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“Revolutionary Dreamers”: A Public Interest Call to Action at UC Irvine School of Law’s Decennial

Ariela Rutbeck-Goldman, Citlalli Ochoa, and Jamila Benkato*

INTRODUCTION

As the University of California, Irvine School of Law (“UCI Law” or the “Law School”) reaches its tenth anniversary, the three of us, all 2016 UCI Law graduates, decided to commemorate the occasion by memorializing, in a critical epistolary, reflections on what the Law School has achieved and how it has developed since its founding. We are most interested in exploring how the Law School has advanced the promises that were made at the time of its founding, particularly with respect to its commitment to the public interest. We additionally focus on UCI Law’s commitment to being a law school for the twenty-first century, how the Law School has challenged the status quo (and how it has not), and what a renewed commitment to a public interest mission might look like.

This collaboration was inspired by the early work of one of our professors and mentors, Stephen Lee.¹ In 2006, Professor Lee and his then-classmates wrote about their experiences at Berkeley Law as law students of color during a time of crisis in the public education systems (including legal education). Our correspondence here focuses on what we see as a critical point in the Law School’s history that may shape not only our alma mater but legal education and

* The authors thank their professors and the Law Review Board for pulling together this special issue for a special moment in our school’s history. We hope that this Article can serve as a guide for other law students around the country seeking to measure their own institution’s promises and pitfalls in the realm of public interest advocacy. Individually, Ariela dedicates this piece to Lev Sobel Rutbeck-Goldman, who was born a short time after this Article was. Whatever path you take, may you be fortunate enough to attend institutions that will change you and are receptive to change themselves; to find good friends and colleagues with whom you embark on long-term projects; and to experience both joy and humility as you pursue justice. Citlalli thanks her parents for daring to dream of a future brighter than theirs, prioritizing her education, and opening the doors that led to the writing of this Article. Jamila thanks her husband, Levi LaChappelle, for his support throughout three years of law school, the writing of the Article, and much more.

1. Rachel Anderson et al., *Toward a New Student Insurgency: A Critical Epistolary*, 94 CALIF. L. REV. 1879 (2006).

the professional marketplace more generally. Within California, students and public interest lawyers face steep tuition costs and high costs of living,² unmet legal needs in both rural and urban areas,³ and an attorney population that does not come close to reflecting California's demographic makeup.⁴ Nationally, the legal profession faces a crisis in public interest lawyering, where young attorneys are saddled with debt and promises of loan forgiveness that can feel elusive at best.⁵ Locally, while these same areas continue to present major issues, Orange County is changing, from a solidly conservative county to one that recently voted full blue and elected consumer advocate (and former UCI Law professor) Katie Porter to the U.S. House of Representatives.⁶ How much of this change has been due to UCI Law (or larger trends before UCI Law was established) is up for debate. However, UCI Law's impact on Orange County is certainly interesting to reflect on in light of the first Volume of this publication, which describes some of the initial hostility and concern about founding Dean Erwin Chemerinsky's liberal credentials in a more conservative Orange County one decade ago.⁷

The Law School, amidst these cultural moments, has had some great successes. For example, in the past decade, UCI Law students have completed more than 80,000 hours of pro bono work, the Law School ranks number four in

2. See, e.g., *University of California – Irvine: Finances*, L. SCH. TRANSPARENCY, <https://www.lstreports.com/schools/irvine/costs/> [<https://perma.cc/X7BA-NMCV>] (last visited Oct. 27, 2019) (showing UCI Law's average tuition rate steadily increasing); Jonathan Lansner, *Cost of Living Hikes Eat Away at 4% Raises in Southern California*, O.C. REG. (July 17, 2018), <https://www.oregister.com/2018/07/17/cost-of-living-hikes-eat-away-at-4-raises-in-southern-california/> [<https://perma.cc/65VG-6RE3>]; A.J. Cisneros, *Understanding the Law School Tuition Crisis*, U.C. DAVIS NAT'L L. GUILD (Mar. 2013), <https://www.nlg.org/wp-content/uploads/2016/03/Understanding-the-Law-School-Tuition-Crisis.pdf> [<https://perma.cc/8FPZ-E669>].

3. The first comprehensive study on California's justice gap highlighted that there are about 1,000 lawyers in California providing legal help to indigent people and more than 7,500 potential clients for each legal aid attorney. This statistic does not include individuals who do not qualify for legal aid, but who would also not be able to afford a lawyer if they needed one. See *Justice Gap Study Fact Sheet*, STATE BAR CAL. (Feb. 7, 2019), <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/Justice-Gap-Study-Fact-Sheet.pdf> [<https://perma.cc/GQD2-UQFG>].

4. The State Bar of California has launched a voluntary survey to gather attorney demographics data in California, including information about race, ethnicity and sexual orientation, as part of its mission to promote diversity in the legal profession. While it is too early to know what this survey will show, a similar survey conducted in 2011 indicated that diversification by gender and ethnic group was increasing but at a very slow pace. See *State Bar Mission*, STATE BAR CAL., <http://www.calbar.ca.gov/About-Us/Our-Mission/Promoting-Diversity> [<https://perma.cc/8A87-G2SQ>] (last visited Oct. 27, 2019); *Predominantly White Male State Bar Changing . . . Slowly*, CAL. BAR J. (Jan. 2012), <http://www.calbarjournal.com/January2012/TopHeadlines/TH1.aspx> [<https://perma.cc/W44X-PK5G>].

5. See, e.g., Stacy Cowley, *28,000 Public Servants Sought Student Loan Forgiveness. 96 Got It.*, N.Y. TIMES (Sept. 27, 2018), <https://www.nytimes.com/2018/09/27/business/student-loan-forgiveness.html> [<https://perma.cc/9587-UM5V>].

6. See, e.g., Dana Goodyear, *Katie Porter Wins, and Orange County Finally Turns Blue*, NEW YORKER (Nov. 21, 2018), <https://www.newyorker.com/news/news-desk/with-katie-porters-win-orange-county-finally-turns-blue> [<https://perma.cc/KR8V-8973>].

7. See, e.g., Erwin Chemerinsky, *The Ideal Law School for the 21st Century*, 1 U.C. IRVINE L. REV. 1 (2011), <https://www.law.uci.edu/lawreview/Vol1No1Articles/chemerinsky.pdf> [<https://perma.cc/K2GT-W6SF>].

the nation for practical training.⁸ Additionally, the Law School continues to provide an “innovative and comprehensive curriculum,” and maintains a “commitment to diversity within the legal profession.”⁹ In 2009, Dean Chemerinsky wrote about some of his goals for the Law School. For example, he wrote that it was important that the “faculty be diverse in every way, demographically and ideologically.”¹⁰ UCI Law today counts among its rank numerous faculty members of color as well as faculty members from different countries, representing a wide array of different disciplines, from reproductive and bioethical philosophy to international tax law.¹¹ In 2017, L. Song Richardson became the only woman of color to lead a top thirty law school in the nation, and is also, we believe, one of the only former public defenders to hold such a title. In addition to a diverse faculty, the Law School proudly claims that 45% of its graduates are students of color.¹² UCI Law also boasts a highly-regarded clinical program, ranked seventh in the nation, which seems to expand every year in terms of the number of clinics and subject matters offered.¹³ Impactful clinic victories range from the work of the Community and Economic Development Clinic in helping low-income and elderly mobile home residents in San Juan Capistrano purchase a mobile home park to the Domestic Violence Clinic reuniting a survivor of domestic violence with her kidnapped infant daughter.¹⁴

The Law School entered its crowded field with panache. Members of the inaugural class were offered three-year, tuition-free scholarships, allowing the nascent institution to boast certain U.S. News and World Reports (U.S. News)-worthy credentials, such as a median LSAT score of 167 and a

8. *UCI Law Ranked Fourth in Nation in Practical Training*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/news/in-the-news/2018/PracTrain2018.html> [https://perma.cc/Z3K5-EWRX] (last visited Oct. 25, 2019).

9. *About UCI Law*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/about/> [https://perma.cc/2EYS-7Y3Z] (last visited Oct. 28, 2019) [hereinafter *About UCI*].

10. See Chemerinsky, *supra* note 7.

11. *Our Faculty*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/faculty/> [https://perma.cc/KH7E-3X5W] (last visited Apr. 1, 2019).

12. *About UCI*, *supra* note 9.

13. *Id.*

14. See, e.g., Press Release, UCI Law Clinic Helps Mobilehome Residents Purchase Park in \$9.863 Million Deal, U.C. IRVINE SCH. L. (Apr. 10, 2018), <https://www.law.uci.edu/news/press-releases/CEDcapistrano.html> [https://perma.cc/55DK-TMSZ]; Ben Brazil, *UC Irvine Law Touts Pro Bono Work and Academic Achievement as 10th Anniversary Celebrations Begin*, L.A. TIMES (Aug. 22, 2018), <https://www.latimes.com/socal/daily-pilot/news/tn-wknd-et-uci-law-20180823-story.html> [https://perma.cc/N998-XGPR]; L. Song Richardson, *Looking Back on 10 Years of UCI Law*, O.C. REG. (Aug. 20, 2018), <https://www.ocregister.com/2018/08/20/looking-back-on-10-years-of-uci-law/> [https://perma.cc/DSQ3-Y7ES] (“Students and faculty in our domestic violence clinic helped reunite a mother — a survivor of domestic abuse — with her 17-month-old baby girl, who was kidnapped by her father here in Orange County. This past May, six students traveled during finals week to Dilley, Texas to help reunite mothers and detained children. Just last month, our students convinced the Orange County district attorney’s office to review evidence in the case of a man convicted of murder nearly 40 years ago. Over the past few years, students have also successfully challenged decisions that denied service-related benefits to veterans of the Iraq and Vietnam wars.”).

median GPA of 3.61.¹⁵ The second group of students was awarded full tuition-free scholarships for two years; the third group of students for one. By the time our class matriculated, the Law School was implementing a more traditional merit-based scholarship model. But UCI Law still touts that it offers full-tuition Public Service Fellowships to students who commit to pursuing careers in public interest law, provides “generous aid” packages, and earmarks any tuition increase to the financial aid budget to fund scholarships.¹⁶

During our 1L year, the Law School achieved its initial full accreditation from the American Bar Association (ABA). One year later, the Law School was ranked by U.S. News for the first time, debuting at number thirty in the rankings. At the time of this article’s publication, it ranks twenty-third. As the Law School’s national ranking has improved, its population has grown exponentially. The Class of 2020 had 159 first-year students matriculate; the Class of 2021, only one year later, enrolled 229 first-year students—a whopping 44% gain.¹⁷ The current student population stands at 514 total.¹⁸ This remarkable growth is testing not only the Law School’s physical facilities but also its culture and focus, as we detail below. This latter issue looms large as UCI Law enters its adolescent years.

The three of us each write from slightly different perspectives, different identities, and different views of what issues are most salient at the Law School’s decennial. One of us works for a legal start-up focused on protecting and strengthening democratic norms and institutions. Another works as an international human rights attorney, advocating before international and regional human rights bodies to advance justice and accountability in the United States and abroad. And one of us is a legal services attorney specializing in consumer law for low-income individuals facing financial hardship and bankruptcy. We are located throughout the country: one of us works in Washington, D.C.; one in Albany, New York; and one in San Francisco, California.

Two things especially unite us as friends and colleagues: (1) a strong sense of obligation to the Law School, and (2) the idea that challenges and provocative ideas should be discussed and debated rather than avoided. We strongly believe that “[o]ur school is the culmination of several generations of revolutionary dreamers. Those who, not satisfied with the status quo, took it upon themselves

15. Chemerinsky, *supra* note 7, at 11.

16. See *Admissions*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/admission/jd.html> [<https://perma.cc/E5LC-ATM3>] (last visited Oct. 28, 2019).

17. *Admissions: Class of 2021*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/admission/publications/pdfs/htmlversions/bythenumbers2021.html> [<https://perma.cc/6ZWK-MWAE>] (last visited Oct. 28, 2019); *Admissions: Class of 2020*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/admission/publications/pdfs/htmlversions/bythenumbers2020>. [<https://perma.cc/AKE3-GE3L>] (last visited Oct. 28, 2019).

18. See *2018 Standard 509 Information Report*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/about/consumer-info/Std509Report.pdf> [<https://perma.cc/9EGC-9E6F>] (last visited Oct. 28, 2019).

to redefine, reimagine and reinvent legal education.”¹⁹ In that spirit, we hope to be “as rebellious as they were persistent and as venturesome as they were ingenious,” to inspire others to think beyond U.S. News rankings and critically evaluate how UCI Law is making its mark.²⁰ Our hope is that the Law School initiates honest discussions in response to this Article and this Issue. And, most importantly, we hope the Law School takes concrete steps to address some of what we identify in these letters, perhaps by, as a start, creating a Ten-Year Anniversary Working Group with students, faculty, administration, and alums.²¹ We look forward to the next ten years and beyond.

* * *

19. U.C. IRVINE SCH. LAW, UCI LAW ADMISSIONS: VIEWBOOK 3, <https://www.law.uci.edu/admission/viewbook/UCILawViewbook.pdf> [<https://perma.cc/4ABC-MEX5>] (last visited Oct. 28, 2019) [hereinafter VIEWBOOK].

20. *Id.*

21. To the extent possible, this Article uses the gender-neutral term “alums” along with other gender-neutral nomenclature.

Dear Citlalli and Ariela,

I'm so glad to be sharing this correspondence with you, both dear friends and fellow travelers on the often-fraught path of public interest lawyering. Our time together at UCI Law was one of the most invigorating times of my life—but also filled with the moral and practical uncertainties that accompany the pursuit of a legal career focused on “acting justly.”²²

Our alma mater's tenth anniversary is a fitting moment to reflect on the ways we have, as a community, achieved and failed to live up to the imperatives of the Law School's self-imposed identity as a school committed to the “public interest.” Many prestigious law schools have a public interest mission. Harvard's mission statement, for example, is “[t]o educate leaders who contribute to the advancement of justice and the well-being of society.”²³ But Harvard, and so many other schools, largely send their graduates to what may be termed “corporate interest” work.²⁴

As you know, the establishment of UCI Law was the culmination of years of advocacy and planning.²⁵ The first inklings of a law school on the UC Irvine campus came with the observation of significant unmet legal need in California.²⁶ After fits and starts, in 1991, a University of California (U.C.) committee recommended establishing a law school on the Irvine campus—and also recommended that “all U.C. law students” be required to “perform a certain number of hours of *pro bono* service each year.”²⁷ Eight years later, a RAND Corporation analysis—part of an ongoing effort to justify the Law School in economic terms—concluded that, while California may not need more lawyers generally, “the Inland Empire and the San Joaquin Valley ha[d] the smallest number of lawyers per person in the state . . . [and] there might be a coming shortage of public sector lawyers.”²⁸ The proposal that actually led to the creation of the Law School is illustrative. The “ambitious vision” that finally led to UCI Law proposed that the new school “equip its students to address the broad philosophical and social functions of the law,” in light of the fact that “law will become an even more central and fundamental force for order and justice

22. *Micah* 6:8.

23. *About: Harvard Law School Gender Violence Program*, HARVARD, <https://projects.iq.harvard.edu/gvprogram/about-us-0> [<https://perma.cc/Y7CV-M69P>] (last visited Oct. 28, 2019); *Jobs at Harvard Law School*, HARV. L. SCH., <https://hls.harvard.edu/dept/hr/jobs-at-hls/> [<https://perma.cc/6ZMX-JJE3>] (last visited Oct. 28, 2019); see PETE DAVIS, OUR BICENTENNIAL CRISIS: A CALL TO ACTION FOR HARVARD LAW SCHOOL'S PUBLIC INTEREST MISSION 99 (2017).

24. DAVIS, *supra* note 23, at 36–37.

25. See, e.g., Chemerinsky, *supra* note 7; Joseph F.C. DiMento, *UCI Law: The First Half Century*, 1 U.C. IRVINE L. REV. 25 (2011).

26. DiMento, *supra* note 25, at 27.

27. *Id.* at 33.

28. *Id.* at 34.

throughout society.”²⁹ The visionary working group saw law as “the principal source of justice and social mobility” holding together an increasingly complex world.³⁰ And indeed, UCI Law has since its inception posited that it offers something different: the Law School “has a deeply imbedded culture of public service, ensuring that [its] graduates will be committed to providing legal services to those most in need, either through pro bono service in their private practice, or as public interest attorneys.”³¹

The three of us chose UCI Law in large part because we wanted to be part of creating a new law school, specifically one that emphasized and prioritized the public interest and supported budding public interest attorneys in innovative ways. Along the way, we have experienced firsthand the ease with which aspirational—even radical—commitments to the public interest bend to the prevailing norms of the legal profession and are compromised to the complicated and difficult realities of the legal market. I believe wholeheartedly that UCI Law, now past its infancy, can step into its second decade with a clear and steely-eyed vision of what it means for a law school to *serve the public interest*. And a predicate to that resolve is an honest, and if necessarily painful, look at where we have fallen short of this imperative.

In the letters that follow, I’d like for us to try and answer these questions: what does it mean for a law school to adopt *the public interest* as a moral and ethical imperative? And how does that imperative interact with the Law School’s “law school for the twenty-first century” identity? This exercise, I hope, will provide support to those within our community who believe UCI Law has an essential moral and organizational role to play in our society. And perhaps we can provide a critical lens through which to develop a renewed vision of what it means to be a law school truly committed to public interest in the early twenty-first century.

Yours,
Jamila

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29. *Id.* at 36.

30. *Id.*

31. *Public Interest Programs*, U.C. IRVINE SCH. L., <http://www.law.uci.edu/about/public-service/public-interest/> [<https://perma.cc/ECA3-UK9Z>] (last visited Oct. 28, 2019).

