Introduction

Injustice has been with us since the beginning of time. In Greek mythology, Diké, the goddess of moral justice, is depicted as beating the hideous Adikia, the goddess of injustice. The Egyptians also acknowledge counterparts—Ma’at representing justice, while Isfet the opposite. The Bible teaches that one must “not render an unfair decision” or permit “dishonest scales.” It tells the story of Joseph—sold into slavery by his brothers, he resists the seduction of the wife of his master (Potiphar), only to be jailed upon her false accusations of attempted rape.

Yet, lessons are rarely learned and injustice has passed from generation through generation—it is explored by Plato, Aristotle, Voltaire, Shakespeare, Benjamin Franklin, Emile Zola, Thomas Jefferson, Abraham Lincoln, Martin Luther King, Jr., Lyndon B. Johnson, and Nelson Mandela, to name only a few. Perhaps, to put it as only Mark Twain could: “Man was made at the end of the week’s work, when God was tired.”

One would like to believe that we have evolved, so that our justice system—many believe it the best in the world—has evolved; that it weeds out injustice and people are treated equally and without the imposition of any outside factor. Of course, that is not so. But what is it that contributes to injustice—what prohibits the ideal? Arrogance, laziness, self-dealing, or just plain human failings of those tasked with administering the system have an impact. And we explore, in one interview, just what can happen when no one in the courtroom—not the prosecutor, the judge, or the defense counsel—pays attention. The laziness, or human failing, in that case cost a man a prison term 14 years longer than it should have been.

As we have learned, in certain circumstances the existence of an injustice is an objective fact—there really can be no doubt. We now have DNA evidence, scientifically proving that some who are or have been in jail are “actually innocent.” The Innocence Project tells us that 343 people have been exonerated—found to have been improperly convicted based on
undisputed scientific DNA evidence. One of those helped (saved, really) by the Innocence Project is Kenneth Ireland—DNA evidence proved, unequivocally, that he was innocent of the crimes for which he was convicted. No question; not a single doubt.

Still, the capacity for an objectively accurate determination is rare. In both the criminal justice system and the social realm, more frequently, the existence of an injustice may “lie in the eyes of the beholder”—viewed through the prism of the individual called upon to characterize the episode. Some are in circumstances patently unjust, and so it is difficult to imagine any disagreement; as to others—perhaps, one reader will be appalled while another will shrug her shoulders. Indeed, I initially contemplated placing the chapters in descending order—the greatest injustice to the least. As I met those I interviewed, and thought about the events in their lives, I of course could not do that—each person’s story must stand on its own, with the reader to decide (should he or she choose to) whether an injustice was done and where it falls in relation to the others. Some will question why the ten cases discussed here were chosen of all the cases of injustice that might have been selected for inclusion in this volume. A valid question indeed, but one not totally answerable, aside from the desire to explore injustice from different perspectives.

There may be no better, modern-day example of divergent thoughts on injustice than the criminal prosecution—and acquittal—of O.J. Simpson for the murder of Nicole Brown-Simpson and Ron Goldman. For many, Simpson’s play of the “race card” worked; whether or not people saw Simpson as innocent, they saw it extremely possible for a black man to be framed—even for something that he (very possibly) did! From the perspective of an individual who saw Simpson as guilty, his acquittal was the injustice. From the perspective of an individual who saw him as innocent or even simply “not guilty” (which is far different), his very prosecution was an injustice.

How, then, do we look at the life of Steven Pagones? An assistant district attorney, he was very publicly accused of a horrific crime, with racial motives front and center. An eight-month investigation found not only that he was innocent, but that the entire incident was a hoax. Was there injustice? Even though there was no trial, Pagones was, after all, “acquitted.” He was found innocent, and his innocence was widely reported. Or
is there injustice in his merely having had to live through the hell of the investigation and endure its aftermath? His children, after all, can turn on their computers and see that their father was accused—even though found innocent—of having viciously raped a black teenager, Tawana Brawley, years earlier.

To discuss injustice, we must also look at factors not tied to the “System.” How important is public opinion? What are the thoughts and etiquette of the day? Even the best judges—those who scrupulously apply the law even if they vehemently disagree with it—don’t live in caves. They read and watch the news; they talk to friends and family; they live in the same world as the rest of us. They hear public opinion and even have their own opinions—opinions that may change, given what is going on around them.

And so all of the interviews you will read, as with all things, must be placed in the context of their time, and in the context of the reader’s experience. Miriam Moskowitz was convicted, essentially for being a “Communist sympathizer” as that term would have been understood in the 1950s at the height of McCarthyism. Her story brings to mind the observation of a great Supreme Court Justice, Robert H. Jackson: “The most odious of all oppressions are those which mask as justice.” Moskowitz removes that mask, shining a spotlight on a very troubling time in our history.

