

**IS  
JUSTICE  
POSSIBLE?**

**THE ELUSIVE PURSUIT  
OF WHAT IS RIGHT**

J. PAUL NYQUIST



# RESOURCES

## **Books Through Bars**

“A volunteer-run organization that distributes free books and educational materials to incarcerated people.” |

**[booksthroughbars.org](http://booksthroughbars.org)**

## **Christian Legal Society**

“Seeking Justice with the Love of God.” | **[clsnet.org/legalaid](http://clsnet.org/legalaid)**

## **Families Against Mandatory Minimums**

“Fighting for smart sentencing laws that protect public safety.” | **[famm.org](http://famm.org)**

## **Impact Fund**

“Public Interest Law Non-Profit Organization.” |

**[impactfund.org](http://impactfund.org)**

## **The Innocence Project**

“Litigation and public policy organization dedicated to exonerating wrongfully convicted individuals through DNA testing and reforming the criminal justice system to prevent future injustice.” | **[innocenceproject.org](http://innocenceproject.org)**

## **The International Justice Mission**

“Rescue thousands, protect millions, prove that justice for the poor is possible.” | **[ijm.org](http://ijm.org)**

**John Jay College of Criminal Justice—Prisoner Reentry Institute (PRI)**

“Easing reentry and guiding justice-involved people . . . as they successfully reintegrate into their communities as thriving members of society.” | [johnjaypri.org](http://johnjaypri.org)

**Just Detention International**

“A health and human rights organization that seeks to end sexual abuse in all forms of detention.” | [justdetention.org](http://justdetention.org)

**Just Leadership USA**

“Dedicated to cutting the US correctional population in half by 2030.” | [justleadershipusa.org](http://justleadershipusa.org)

**Legal Services for Prisoners with Children**

“Organizes communities impacted by the criminal justice system and advocates to release incarcerated people, to restore human and civil rights, and to reunify families and communities.” | [prisonerswithchildren.org](http://prisonerswithchildren.org)

**National Criminal Justice Organization**

“A national voice in shaping and implementing criminal justice policy.” | [www.ncja.org](http://www.ncja.org)

**National H.I.R.E. Network**

Work to “increase the number and quality of job opportunities available to people with criminal records by changing public policies, employment practices, and public opinion.” | [hirenetwork.org](http://hirenetwork.org)

**Nation Inside**

“A platform that connects and supports people who are building a movement to systematically challenge mass incarceration.” | [nationinside.org](http://nationinside.org)

## RESOURCES

### **Prison Fellowship**

“Prison Fellowship trains and inspires churches and communities—inside and outside of prison—to support the restoration of those affected by incarceration.” | [prisonfellowship.org](https://prisonfellowship.org)

### **RAND Corporation—Prisoner Reentry**

“RAND research has explored how to prevent recidivism through correctional education, the public health issues of prisoner reentry, and the question of prisoner rehabilitation.” | [rand.org/topics/prisoner-reentry](https://rand.org/topics/prisoner-reentry)

### **Reentry Central**

“The national website for news and information on the subject of reentry and related criminal justice issues.” | [reentrycentral.org](https://reentrycentral.org)

### **Sentencing Project**

Working for “a fair and effective U.S. criminal justice system.” | [sentencingproject.org](https://sentencingproject.org)

### **Vera Institute of Justice**

“To urgently build and improve justice systems that ensure fairness, promote safety, and strengthen communities.” | [vera.org](https://vera.org)

### **Women and Prison**

“Promote strategies and actions that challenge the system and the ways that it reproduces all forms of discrimination, violence, and social injustice in the treatment of women and their families.” | [womenandprison.org](https://womenandprison.org)



# NOTES

## Introduction

1. Steve Mills, “Innocent Prisoners Jailed in Same Cell Forge Friendship, and Freedom,” *Chicago Tribune*, December 19, 2015, <http://www.chicagotribune.com/news/ct-innocent-cellmates-met-1220-20151218-story.html>.
2. R. C. Sproul, *One Holy Passion: The Attributes of God* (Nashville: Thomas Nelson, 1987), 110.
3. The best works on social justice include Timothy Keller, *Generous Justice: How God’s Grace Makes Us Just* (New York: Penguin, 2010); Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton: Princeton University Press, 2008); Ken Wytsma, *Pursuing Justice: the Call to Live & Die for Bigger Things* (Nashville: Thomas Nelson, 2013); Barry H. Corey, *Love Kindness: Discover the Power of a Forgotten Christian Virtue* (Carol Stream, IL: Tyndale, 2016).