Dear Jamila and Ariela,

I am inspired by the conversations that have led to the exchange of these letters and grateful for the opportunity to reflect on how we can ensure that UCI Law remains true to one of its original commitments: to “enrich communities through public service.”³² In this letter, I examine how this commitment fits within UCI Law’s vision of being the “ideal law school for the twenty-first century.”³³ Jamila, you pose important questions for the Law School as it matures, grows, and situates itself as an established legal institution. I hope this letter can begin to explore the answers.

As a starting place, the Law School’s founding faculty members—those who helped develop the philosophy that drove the creation of UCI Law—can inform our understanding of what it means to be a law school for the twenty-first century.³⁴ For example, they described a law school for the twenty-first century as one that does “the best job in the country of training lawyers for the practice of law at the highest levels of the profession;”³⁵ that translates “[v]isions of modern legal education . . . into proposals and innovative curricula;”³⁶ and that helps students grapple with and develop an informed understanding of the issues that the legal profession currently faces in the United States.³⁷ Early planning efforts were anchored in a forward-looking vision of what being a law school for the twenty-first century entailed, and included “the funding of clinics, the creation of externships and internships, and the development of an innovative curriculum focusing on skills, public service, writing, and legal reasoning.”³⁸ This letter focuses on this final point—the development of an innovative curriculum—and how it fits within a core element of UCI Law’s vision: public service.

Today, the Law School can rightly claim that it has established an innovative first-year curriculum and has successfully integrated practical training focused on skills-based exercises with traditional doctrinal coursework. For example, the distinct courses for first-year students—such as a year-long lawyering skills course, a year-long course on the legal profession, and a semester of international legal analysis—consider the implications of an increasingly globalized world on the legal profession and contribute to an understanding of the legal profession that is not isolated from its ethics, economics, and sociology.³⁹ Additionally, UCI Law

32. *About UCI*, *supra* note 9.

33. Chemerinsky, *supra* note 7.

34. *See Training for the Practice of Law at the Highest Levels: Reflections from UC Irvine*, 1 U.C. IRVINE L. REV. 1 (2011).

35. *See* Carroll Seron, *A Law School for the Twenty-First Century: A Portrait of the Inaugural Class at the University of California, Irvine School of Law*, 1 U.C. IRVINE L. REV. 49, 57 (2011).

36. DiMento, *supra* note 25.

37. *See* Ann Southworth & Catherine L. Fisk, *UCI Law: The First Half Century*, 1 U.C. IRVINE L. REV. 73 (2011).

38. *See* DiMento, *supra* note 25.

39. *See* Southworth & Fisk, *supra* note 37.

now has an established and robust clinical program that includes core and elective clinics aimed at preparing students “for the interdisciplinary nature of a twenty-first century legal practice.”⁴⁰ Further, by some measures, the Law School has already established “core values . . . that include an excellent, student-centered environment with an unwavering commitment instilling the value of public service.”⁴¹

Thus, these efforts show that, ten years after its inception, UCI Law remains committed to innovation and a modern take on legal education. However, it remains unclear how the Law School’s innovative curriculum, including its distinct focus on practical legal education and interdisciplinary approach, has advanced UCI Law’s commitment to the public interest beyond merely “encourag[ing] and assist[ing] those students who don’t want to go to a law firm.”⁴²

Bringing these two commitments into conversation must start with evaluating *whether* and *how* the current curriculum centers around public interest lawyering, and how the curriculum can evolve as the Law School’s public interest mission is refined and strengthened. It is telling that, in 2016, the UCI Law Ad Hoc Committee on Inclusion and Diversity published a report finding that “several students directly tied the need for curriculum reform to a commitment to public interest law.”⁴³ The Committee noted that various students had expressed the need for a curriculum that provides more instruction on theoretical frameworks for understanding how the law impacts disadvantaged communities.⁴⁴ Further, the Committee highlighted students’ emphasis on the need for a course that incorporates “critical theory/critical perspectives” into the first-year curriculum, and noted the importance of understanding race dynamics—an understanding that the Committee found was not being met by the current curriculum—for students who go on to practice in both the public interest and the private sector.⁴⁵ From my perspective, these concerns are critical considerations in adequately preparing students for the practice of public interest law, where they will often serve underrepresented people, and thus require an acute understanding of economic and social power structures, systemic bias, and race dynamics.

40. Carrie Hempel, *Writing on a Blank Slate: Creating a Blueprint for Experiential Learning at the University of California, Irvine School of Law*, 1 U.C. IRVINE L. REV. 147 (2011).

41. *Interview by Top Law Schools with Jay L. Austin, Assistant Dean, Admissions and Student Financial Services, UC Irvine School of Law*, TOPLAWSCHOOLS, <http://www.top-law-schools.com/interview-with-jay-l-austin-assistant-dean-admissions-and-student-financial-services-uc-irvine-school-of-law.html> [<https://perma.cc/F74W-P4YC>] (last visited Oct. 28, 2019) (“[T]o achieve such extraordinary success in ten years is mind-boggling.”).

42. Chemerinsky, *supra* note 7 (explaining how the first-year curriculum changes the messaging sent to students with respect to public interest).

43. U.C. IRVINE SCH. LAW, FINAL REPORT OF THE AD HOC COMMITTEE ON INCLUSION AND DIVERSITY 21 (2016), <https://apps.law.uci.edu/intranet/community/UCI-Inclusion-and-Diversity-FinalReport.pdf> [<https://perma.cc/C52T-2E6P>] (internal credentials required).

44. *Id.*

45. *Id.*

While the current curriculum may fit well with the idea of an innovative law school for the twenty-first century, the Committee's 2016 report shows that there are opportunities for curricular reform aimed at bringing the Law School's curriculum in line with its institutional commitment to public interest. Language courses are a positive example of measures that a school can implement to advance its curricular commitment to public interest. For example, Berkeley Law recently began offering a course called "Representing Spanish-Speaking Clients: Language, Culture and Emotional Intelligence," which teaches students how to effectively engage with low-income immigrant communities and makes our legal system more accessible to all, regardless of who you are, where you come from, and what your financial circumstances are.⁴⁶ As of this writing, UCI Law offers a Legal Spanish course with "the goal of strengthening . . . students' language skills to serve their prospective Spanish-speaking clients,"⁴⁷ but this course has thus far not been offered consistently or in a manner that allows interested students to plan their course schedules accordingly. During my three years at UCI Law, a similar course was not offered, even though students signed a petition requesting it. The Law School should prioritize offering courses like this one in a more consistent and predictable manner to facilitate student participation and, more generally, accessibility to public interest jobs that increasingly require bilingual attorneys.

We assume that UCI Law's institutional commitment to public interest exists and often take it for granted based on how the Law School describes itself, but we know little about its scope and breadth, in part because that commitment has not been outlined in a formal mission statement.⁴⁸ Perhaps, in the letters that follow, we can discuss in more concrete terms how the Law School's policies and practices reflect its commitment to public interest, what it means for a twenty-first

46. John Hickey, *New Class Tries to Make the Law a Better Fit For the Minority Community*, BERKELEY NEWS (Jan. 14, 2019), <https://news.berkeley.edu/2019/01/14/new-class-tries-to-make-the-law-a-better-fit-for-the-minority-community/> [<https://perma.cc/CE4H-XX2C>].

47. U.C. Irvine School of Law, *Law 5666 Sec 1: Legal Spanish*, COURSE CATALOG, https://apps.law.uci.edu/CourseCatalog/cap_results.aspx [<https://perma.cc/QX2P-4FCP>] (last visited Oct. 25, 2019).

48. Interestingly, the Law School appears to have submitted some mission statement-like language as a part of its accreditation submissions, a digital remnant of which exists in the Table of Law School Mission Statements. Irene Scharf & Vanessa Merton, *Table of Law School Mission Statements*,

SCHOLARSHIP REPOSITORY @ UNIV. MASS. SCH. L. 1, 78 (2016), https://scholarship.law.umassd.edu/cgi/viewcontent.cgi?article=1174&context=fac_pubs [<https://perma.cc/GT29-69F8>]. That language does not center public interest and, rather, specifically notes the Law School's commitment to preparing students for private, public, and government practice.

century law school to serve the public interest and, specifically, what that means for UCI Law.

Warmly,
Citlali

* * *

Dear Citlalli and Jamila,

Thank you for beginning this honest, and sometimes difficult, discussion about the ways that our beloved Law School has met expectations, as well as ways it has fallen short of where we'd like to see it in the future.

Jamila, you pose the question of what it means for a law school to adopt *the public interest* as a moral and ethical imperative, and how that imperative interacts with the Law School's "law school for the twenty-first century" identity. I think that at this point in our collective journey, it is important to attempt some mutually agreed upon definitions. For example, as you and Citlalli point out, UCI Law was originally envisioned in the *early* twenty-first century to be a law school *for* the twenty-first century.⁴⁹ In order to talk about this goal—the Law School's service to the twenty-first century—non-ironically, I believe that we need to take a serious look at the times we are living in currently. And ultimately, I believe we need to do something to radically change these times.⁵⁰

On a larger scale, the Law School was envisioned during the end of the Bush era, and its vision was first executed during the beginning of the Obama era. Now, in 2019, we live in very different times. In recent years, to discuss only a few examples, the law has been used to justify race-based, anti-immigration policies, such as separating children from their parents at the U.S. border; to erode environmental protections for national parks; and to segregate bathrooms for gender non-conforming people.⁵¹ Consumer protections have been weakened; a sensible plan for the American healthcare system has essentially been defanged and the law is, at the time of this writing, once again being used to challenge what remains of it.⁵² These examples beg the question of whether, to borrow from

49. Christopher Tomlins, *What Would Langdell Have Thought? UC Irvine's New Law School and the Question of History*, 1 U.C. IRVINE L. REV. 187, 187–88 (2011).

50. We examine, here, what Pete Davis looked at the eve of Harvard's bicentennial anniversary: "If we wish to continue this tradition of leadership in legal education into our third century, we must take up the task of addressing and responding to today's most pressing legal needs. Indeed, if we aim to remain relevant during our tricentennial, the most important question we should be asking ourselves during our bicentennial is the one that would make Holmes proud: What are the felt necessities of our time?" DAVIS, *supra* note 23, at 2. Of course, we hope that UCI Law becomes the leader in tackling this question in our second *decade*, not in our second century, of existence as a law school.

51. See, e.g., *Families Belong Together: Trump's Family Separation Crisis*, ACLU, <https://www.aclu.org/families-belong-together> [<https://perma.cc/7V6Z-JES3>] (last visited Oct. 28, 2019); Press Release, National Parks Conservation Association, *Trump Proposals Fail National Parks* (Feb. 12, 2018), <https://www.npca.org/articles/1750-trump-proposals-fail-national-parks> [<https://perma.cc/9VWS-9LUQ>]; *The Muslim Ban(s) – An Explainer*, INT'L REFUGEE ASSISTANCE PROJECT (May 3, 2018), <https://refugeerights.org/the-muslim-bans-an-explainer/> [<https://perma.cc/9LN7-IVG5>]; Erica L. Green, Katie Benner & Robert Pear, *'Transgender' Could Be Defined out of Existence Under Trump Administration*, N.Y. TIMES (Oct. 21, 2018), <https://www.nytimes.com/2018/10/21/us/politics/transgender-trump-administration-sex-definition.html> [<https://perma.cc/AY95-RFPC>].

52. Chris Arnold, *Trump Administration Plans to Defang Consumer Protection Watchdog*, NPR MORNING ADDITION (Feb. 12, 2018), <https://www.npr.org/2018/02/12/584980698/trump->

David Kennedy, law is part of the problem.⁵³ We see, time after time, that law metes out power, and overwhelmingly to regressive, corporate, wealthy, and white interests.

These twenty-first century victories for wealthy, powerful corporations and individuals have not come out of nowhere. To state the obvious, lawyers trained by American law schools developed, argued, and won them.⁵⁴ Being a law school for the twenty-first century is not a neutral proposition in light of the social, political, and economic movements represented by these and other major cases. For this normative commitment to mean something, the Law School must

administration-to-defang-consumer-protection-watchdog [https://perma.cc/EK75-X54Y]; Hannah Levintova, *Want to Get Hired by the CFPB? Say You Know How to Destroy It.*, MOTHER JONES (June 25, 2019), https://www.motherjones.com/politics/2019/06/cfpb-political-appointees-resumes-mick-mulvaney/ [https://perma.cc/P6JU-G4L9] (describing the resumes of recent hires by the Consumer Finance Protection Bureau including, among other things, drafting the Financial CHOICE Act of 2017, legislation to repeal elements of Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd Frank”)); see Financial CHOICE Act of 2017, H.R. 10, 115th Cong. (2017), https://www.congress.gov/bill/115th-congress/house-bill/10 [https://perma.cc/7E55-PD7K]. While the Financial CHOICE Act has not yet become law, it reflects the prevailing anti-regulation sentiment of the House of Representatives for President Trump’s first two years in office. This body also passed tax reform which will predominantly benefit wealthy individuals, particularly as many of the individual tax cuts phase out after 2025. See *Brief: Distributional Analysis of the Conference Agreement for the Tax Cuts and Jobs Act*, TAX POL’Y CTR. (Dec. 18, 2017), https://www.taxpolicycenter.org/publications/distributional-analysis-conference-agreement-tax-cuts-and-jobs-act [https://perma.cc/58WL-QM3U] (concluding that, in 2027, an estimated 82.8 percent of the tax cuts would go to the top 1 percent of tax filers). Finally, after the individual mandate was removed from the Affordable Care Act (“Obamacare”), the law is now being argued as unconstitutional. See *Texas v. Azar*, 300 F. Supp. 3d 190 (D.D.C. 2018) (“Once the heart of the ACA—the individual mandate—is declared unconstitutional, the remainder of the ACA must also fall.”); see also Brian Fallon & Christopher Kang, *No More Corporate Lawyers on the Federal Bench*, ATLANTIC (Aug. 21, 2019), https://www.theatlantic.com/ideas/archive/2019/08/no-more-corporate-judges/596383/ [https://perma.cc/XE3T-DZ2R] (“The Court’s rulings have gutted the collective-bargaining power of unions, granted corporations immunity from liability for human-rights violations, and expanded the use of forced arbitration, effectively repealing decades of landmark protections by allowing corporate wrongdoers to unilaterally opt out of the federal judiciary’s protections.”); Kent Greenfield & Adam Winkler, *Big Business Keeps Winning at the Supreme Court*, ATLANTIC (Jul. 2, 2018), https://www.theatlantic.com/ideas/archive/2018/07/big-business-keeps-winning-at-the-supreme-court/564260/ [https://perma.cc/7ZBS-C9LL] (describing, amongst other victories in the Supreme Court, *Janus v. AFSCME*, striking down fair share fees for public employee unions).

53. David Kennedy posed this question specifically about the international human rights law movement, but I believe it to be an appropriate question to ask more generally. See David Kennedy, *International Human Rights Movement: Part of the Problem?*, 15 HARV. HUM. RTS. J. 101 (2002).

54. See Greenfield & Winkler, *supra* note 52. As just one of many examples, see Mike Scarcella & Marcia Coyle, *What New Supreme Court Cases Reveal About Big Law Billing Rates*, LAW.COM (Aug. 27, 2019), https://www.law.com/2019/08/27/what-new-supreme-court-cases-reveal-about-big-law-billing-rates/?kw=What%20New%20Supreme%20Court%20Cases%20Reveal%20About%20Big%20Law%20Billing%20Rates&utm_source=email&utm_medium=enl&utm_campaign=newsroomupdate&utm_content=20190827&utm_term=law&slreturn=20190907141652 [https://perma.cc/6YUK-4ZXX] (“A team from Gibson, Dunn & Crutcher has agreed to charge the city of Boise, Idaho, up to \$300,000 to try to persuade the U.S. Supreme Court to reinstate a city law that would impose certain penalties on homeless and other individuals who sleep on public property, according to an engagement letter that offers new insight into billing practices at the high court.”).

articulate what it wants the twenty-first century to mean for it, its students, and the larger community.

Citlalli, you relate a quote from our founding dean about the Law School, as a part of its public interest focus, encouraging students who do not want to go to law firms. The problem, of course, or at least one of them, is that many students who enter law school *do not know* what they want to do during their summers or after graduation. Much has been written about “public interest drift”⁵⁵ and how students who come to law school with public interest aspirations by the end, saddled by debt,⁵⁶ enter the private sector.

Of course, it is not just because of debt that students enter the private sector but rather because it is the default option. As will be discussed further, law school programming and dialogue (even at our Law School) reflects the assumption that students are predominantly interested in corporate interest work, even from the beginning.⁵⁷ As a corporate interest student, the path forward is relatively clear and embedded into the Law School’s calendar; public interest students, on the other hand, must often create their own networks, plans, goals, and timelines. This trend has shown tremendous staying power, despite the “Trump bump” increasing (mainly) progressive students’ desire to attend law school.⁵⁸ As discussed, our school recently became ranked as number twenty-three in the

55. See, e.g., ELIZABETH DVORKIN ET AL., BECOMING A LAWYER: A HUMANISTIC PERSPECTIVE ON LEGAL EDUCATION AND PROFESSIONALISM 1 (1981) (“We believe that a subtle process of professionalization occurs during law school without being addressed or even acknowledged. This learning by inadvertence means that the participants often fail to consider fundamental questions about the identity they are assuming, and its relation to their values.”).