Abdallah Higazy spoke about a later time—disturbing and ingrained in the memory of many readers. A Muslim man, born in Egypt, he was a guest in a hotel immediately across from the World Trade Center on 9/11. Not surprising that in the immediate aftermath of 9/11, the FBI believed a witness who claimed that Higazy had a transceiver device in his room safe that allowed him to communicate with planes, and thus jailed Higazy. In Aesop’s fable of the Wolf and the Lamb, the wolf accused the lamb of wrongdoing, and even though every accusation was proved wrong, the wolf declared that the lamb’s family members must have committed the crimes, all to justify killing the lamb. The moral—one can always find an excuse for actions and ignore the reasoning of the innocent. Is that what Higazy’s story tells us? Can we believe that a government (our government) is so certain of its position that it may be incapable of seeing beyond its own prejudices, even if it leads to what many would believe is manifest injustice?
Iowa’s Chief Justice Marsha Ternus and her colleagues were caught in the tenor of the day when they committed the “offense” of striking down a challenge to same-sex marriage as unconstitutional, causing Iowa to be the first “non-liberal” state to do so. But was their removal from the bench an “injustice”? After all, the public voted to remove them. Does the reader question whether Jeffrey Sterling, an African-American CIA operative, was discriminated against in the 1990s because of his skin color? Even if yes, can you then conclude that that treatment—and the government’s failure to account for it—caused Sterling to commit a crime by leaking government secrets to a reporter? And, even if you do, was Sterling treated differently from others because he had embarrassed the CIA?

When I began this book, I had no doubt that there would be instances where the injustice was manifest and others where the issue might be grey. As I interviewed the subjects of this book, however, I realized that another theme ran through the interviews—the way in which very ordinary people dealt with the particular injustice thrust upon them or of which they were a part. Some of those interviewed look around every day, hoping no one would know about their past. Others look straight ahead, and shout from the rooftops, “I have been wronged.” Still others, perhaps, accept that they have done wrong to another, and try to “make things right,” as it were.

Moskowitz spent decades looking over her shoulder. Did the FBI hound her, or leave her to live her life after she served her two-year prison term? Immigration Judge Ashley Tabaddor was told that she was not permitted to hear immigration cases that impacted Iranians, solely because she attended an Iranian-American event sponsored by the White House. She looked at what she perceived as injustice and decided to fight, even though, in practical terms, it made little difference to her cases. Were the famous words of Martin Luther King, Jr. in the back of her mind?—“Injustice anywhere is a threat to justice everywhere.”

Marty Stroud was a prosecutor in Shreveport, Louisiana, who, in 1984, aggressively prosecuted Glenn Ford for murder. Thirty years later, when it was determined that Ford was actually innocent, Stroud examined his very belief system and has now dedicated himself to abolishing the death penalty. But when Ford was finally released from prison, did Stroud apologize? Could you face the person whom you have wronged and apologize
Introduction

for what you had done? And how would you deal with what your actions had done to the victim?

Abdallah Higazy did something remarkable—although, one suspects, it happens more often than one might think. He confessed to a crime he did not commit. Can you imagine doing that? I myself couldn’t when I began this book; I can now understand it, having talked to him. Why did Pedro Hernandez, the subject of juror Adam Sirois’s interview, confess to kidnapping Etan Patz decades earlier? How does someone like Sirois, the sole member of the jury who refused to convict Hernandez, address the question of whether Hernandez knowingly confessed?

There is also surprise in the way in which those interviewed addressed their anger. In some, the anger is there. Plain and raw. Stroud is angry at himself. Sirois is angry at his fellow jurors. Moskowitz is angry at the system that allowed her to be convicted (and still stand convicted), and refused to allow her to be exonerated 50 years later.

But others—others whose lives have been forever altered, people one would expect to be fueled with anger—are not, or at least say they are not. They look forward, and have put their past behind in ways somewhat unimaginable. Kenneth Ireland spent 21 years in prison, from the time he was 18 years old. He was exonerated based on DNA evidence—no question that the man who brutally raped and murdered a woman was not Ireland. Could you even imagine being released from prison and not being angry? Or did Ireland understand that anger would do nothing for him? Nelson Mandela explained it, perhaps, best: “As I walked out the door toward the gate that would lead to my freedom, I knew if I didn’t leave my bitterness and hatred behind, I’d still be in prison.”

Chief Judge Ternus—does she believe an injustice was done to her? Or is she disturbed that the people of Iowa were inundated with billboards and advertisements proclaiming that their values, their very way of life, would be forever diminished because of her ruling? Did others stand up for her—to tell the public that she was merely upholding the law? Does it matter to her?

How does Higazy address his anger? Has he moved back to Egypt, denigrating the U.S. every chance he gets? Or does he live with an understanding of why the U.S. government acted as it did toward him? Is Judge Tabaddor angry about her treatment—has the government ever explained
the reason for its actions? And what does she do to make sure the government never again demands that a judge step away from cases when there is no showing that the judge is prejudiced in any way? And Sterling—how does he channel his anger as he sits in a cell?

Returning to our premise—injustice(s)—I introduce you to those who were kind enough to allow me to interview them. I say that, but was it kindness that motivated them? Or was there something else? As you read their stories, ask yourself—was there an injustice? How did the periods’ public opinions, the public mindset, factor in? And when you look at how they handled their circumstance, ask what you would have done in the same situation.

One final note. In 1965, at the conclusion of the March from Selma to Montgomery, Martin Luther King, Jr., told us: “The arc of the moral universe is long, but it bends towards justice.” As you read these interviews, decide if you believe those words ring true.