## Chapter 1: The Starting Point for Justice

1. “Western Theories of Justice: Immanuel Kant,” Internet Encyclopedia of Philosophy, accessed March 19, 2016, <http://www.iep.utm.edu/justwest/#SH4a/>.
2. John K. Roth, ed. *Ethics*, rev. ed. (Pasadena, CA: Salem Press, 2005), 801.
3. Karen Lebacqz, *Six Theories of Justice: Perspectives from Philosophical and Theological Ethics* (Minneapolis: Augsburg Publishing House, 1986), 30.
4. A. W. Tozer, *The Knowledge of the Holy* (Lincoln, NE: Back to the Bible Broadcast, 1961), 113.
5. R. C. Sproul, *One Holy Passion: The Attributes of God* (Nashville: Thomas Nelson, 1987), 111.

## Chapter 3: The Legislative Reason: We Make Unjust Laws

1. Charles J. Ogletree Jr. provides a complete account of this incident in “When Law Fails: History, Genius, and Unhealed Wounds after Tulsa’s Race Riot,” in *When Law Fails: Making Sense of Miscarriages of Justice*, ed. Charles J. Ogletree Jr. and Austin Sarat (New York: New York University Press, 2009), 50–69.
2. Jim Crow laws refer to the formal, codified system of racial apartheid that dominated the American South for three-quarters of a century, beginning in the 1890s. The name Jim Crow apparently comes from a minstrel act.
3. “Letter from a Birmingham Jail,” public domain, accessed August 6, 2016, at University of Pennsylvania’s Africa Studies Center, [https://www.africa.upenn.edu/Articles\\_Gen/Letter\\_Birmingham.html](https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html).
4. Chicago Municipal Code, sec. 36034.

5. "Racial Integrity Laws (1924–1930)," Encyclopedia Virginia (website), accessed May 23, 2016, [http://www.encyclopediavirginia.org/Racial\\_Integrity\\_Laws\\_of\\_the\\_1920s](http://www.encyclopediavirginia.org/Racial_Integrity_Laws_of_the_1920s).
6. "A Shameful History: Eugenics in Virginia," ACLU (website), accessed March 30, 2016, <https://acluva.org/10898/a-shameful-history-eugenics-in-virginia>.

#### **Chapter 4: The Cognitive Reason: We Have Limited Knowledge**

1. For a compelling interview of Brown by George M. Anderson, see "Fourteen Years on Death Row: An Interview with Joseph Green Brown," *AMERICA* magazine, March 29, 1997, accessed May 23, 2016, [www.deathpenaltyinfo.org/14years.pdf](http://www.deathpenaltyinfo.org/14years.pdf).
2. Mary L. Dudziak, "The Case of 'Death for a Dollar Ninety-Five': Miscarriages of Justice and Constructions of American Identity," in *When Law Fails: Making Sense of Miscarriages of Justice*, ed. Charles J. Ogletree Jr. and Austin Sarat (New York: New York University Press, 2009), 25–48.
3. *Ibid.*, 36.
4. See also "Top Ten Wrongful Convictions Overturned by DNA Evidence," Listland (website), accessed March 19, 2015, <http://www.listland.com/top-10-wrongful-convictions-overturned-by-dna-evidence>.
5. See "DNA Exonerations in the United States," Innocence Project (website), accessed May 23, 2016, <http://www.innocenceproject.org/dna-exonerations-in-the-united-states>.
6. Adam Benforado, *Unfair: The New Science of Criminal Injustice* (New York: Crown, 2015), 101.
7. Quoted by Anderson, "Fourteen Years on Death Row," 20.

#### **Chapter 5: The Spiritual Reason: We Have Darkened Understanding**

1. Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton: Princeton University Press, 2008), 40.