56. Additionally, debt disproportionately affects students of color. See, e.g., *New Analysis Reinforces the Racial Disparities of Student Debt*, HIGHER ED. TODAY (May 21, 2018), <https://www.higheredtoday.org/2018/05/21/new-analysis-reinforces-racial-disparities-student-debt/> [<https://perma.cc/ZQ4L-NU3Y>]; Sophie Quinton, *The Disproportionate Burden of Student-Loan Debt on Minorities*, ATLANTIC (May 5, 2015), <https://www.theatlantic.com/education/archive/2015/05/the-disproportionate-burden-of-student-loan-debt-on-minorities/392456/> [<https://perma.cc/64FV-Q7HS>].

57. I should note here that some of our close friends from law school entered corporate law, and their experiences have not been monolithic. And some entered corporate law not as a default at all: some of our friends who are low-income, first-generation students or students of color, view entering the corporate world as breaking through barriers that have been set up to deny them opportunities. For a brief, informal description of the disparity between law school diversity statistics and law firm diversity statistics, see Jared Lindzon, *Law Schools Are Very Diverse, So Why Aren’t Law Firms?*, FAST COMPANY (July 20, 2018), <https://www.fastcompany.com/90201095/law-schools-are-very-diverse-so-why-arent-law-firms> [<https://perma.cc/E82S-LCEN>] (citing a 2018 Law360 Diversity Snapshot which found that only 15.8% of attorneys and 9.2% of partners identified as minorities, compared to 20% of those who attended law school).

58. See, e.g., Kathryn Rubino, *Over 30 Percent of Applicants Want to Go to Law School Because of Trump*, ABOVE L. (Feb. 22, 2018), <https://abovethelaw.com/2018/02/over-30-percent-of-applicants-want-to-go-to-law-school-because-of-trump/> [<https://perma.cc/85R3-475S>]. Law school admissions went up by 3% for the first time in eight years in 2018. Karen Sloan, *Law Schools See First Real Enrollment Gains Since 2010*, LAW.COM (Dec. 14, 2018), <https://www.law.com/2018/12/14/lawschools-see-first-real-enrollment-gains-since-2010/?kw=Law%20Schools%20See%20First%20Real%20Enrollment%20Gains%20Since%202010&et=editorial&bu=Law.com&cn=20181214&src=EMC-Email&pt=Newswire> [<https://perma.cc/R9B3-D2V5>].

country; a year earlier, it had been ranked as number twenty-one.⁵⁹ When we first entered UCI Law, attending the school was a bit of a risk. It was not ranked; it was not even ABA-accredited. If the Law School indeed ever had a “public interest” mission, it might be even harder than before to retain that mission with a new crop of students who might view the Law School as a “safer” bet with wider name-brand recognition, instead of the progressive, risk-taking institution envisioned by the founders and inaugurals discussed above.

Citlali, my concern with the quote from the founding dean is not just that many students do not know what they want to do during their summers or after graduating, but that an amorphous goal of aiding students who do not want to go to law firms does not add any clarity or contour to what “public interest” actually means. As far as we know, the Law School has not defined the term, nor is there a mission statement that would add guidance to this challenge. So, what *does* “public interest” mean and who gets to define it? It seems much easier to define what public interest is *not* instead of what public interest *is*. Is public interest simply something that is impossible to define, but we “know it when we see it”?⁶⁰

That said, while I want us to start a conversation about defining “public interest” and an aspirational definition of the “twenty-first century,” I do not want these daunting tasks to distract us from imagining a law school that does not cater to corporate interests, but rather calls upon students to be warriors for people. In this aspirational view, law students would

have the seed of legal and political judgment, an understanding of the long and unending struggle of social justice organizations, and a sense of how the rules of the profession empower and limit their ability to participate in that struggle. Law schools would be centers of social justice, rather than merely vocational schools for lawyers who deploy professional skills to endow those with wealth and power with more of the same.⁶¹

I am not so naive as to imagine this as an easy task. Given today’s political and economic realities, the odds seem stacked against such a school. But I believe that in order to disrupt those larger patterns wreaking havoc on people here and abroad in the twenty-first century, and to roll back the corporatization of law school that contributes to these patterns, we cannot just settle for the default. We must actively work to redefine the default.

59. See *Best Law Schools Ranked in 2019*, U.S. NEWS & WORLD REPORTS, <https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings> [<https://perma.cc/MT6V-AAZJ>] (last visited Mar. 29, 2019).

60. *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

61. Sameer Ashar, *Law Clinics and Collective Mobilization*, 14 CUNY ACADEMIC WORKS 355, 357 (2008).

I look forward to hearing from the two of you about your ideas on how to do exactly that.

In solidarity,
Ariela

* * *

Dear Ariela and Jamila,

Redefining the default is something that I have been thinking about as I observe a vanishing trust in the laws and legal institutions that should, but often fail to, administer justice and respond to the needs of the people. To me, redefining the default requires moving towards a legal education that teaches students about the problems facing society, provides them with the tools necessary to address those problems, and instills a sense that the law is a means to justice. This is not a new idea—the visionaries behind the Law School knew these were critical priorities.⁶²

In my last letter I suggested that evaluating how UCI Law's curriculum centers public interest lawyering is an important way to hold the Law School accountable to its public interest commitment. However, evaluating the curriculum is not enough to redefine the default as something other than corporate law. We must also decide what public interest lawyering means and measure its impact. What do I mean by this? By measuring how many of its graduates pursue public interest careers—not just after graduation but also years later, including how many students make the switch from corporate to public interest practice—the Law School will be able to tailor its programming and messaging to that metric.⁶³ If UCI Law purports to care about its students and alums pursuing work in the public interest, it must be diligent about obtaining and publicizing data on alums employment years after graduation, going beyond what is captured by the ABA.⁶⁴

62. Professors Ann Southworth and Catherine Fisk, describing the first-year course on the legal profession wrote that it is necessary to “help [students] develop informed views about the issues facing the American legal profession as a whole in the twenty-first century, including questions relating to the cost of legal services, access to the legal system, the market for legal services, competition for regulatory control over the profession, diversity, globalization, and technology.” See Southworth & Fisk, *supra* note 37.

63. See, e.g., DAVIS, *supra* note 23, at 123–24; Dan Ariely, Opinion, *You Are What You Measure*, HARV. BUS. REV. (2010), <https://hbr.org/2010/06/column-you-are-what-you-measure> [<https://perma.cc/UNK4-6V8V>].

64. For example, the ABA's data indicates that only 15.2% of the Class of 2014 took a public interest job, 5.1% of the Class of 2013, and 2.1% of the Class of 2012. See *ABA Report: Employment Outcomes: Compilation-All Schools Data*, ABA SEC. LEGAL EDUC. & ADMISSIONS TO BAR, <http://www.abarequireddisclosures.org/EmploymentOutcomes.aspx> [<https://perma.cc/XA2Z-32XM>] (12/79 graduates); *ABA Report: 2014 Employment Outcomes: Individual School Summary Reports*, ABA SEC. LEGAL EDUC. & ADMISSIONS TO BAR (2014), <http://www.abarequireddisclosures.org/EmploymentOutcomes.aspx> [<https://perma.cc/Q5BW-GYE9>] (3/59 graduates); *ABA Report: 2012 Employment Outcomes: Individual School Summary Reports*, ABA SEC. LEGAL EDUC. & ADMISSIONS TO BAR (2012), <http://www.abarequireddisclosures.org/EmploymentOutcomes.aspx> [<https://perma.cc/PHZ8-HSVX>] (1/48 graduates). These percentages are low in comparison to other law schools with a purported public interest focus, such as CUNY Law School, and ultimately inadequate for a law school with a “core mission” of public interest. See *ABA Summary Employment Summary City University of New York Law School*, CUNY SCH. LAW (2018), https://www.law.cuny.edu/wp-content/uploads/page-assets/career/employment-statistics/Employment_Summary_2018_042919.pdf [<https://perma.cc/RRY9-RFPG>] (indicating that 35.4% of the 2018 graduating class entered the public interest); *Public Service: A Core Mission*, U.C. IRVINE SCH. L.,

While the ABA collects data on how many UCI Law graduates are employed by law firms or in business and industry, government, public interest, clerkships, and education,⁶⁵ some UCI Law graduates may enter the private sector with the hope of transitioning to public interest later in their careers. The three of us have heard friends express some version of this goal, and I am sure that many graduates across the country enter private practice with this same mentality. There is little information available regarding how many graduates actually make the switch from private to public interest and how feasible that switch is.⁶⁶ However, the few studies that have assessed the shift to public interest work have found that it is extremely rare for individuals to work in corporate interest law for only a few years after graduation and then to transition into public interest work.⁶⁷

It is our understanding that UCI Law does not collect information—or, at least, it does not publicly disseminate information—about where alums work several years after graduation or report on alums who switch from corporate interest to public interest work (or vice versa). But it is critical to collect and share this information for several reasons. First, the collection and sharing of this data is important because it informs current student choices, including the choices of students who think that switching to public interest work after beginning their career in private practice is a viable or a likely scenario. If we are to redefine the default, then the Law School must ensure that students are fully informed about graduates' career trajectories before making decisions based on the prevalent understanding that switching to public interest work after working in private practice is a feasible and realistic option. Second, this data is necessary for the Law School to identify norms and structures that shape alum career choices in the early years after graduation. Third, the Law School needs this information to begin measuring whether or not it is actually living up to its ideological commitments. Finally, it is imperative to collect and disseminate this data because it signals that the Law School is serious about its commitment to public interest and incentivizes—if the Law School responds to the data in a manner that is in line with its institutional commitment—recent graduates to move toward public interest careers. These reasons, while not exhaustive, highlight the value in collecting and sharing this data.

This task is not impossible. While data regarding where alums work years after graduation is not readily available, some law schools do collect it. Yale Law

<https://www.law.uci.edu/about/public-service/> [https://perma.cc/QG3D-CTRG] (last visited Oct. 25, 2019).

65. *Employment Summary for Class of 2018*, UC IRVINE SCH. L., <https://www.law.uci.edu/careers/students/employment-info/statistics/> [https://perma.cc/3WY2-RHEY] (last visited Aug. 21, 2019).

66. DAVIS, *supra* note 23, at 49.

67. *Id.* at 49–53 (referencing Harvard's "After the JD" study, which indicated that only 7.2% of Harvard Law graduates who were working at large firms three years after graduation were working in public interest organizations twelve years after graduation).

School, for example, conducts employment surveys five years after graduation⁶⁸ and ten years after graduation.⁶⁹ Given the relatively small classes at UCI Law, and the fact that there have only been eight graduating classes since the School's inauguration, UCI Law has the potential to lead the way in conducting surveys that can accurately and comprehensively capture this data. Doing so would create greater transparency and ensure that students are fully informed when making career decisions.

Here, I want to emphasize that measuring public interest impact (as, in part, measured by alums in public interest careers) requires a clear understanding of what “public interest” means.⁷⁰ Ariela, I agree that it is much easier to define what public interest is *not* rather than to define what public interest *is*. While public interest law has been institutionalized and law schools devote significant importance to the concept, its parameters are not clearly defined.⁷¹ Nevertheless, I will make an effort to identify some guidelines. The field encompasses practice areas with a wide range of work types⁷² and issue areas,⁷³ but they generally, although not exclusively, advance politically progressive interests.⁷⁴ This includes various types of “cause lawyering;”⁷⁵ “political missions” that vary in scope, motivation, and tactical approach;⁷⁶ private firms that claim “public interest”

68. *5th Year Career Development Survey*, YALE L. SCH., <https://law.yale.edu/student-life/career-development/employment-data/5th-year-career-development-survey> [<https://perma.cc/3U4D-E4SU>] (last visited Oct. 28, 2019).

69. *10th Year Career Development Survey*, YALE L. SCH., <https://law.yale.edu/student-life/career-development/employment-data/10th-year-career-development-survey> [<https://perma.cc/SV6N-3QRV>] (last visited Oct. 28, 2019).

70. Note that the American Bar Association reporting makes a distinction between “public interest” and “government” legal sectors. As this letter explains, it is not clear whether UCI Law considers government employment “public interest” work.

71. See, e.g., Ann Southworth, *What Is Public Interest Law? Empirical Perspectives on an Old Question*, 62 DEPAUL L. REV. 493, 496–502 (2013) [hereinafter Southworth, *Empirical*]; see also John and Terry Levin Center for Public Service and Public Interest Law, STAN. L. SCH., <https://law.stanford.edu/levin-center/> [<https://perma.cc/3BGN-W4SL>] (last visited Oct. 28, 2019); *Public Interest*, NW. PRITZKER SCH. L., <http://www.law.northwestern.edu/academics/curricular-offerings/public-interest/> [<https://perma.cc/2EJJ-LSR5>] (last visited Oct. 28, 2019); *Service: A Core Mission*, UC IRVINE SCH. L., <https://www.law.uci.edu/about/public-service/> [<https://perma.cc/CQ6Y-9AE7>] (last visited Oct. 28, 2019); *Social Justice and Public Interest*, BERKELEY L., <https://www.law.berkeley.edu/academics/areas-of-study/social-justice-public-interest> [<https://perma.cc/4XRC-DZUD>] (last visited Oct. 28, 2019); *What Is Public Interest Law?*, HARV. L. SCH., <https://hls.harvard.edu/dept/opia/what-is-public-interest-law/> [<https://perma.cc/S48G-HAG2>] (last visited Oct. 28, 2019).

72. See, e.g., *Public Interest Work Types*, HARV. L. SCH., <https://hls.harvard.edu/dept/opia/what-is-public-interest-law/public-interest-work-types/> [<https://perma.cc/GH9F-EJ6U>] (last visited Oct. 28, 2019).

73. See, e.g., *Public Interest Issue Areas*, HARV. L. SCH., <https://hls.harvard.edu/dept/opia/what-is-public-interest-law/public-interest-issue-areas/> [<https://perma.cc/GS38-FCPS>] (last visited Oct. 28, 2019).

74. Ann Southworth, *Conservative Lawyers and the Contest Over the Meaning of “Public Interest Law,”* 52 UCLA L. REV. 1223 (2005); Southworth, *Empirical*, *supra* note 71, at 497–98.

75. AUSTIN SARAT & STUART SCHEINGOLD, SOMETHING TO BELIEVE IN: POLITICS, PROFESSIONALISM, AND CAUSE LAWYERING 3 (2004).

76. Southworth, *Empirical*, *supra* note 71, at 498–99.

objectives;⁷⁷ and transnational advocacy efforts, including the international human rights movement,⁷⁸ among others.

I will not attempt to define the absolute boundaries of public interest law, but I do think UCI Law should consider how it defines and uses the term. The manner in which it does has broad consequences for students regarding their ability to access scholarships and loan repayment programs that are associated with, and rely on, a “public interest law” definition, which in turn impacts young lawyers’ ability to pursue public interest careers. For example, the definition of “public interest” matters when considering what type of employment UCI Law considers “qualifying employment” for purposes of its Loan Repayment Assistance Program (LRAP).⁷⁹ Further, there are broader implications to the Law School’s definition of public interest. The Law School’s institutional view on access to justice and “people’s lawyering”—and therefore its resource allocation—is grounded in understandings about the larger meaning of the term “public interest.”

In this letter, I suggest that to redefine the default, UCI Law must improve how it measures the number of alums that pursue public interest careers. This task requires the Law School to take a closer look at what it means when it uses the term “public interest,” and to try “to raise the profile of public interest work in students’ everyday experiences.”⁸⁰ Ariela and Jamila, I imagine a law school that disrupts the current structure of legal education, prioritizes an understanding of the struggle and need for justice, and instills a sense of how the rules of the profession empower and limit students’ ability to participate in that struggle. I believe that this is within the scope of what UCI Law set out to do ten years ago, but I wonder, how does UCI Law’s conceptualizing of public interest (or what we know if it) contribute to or limit this ideal?

All my best,
Citlalli

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77. *Id.*

78. Scott L. Cummings, *The Internationalization of Public Interest Law*, 57 DUKE L.J. 891, 1034–35 (2008); see also Scott L. Cummings & Louise G. Trubek, *Globalizing Public Interest Law*, 13 UCLA J. INT’L L. & FOREIGN AFF. 1 (2008).

79. *Loan Repayment Assistance Program (LRAP)*, UC IRVINE SCH. L., <https://www.law.uci.edu/admission/tuition-aid/lrap.html> [<https://perma.cc/Y8U8-GYTY>] (last visited Oct. 28, 2019). There is an interplay between the definition of public service that UCI Law’s LRAP uses and the one used by the Federal Public Service Loan Forgiveness Program (PSLF). A discussion about PSLF is mostly outside the scope of this letter. Refer to Ariela’s Third Letter for a more detailed discussion about PSLF.

80. Jack Karp, *Are Law Schools Helping Students Who Want to Help Others?*, LAW360 (Mar. 31, 2019, 8:02 PM ET), <https://www.law360.com/articles/1143092/are-law-schools-helping-students-who-want-to-help-others-> [<https://perma.cc/AA7V-MGVW>].

Dear Citlalli and Jamila,

Citlalli, I agree that the school needs to track the professional choices of “public interest” graduates. While we have not come to a firm consensus about what “public interest” means, I think that the guidelines you lay out above are a pragmatic place to start; the professions you describe are undeniably public interest professions. Another useful definition is offered by Sameer Ashar, one of our clinical professors, who described “public interest lawyers” as “lawyers who advocate for clients and client groups that are socially, politically, and economically marginalized in the United States and are generally in support of left or progressive political causes.”⁸¹ As will be described in greater detail later, the Law School needs to better support these public interest students, especially in this time of great uncertainty regarding the future of the Public Service Loan Forgiveness (PSLF) program.⁸² There are some good signs, including the launch of the new Student Loan Law Initiative⁸³ in collaboration with our Law School and the newly formed UCI Law Consumer Law Clinic. UCI Law is perfectly suited to take on the most pressing challenges of the day in innovative, cross-disciplinary ways, and I know all three of us would be glad to see more initiatives like this continue to develop within the Law School. In this Letter, I continue to lay out some concerns I have about defining “public interest,” and then propose other concrete examples of how the Law School could position itself as a leader.

