities do not exist in a bubble. They work together, intersect, overlap, and intertwine, forging unique realities that magnify or dampen the impact of discrimination, privilege, and power dynamics.

The articles you will encounter here delve into the rich landscape of intersectionality through diverse perspectives. You will hear from voices navigating the intersection of international law and its negative impact on indigenous communities, witness the challenges of cultural appropriation, explore the nuanced experiences of those navigating homelessness, and understand the impact overturning the access to abortion has on women.

As you delve into these pages, remember that intersectionality is not a static theory, but a dynamic lens that allows us to see the world in its full, sometimes messy, complexity. It is a tool for empathy, a guide for action, and ultimately, a pathway towards a more inclusive and liberated future. We hope that this publication not only encourages you to challenge your biases, but also inspires you to immerse yourself in intersectional discourse to advocate for the implementation of change in various legal spaces.

Let the conversations begin.



### **Professor Ernesto Hernández-López, Advisor**

Professor Hernández joined Chapman University Fowler School of Law in 2005 and was promoted to Professor of Law with tenure in 2011. His current research focuses on international law, post-colonialism, law and food, and immigration. Professor Hernández has been a member of the Executive Committee of the Association of American Law Schools (AALS) Section on Minority Groups and Section on Food and Agriculture. He earned his J.D. from the George Washington University School of Law in 2001. He earned an M.A. with Academic Excellence in Latin American Studies from Georgetown University in 1996 and a B.A. with a double major in Latin American Studies (Honors) and History from the University of Texas at Austin in 1994.

## Introduction

This year, the Diversity and Social Justice Forum(DSJ) board chose intersectionality as its theme for publication. First described by Professor Kimberlé Crenshaw, intersectionality refers to how race, class, gender, and other identities interact with each other to feed injustice. Initially, Crenshaw illustrated how a narrow view of discrimination by courts disenfranchised black women along racial and along gendered lines. The harm with legal reasoning is when it isolates identities and examines issues as solely about women or solely about race. It ignores how identities interact and often support systemic forms of discrimination. In the late 1980s, Crenshaw pointed to racism and discrimination still experienced, if not growing, decades after civil rights reforms and legal bans on discrimination. Since then, intersectionality has become an invaluable analytical tool to chart how discrimination functions, adapts, and evades effective scrutiny from existing legal doctrine.

For this DSJ issue, the concept inspires the authors to see how intersectional identities are foundational in pursuing social justice. The authors show how to work for social justice, by examining legal mechanisms and by isolating the identities they establish, inspire, or strengthen. Noting how multiple identities interact and evade legal remedy, the authors explain how injustice develops.

Identity conflation is historic and adapts. Kala Gabler notes international law's long-term negative impact on indigenous persons, a process that is often centuries old. "International Law's Shortcoming in Addressing Environmental Destruction" illustrates how doctrine prioritizes individualism and private property, to exclude native persons, historically to bolster empire and capitalism and currently to contaminate the environment.

Next, the law indicates where the injustice lies and where policy can focus. Valeria Salceda focuses on contemporary forms of extraction in "Cultural Appropriation and the Role of the Law." Examining intellectual property and cultural heritage law in the United States, Mexico, and New Zealand, Salceda argues that the best way to address cultural appropriation may be to pursue political reforms.

Intersectional analysis also helps looking to the future, as Lauren K. Carroll and Kaitlyn N. Spear demonstrate for protecting abortion access and when tackling employment discrimination, respectively. Carroll describes the Supreme Court's recent ruling overturning access to abortion and its impact on women in federal prisons. In "Post-*Dobbs* Abortion Access for Federally-Incarcerated Women," Carroll demonstrates the significance of identities as women and as incarcerated. Importantly, the overlapping effect of state and federal laws echoes what Crenshaw described earlier. Carroll suggests legislative options to address these intersectional harms.

Spear also pinpoints how a specific identity is subject to injustice: homeless workers. "A Shelter for Homelessness" explains how job applicants, if homeless, can be discriminated against. Despite attempts to outlaw employers from discriminating, usually referred to as "Ban the Address," this practice continues. Spear proposes ways to remedy this with state and federal law and by focusing on potential discrimination after the early part of the hiring process.

These two articles demonstrate how legal doctrine seeks blanket solutions, but in the process overlooks significant harms. By illustrating significant but specific identities, incarcerated women and homeless job seekers, the authors look to concrete ways to reform and address these injustices.

In sum, this DSJ issue points to how powerful and adaptable intersectionality is an analytical tool. The four articles show how the concept helps spot long-term trends and their modifications, where reforms may help more than legal remedies, and ways that understudied identities should inspire legislative attention. I have no doubt that these articles will inspire new ways to observe injustice and fight for social justice in any reader, whether they are a law student, researcher, policymaker, or practitioner.