#### **Chapter 6: The Neurological Reason: We Have Implicit Bias**

1. Jon Cohen and Dan Balz, "Race Shapes Zimmerman Verdict Reaction," *Washington Post*, July 22, 2013, [https://www.washingtonpost.com/politics/race-shapes-zimmerman-verdict-reaction/2013/07/22/3569662c-f2fc-11e2-8505-bf6f231e77b4\\_story.html](https://www.washingtonpost.com/politics/race-shapes-zimmerman-verdict-reaction/2013/07/22/3569662c-f2fc-11e2-8505-bf6f231e77b4_story.html).
2. David Brooks, "Beware Stubby Glasses," *New York Times*, January 10, 2013, <http://www.nytimes.com/2013/01/11/opinion/brooks-beware-stubby-glasses.html>.
3. "Boston University's 141st Commencement Baccalaureate Address: Nancy Hopkins," Boston University (website), May 18, 2014, <http://www.bu.edu/news/2014/05/19/boston-universitys-141st-commencement-baccalaureate-address-nancy-hopkins>.
5. Cheryl Staats et al., *State of the Science: Implicit Bias Review 2015*, Kirwan Institute, 22, PDF accessed July 8, 2016, <http://kirwaninstitute.osu.edu/researchandstrategicinitiatives/implicit-bias-review>.
6. "The Effect of Race and Sex on Physicians' Recommendations for Cardiac Catheterization," *New England Journal of Medicine*, February 25, 1999, accessed May 23, 2016, <http://www.nejm.org/doi/full/10.1056/NEJM199902253400806>.

## NOTES

7. "Racial Disproportionality in School Discipline: Implicit Bias is Heavily Implicated," Kirwan Institute (blog), February 5, 2016, <http://kirwaninstitute.osu.edu/racial-disproportionality-in-school-discipline-implicit-bias-is-heavily-implicated>.
8. Ibid.
9. *Housing Discrimination Against Racial and Ethnic Minorities 2012*, PDF accessed April 15, 2016, [http://www.huduser.gov/portal/Publications/pdf/ HUD-514\\_HDS2012.pdf](http://www.huduser.gov/portal/Publications/pdf/HUD-514_HDS2012.pdf).
10. M. W. Anderson and V. C. Plaut, quoted in Cheryl Staats, *State of the Science: Implicit Bias Review 2014*, Kirwan Institute, 59, PDF accessed July 8, 2016, <http://kirwaninstitute.osu.edu/researchandstrategicinitiatives/implicit-bias-review>.
11. Marianne Bertrand and Sendhil Mullainathan, "Are Emily and Greg More Employable Than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination," *American Economic Review* 94, no. 4 (September 2004): 991–1013.
12. Cheryl Staats et al., *State of the Science: Implicit Bias Review 2015*, Kirwan Institute, 22, PDF accessed July 8, 2016, <http://kirwaninstitute.osu.edu/researchandstrategicinitiatives/implicit-bias-review>.
13. Adam Benforado, *Unfair: The New Science of Criminal Injustice* (New York: Crown, 2015), xiv.
14. Wesley Lowery, "Study finds police fatally shoot unarmed black men at disproportionate rates," *Washington Post*, April 7, 2016, [https://www.washingtonpost.com/national/study-finds-police-fatally-shoot-unarmed-black-men-at-disproportionate-rates/2016/04/06/e494563e-fa74-11e5-80e4-c381214de1a3\\_story.html](https://www.washingtonpost.com/national/study-finds-police-fatally-shoot-unarmed-black-men-at-disproportionate-rates/2016/04/06/e494563e-fa74-11e5-80e4-c381214de1a3_story.html).
15. Ibid.
16. Charles Ogletree, Robert J. Smith, and Johanna Wald, "Coloring Punishment: Implicit Social Cognition and Criminal Justice," in *Implicit Racial Bias across the Law*, ed. Justin D. Levinson & Robert J. Smith (New York: Cambridge University Press, 2012), 48.
17. Cheryl Staats and Charles Patton, *State of the Science: Implicit Bias Review 2013*, Kirwan Institute, 39, PDF accessed May 23, 2016, <http://kirwaninstitute.osu.edu/researchandstrategicinitiatives/implicit-bias-review>.
18. Ibid.
19. Staats et al., *Implicit Bias Review 2015*, 13.
20. Sarah Jane Forman, "The #Ferguson Effect: Opening the Pandora's Box of Implicit Racial Bias in Jury Selection," *Northwestern University Law Review* 109, no. 171 (2005): 171–79.
21. Dallas Franklin, "While 'affluenza' teen went free, similar case led to 20 years in prison," News Channel 4 (website), accessed April 27, 2016, <http://kfor.com/2016/02/16/while-affluenza-teen-went-free-similar-case-led-to-20-years-in-prison>.
22. The next chapter to this story was recently written when Couch violated parole and left the country. Arrested at a Mexican resort, he returned to face charges in adult court and was sentenced to two years in prison. Nomaan Merchant, "Judge gives Texas 'affluenza' teen nearly 2 years in jail," April 13, 2016, <http://bigstory.ap.org/article/66a083aa388c415d87708e6439cff6dd/texas-affluenza-teen-have-first-hearing-adult-court>.