As an initial matter muddying attempts to define “public interest,” this work is largely financially dependent on corporate law. Law firms support public interest organizations by contributing time, money, and other resources to pro bono projects; through funding public interest fellowships and scholarships; and through other means.⁸⁴ While these contributions are certainly important—a friend who worked on death penalty cases with the Southern Poverty Law Center describes law firms’ impact litigation resources as “indispensable”—they also

81. Ashar, *supra* note 61, at 358.

82. See, e.g., Stacy Cowley, *28,000 Public Servants Sought Student Loan Forgiveness. 96 Got It*, N.Y. TIMES (Sept. 27, 2018), <https://www.nytimes.com/2018/09/27/business/student-loan-forgiveness.html> [<https://perma.cc/ARP5-WVEY>]; Zack Friedman, *Student Loan Forgiveness Program Rejects 99% of Applicants*, FORBES (Sept. 24, 2018), <https://www.forbes.com/sites/zackfriedman/2018/09/24/public-service-loan-forgiveness-rejected/#2063e24b1824> [<https://perma.cc/4D5U-TCZP>].

83. Laura Meckler, *New Watchdog Group Aims to Spur Action on Student Debt*, WASH. POST (Nov. 28, 2018), https://www.washingtonpost.com/local/education/new-watchdog-group-aims-to-spur-action-on-student-debt/2018/11/27/8d07afa6-f288-11e8-aceab85fd44449f5_story.html?utm_term=.672005c66e11 [<https://perma.cc/9YGP-A8L9>]; *Student Loan Law Initiative*, STUDENT BORROWER PROTECTION CTR., <https://protectborrowers.org/our-projects/student-loan-law-initiative/> [<https://perma.cc/UV4C-3P2U>] (last visited Oct. 28, 2019); see also *Consumer Law Clinic*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/academics/real-life-learning/clinics/consumer-law.html> [<https://perma.cc/HKF8-U4GJ>] (last visited Oct. 25, 2019).

84. See, e.g., Skadden Fellowships, Fried Frank Fellowships, Hunton & Williams Pro Bono Fellowship, Sidley Austin Appellate Advocacy Fellow.

allow corporate law to set the agenda of what work gets done and how.⁸⁵ The corporatization of pro bono and publicity efforts such as “pro bono challenges” allow law firms to pitch their good work, while strategically only taking on worthy causes that will help their bottom line, instead of transforming the status quo.⁸⁶ And big law firms are conflicted out of many of the kinds of litigation that would create systemic economic change because of their ongoing representation of, say, big banks or large pharmaceutical companies.⁸⁷ This, of course, leads right into the classic debate about “reform” versus “transformation:” does corporate pro bono work only fix a hole in a bucket that’s upholding the whole, unjust system?

Critic Anand Giridharadas describes a fundamental issue with the philanthropy model:

How is it that we live in this age in which Mark Zuckerberg and every other Silicon Valley person is claiming to change the world, and in which every finance person in New York is involved in giving back? Why do we live in such a generous age that has also been such a cruel age? . . . [T]hese things are not a coincidence, that giving has become the wingman of taking, and generosity has become the wingman of injustice, and changing the world has become the wingman of keeping the world fundamentally the same and keeping the winners on top.⁸⁸

Matthew Desmond notes a similar phenomenon in his observations on the housing market in the United States: “If poverty persists in America, it is not for lack of resources.”⁸⁹ The list goes on and on.⁹⁰ As a starting point for conversation about how we could live in “such a generous age that has also been such a cruel age,” Giridharadas posits that in the business sector, “the

85. See, e.g., Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 123 (2004) [hereinafter Cummings, *Politics*] (describing law firms taking on cases such as domestic violence, probate, divorce, and adoption, which “pose little threat to paying client interests”).

86. See *id.*

87. Scott L. Cummings & Rebecca L. Sandefur, *Beyond the Numbers: What We Know – and Should Know – About American Pro Bono*, 7 HARV. L. & POL’Y REV. 83, 96 (2013) (“Existing research does not tell us how often classic conflicts emerge, but it does suggest that an even more consequential kind of conflict may be positional or business conflicts, wherein representing an individual client or working for a specific cause might place the lawyer or the lawyers’ organization in opposition to a class of existing or potential clients.”); Cummings, *Politics*, *supra* note 85, at 116 (“Even when actual conflicts do not bar pro bono representation, the specter of so-called positional conflicts presents an additional hurdle.”).

88. Isaac Chotiner, *The Cruelty of Our Age of Generosity*, SLATE (Aug. 24, 2018, 11:05 AM), <https://slate.com/news-and-politics/2018/08/anand-giridharadas-on-his-book-winners-take-all-and-the-farce-of-elites-claiming-to-make-the-world-a-better-place.html> [https://perma.cc/CXC9-CNN9].

89. Michael Giorgio, *Author Matthew Desmond Broadens Perspectives on the State of Poverty and Homelessness in America*, SETON HALL U. (Mar. 12, 2018), <http://www.shu.edu/education/news/author-matthew-desmond-speaks-on-poverty-in-america.cfm> [https://perma.cc/5LDV-BQK9].

90. See also ROBERT REICH, JUST GIVING (2018) (developing a “political theory of philanthropy”).

idea that you can ask people to do more good but you're not supposed to talk about companies doing less [is] harm[ful]. You can ask people to give back more, but you're not supposed to talk about taking less."⁹¹

I believe that this fundamental problem is at the heart of the current pro bono model in law. Connecting this to our mission here, UCI Law can lead the way in talking about doing less harm, and in actually doing less harm. The Law School should not only re-evaluate how it measures public interest impact, as Citlalli described but also the contributions made by private interest students from a “do less harm” perspective. News headlines focus on the salaries that are being raised for first-year associates at big law firms, the amount of revenue generated by these firms, and the monetary victories won.⁹² Perhaps it is time to measure the ways in which our students stand up for their visions of social and ethical responsibility in our profession, and the way the Law School prepares them to do so. The Law School can lead the way in facilitating hard—but necessary—conversations about race, privilege, and intersectionality for students before entering the legal workplace, and already has a ready model available in its Center on Law, Equality and Race (CLEAR).⁹³

Not only is our profession susceptible to sexual harassment and other gender- and race-based oppression but our profession *metes out power* to the systems upholding those very forms of oppression.⁹⁴ The Law School has a responsibility to ensure that its teachings are not divorced from reality—that its practices are based on understanding the ethical choices and consequences that inform the distribution of this power. Striving to be an ethical

91. Chotiner, *supra* note 88.

92. See, e.g., *The \$190K Question: Will Clients Balk at Rising Associate Salaries?*, AM. LAW. (June 5, 2018), <https://www.law.com/americanlawyer/2018/06/05/the-190k-question-will-clients-balk-at-rising-associate-salaries/> [<https://perma.cc/8TVH-VHEA>].

93. CLEAR sponsors a monthly “Perspectives Reading Group” in which each of us was active in our time at the Law School. Perspectives reads critical works—spanning from law review articles to works of historical fiction—and hosts a lively dinnertime discussion facilitated by the author of the work, a faculty member, or a student. For current offerings, see *Center on Law, Equality and Race*, U.C. IRVINE SCH. LAW, <https://www.law.uci.edu/centers/clear/events/reading-group.html> [<https://perma.cc/2RMT-QH85>] (last visited Oct. 28, 2019) [hereinafter *CLEAR*]. I am not suggesting, here, that CLEAR activities should necessarily become mandatory for the student body as a whole (although I think it is an idea worth exploring), but I include the example to point out that UCI Law already has an abundance of material and visitors contributing to the field of critical theory which can be informative for the larger campus—regardless of which field a student pursues.

94. For a set of brief illustrations of this concept, see Leah Litman, *UCI Law Commencement Speech*, TAKE CARE (June 10, 2019), <https://takecareblog.com/blog/uci-commencement-speech> [<https://perma.cc/7RBV-LX6Z>], who stated, “it was lawyers . . . who argued the [*Brown v. Board of Education*] decision was wrong because it favored blacks over whites It is lawyers who argue that courts cannot stop the President from rescinding the protections of the DACA program because it would do grave harm to the separation of powers It was lawyers who argued that the federal government cannot provide health insurance to Americans who cannot afford it. It is lawyers who argue that Congress cannot provide protections against breaking up Native American families, or that law schools cannot refuse to fund positions at employers who discriminate on the basis of sexual orientation.”

professional who aspires to use one's law degree to *listen to* the most vulnerable—to *minimize harm* to them—is something that anyone can do, no matter what field of law they are in.⁹⁵ As former UCI Law Professor Leah Litman told the Law School's graduating class in 2019:

We all have to find ways to do justice; to include those who have been excluded; to seek out those who have experienced injustice; we have the means/powers/tools to do so. It doesn't matter if you are a corporate lawyer or a legal aid attorney; prosecutor or a public defender; a municipal attorney; a loan service officer; an employment attorney.

It is your responsibility to seek out those who . . . have suffered and those who are marginalized. There are problems; and it is within our capacity to fix them.

I believe this is true. And it is the Law School's job to prepare any student who enters its doors to find ways to do justice, especially in this day and age.

There are reasons to be optimistic. Across the country, law students are beginning to demand change and recognize the obligation of the profession to be the change. As just one example, Harvard Law students took the lead in boycotting one of the nation's largest law firms until it banned arbitration clauses

95. NAACP Legal Defense Fund president Sherrilyn Ifill had a similar message for NYU Law's 2014 graduating class: "You are called to be a civil rights lawyer. Because civil rights work is the work of democracy maintenance. It is not work to be done only by black lawyers, or women lawyers or gay lawyers or even those of us who have committed ourselves to this practice full time It is every lawyer's obligation to engage in the hard, but necessary work of democracy maintenance." (*Sherrilyn Ifill '87 Exhorts the Class of 2014 to Infuse Civil Rights Work into Their Careers*, NYU L. (May 23, 2014), <http://www.law.nyu.edu/news/Sherrilyn-Ifill-Convocation-2014> [<https://perma.cc/X2K2-GJQG>]). being a "people's lawyer" to me means taking the lawyer hat off at times and, instead of dictating to people what their problems are (classic legal training of "issue spotting") and what a legal solution might look like, listening to what the community says it needs in a given time. I am reminded of Purvi Shah's talk at Perspectives. *CLEAR*, *supra*, note 93. Shah, an attorney with the Center for Constitutional Rights, described her experiences in Ferguson, Missouri in the summer of 2014 after the fatal shooting of unarmed black teenager Michael Brown. She recounted how, arriving at the scene of mass protests in the days after the shooting, she first volunteered her services as an attorney. Instead, she was asked to help draw signs on poster board—a task that she saw as being an immediate first step from a community in its initial stages of mourning, before future, complex legal solutions could even attempt to be contemplated. I am similarly reminded of the National Lawyer Guild's Parole Preparation Project (PPP), co-founded by an NYU Law graduate, who asked her clients serving life sentences how she could best support them. PPP was born from the clients explaining that they could most use non-legal help compiling letters of support in preparation for their parole board hearings. Since that time, non-lawyers and lawyers alike have assisted over 175 people in developing solid release plans and developing interviewing skills for their parole hearings. *See* PAROLE PREPARATION PROJECT, paroleprepny.org [<https://perma.cc/3BR6-AX5X>] (last visited Nov. 5, 2019). It might seem counterintuitive for a law school to prepare its graduates on how and when to put aside their law degrees and instead take direction from communities themselves, but I believe that this is an essential facet of working alongside people toward transformative change.

from summer associate contracts—clauses that, historically, have been used to foreclose claims of sexual harassment over first-year summer associate positions.⁹⁶ This successful action challenges the traditional notion that summer associates have very little, if any, bargaining power.

Although, as I confessed above, I am worried about UCI Law becoming “just another law school” with solid rankings, I believe that the Law School’s students do not wish to be defined solely by a random set of numbers. There are other measures that should instill pride in the current student body and in us as alums. Although the Law School is fairly removed from the larger campus, UC Irvine as a whole has been awarded the “Top University Doing the Most to Help the American Dream.”⁹⁷ Whatever one might have to say about the actual state of the “American Dream” today, this metric measures “a combination of the number of lower-and middle-income students that a college enrolls and the price it charges these students.”⁹⁸ The Law School should respond to this main campus honor by taking a hard look at whether *it*, within the larger umbrella of UC Irvine, is also doing the most to help the American Dream.

Where will UCI Law make its mark? Since the goal of this critical epistolary is not solely to put forth theoretical ideas but also to propose some concrete ones, here are three specific actions that I have been thinking about. Taken together, these three undertakings would amount to a true commitment by the Law School to “redefine, reimagine and reinvent legal education.”⁹⁹

First, across the country, progressive coalitions are pushing cities to focus on “civil Gideon”¹⁰⁰ initiatives. For example, in 2017, New York City became the first U.S. city to have a “right to counsel” for income-eligible tenants who are sued for eviction in Housing Court. As the Law School grows, more and more UCI Law graduates are finding themselves in places like New York, Philadelphia, and Washington D.C.—jurisdictions with active right-to-counsel coalitions pushing progressive initiatives.¹⁰¹ In these jurisdictions and others, housing is

96. See, e.g., Staci Zaretsky, *BigLaw Firm Tries to Force Summer Associates to Arbitrate Sexual Harassment*, ABOVE L. (Mar. 26, 2018), <https://abovethelaw.com/2018/03/biglaw-firm-tries-to-force-summer-associates-to-arbitrate-sexual-harassment-claims/> [<https://perma.cc/MT5E-DXS9>].

97. *Top Colleges Doing the Most for the American Dream*, N.Y. TIMES (May 25, 2017), https://www.nytimes.com/interactive/2017/05/25/sunday-review/opinion-pell-table.html?_r=0 [<https://perma.cc/2JWR-CMPQ>].

98. *Id.*

99. VIEWBOOK, *supra* note 19, at 5.

100. “The term ‘civil Gideon’ refers to a growing national movement that has developed to explore strategies to provide legal counsel, as a matter of right and at public expense, to low-income persons in civil legal proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.” *Philadelphia Bar Association’s Civil Gideon Corner*, PHILA. BAR ASS’N., <http://www.philadelphiabar.org/page/CivilGideon> [<https://perma.cc/B87T-7BMY>] (last visited Oct. 28, 2019).

101. See, e.g., *No Evictions, Defend Your Rights!*, RIGHT TO COUNS. NYC, <https://www.righttocounselnyc.org/> [<https://perma.cc/9WYC-LS3D>] (last visited Oct. 28, 2019); *Philly Renters Guaranteed Lawyers in Eviction Court Under New City Council Bill*, PLAN PHILLY (May 9,

framed as—correctly in my view—a basic human right. But the Law School does not have a Housing Law course,¹⁰² or a housing clinic, despite the work that other clinics do that might overlap with right-to-housing issues (such as the Community and Economic Development Clinic). UCI Law could take the lead in starting either of these initiatives and preparing graduates to argue in eviction cases.

Second, I have also been thinking about the core of the first-year curriculum. To center public interest law, and increase the real-world impact of students' work, the first-year writing course could partner up with upper-level clinics to help research and draft memorandum about real-time legal issues, or draft actual motions, pleadings, contracts or other documents based on the clinic's work. Although such a collaboration would involve special coordination between the clinic and writing professors, the potential benefits of such a partnership are exponential. Further, such a program would align with the vision that we have been discussing throughout this epistolary of UCI Law preparing experienced public interest practitioners.¹⁰³

And third, while this is a much longer conversation, I will make quick mention of this reform in the spirit of brainstorming around the Law School's decennial. UCI Law can and should experiment with other teaching and learning tools outside of the Langdell case method, first put forward by Christopher

2019), <http://planphilly.com/articles/2019/05/09/philly-renters-guaranteed-lawyers-in-eviction-court-under-new-city-council-bill> [<https://perma.cc/E7WY-TKQA>].

102. For examples of other law schools' experiential programs, see, e.g., Columbia Law School's Housing Law program (*Housing Law*, COLUM. L. SCH., <https://www.law.columbia.edu/experiential/externship/housing-law> [<https://perma.cc/8L3T-UDCP>] (last visited Oct. 28, 2019)) which is preparing students to argue in Brooklyn Housing Court; *Housing Law Clinic*, HARV. L. SCH., <https://hls.harvard.edu/dept/clinical/clinics/housing-law-clinic-lsc/> [<https://perma.cc/QJ7D-LKQP>] (last visited Oct. 28, 2019) which represents tenants in Boston Housing Court. For examples of an overview for a doctrinal course, see *Housing Law*, U.N.C.L., <https://law.unc.edu/academics/degree-programs/course-advising/upper-level-course-listing/> [<https://perma.cc/JQJ5-6PTF>] (last visited Oct. 28, 2019); *Housing Law and Poverty Seminar*, U. VA. L., <https://www.law.virginia.edu/courses/view/119820243> [<https://perma.cc/W6HZ-4E6M>] (last visited Oct. 28, 2019). Aside from Housing Law, which typically incorporates individual tenant-landlord relationships as well as broader zoning laws, rent restrictions, and other covenants, there is a dearth of coursework geared toward understanding the financing of the housing market more broadly. The finance blog, Credit Slips, which includes as a past contributor former UCI Law Professor, Congresswoman Katie Porter, describes the importance of learning housing finance, which law students do not tend to do: “[H]ousing is of macroeconomic importance in a way that corporate debt is not. Part of it is the size of the market—the \$12.0 trillion residential mortgage market is much bigger than the corporate debt market (\$8.6 trillion total) [T]his raises the question of why corporate finance is a standard law school offering, but not housing finance” Adam Levitin, *No One Wants to Serve on House Financial Services?*, CREDIT SLIPS (Dec. 14, 2018, 10:04 AM), <https://www.creditslips.org/creditslips/2018/12/no-one-wants-to-serve-on-house-financial-services.html> [<https://perma.cc/XE2G-ALNJ>].

103. One can imagine numerous benefits of such a collaboration in the realms of access to justice (increasing the number of clients who could be served), fostering a public interest sensibility (instead of first-year writing prompts being based on theoretical cases divorced from critical evaluation of the works' impact and goal), and developing management skills (as upper-level clinic students would work to prepare early law students for post-graduate roles of supervising new attorneys and interns in their professional workplace).

Columbus Langdell over one hundred years ago. UCI Law professor Carrie Menkel-Meadow writes that Langdell was noted for “[t]reating law (as a field) as a science of principles learned by induction through reading cases and systematically arranging their holdings into a coherent body of limited, general principles.”¹⁰⁴ But, as others have pointed out, this trains law students in a very narrow way: to apply appellate, judge-made law to specific, theoretical fact patterns. For many public interest graduates engaged in justice work, this will rarely be relevant. While there might be some limited benefit to reading Cardozo or Learned Hand decisions forming the principle of, say, bargained-for exchange, clients need help interpreting actual, real world contracts—which many graduates have not examined during their years at UCI Law. How, without such experience, is a graduate to guide a low-income client who never received a copy of a lease containing a hidden arbitration clause and is now being threatened with repossession of her only means of transportation?¹⁰⁵ While there might be some limited benefit to the ritualistic reading of *Pennoyer v. Neff* in Procedural Analysis,¹⁰⁶ can we not imagine a better use of time by role-playing litigation strategy in real, current federal cases impacting some of the crises we identified at the beginning of this Article? As we have discussed, the Law School’s clinics are exemplary, but it is time for the doctrinal courses to innovate as well. At a minimum, these examples illustrate that the Law School’s doctrinal classes—at least as we experienced them—are not necessarily doing “the best job in the country of training lawyers for the practice of law at the highest levels of the profession.”¹⁰⁷

I look forward to hearing your thoughts on these and other issues.

Best,
Ariela

* * *

104. Carrie Menkel-Meadow, *Taking Law and Really Seriously: Before, During and after “The Law,”* 60 VAND. L. REV. 555, 556–67 (2007); see also Tomlins, *supra* note 49.

105. Actual client story taken from my first year out of law school.

106. The “limited benefit” here derives from the one-of-a-kind sense of law school humor as exemplified by the a cottage industry of YouTube videos explaining *Pennoyer v. Neff*. See, e.g., Jimmee214, *Best Explanation of Pennoyer v. Neff You’ll Ever See!*, YOUTUBE (Aug. 31, 2011), <https://www.youtube.com/watch?v=s5Z9jC81eWQ> [<https://perma.cc/BGH5-YE2A>] (depicting a casual conversation on a park bench about *Pennoyer*’s basics); Michigan State University College of Law, *Pennoyer v. Neff*, YOUTUBE (Apr. 10, 2018), https://www.youtube.com/watch?v=wGJu_D0rX4U&app=desktop [<https://perma.cc/8H9A-NF99>] (Apr. 10, 2018) (depicting a Lego rendition of the case). In struggling through the reading, we gain a few minutes’ laughter at our colleagues through this timeless ritual, if nothing else.

107. See Carroll Seron, *A Law School for the Twenty-First Century: A Portrait of the Inaugural Class at the University of California, Irvine School of Law*, 1 U.C. IRVINE L. REV. 49, 57 (2011).

Dear Citlalli and Ariela,

At its tenth anniversary, the Law School is celebrating “the culmination of several generations of revolutionary dreamers.”¹⁰⁸ There’s something fitting about a U.C. law school using “dreamers,” a word laden with such double meaning; the system has been notably supportive of its many undocumented students, and law students provide a number of pro bono services to their undocumented undergraduate compatriots. In fact, Law School professors and our founding dean are representing an undocumented UCI Law student in a case against the Trump Administration.¹⁰⁹

But setting that convergence aside, our experiences compel me to ask: what has happened to the revolution? At the beginning of our correspondence, we noted the Law School’s commitment to the public interest and its intent to be a “law school of the twenty-first century.” With an ill-defined (or no) mission statement around which students, faculty, and alums can align, these principles must serve as guideposts when analyzing whether the school has—or can—achieve its goals. I would offer that it has not yet and, without true revolutionary dreaming, may not.

I mentioned that the Law School does not appear to have a mission statement, or motto, to serve as a touchstone. In the spirit of proposing concrete actions and ideas, based on what we have been discussing so far, I see something like this as tying together our aspirational visions for the Law School:

UCI Law is committed to improving the world today and for future generations by educating legal professionals equipped with the highest ethical standards and outstanding skills, who are, throughout their careers, committed to the relentless pursuit of equal justice and access to legal services. As a public law school, UCI Law is committed to the highest ideals of public education: providing rigorous intellectual training, developing and contributing to the public good, and deeply engaging with its community.

108. *About UCI*, *supra* note 9.

109. *Six ‘Dreamers’ Sue Trump to Block Repeal of DACA*, L.A. TIMES (Sept. 18, 2017), <https://www.latimes.com/local/lanow/la-me-ln-daca-lawsuit-20170918-story.html> [<https://perma.cc/4MUY-R224>]. As of this writing, the Supreme Court of the United States has heard oral arguments on whether the Trump administration’s decision to end DACA is something that U.S. courts can review and whether the decision to end DACA is unlawful. It remains to be seen what the Court’s conservative majority will decide. *See* Nina Totenberg, *Supreme Court May Side with Trump on ‘Dreamers,’* NPR (Nov. 13, 2019), <https://www.npr.org/2019/11/13/778545559/supreme-court-may-side-with-trump-on-dreamers> [<https://perma.cc/A9HB-M6S7>]; Amy Howe, *Argument analysis: Justices torn, hard to read in challenge to decision to end DACA (UPDATED)*, SCOTUSblog (Nov. 12, 2019 2:07PM), <https://www.scotusblog.com/2019/11/argument-analysis-justices-torn-hard-to-read-in-challenge-to-decision-to-end-daca/> [<https://perma.cc/B5A5-PPTE>].

We have agreed, in our letters so far, that there is a dearth of publicly available information on whether or how the Law School is living up to its self-proclaimed identity as a different, innovative, or public interest focused law school. But as you laid out, Citlalli, available information suggests that, by the most important measures, it is not. UCI Law can boast 80,000 hours of student pro bono work completed in its first ten years,¹¹⁰ but it is unclear how many graduates entered public interest positions right after graduation and how many were in public interest positions several years after graduation. Although I, like you, Ariela, celebrate the opening of the Student Loan Law Initiative, it is simply not enough to open even the most innovative research centers, count pro bono hours, or have a few clinical victories, no matter how significant (and they *have* been significant).

Now, one may say—and some surely will—that the analysis above excludes an important marker of graduate impact on the public interest: the significant pro bono work conducted by law school graduates at corporate law firms. This is not to be overlooked; my anecdotal understanding is that our graduates perform a remarkable number of pro bono hours and in some cases spearhead new initiatives within their firms. “Philanthropy is commendable,” as Dr. Martin Luther King, Jr. once wrote, “but it must not cause the philanthropist to overlook the circumstances of economic injustice which make philanthropy necessary.”¹¹¹

Ariela, you have already described some of the shortcomings of the pro bono model. In the excellent article, *The Politics of Pro Bono*, Scott Cummings describes one of the core tensions in the corporate pro bono model in this way:

For lawyers who view justice in terms of equal access for the poor, pro bono provides an ideal opportunity to discharge their ideological commitment by handling individual cases for low-income clients Because an equal access orientation privileges service provision over social reform, it fits well with big firm values—emphasizing technical lawyering skill while steering clear of any challenges to the legitimacy of corporate client activity.¹¹²

I confess I am less than optimistic that UCI Law is navigating by its guideposts when viewed in this light.

You two may recall something we were told at our incoming student orientation: that the Law School aims to instill a “public interest mindset” in its students, such that they continue to prioritize public interest whatever their career choices. This flattening of the difference between public interest lawyering and pro bono has emerged as a central operating principle. Indeed, it is inherent in the Law School’s own explanation of its public interest positioning, which is aimed at

110. VIEWBOOK, *supra* note 19, at 28.

111. MARTIN LUTHER KING, JR., STRENGTH TO LOVE 19 (1963).

112. Cummings, *Politics*, *supra* note 85.

“ensuring that [its] graduates will be committed to providing legal *services* to those most in need, *either* through pro bono service in their private practice, *or* as public interest attorneys.”¹¹³

But as Cummings and others have explained, there is a critical difference. The modern pro bono model, by design and as a practical matter, protects corporate interests that are anathema to the systemic changes required to *prevent* those injustices that are the subject of corporate pro bono work. No matter how excellent or impactful a pro bono attorney’s work, “the central dilemma of pro bono remains: A system that depends on private lawyers is ultimately beholden to their interests.”¹¹⁴ This is critical for our understanding of the Law School’s role, because

this means not just that private lawyers will avoid categories of cases that threaten client interests, but also that they will take on pro bono cases for institutional reasons that are disconnected from the interests of the poor and underserved—and often contrary to them. This is most apparent in the use of pro bono for law firm associate training[.]¹¹⁵

Thus, if the Law School is to be a true law school of the twenty-first century—innovative, modern, and flexible, but also revolutionary, deeply impactful, and purpose-led—it must prioritize graduating more students into public interest careers. Output is key. As such, it must be measured, and barriers to meeting positive, aggressive (world-changing) goals must be ruthlessly attacked.

This crucial project—defining and becoming a law school of the twenty-first century—must mean (as you insisted, Ariela) accurately assessing and affirmatively seeking to address the issues of the twenty-first century. No longer is it sufficient—if it ever was—to merely instill a “public interest mindset” in students destined by interest or inertia for corporate law firms. Instead, the school must ask difficult (revolutionary) questions: how are we reaffirming and strengthening the status quo? In what ways are we failing to challenge problematic but powerful trends in today’s legal market? What incentives, and disincentives, are we providing (or messaging) around pursuing careers in public interest? How are we leveraging our community, donor, professional, and political relationships to push the profession—and the world—in a more just direction?

Imagine a world where the Law School lived up to the mission I propose above! A number of goals could flow from a mission like this. The Law School could aim to have 50% of its graduates in public interest positions within three

113. *Public Interest Programs*, UC IRVINE SCH. L., <http://www.law.uci.edu/about/public-service/public-interest/> [https://perma.cc/6QJH-PXHN] (last visited Oct. 28, 2019) (emphasis added).

114. Cummings, *Politics*, *supra* note 85, at 148.

115. *Id.* at 147.

years of graduation (accounting for students who pursue judicial clerkships).¹¹⁶ As Citlalli proposed, it could resolve to conduct ongoing survey work of its graduates, with the goal of analyzing what complex factors influence initial and mid-career professional choices—and, of course, allowing that data to directly impact programming at the Law School. It could create strict requirements around public-interest related scholarship programs, providing that recipients reimburse the school's investment if they choose to pursue corporate careers.¹¹⁷ The Law School's faculty and administration are experts on this type of goal-oriented strategic planning, and I will not presume to trace all of the necessary work that would flow from adopting a new, focused mission. The key point is that this benchmark anniversary is a critical time to lay a missing cornerstone in the foundation of the Law School—a cornerstone that, should it remain missing, will eventually cause an avoidable slide into institutional complacency and a replication and reinforcement of existing power structures. I believe laying this cornerstone is possible, with some revolutionary self-reflection and committed action. We have the ingredients, some underutilized. And we have the dream: that seed planted within the idea for the Law School, from the very start, that it serve a great purpose and the public good.

With optimism,
Jamila

* * *

116. See DAVIS, *supra* note 23.

117. See Ariela's letter *supra* p. 8.

Dear Ariela and Jamila,

Ariela, in your previous letter you asked, “Where will UCI Law make its mark?” and your ideas inspired me to reflect on the answer. In doing so, I remembered why I was initially drawn to the Law School. Growing up in an immigrant family, my upbringing was marked by stark contrasts between life in Mexico and the United States. I was driven to pursue a career that would allow me to navigate between both of these worlds and, specifically, to address social issues impacting both of these countries from a human rights perspective. With this idea in mind, I chose a law school that emphasized public service and prioritized an International Legal Analysis course for its first-year students. At UCI Law, I saw an opportunity to learn about and deploy international law strategies, in particular international human rights law, to leverage domestic social change.

As part of its mission to prepare students for the contemporary practice of law, the Law School created a nontraditional curriculum that included a mandatory first-year course on international legal analysis.¹¹⁸ While the International Legal Analysis course is aimed at preparing students to deal with the various challenges that globalization presents, and therefore, may encompass many substantive areas and aspects of international law, in this letter I want to focus on the relevance of the course as a tool for achieving domestic social change and its complementarity to UCI Law’s public interest commitment. Despite the fact that many students and lawyers in the United States consider international law unenforceable and irrelevant to their practice, including UCI Law students and alums who have suggested removing it from the first-year curriculum,¹¹⁹ I draw on examples from international human rights law practice to argue that the study and practice of international law is an important tool for advancing justice and meeting the needs of society, both in the United States and abroad. For that reason, it is important to reconfigure the International Legal Analysis course to bring it more in line with UCI Law’s broader public interest mission.

UCI Law can make its International Legal Analysis course more relevant to students’ legal careers by breaking down barriers between public interest law and human rights, exposing future public interest lawyers to human rights methodologies, and providing opportunities for young lawyers to circulate between traditional public interest fields at the domestic level and the international human rights field. Today, there are a number of activists and non-profits in the United States that recognize that the international human rights framework, and

118. UCI Law professor Carrie Menkel-Meadow argued that “[l]awyers of the twenty-first century must come to understand that, with respect to most of what we do or want to do, we are now in an interdependent world of manufacturing, distribution, consumption, and promotion of creative action, as well as, sometimes sadly, destructive sites of interaction.” Carrie Menkel-Meadow, *Why and How to Study Transnational Law*, 1 U.C. IRVINE L. REV. 97, 100 (2011).

119. See COMM. ON INCLUSION AND DIVERSITY, FINAL REPORT OF THE AD HOC COMMITTEE ON INCLUSION AND DIVERSITY (2006), <https://apps.law.uci.edu/intranet/community/UCI-Inclusion-and-Diversity-FinalReport.pdf> [<https://perma.cc/4U53-WZ9H>].

the human rights perspective more broadly, can advance their efforts to advance social justice domestically. In recent years, we have seen efforts in the United States to deter, criminalize, and stigmatize migrants, visitors, and asylum seekers;¹²⁰ U.S. withdrawal from international commitments, including departures from the United Nations Human Rights Council, Trans-Pacific Partnership, Iran Nuclear Deal, and Paris Agreement;¹²¹ the U.S. Supreme Court limiting corporate liability for human rights abuses;¹²² and the continued enforcement of the death penalty against individuals across the United States,¹²³ among other developments. However, we have also seen advocates engaging with international human rights bodies to amplify their messages and ensure accountability. For example, public interest organizations have turned to the Inter-American Commission on Human Rights (IACHR)—an independent human rights monitoring body with jurisdiction over the United States and thirty-four other members of the Organization of American States—to file petitions and engage in human rights standard-setting discussions related to gun violence,¹²⁴ violence against people of African descent,¹²⁵ family separation,¹²⁶ the situation of children in the U.S. criminal justice system,¹²⁷ and executions.¹²⁸

120. *Ten Human Rights Standards Implicated by U.S. Immigration Policy Changes*, INT'L JUST. RESOURCE CTR. (June 27, 2018), <https://ijrcenter.org/2018/06/27/ten-human-rights-standards-implicated-by-u-s-immigration-policy/> [<https://perma.cc/GDH3-5SAB>].

121. *Consequences of the U.S. Departure from the Human Rights Council*, INT'L JUST. RESOURCE CTR. (July 10, 2018), <https://ijrcenter.org/2018/07/10/consequences-of-the-u-s-departure-from-the-human-rights-council/> [<https://perma.cc/HAU6-5KQT>].

122. *U.S. Supreme Court Limits Liability for Human Rights Abuses*, INT'L JUST. RESOURCE CTR. (May 1, 2018), <https://ijrcenter.org/2018/05/01/u-s-supreme-court-limits-corporate-liability-for-human-rights-abuses/> [<https://perma.cc/V83C-GW25>].

123. *Execution List*, DEATH PENALTY INFO. CTR., <https://deathpenaltyinfo.org/execution-list-2018> [<https://perma.cc/5HEK-MTCS>] (last visited Oct. 28, 2019); *Texas Executes Man in Contravention of Multiple International Legal Decisions*, INT'L JUST. RESOURCE CTR. (Nov. 27, 2018), <https://ijrcenter.org/2018/11/27/texas-executes-man-in-contravention-of-multiple-international-legal-decisions/> [<https://perma.cc/YGD9-8L8S>].