23. “Police Accountability Task Force Report” (website), accessed April 27, 2016, <https://chicagopatf.org>.
24. Ibid.
25. Robert. J. Smith and G. Ben Cohen, “Choosing Life or Death (Implicitly),” in Levinson and Smith, *Implicit Racial Bias across the Law*, 229.
26. Ibid., 230.
27. Ibid.
28. Ibid., 232.
29. Ibid., 237.
30. “Studies: Racial Bias Among Jurors in Death Penalty Cases,” Death Penalty Information Center, accessed October 18, 2016, <http://www.deathpenaltyinfo.org/studies-racial-bias-among-jurors-death-penalty-cases>.
31. Smith and Cohen, “Choosing Life or Death (Implicitly),” 233.
32. Adam Benforado, *Unfair: The New Science of Criminal Injustice* (New York: Crown, 2015), 199.
33. Quoted by Smith and Cohen in “Choosing Life or Death (Implicitly),” 229.
34. To view the instrument, see “Project Implicit,” accessed May 23, 2016, <https://implicit.harvard.edu/implicit/education.html>.
35. Julia Edwards, “Justice Dept. mandates ‘implicit bias’ training for agents, lawyers,” Reuters (website), June 27, 2016, <http://www.reuters.com/article/us-usa-justice-bias-exclusive-idUSKCN0ZD251>.
36. See the excellent article by Jennifer K. Elek and Paula Hannaford-Agor, “Implicit Bias and the American Juror,” *Court Review* 51, 116–21, PDF accessed July 8, 2016, <http://www.ncsc-jurystudies.org/-/media/Microsites/Files/CJS/What%20We%20Do/Elek%20%20Hannaford-Agor%202015%20-%20Implicit%20bias%20and%20the%20American%20Juror.ashx>.

### **Chapter 8: Doing Justice in the Political Arena**

1. “The Constitution of the United States,” accessed May 25, 2016, <http://constitutionus.com>.
2. Term coined by Wayne Grudem, *Politics According to the Bible: A Comprehensive Resource for Understanding Modern Political Issues in Light of Scripture* (Grand Rapids: Zondervan, 2010). This term is a right view of the role Christians must play in the political process.
3. Ibid., 69.
4. Stephen V. Monsma, *Pursuing Justice in a Sinful World* (Grand Rapids: Eerdmans, 1984), 22.
5. Outlined in J. Paul Nyquist, *Prepare: Living Your Faith in an Increasingly Hostile Culture* (Chicago: Moody, 2015), 42–45.
6. “Declaration of Independence,” Charters of Freedom (website), accessed May 27, 2016, [http://www.archives.gov/exhibits/charters/declaration\\_transcript.html](http://www.archives.gov/exhibits/charters/declaration_transcript.html).
7. “First Amendment to the United States Constitution,” Wikipedia, accessed May 27, 2016, [https://en.wikipedia.org/wiki/First\\_Amendment\\_to\\_the\\_United\\_States\\_Constitution](https://en.wikipedia.org/wiki/First_Amendment_to_the_United_States_Constitution).
8. Nyquist, *Prepare*, 25–40.
9. The 1997 US Supreme Court decision ruled that the Religious Freedom Restoration Act (RFRA) of 1993 is not applicable to state laws. If a state wishes to defend religious freedoms, it must enact a state law.