124. See AMNESTY INT'L, AMNESTY INTERNATIONAL USA TESTIMONY BEFORE IACHR RE: THE REGULATION OF GUN SALES AND SOCIAL VIOLENCE IN THE UNITED STATES (2018), <https://www.amnestyusa.org/wp-content/uploads/2018/04/AIUSA-Written-Testimony-for-IACHR-Hearing-on-Gun-Regulation-and-Social-Violence-in-US.2.23.2018FINALTOBE-SUBMITTED.pdf> [<https://perma.cc/UWE9-6FM5>]; *Regulation of Gun Sales and Social Violence in the United States (EX OFFICIO): Hearing Before the Inter-Am. Comm'n H.R.*, 167th Period of Sessions (2018); see also AMNESTY INT'L, IN THE LINE OF FIRE HUMAN RIGHTS AND THE US GUN VIOLENCE CRISIS (2018), https://www.amnestyusa.org/wp-content/uploads/2018/09/Gun-Report-Full_16.pdf [<https://perma.cc/6BS8-MSP3>] (analyzing gun violence in the United States as a human rights issue).

125. Inter-American Comm'n on Human Rights, Police Violence Against Afro-descendants in the United States, OAE/Ser.L/V/II. Doc. 156/18 (Nov. 26, 2018), <https://www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf> [<https://perma.cc/UC2F-PMG2>].

126. The Women's Refugee Commission, Immigration Clinic at the University of Texas School of Law, Texas Civil Rights Project, and Garcia & Garcia Attorneys at Law requested precautionary measures (emergency protection) from the IACHR on behalf of five separated families. The IACHR granted those requests in August 2018. See Press Release, Org. of Am. States: Inter-American Comm'n on Human Rights, IACHR Grants Precautionary Measure to Protect Separated

Additionally, in response to an erosion of domestic legal standards with respect to the environment, organizations like Earthjustice are taking cases with transnational implications to the IACHR and engaging at the United Nations to combat climate change, countering some of the Trump Administration's recent efforts to roll back environmental protections.¹²⁹

Engagement with human rights bodies is not limited to organizations that have an international program area or focus. Grassroots organizations also engage with UN mechanisms to raise awareness and address issues impacting their communities. Recent examples include the Alabama Center for Rural Enterprise's (ACRE)¹³⁰ advocacy surrounding the visit of the UN Special Rapporteur on extreme poverty to the United States in 2017—this garnered significant media attention in the United States and abroad, and a scathing response from the U.S. government¹³¹—and Indigenous peoples' submissions to the UN Human

Migrant Children in the United States (Aug. 20, 2018), http://www.oas.org/en/iachr/media_center/PReleases/2018/186.asp [<https://perma.cc/TLE7-GGDJ>].

127. Inter-American Comm'n on Human Rights, Children and Adolescents in the United States' Adult Criminal Justice System, OEA/Ser.L/V/II.167 Doc.34/18 (Mar. 1, 2018), <http://www.oas.org/en/iachr/reports/pdfs/Children-USA.pdf> [<https://perma.cc/G2RQ-59JQ>].

128. Press Release, Org. of Am. States: Inter-American Comm'n on Human Rights, IACHR Urges the United States to Stay the Execution of Roberto Moreno Ramos (Nov. 1, 2018), http://www.oas.org/en/iachr/media_center/PReleases/2018/234.asp [<https://perma.cc/9XUK-WBA9>]; *Texas Executes Man in Contravention of Multiple International Legal Decisions*, INT'L RES. CTR. (Nov. 27, 2018), <https://ijrcenter.org/2018/11/27/texas-executes-man-in-contravention-of-multiple-international-legal-decisions/> [<https://perma.cc/593U-FHCY>].

129. See *British Columbia Mining Linked with Human Rights Violations for Alaska Tribal Nations*, EARTHJUSTICE (Dec. 5, 2018), <https://earthjustice.org/news/press/2018/british-columbia-mining-linked-with-human-rights-violations-for-alaska-tribal-nations> [<https://perma.cc/YX3G-EH8B>]; Eric Lipton et al., *The Real-Life Effects of Trump's Environmental Rollbacks: 5 Takeaways from Our Investigation*, N.Y. TIMES (Dec. 26, 2018), <https://www.nytimes.com/2018/12/26/us/trump-environment-regulation-rollbacks.html> [<https://perma.cc/8985-SFBD>]; Erika Rosenthal, *Together, We Can Rise to the Challenge of Climate Change – Even If the Trump Administration Won't*, EARTHJUSTICE (Dec. 10, 2018), <https://earthjustice.org/blog/2018-december/together-we-can-rise-to-the-challenge-of-climate-change-even-if-the-trump-administration-won-t> [<https://perma.cc/7P6J-KV6H>]; Eric Lipton et al., *The Real-Life Effects of Trump's Environmental Rollbacks: 5 Takeaways from Our Investigation*, N.Y. TIMES (Dec. 26, 2018), <https://www.nytimes.com/2018/12/26/us/trump-environment-regulation-rollbacks.html> [<https://perma.cc/8985-SFBD>].

130. Concerned over impaired access to basic water and sanitation impacting Alabama communities, the ACRE submitted a report to the UN Special Rapporteur ahead of his visit to the United States. The ACRE is a non-profit that promotes sustainable initiatives in rural and impoverished in Alabama. See ALA. CTR. RURAL ENTERPRISE CDC, <https://www.acrecdc.com/home/> [<https://perma.cc/8PFQ-S2CL>] (last visited Oct. 28, 2019).

131. See, e.g., Ed Pilkington, *UN Condemns Trump Administration for Exacerbating US Poverty Levels*, GUARDIAN: U.N. (June 22, 2018, 12:01 PM), <https://www.theguardian.com/world/2018/jun/22/united-nations-poverty-report-philip-alston> [<https://perma.cc/X9FG-N53H>]; Ed Pilkington, *Nikki Haley Attacks Damning UN Report on US Poverty Under Trump*, GUARDIAN: U.N. (June 21, 2018, 4:39 PM), <https://www.theguardian.com/world/2018/jun/21/nikki-haley-un-poverty-report-misleading-politically-motivated> [<https://perma.cc/KN5A-M3Y7>]; Marc Silver & Nadia Whitehead, *The U.N. Looks at Extreme Poverty in the U.S., from Alabama to California*, NPR: GOATS AND SODA (Dec. 12, 2017, 3:56 PM), <https://www.npr.org/sections/goatsandsoda/2017/12/12/570217635/the-u-n-looks-at-extreme-poverty-in-the-u-s-from-alabama-to-california> [<https://perma.cc/56NC-Y2YH>]; see also Ed Pilkington, *A Journey Through a Land of Extreme*

Rights Committee for the U.S. periodic review.¹³² These examples, though not exhaustive, are meant to highlight that international law protections are currently and consistently being deployed to enhance the efforts of public interest organizations in the United States. Moreover, they point to new directions of global engagement by public interest lawyers—directions that suggest an evolution in advocacy strategies aimed at achieving justice, and that acknowledge the limits of domestic law to effectuate change at home.¹³³

U.S. courts, for their part, are increasingly recognizing that the growing complexity of problems, including the transnational scope of cases and the foreign circumstances they present, require taking into account international considerations when deciding domestic law questions.¹³⁴ Although still rare, the U.S. Supreme Court has incorporated international human rights law in some of its most groundbreaking cases regarding sodomy laws,¹³⁵ the death penalty for juvenile defendants and those suffering from mental illness,¹³⁶ and affirmative action.¹³⁷ Even where human rights standards are not the basis for a decision, the use of human rights language in U.S. courts is a positive outcome resulting from U.S. lawyers' use of amicus briefs to help judges and situate domestic decisions within the broader international context.

Outside the courts, U.S. cities and counties, in response to efforts by public interest organizations, have adopted local human rights ordinances reflecting standards used in international human rights treaties—a positive development given that the likelihood that the U.S. will ratify core international human rights treaties is slim.¹³⁸ Most recently, in November 2018, Santa Clara County, California adopted a resolution to become a “human rights county,” recognizing

Poverty: Welcome to America, GUARDIAN (Dec. 15, 2017, 2:00 AM), <https://www.theguardian.com/society/2017/dec/15/america-extreme-poverty-un-special-rapporteur> [<https://perma.cc/NZT2-LLW7>].

132. See Int'l Indian Treaty Council, *Indigenous People's Coordinated Submission*, U.N. HUMAN RIGHTS COMM. (Jan. 19, 2019), https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1296&Lang=en [<https://perma.cc/CH33-VT3M>]; The Western Bands of the Shoshone Nation of Indians, *Submission to the United Nations Periodic Review*, U.N. HUMAN RIGHTS COMM. (Jan. 14, 2019), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fUSA%2f33419&Lang=en [<https://perma.cc/75XW-X7M5>].

133. See Cummings, *supra* note 85, at 97.

134. See generally STEPHEN BREYER, *THE COURT AND THE WORLD: AMERICAN LAW AND NEW GLOBAL REALITIES* (2016).

135. See *Lawrence v. Texas*, 539 U.S. 558, 573 (2003).

136. See *Roper v. Simmons*, 543 U.S. 551, 575–78 (2005); *Atkins v. Virginia*, 536 U.S. 304, 316 n.21 (2002).

137. See *Grutter v. Bollinger*, 539 U.S. 306, 344 (2003) (Ginsburg, J., concurring).

138. See, e.g., *US Cities in Pursuit of Viable Futures: Taking on the Sustainable Development Goals*, BROOKINGS: EVENTS (Nov. 29, 2018, 2:00 PM), <https://www.brookings.edu/events/us-cities-in-pursuit-of-viable-futures-taking-on-the-sustainable-development-goals/> [<https://perma.cc/BH6Q-V4BE>]; Annabel Short, *Cities – A Growing and Necessary Target for Human Rights Advocacy*, OPENGLOBALRIGHTS (Jan. 4, 2019), <https://www.openglobalrights.org/cities-a-growing-and-necessary-target-for-human-rights-advocacy/> [<https://perma.cc/9FEX-B6DU>].

the “role of government as a vehicle for the promotion and realization of the rights mentioned in the Universal Declaration of Human Rights.”¹³⁹ There are also efforts to explicitly link local government attention to the UN Sustainable Development Goals (SDGs) and human rights implementation in cities from Los Angeles to New York.¹⁴⁰ As cities and other subnational governments prepare SDG reports, opportunities to incorporate human rights frameworks into local governance continue to increase. It is significant that in 2018, New York City became the first city in the world to submit a review of its progress on SDG compliance to the UN.¹⁴¹ It is important to emphasize that progress on SDG compliance is directly related to domestic efforts aimed at increasing minimum wages and improving working conditions as well as access to pre-K education, clean water, housing, and health services, among other issues.¹⁴² As such, SDG compliance—an international advocacy tool—has a direct impact on what we generally consider “public interest” or “civil rights” issues. Further, SDG compliance is an example of a creative interplay between local-level and international advocacy ultimately aimed at addressing economic inequality and other socioeconomic injustices.

This brings me back to the question in Ariela’s last letter: “Where will UCI Law make its mark?” The three of us have spent a significant amount of time thinking about how UCI Law can and should strive to be a revolutionary institution that challenges current norms in legal education and the legal profession. With respect to the International Legal Analysis course, I would propose that the Law School more comprehensively link domestic public interest issues to the human rights framework. Just as UCI Law prioritizes public interest and pro bono domestically, it should also emphasize a rights-based approach¹⁴³

139. Francisco “Fran” Rivera Juarista, *Santa Clara County in California Becomes “Human Rights County”*, HUMAN RIGHTS HOME BLOG (Dec. 12, 2018), https://lawprofessors.typepad.com/human_rights/2018/12/santa-clara-county-in-california-becomes-human-rights-county.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+HumanRightsAtHome+%28Human+Rights+at+Home+Blog%29 [https://perma.cc/UT59-2L6P].

140. See, e.g., Martha F. Davis et al., *Human Rights Cities and the SDGs*, RAOUL WALLENBERG INST. (2018), <https://rwi.lu.se/publications/human-rights-cities-and-the-sdgs/> [https://perma.cc/7CU8-WSG8].

141. N.Y.C. MAYOR’S OFFICE FOR INT’L AFFAIRS, GLOBAL VISION URBAN ACTION: NEW YORK CITY’S IMPLEMENTATION OF THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT (July 2018), https://www1.nyc.gov/assets/international/downloads/pdf/NYC_VLR_2018_FINAL.pdf [https://perma.cc/H4LF-XMM9]; Anthony F. Pipa, *Can US Cities Help the World Achieve the Sustainable Development Goals?*, BROOKINGS: FUTURE DEV. (Nov. 29, 2018), <https://www.brookings.edu/blog/future-development/2018/11/29/can-us-cities-help-the-world-achieve-the-sustainable-development-goals/> [https://perma.cc/E2V6-5A7V].

142. See generally Short, *supra* note 138.

143. One question raised by the connection between local and international advocacy is why certain issues are labeled “human rights” issues and others are labeled “civil rights” or “social justice” issues. Why does the American human rights community often frame poverty, detention, homelessness, or domestic violence as human rights issues when they occur outside of the United States, but as “social justice” or “public interest” issues if they happen in this country? While there is a

when teaching students about globalization and the interconnectedness of the world.¹⁴⁴ As Martin Luther King Jr. observed, “I think it is necessary . . . to recognize that we have moved from the era of civil rights to the era of human rights.”¹⁴⁵

While a thorough discussion regarding the best way to reconfigure the International Legal Analysis course is outside the scope of this letter, I would suggest a procedural-based approach, taught with experiential methods in a manner that *shows* students how to leverage international law and its various mechanisms to advance domestic public interest issues. This would include embracing a broad range of nontraditional techniques that combine “naming and shaming” efforts, lobbying, reporting, and organizing with more traditional advocacy before the United Nations and Inter-American monitoring mechanisms. As Professor Menkel-Meadow explained, there is value in teaching students international legal analysis, so that they can “learn that law is plural . . . and that [international] law may still be an important tool for making the world a more just place for all of its inhabitants.”¹⁴⁶

Colleagues have suggested reconfiguring the course as a practicum involving asylum and immigration claims, but I believe that that approach would be too limited in scope. Rather, students should “learn that international or transnational analysis means a different way of thinking about law, in its variability, as well as about researching and looking for different legal treatments of the same issue.”¹⁴⁷ While teaching students how to conduct international analysis via substantive problem-oriented content is useful, students must understand that international law principles can be applied beyond “the obvious immigration and migration issues.”¹⁴⁸

Beyond ensuring a global view of the public interest, the Law School should examine the ways in which it supports (or fails to support) post-graduate international public interest work. Fellowship programs play a key role in opening pathways to human rights law careers by funding entry-level work where young attorneys gain critical skills and develop networks. However, post-graduate

recent trend to view domestic public interest issues as human rights issues, advocates have yet to harmonize the terms civil rights, social justice, and human rights.

144. Note that this idea is not new or original. In fact, students from UCI Law’s inaugural class founded the Orange County Human Rights Association with the foresight to “harmonize civil rights law, constitutional law, and international human rights law, supplementing the legal education students receive in the classroom with a human rights perspective on domestic issues.” Denisha P. McKenzie & David Rodwin, *Orange County Human Rights Association: A New Law Student Group for a New Era*, 1 U.C. IRVINE L. REV. 249, 253 (2011).

145. Vanita Gupta, *Blazing a Path from Civil Rights to Human Rights: The Pioneering Career of Gay McDougall*, in 1 BRINGING HUMAN RIGHTS HOME: A HISTORY OF HUMAN RIGHTS IN THE UNITED STATES 145 (Cynthia Soohoo et al. eds., 2008).

146. Carrie Menkel-Meadow, *Why and How to Study “Transnational” Law*, 1 U.C. IRVINE L. REV. 97, 128 (2011).

147. *Id.* at 121 n.87 (explaining how transnational law should be studied at UCI Law).

148. *Id.* at 104.

fellowship opportunities are notoriously competitive, and, for certain areas of law like international human rights law, almost nonexistent. While UCI Law's Leverage Fellowship¹⁴⁹ attempted to compensate for some of this deficit, the stipend amount was demeaningly low and barely sufficient to cover rent in a major U.S. city. Nevertheless, when it was available, it provided an important gateway for students, including Ariela and I, to pursue careers in public interest law. While the Law School discontinued this fellowship as of August 2019, it is our understanding that the U.C. law school deans have advocated before the U.C. Office of the President, which provides the majority of fellowship funding, to ensure that fellowship funding is available in the future. This advocacy is commendable. But, as a school with an institutional commitment to an international perspective, as well as a commitment to "encourag[ing] and assist[ing] those students who don't want to go to a law firm,"¹⁵⁰ UCI Law should ensure that the next iteration of the Leverage Fellowship guarantees that fellowship recipients step into the legal market on equal financial footing as their public interest colleagues in staff attorney positions.

The Law School should reconsider the amount of funding available for fellowships and reflect on the long-term impact that the untenable fellowship-funded salaries have on the diversity of candidates entering public interest work. It is critical to acknowledge and emphasize that funding availability dictates who is able to pursue public interest careers. Some students may be disproportionately barred from accessing the public interest opportunities that public interest fellowships afford. These students may include students from disadvantaged socio-economic backgrounds or students who have family members to support, and who may not have sufficient financial resources to overcome the financial insecurity that comes with a fellowship-funded salary. Ariela, as you correctly noted in your earlier letter, this may also include low-income, first-generation students or students of color who are disproportionately affected by debt, and who often view entering the corporate world as breaking

149. As of this writing, the Leverage Fellowship has been discontinued. The Leverage Fellowship was part of the U.C. President's Public Service Law Fellowships program, which was implemented in 2016 and committed \$4.5 million annually to law students from the U.C. Berkeley, U.C. Davis, U.C. Los Angeles, and U.C. Irvine campuses. *See, e.g.*, Daniel Werner, *Deportation Defense Externship in the Bay Area*, U.C. IRVINE SCH. L. (June 18, 2018), https://www.law.uci.edu/news/in-the-news/2018/Werner_DSCS.html [<https://perma.cc/7P3G-AU7L>]; University of California Office of the President, *New Fellowships Help UC Law Students Launch Public Service Careers*, U.C. IRVINE SCH. L. (Apr. 13, 2016), <https://www.law.uci.edu/news/press-releases/04-13-16.html> [<https://perma.cc/MWH2-AUVV>]; *see President's Public Service Fellowships*, UNIV. CAL., <https://www.ucop.edu/public-service-law-fellowships/> [<https://perma.cc/89DH-T6UN>]; <https://www.universityofcalifornia.edu/initiative/student-opportunity/public-service-fellowships> [<https://perma.cc/6M3C-D42G>] (last visited Oct. 26, 2019). It is our understanding that the U.C. Office of the President has placed certain restrictions on the funding, making it impossible to distribute the Leverage Fellowship to recent graduates.

150. Chemerinsky, *supra*, note 7, at 21–22 (2011) (explaining how the first-year curriculum was designed to change the messaging sent to students with respect to public interest).

through barriers that have been set up to deny them opportunities.¹⁵¹ As an international human rights lawyer, I am especially concerned about the impact this has on future members of my field who are so often dependent on school-based funding.

A shift toward livable fellowships and mission-focused funding decisions might produce more graduates working on reforming our unequal legal system and extending equal access to justice, rather than lawyers who silently file into corporate practice. I am not suggesting that UCI Law should focus solely on placing students in public interest careers and disregard students interested in firms or corporate work. But having the public interest as an ethical imperative means institutional support must be aimed at balancing the divergent incentives of public and private law, which already sway towards corporate interest work as the default given the job security it offers and starting salaries that are, on average, approximately \$100,000 more per year than those of graduates pursuing public interest work.¹⁵²

In addition to prompting specific reforms, I hope that these thoughts encourage a broader discussion about a human-rights approach to local issues and

151. See *supra* note 53 and accompanying text.

152. Jack Karp, *Are Law Schools Helping Students Who Want to Help Others?*, LAW360 (Mar. 31, 2019), <https://www.law360.com/articles/1143092> [<https://perma.cc/VX5A-WWSH>] (“Legal aid attorneys are some of the lowest paid in the country, with median salaries for new legal-services lawyers hovering around \$48,000 per year in 2018, according to the [National Association for Law Placement] [hereinafter, NALP]. That number is dwarfed by pay at BigLaw firms, where the median first-year salary was \$135,000 in 2017, according to NALP, and some firms are now offering associates starting pay as high as \$190,000 a year. All those zeros can be nearly impossible to turn down for young lawyers graduating with an average of over \$134,000 in student debt if they attended a private school, according to the American Bar Association.”). For more about the “bi-modal salary distribution” of law graduates, see A.J. Cisneros, *Understanding the Law School Tuition Crisis*, in NAT’L LAWYERS GUILD, NLG RADICAL LAW STUDENT MANUAL (2016), <https://www.nlg.org/radical-law-student-project/> [<https://perma.cc/AC5E-CNU5>] (“The sleight of hand, the reason the median salaries are so unrepresentative of actual opportunities, is what’s called a ‘bi-modal salary distribution.’ Rather than a bell curve, in which most grads would be making around the median and smaller numbers would be making less and more at the margins, a ‘bi-modal salary distribution’ has two concentrated groups. The resulting graph looks something like a two-humped camel. A group of graduates—those working for ‘BigLaw’ or the 250 largest firms which, by and large, cater to major corporations—make between \$150,000 and \$165,000. In 2011, 14% of employed grads earned those salaries, although that number peaked at 25% of employed grads in 2009. The other large group makes between \$40,000 and \$65,000. About 52% of grads made those salaries in 2014, but that number was as low as 32% in 2009. The lower peak has always had the highest concentration of law grads overall. The rest are scattered in-between both peaks and at the margins.”). With respect to the “higher peak” of the bi-modal distribution curve, in recent years, several law firms have joined in a “first-year associate salary race,” setting the base level for first-year associates at \$195,000. See Christine Simmons, *Milbank Boosts Associate Salaries With \$190K Starting Pay*, LAW.COM (June 4, 2018, 1:53 PM), <https://www.law.com/americanlawyer/2018/06/04/milbank-boosts-associate-salaries-with-190k-starting-pay/> [<https://perma.cc/G3S9-BB8T>]; Meghan Tribe, *Cravath Sets New High in Associate Salary Race*, LAW.COM (June 11, 2018, 6:38 PM), <https://www.law.com/americanlawyer/2018/06/11/cravath-sets-new-high-in-associate-salary-race/#> [<https://perma.cc/72T3-JGVL>]. This does not include mid-year or summer bonuses. See, e.g., Christine Simmons, *Simpson Thacher Matches Milbank Salary Scale, Adds Summer Bonuses*, LAW.COM (June 6, 2018, 2:04 PM).

encourage students and lawyers to leverage international mechanisms to increase access to justice and equality at home.

In solidarity,
Citlali

* * *

Dear Citlalli and Jamila,

In my last epistolary, I focused on certain curricular reforms for the “law school of the twenty-first century” to consider. Citlalli, I appreciate your follow-up to the specific question of the Law School’s first-year introductory International Legal Analysis course. I also am grateful for your unique perspective as an international human rights lawyer and the larger contextualization of our current national political scene against a global backdrop. I do wonder if this particular time in our nation and culture has affected the conversation on campus about the International Legal Analysis course (as well as the urgency of some of the other reforms we have been discussing).

I want to pick up on another crucial theme you mention. You discuss fellowship programs and funding opportunities for public interest students after graduation. This theme of cost and monetary value has been just beneath the surface in our conversation, but I want to expand on some ideas that I believe have value for the Law School. While overlapping, these ideas fit loosely into four categories: (1) rethinking the Law School’s tuition structure, (2) minimizing the burden of student debt, (3) maximizing post-law school debt forgiveness options, and (4) expanding public interest career opportunities.

1. *Rethinking Tuition Structure.* We have already described the innovative tuition scheme in place at the Law School’s establishment.¹⁵³ Now, at the decennial, there’s no better time to revisit this conversation. Although there is considerable pushback against the proposition of “free tuition”¹⁵⁴ in society writ large, the idea is nonetheless gaining traction among specialized graduate programs. For example, last August, NYU School of Medicine (NYU Med) announced that it would cover the tuition of all its students; Kaiser Permanente, in Orange County, is preparing to open its first medical school and will be waiving tuition for its first five cohorts.¹⁵⁵ Of course, there are drawbacks to these plans.

153. See discussion *supra* p. 3.

154. Critiques run the gamut from left-wing to right-wing. From a progressive standpoint, focusing on the sticker price of college does nothing to alleviate the burden on low-income students; to do that, initiatives should focus on what college actually costs rather than making it free for everyone. See, e.g., Catharine Hill, *Free Tuition Is Not the Answer*, N.Y. TIMES: OPINION (Nov. 30, 2015), <https://www.nytimes.com/2015/11/30/opinion/free-tuition-is-not-theanswer.html> [<https://perma.cc/YFG8-NRTD>]. A conservative argument asserts that this sort of proposal misaligns incentives and actually leads to a lower rate of college completion than if there were some cost. See, e.g., Jennifer E. Walsh, *Why States Should Abandon the ‘Free College’ Movement*, NAT’L REV. (Mar. 19, 2018), <https://www.nationalreview.com/2018/03/why-states-should-abandon-the-free-college-movement/> [<https://perma.cc/U8BE-PP7Y>]. This argument relies on a theory of “sunken cost” economics incentivizing completion toward a degree, which I do not believe is the best rationale for imposing (or increasing) costs.

155. David W. Chen, *Surprise Gift: Free Tuition for All N.Y.U. Medical Students*, N.Y. TIMES (Aug. 16, 2018), <https://www.nytimes.com/2018/08/16/nyregion/nyu-free-tuition-medical-school.html> [<https://perma.cc/TW7Q-PQ6R>]; Abby Goodnough, *Kaiser Permanente’s New Medical School Will Waive Tuition for Its First 5 Classes*, N.Y. TIMES: HEALTH (Feb. 19, 2019), <https://www.nytimes.com/2019/02/19/health/>

In NYU Med's proposal, for example, room, board, and fees are not covered, and may add up to over \$100,000 of additional costs per student.¹⁵⁶ Additionally, this venture, so far, relies solely on the private-sector philanthropy model, the limitations of which we discussed earlier.¹⁵⁷ But these schemes seek to address a problem with significant parallels to today's law school-to-corporate law pipeline. As the *New York Times* reports: "In the field of medicine, schools have become worried that students saddled with steep debt are increasingly pursuing top-paying specialties rather than careers in family medicine, pediatrics and research."¹⁵⁸

I suggest a different way of imagining tuition, one which Pete Davis proposed for Harvard Law on the eve of its bicentennial. Davis makes a compelling case based on the social science research of "choice architecture."¹⁵⁹ At a basic level, a decision's "choice architecture" is "the design of how options are presented: design that, more often than we think, nudges choosers toward certain options."¹⁶⁰ For example, if a "choice architect" places nutritious foods at eye level, grocery store shoppers are nudged toward selecting them. If you have to uncheck a donation box to opt out of donating instead of checking one to opt in, you are more likely to donate.

In the context of law school tuition,

[o]ne could imagine an alternative choice architecture of loan forgiveness that switches the default option to public interest career-building: (1) upon admission, you commit to a public-interest career in exchange for attending tuition-free; (2) if you follow through, then you never hold any tuition debt; and (3) at any time, you can file to opt out of your commitment, at which point the school will transfer tuition debt to you, pro-rated to the number of years you worked in civic-minded, low-income employment. To put the difference simply: under the present system, a student takes on debt and can later opt in to loan repayment support for pursuing a civic-minded career; under this alternative system, you choose to pursue a civic-minded career upfront in exchange for free

kaiser-medical-school-free-.html?action=click&module=News&pgtype=Homepage [https://perma.cc/8R65-LGN4].

156. Erin Barry, *Why NYU's Tuition-Free Medical School Offer May Not Live Up to Its Hype*, CNBC: ON THE MONEY (Sept. 9, 2018, 12:00 PM), <https://www.cnbc.com/2018/09/08/why-nyu-tuition-free-medical-school-may-not-live-up-to-its-hype.html> [https://perma.cc/3JAL-QZZ9] (noting that housing and fees could cost an additional \$27,000 per year).

157. See discussion *supra* pp. 16–17, 22–24.

158. Chen, *supra* note 155.

159. See Pete Davis, *Our Bicentennial Crisis*, HARV. L. REC. 98–116 (Oct. 26, 2017); see also RICHARD H. THALER & CASS R. SUNSTEIN, *NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS* (2008); Sheila Iyengar et al., *How Much Choice Is Too Much?: Contributions to 401(k) Retirement Plans* (Pension Res. Council Working Paper No. 2003-10, 2003), <https://pdfs.semanticscholar.org/04f0/7b37fc9deb167e56c729e1f35e052998ba4a.pdf> [https://perma.cc/2UQ9-ZJMM].

160. Davis, *supra* note 159, at 99.

tuition, but can later opt out and pursue a corporate interest career in exchange for taking back your tuition debt.¹⁶¹

As radical as it may seem, all this proposal does is rearrange the structure of the existing LRAP program. But one could imagine the mammoth consequences of such a rearranging! In the context of all we have described thus far regarding UCI Law's aspirational commitment to public interest, implementing an alternative choice architecture of loan forgiveness is clearly one initiative that would set the school apart and have a major, immediate impact on the student population.

2. *Minimizing the Burden of Student Debt.* Thus far, we have written a bit about LRAP, which the Law School describes as assisting its “primary mission’ to inspire and support students and graduates dedicated to a career in public service law.”¹⁶² In other parts of LRAP’s website, the Program describes itself as “removing the financial burden created by federal education loans.”¹⁶³ I think we can all agree that LRAP might *help* the financial burden created by federal education loans, but it certainly does not *remove* it. In fact, we do not have a good sense of how our LRAP program compares to other schools, even though it is our understanding that UCI Law’s LRAP program should at the very least “match the best loan forgiveness program that exists in the country.”¹⁶⁴ Jamila and Citlalli, this touches on your point that if you care about something, you need to measure it. To know whether LRAP is helping its participants in the way the Law School claims it is, a comprehensive assessment of the program’s strengths and weaknesses is required. I am aware of no such assessment. I am aware, however, of public interest colleagues struggling while on LRAP or being rejected for self-evidently “public interest” work. After conducting this much-needed assessment of how LRAP is working and where it is falling short, the Law School could then commit to making substantive changes to the program.

Any assessment should not be limited to the most obvious components of LRAP, such as the contribution scale (how much of a public service alum’s income will the school offset in loan repayment) or qualifying jobs (as one

161. *Id.* at 117–18. One variant of this concept—known to some as an “Income Sharing Agreement”—is gaining traction in Silicon Valley. *See, e.g.*, Andrew Ross Sorkin, *No Tuition, but You Pay a Percentage of Your Income (If You Find a Job)*, N.Y. TIMES: DEALBOOK (Jan. 8, 2019), <https://www.nytimes.com/2019/01/08/business/dealbook/education-student-loans-lambda-schools.html> [<https://perma.cc/G59R-TCJA>] (describing the online learning start-up known as Lambda School, at which, “[i]nstead of charging students tuition . . . students go to school for free and are required to pay back a percentage of their income after graduation, but only if they get a job with a good salary”).

162. *Loan Repayment Assistance Program (LRAP)*, *supra* note 79.

163. *Financial Assistance for Public Interest Students*, UCI LAW: PUB. SERV., <https://www.law.uci.edu/about/public-service/public-interest/financial-assistance/> [<https://perma.cc/8ZDG-T3GD>] (last visited Oct. 28, 2019).

164. Chemerinsky, *supra* note 7, at 22 (2011) (Dean Chemerinsky explaining that “before accepting the deanship, [he] received a promise from the Chancellor and the Provost that we could match the best loan forgiveness program that exists in the country.”).

example, LRAP does not cover judicial clerkships, whereas other law schools' programs do).¹⁶⁵ It should also include a deep reexamination of the program's coverage during leaves or periods of temporary unemployment, deductions for dependents, and the inclusion of non-law education debt as part of the loan repayment package. We have each heard enough anecdotes about loopholes, qualifications, and bureaucratic red tape from our own experiences and from our friends' experiences with LRAP to be convinced that a deep examination is called for. It is past time for LRAP version 2.0 that takes into account the lived experiences of alums.

Another way of minimizing the burden of student debt is to lower the Law School's tuition. When UCI Law was first started, its high sticker price—with a tuition of approximately \$47,000 for California residents—was subject to major debate.¹⁶⁶ Founding Dean Chemerinsky argued, essentially, that tuition must be in the \$50,000 range if UCI Law were to land in the top twenty.¹⁶⁷ Notably, the Law School's critics picked up on some of the tensions that we have explored in this epistolary—namely, accepting the premise that high faculty salaries are a prerequisite for the Law School to be in the U.S. News top twenty ranking. Why is this the goal in the first place? Who gets to set this goal, and which other goals does this one foreclose?

To be fair, Dean Chemerinsky understood the quality of the Law School to encompass more than the U.S. News ranking. He is quoted as responding to critics that a “low cost” law school is one with “a lot of students, small faculty, a lot of adjuncts Not a law school I want to be associated with.”¹⁶⁸ Nonetheless, I am not convinced that a low cost, high quality law school is

165. The rationale behind this is, apparently, that the public nature of clerkship does not mean that the student herself is public-interest minded, as the student might be pursuing clerkships solely as a means for a post-judicial clerkship law firm bonus (which can amount to up to \$100,000 or even more). See, e.g., Kathryn Rubino, *Law Firm Wows with Mega Clerkship Bonuses That Beat the Market*, LAW.COM (Feb. 26, 2019, 10:47 AM), <https://abovethelaw.com/2019/02/boutique-law-firm-doveluner-wows-with-mega-clerkship-bonuses-that-beat-the-market/> [<https://perma.cc/7GTB-LM69>]. There seems to exist a fairly easy fix for this problem. Harvard, for example, maintains funding through its Low Income Protection Plan (LIPP) during a student's clerkship and, if she does not continue in LIPP-qualifying programming after the clerkship, the agreement contains a repayment provision. For other examples, see *Loan Repayment Assistance Programs (LRAP)*, A.B.A.: CTR. FOR PRO BONO, https://www.americanbar.org/groups/center-pro-bono/resources/directory_of_law_school_public_interest_pro_bono_programs/definitions/pi_lrap/ [<https://perma.cc/6SGF-RDMG>] (last visited Oct. 28, 2019).

166. Brian Tamanaha, *Why UC Irvine Went Wrong: Chasing Prestige at the Expense of Public Service*, BALKINIZATION (Aug. 27, 2012), <https://balkin.blogspot.com/2012/08/why-uc-irvine-went-wrong-chasing.html> [<https://perma.cc/8HFH-LNCW>]; see also Chemerinsky, *supra* note 7, at 1 (“The proposed budget for the school was completely unrealistic; funding for every area was far less than what a top law school would require.”).