## NOTES

10. "Incarceration," The Sentencing Project (website), accessed May 23, 2016, <http://www.sentencingproject.org/template/page.cfm?id=107>.
11. Douglas A. Berman, "Extreme Punishment," in *When Law Fails: Making Sense of Miscarriages of Justice*, ed. Charles J. Ogletree Jr. and Austin Sarat (New York: New York University Press, 2009), 165.
12. Leith Anderson and Galen Carey, *Faith in the Voting Booth: Practical Wisdom for Voting Well* (Grand Rapids: Zondervan, 2016), 132.
13. Charles Ogletree, Robert J. Smith, and Johanna Wald, "Coloring Punishment," in *Implicit Racial Bias across the Law*, ed. Justin D. Levinson & Robert J. Smith (New York: Cambridge University Press, 2012), 45.
14. Adam Benforado, *Unfair: The New Science of Criminal Injustice* (New York: Crown, 2015), 209.
15. National Association of Evangelicals, *Sentencing Reform 1983*, accessed July 15, 2016, <http://nae.net/sentencing-reform>.
16. Reid Wilson, "Tough Texas Gets Results by Going Softer on Crime," *Washington Post*, November 27, 2014, <https://www.washingtonpost.com/blogs/govbeat/wp/2014/11/27/tough-texas-gets-results-by-going-softer-on-crime>.
17. Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton: Princeton University Press, 2008), 75.
18. John D. Sutter, "Silent Crisis: 1 in 5 American kids is poor," CNN.com, September 23, 2014, <http://www.cnn.com/2014/09/23/opinion/sutter-child-poverty-casey-foundation>.
19. "Child Hunger Facts," Feeding America (website), accessed May 23, 2016, <http://www.feedingamerica.org/hunger-in-america/impact-of-hunger/child-hunger/child-hunger-fact-sheet.html>.
20. I applaud the efforts of Anderson and Carey in their book *Faith in the Voting Booth* and urge every concerned Christian to study its helpful, practical contents.
21. R. C. Sproul, *One Holy Passion: The Attributes of God* (Nashville: Thomas Nelson, 1987), 117.

### Chapter 9: Doing Justice in the Public Arena

1. Jennifer Gonnerman, "Before the Law," *New Yorker*, October 6, 2014, <http://www.newyorker.com/magazine/2014/10/06/before-the-law>.
2. Ibid.
3. Jennifer Gonnerman, "Kalief Browder, 1993–2015," *New Yorker*, June 7, 2015, <http://newyorker.com/news/news-desk/kalief-browder-1993-2015>.
4. Richard M. Aborn and Ashley D. Cannon, "Prisons: In Jail But Not Sentenced," *Americas Quarterly* (Winter 2013), accessed July 15, 2016, <http://www.americasquarterly.org/aborn-prisons>.
5. See Daniel Foster, "The Yellow Menace," *National Review*, June 8, 2011, <http://www.nationalreview.com/corner/269986/yellow-menace-daniel-foster>. For a review of the lemonade wars, see Erik Kain, "The Inexplicable War on Lemonade Stands," *Forbes*, August 3, 2011, <http://www.forbes.com/sites/erikkain/2011/08/03/the-inexplicable-war-on-lemonade-stands/#7c8811b82264>.
6. Matt Hickman, "Gary Harrington, Oregon Resident, Sentenced to Jail for Stockpiling Rainwater," *The Huffington Post*, April 10, 2013, [http://www.huffingtonpost.com/2012/08/16/gary-harrington-oregon-water-rainwater\\_n\\_1784378.html](http://www.huffingtonpost.com/2012/08/16/gary-harrington-oregon-water-rainwater_n_1784378.html).

7. For an excellent historical review of the sentencing process, see “Chapter 3: Policies and Practices Contributing to High Rates of Incarceration,” in Jeremy Travis, Bruce Western, and Steve Redburn, eds., *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (Washington, D.C.: National Academies Press, 2014), accessed July 5, 2016, <http://www.nap.edu/read/18613/chapter/5>.
8. Evan Bernick and Paul Larkin, “Reconsidering Mandatory Minimum Sentences: The Arguments for and against Potential Reforms,” The Heritage Foundation (website), February 10, 2014, <http://www.heritage.org/research/reports/2014/02/reconsidering-mandatory-minimum-sentences-the-arguments-for-and-against-potential-reforms>.
9. Chandra Bolzoko, “Why We Let Prison Rape Go On,” *New York Times*, April 17, 2015, <http://www.nytimes.com/2015/04/18/opinion/why-we-let-prison-rape-go-on.html>.
10. “Felony Disenfranchisement,” The Sentencing Project (website), accessed July 6, 2016, <http://www.sentencingproject.org/issues/felony-disenfranchisement>.
11. Steve Schmadeke and Grace Wong, “Eddie Bolden freed: Suburban mom key figure behind release after 2 decades in prison,” *The Chicago Tribune*, April 20, 2016, <http://www.chicagotribune.com/news/local/breaking/ct-charges-dismissed-convicted-murderer-released-met-20160419-story.html>.
12. Ibid.

#### **Chapter 10: Doing Justice in the Personal Arena**

1. “FAQs About Children of Prisoners,” Prison Fellowship (website), accessed July 6, 2016, <https://www.prisonfellowship.org/resources/training-resources/family/ministry-basics/faqs-about-children-of-prisoners>.
2. Charles J. Ogletree Jr., “An Essay on the New Public Defender for the 21st Century,” *Law and Contemporary Problems* 58, no. 1 (1995): 84, PDF accessed July 5, 2016, <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4267&context=lcp>.

#### **Chapter 11: The Reign of the Just King**

1. See Daniel 2 and Revelation 20–21.
2. For the other three servant songs, see Isaiah 49:1–13; 50:4–11; 52:13–53:12.
3. Derek Kidner, *Psalms 1–72* (Downers Grove, IL: InterVarsity Press, 1973), 254.

#### **Chapter 12: The Verdict of the Righteous Judge**

1. For a good synopsis of all the leads followed to find the murderer of the “boy in the box,” see “The Boy in the Box Mystery,” America’s Unknown Child (website), accessed May 23, 2016, <http://americasunknownchild.net/summary.htm>.
2. See Matthew 6, 19, Luke 19, and Hebrews 6 for examples of rewards in the New Testament.
3. For examples, see Revelation 5:13 (“To him who sits on the throne and to the Lamb be blessing and honor and glory and might forever and ever!”) and 6:16 (“Fall on us and hide us from the face of him who is seated on the throne, and from the wrath of the Lamb”).

## NOTES

4. John 5:27.
5. Revelation 20:7–10 describes the last revolt of Satan and the destruction of his army—which apparently consists of unbelievers who refused to trust in Jesus despite His personal reign on earth.
6. Revelation 20:13.
7. John Phillips, *Exploring Revelation*, rev. ed. (Neptune, NJ: Loizeauz, 1991), 242–43.

### Afterword

1. “Local Police,” Bureau of Justice Statistics (website), accessed July 1, 2016, <http://www.bjs.gov/index.cfm?ty=tp&tid=71>.
2. Approximately 9,200 are state judges and 3,300 are federal judges. See “Federal District Judges are Vastly Outnumbered by State Judges,” Public Citizen PDF accessed July 1, 2016, <https://www.citizenarchive.org/documents/FederalDistrictJudgesvastlyoutnumberedbystatejudges.pdf>.
3. Jeff Jacoby, “US legal bubble can’t pop soon enough,” *The Boston Globe*, May 9, 2014, <https://www.bostonglobe.com/opinion/2014/05/09/the-lawyer-bubble-pops-not-moment-too-soon/qAYzQ823qpf4GQl2OiPZM/story.html>.
4. Numerous news agencies followed this story in the Chicago area. For key parts of this episode I am indebted to the reporting of John Kass, “Bank robber who just wanted to work gets a second chance,” the *Chicago Tribune*, March 17, 2016, <http://www.chicagotribune.com/news/columnists/kass/ct-bank-robber-second-chance-0318-20160317-column.html>; and Ruth-Ann Krause, “A year later, bank robber thanks judge for 2nd chance,” the *Chicago Tribune*, March 19, 2016, <http://www.chicagotribune.com/suburbs/post-tribune/news/ct-ptb-potchen-meets-judge-st-0318-20160317-story.html>.