167. Tamanaha, *supra* note 166.

168. Rachel M. Zahorsky, *Law Prof's Ideal, Affordable Law School Not Possible in Reality, Chemerinsky Says*, A.B.A. J. (Aug. 22, 2012, 2:39 PM), http://www.abajournal.com/lawscribbler/article/law_prof_ideal_affordable_law_school_not_possible_in_reality_chemerinsky/ [<https://perma.cc/NU69-R77Q>].

impossible. Dean Chemerinsky failed to mention, for example, “low cost” law schools like CUNY Law, which limits tuition to \$15,000 in-state and \$24,900 out of state—less than half of UCI Law’s tuition—and is widely hailed as one of the most effective public interest law schools in the nation.¹⁶⁹

Three years after being ranked by the U.S. News for the first time, the Law School is in a unique position to observe the consequences and shortcomings of the ranking process. We know that our current ranking of twenty-third in the nation (at the time of this publication) is impressive. We also know what is not captured by such a metric. Indeed, the inadequacy of this metric is one of the animating features that compelled the three of us to invest in this epistolary project. As I said earlier, I believe that UCI Law students and its graduates do not wish to be defined solely by a number in the rankings. The time has come to call upon the Law School to focus on being number one in the nation for providing access to justice. And to do that, UCI Law must think deeply about not only the education it provides, but also the opportunities it supports for graduates afterward.

3. *Maximizing Post-Law School Debt Forgiveness Options.* Simply put, the national rollout of PSLF was a mess. PSLF, which was initiated in 2007 by the Bush administration, approved only 423 applications out of 50,000 applications in 2018, the first year that public servants were eligible for forgiveness.¹⁷⁰ Whatever the reason—mismanagement of the program, or confusion about the terms of forgiveness—the human cost of such uncertainty cannot be overstated. Graduates all over this country are counting on this program as they make crucial decisions about their lives, including where to live, what sort of employment to seek out, and if and when to expand their families.¹⁷¹

169. Staci Zaretsky, *The Law Schools Where the Most Graduates Got Government & Public Interest Jobs* (2018), ABOVE L. (May 21, 2019), <http://www.nationaljurist.com/prelaw/best-schools-public-interest-law> [<https://perma.cc/3AK7-QDM2>]; <https://abovethelaw.com/2019/05/the-law-schools-where-the-most-graduates-got-government-public-interest-jobs-2018/> [<https://perma.cc/5XAJ-5FB9>]; *Tuition and Fees*, CUNY SCH. L., <http://www.law.cuny.edu/admissions/tuition.html> [<https://perma.cc/5KLB-SMVJ>] (last visited Oct. 28, 2019).

170. See, e.g., Danielle Douglas-Gabriel, *Why People Are Being Denied Public Service Loan Forgiveness*, WASH. POST (Dec. 21, 2018), https://www.washingtonpost.com/education/2018/12/21/why-people-are-being-denied-public-service-loan-forgiveness/?utm_term=.fddcf24be1fd [<https://perma.cc/NJ74-DYN2>].

171. Cory Turner, *I Am Heartbroken: Your Letters About Public Service Loan Forgiveness*, NPR: EDUCATION (Oct. 18, 2018, 4:19 PM), <https://www.npr.org/2018/10/18/658447443/i-am-heartbroken-your-letters-about-public-service-loan-forgiveness> [<https://perma.cc/G566-BUPQ>] (“I am heartbroken and heartsick . . . My oldest [child] is supposed to start college in three years, my next just three years after that, and our third just three years after that . . . I have never been arrested and haven’t even had a speeding ticket in 20 years. I don’t drink, don’t smoke, don’t gamble. I vote. I am a teacher. I have been working and supporting myself since I was 16, and I have no idea how I am supposed to give my kids a future. Because I can’t save for theirs. I can barely pay for their present.”). In the spirit of personalizing these letters based on our own experiences, I will add that I can relate to this on a serious level. I perform the calculation of my loan balance due with and without PSLF on an almost-weekly basis, especially now that I have a child.

Hopefully, all of the issues with PSLF will be ironed out before the first set of UCI Law graduates can begin applying for forgiveness in 2022. When that eligibility period comes, the Law School should be front and center, setting nothing short of a goal of 100% loan forgiveness for alums who apply for it and vigorously monitoring this goal. To get there, in the meantime, the Law School must think creatively about how to ensure that graduates' paperwork is filled out correctly, including expanding proactive outreach efforts to counsel alums through navigating the Program's bureaucracy and sometimes confounding requirements.

On a national scale, the Law School should be at the helm of organizing efforts to advocate that PSLF is successful and not just an empty mandate. The ABA and other organizations already engage in advocacy before the Senate to ensure that Congress preserves the PSLF program, but it is time for law schools, particularly public law schools, to do the same.¹⁷²

4. *Expanding Public Interest Career Opportunities.* Each of us understands, from our firsthand experience, the struggle to find public interest opportunities after law school. I want to challenge the Law School to be a leader for creating public interest opportunities for its students: to expand the pie, not just carve up existing pieces. Three things come to mind here, and I know you both have even more ideas.

First, highlighting state court clerkships. Immediately after graduation, I worked at a legal services office in New Jersey with consumer, housing, family, and immigration units. I was stunned to find that I was the only one right out of law school who had not clerked at the state level before arriving, and I had a very steep learning curve regarding both the technicalities of the relief that my low-income clients were seeking as well as the judges' perspectives and idiosyncrasies in granting such relief. As I prepared for my first oral argument as a lawyer, on behalf of a low-income client who had been slammed with a \$15,000 hospital bill after emergency surgery, it became clear to me that state court is where the laws that most directly affect real people's lives are being interpreted and made. Rutgers, where many of my colleagues attended law school, seemed to understand the importance of state clerkships and had helped place a large number of its graduates in state court clerkships at the trial level. I did not see efforts like this when we were students at UCI Law. Although the Law School provides some opportunities to argue in state court, it largely seemed to ignore the idea of a career experience *after* law school through the state court system, and instead shepherded its "highest" students toward the federal judiciary.¹⁷³

172. See *Public Service Loan Forgiveness*, A.B.A.: GOVERNMENTAL AND LEGIS. WORK (Mar. 19, 2019), https://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/legaleducation/PSLF/ [<https://perma.cc/7976-PCYG>].

173. Some proactive UCI Law students have found their way to state court clerkships. The official judicial clerkship guide lists seven state courts that have hired UCI Law alums. However, this number sits in stark contrast to the 101 federal judges that have hired UCI Law alums—many of whom have hired more than one alum at one time, or more than one alum in history. See *Judicial Clerkships*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/careers/students/>

This is a serious gap in UCI Law’s post-law school career infrastructure for public interest students.¹⁷⁴ The Law School should expand efforts to place students in state trial and appellate level court clerkships—including specialty courts such as probate courts, which already work with UCI Law students¹⁷⁵—and *pro se* staff attorney positions. In failing to do so, the Law School seems to be responding to the relative prestige value of the various positions, which is a disservice to its students and maintains the default which we have been critiquing. In turn, state court positions would enhance the alum’s understanding of the laws and structures that make both justice, and injustice, happen for most Americans.

Second, the Law School could develop a solo practitioner incubator program.¹⁷⁶ Solo practitioners who are devoted to the legal needs of the average American face all sorts of hurdles.¹⁷⁷ In my last letter, I described how the Law

employment-info/Judicial_Clerkship_Placements_4.12.18.pdf [https://perma.cc/YXT2-J9YC] (last updated Apr. 12, 2018).

174. It is true that state clerkship programs are not as streamlined as applying to the federal judiciary, which uses a centralized application system—making it easier for students to apply for multiple positions in only one click. That said, as just one example, none of us were exposed to the “Guide to State Court Judicial Clerkship Procedures,” published every year through Vermont Law School, which lays out each state’s process through a quick reference chart and much more comprehensive information. See *The 2019-2020 Guide to State Court Judicial Clerkship Procedures*, VT. L. SCH. (2019), <http://forms.vermontlaw.edu/career/guides/index2.cfm?id=fullguide> [https://perma.cc/K8NU-4WYT]. As of the date of this publication, the Law School posts the Vermont Law School Guide on its Clerkships & Fellowships page, available internally to UCI Law students and graduates. It also includes a link to Researching California Judges, Insight and Inside Information for Select State Court Clerkships (prepared by NALP in December 2013), and National Center for State Courts. Efforts such as these are commended.

175. See *UCI Law Helps Combat Elder Abuse*, U.C. IRVINE SCH. LAW (Nov. 8, 2016), <https://www.law.uci.edu/news/press-releases/11-08-16.html> [https://perma.cc/QGK9-BZN5] (describing the Elder Abuse clinic’s collaboration between law students, legal services, private practitioners, and Orange County probate court).

176. A positive example of a recently established attorney incubator program is the one that UCLA School of Law, Pepperdine University School of Law, and Southwestern Law School launched to “serve the legal needs of low and modest income populations throughout Los Angeles County.” See *UCLA, Pepperdine and Southwestern Law Schools Celebrate First Graduates of Attorney Incubator Program*, UCLA SCH. L. (Mar. 14, 2016), <https://law.ucla.edu/news-and-events/in-the-news/2016/03/UCLA-Pepperdine-and-Southwestern-Law-Schools-Celebrate-First-Graduates-of-Attorney-Incubator-Program/> [https://perma.cc/VSB8-5MUT].

177. See, e.g., Luz E. Herrera, *Reflections of a Community Lawyer*, 3 MOD. AM. 39, 44 (“The legal profession owes a greater commitment to attorneys who practice on their own and work to address the needs of individuals, families, and small businesses in communities across the United States. Access to affordable health care for these attorneys and their employees, student loan assistance programs, technology assistance programs, tax deductions for attorneys who work in underserved areas, training arrangements with large law firms, coordinated bookkeeping services, greater integration of telephonic appearances, paying client referrals from legal services organizations – these are just some initiatives that could improve the lives and livelihood of solo practitioners. To improve access to and delivery of legal services in our country it will be necessary for the bar, courts and law schools to address and remedy the discrepancy of resources and support systems available to attorneys in private practice who represent the legal needs of the average American.”); see also *Legal Fellowship*, SUSTAINABLE ECON. L. CTR., <https://www.theselc.org/legal-fellowships> [https://perma.cc/DN6U-HM3F] (“Meeting the legal needs of local sustainable economies requires that lawyers blaze new career paths and establish transactional law practices aimed at providing services to

School could incorporate a housing law curriculum to better prepare graduates to take part in growing civil access-to-justice movements. One way in which this curricular reform could dovetail perfectly with skills and practice reforms for the Law School is by launching an incubator program. The ABA describes a legal incubator as “provid[ing] resources, training and mentors to enable newly-admitted lawyers to acquire the range of skills necessary to launch successful solo or small-firm practices . . . aiming to expand access to justice to those of low- and moderate-income people. Incubator programs are run by law firms, legal justice centers, and law schools.”¹⁷⁸ The programs typically run on a “low bono” model—providing affordable, but not free, services—and span a range of substantive areas from family law to bankruptcy.¹⁷⁹

A UCI Law incubator might include free or subsidized office space, mentoring on substantive legal issues, opportunities to shadow lawyers, and case referrals. The Law School’s partnership with the business school could result in courses on subjects not traditionally included in a law school curriculum, such as financial management.

And finally, the Law School should think beyond its own institutional walls by lobbying aggressively for civil legal aid funding and creating a network of needs-based residency programs. As an initial matter, the Law School should be at the helm of aggressively lobbying for civil legal aid funding at a time when it is not a federal priority.¹⁸⁰ During recent threats of defunding the Legal Services Corporation (LSC) in 2018 and 2019, Dean Richardson joined over 100 other law school deans to write a letter to Congress voicing support for the agency.¹⁸¹ Other than that, I am unaware of other efforts by the Law School to advocate for civil funding to address the needs of so many Americans. If we accept the mission statement that Jamila proposed above as encompassing our aspirations for the Law School, there is no excuse for UCI Law to merely follow on this front rather than lead. The Law School should mobilize its resources to vigorously advocate for legal aid at national and state levels.

cooperatives, community-owned enterprises, urban farms, local currencies, land trusts, and more!” (last visited Oct. 28, 2019).

178. ABA STANDING COMM. ON DELIVERY LEGAL SERV., 2016 COMPREHENSIVE SURVEY OF LAWYER INCUBATORS 5 (2016), https://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/lsc_del_comprehensive_survey_lawyer_incubators.pdf [https://perma.cc/U2RU-DLPC].

179. *Id.* at 30–32.

180. The effectiveness and drawbacks of the LSC are beyond the scope of this Epistolary. Nonetheless, the funding for this agency can represent some of the larger themes in terms of how public service work is treated generally. For example, President Trump proposed defunding the LSC completely in his 2019 proposal. Eventually, the spending bill that passed allocates \$410 million for LSC. *See LSC Receives \$25 Million Spending Boost From Congress*, LEGAL SERVS. CORP. (Mar. 23, 2018), <https://www.lsc.gov/media-center/press-releases/2018/lsc-receives-25-million-spending-boost-congress> [https://perma.cc/4QQM-34GA].

181. *See* Letter from Law School Deans to Eight Ranking Members of U.S. Congress (Apr. 5, 2019), <https://law.tulane.edu/sites/law.tulane.edu/files/files/Deans%27%20Letter%20Funding%20LSC%202019.pdf> [https://perma.cc/Y63H-2PUW].

Moreover, the Law School could think about creating new structures for providing public interest services to more communities. Pete Davis has suggested,

[T]ak[ing] up the ambitious project of starting the process of mirroring the medical residency model in the legal education system [W]here law students, upon graduating from law school, are matched to legal residency programs around the country to serve, for a year or two, the most pressing legal needs of the American public.¹⁸²

One could also imagine the Law School launching, with robust alum support, a Law for America program, which would place new graduates in areas with high need for legal services through a two-year commitment. In fact, Gideon's Promise¹⁸³ already has a similar model for launching the career of new public defenders. What if the Law School imagined its own model for placing graduates in civil justice organizations across the country?

It has been a true pleasure to correspond with both of you about these crucial questions.

Ariela

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182. Davis, *supra* note 159, at 148.

183. *About*, GIDEON'S PROMISE, <https://www.gideonspromise.org/>[<https://perma.cc/64CG-65KR>] (last visited Oct. 28, 2019).

Dear Ariela and Citlalli,

I started our dialogue by asking what it would mean for the Law School to see the public interest as a moral and ethical imperative. Together, we have provided some forward-looking answers (but, also complicated the original question). In this final missive, I will attempt to gather some threads together and bring us full circle.

From the beginning of our conversation, we wrestled with the juxtaposition of the Law School's identity as "a law school of the twenty-first century" and its commitment to the public interest. We have agreed that bringing these identities into relationship with one another requires understanding "the felt necessities of our time."¹⁸⁴ In whatever ways it is innovative, the Law School's curriculum and programming should be tethered to, and center, the public interest and reflect a clear-eyed understanding of the Law School's positioning vis-à-vis the crises of our time. Our collective hope is that the Law School can take its decennial as an opportunity to clarify and execute its mission.

That neatly brings me to the second thread I see in our correspondence, which is, perhaps obviously, a failure to define "public interest" for the purposes of orienting the Law School's programming, funding, and curricular priorities. I proposed a mission statement in my last letter, and Ariela and Citlalli, you both have proposed specific changes that would all be facilitated by a renewed sense of mission. Scholarships, post-graduate funding, and loan assistance—all critical to developing and sustaining the next generation of public interest attorneys—should be transparently grounded in a clear mission statement and executed on a "mission is the metric" basis. Curricular and clinic offerings, choices around what LL.M.s to offer and how to use the proceeds: all could and should also be guided by this mission. Consider CUNY School of Law, which has a lengthy mission statement grounded in a concise, uncompromising motto: "Law in the Service of Human Needs."¹⁸⁵

In our correspondence, the three of us also spent time thinking about the ways the Law School may be or risks reinforcing power dynamics that, as Ariela noted in her first letter, inevitably reward the regressive, corporate, wealthy, and white interests that hold the most legal and economic power. Surely this reality is one of the felt necessities of the twenty-first century in this country, if not globally. You put it well, Citlalli, when you argued that "institutional support must work towards balancing the divergent incentives of public and private law." This principle should operate not only to direct more funding and support toward budding public interest attorneys, but could also result in an institutional focus on the larger dynamics of the legal profession and public interest sector. We have all

184. Davis, *supra* note 156, at 1–2 (quoting OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* 1–2 (1881)).

185. *Philosophy & Mission*, CUNY SCH. L., <http://www.law.cuny.edu/about/philosophy/> [<https://perma.cc/MQ64-84BH>] (last visited Oct. 26, 2019).

spoken to this: Ariela, you lay out problems with the financial systems that make taking on public interest work a financial burden, and some of the ways the Law School should act to alleviate that burden. Citlalli, you discussed the paucity of fellowships generally, and in the international law context in particular. And we have all personally experienced the difficulty of finding financially viable public interest positions after graduation (even after federal clerkships, lauded by the Law School and others as opening almost any door).

Just after the turn of the last century, Justice Brandeis bemoaned what we lament now:

Instead of holding a position of independence, between the wealthy and the people, prepared to curb the excesses of either, able lawyers have, to a large extent, allowed themselves to become adjuncts of great corporations and have neglected the obligation to use their powers for the protection of the people.¹⁸⁶

Although Justice Brandeis's critique still rings true today, there is no reason to be fatalistic about our chosen profession. Radical lawyers have been stirring things up and making change for decades. But the *obligation* incumbent on all lawyers must be incumbent on law schools, as well—and especially so for a public law school, which is entrusted with preparing advocates who understand the grave obligations of the profession and is charged with itself serving the public good.

Now that the Law School is a safe proposition for risk-averse law school applicants with no pre-existing public interest law commitment, it will indeed become harder than ever for UCI Law to walk the walk of being a public interest law school. We each recall absorbing the message that, as a new school, there was no “the way things have always been” at UCI Law. As processes, roles, and traditions solidify, that becomes less true. This is the natural course of things. But as the Law School's reputation solidifies, it may also become more institutionally committed to those markers of prestige antithetical to true reform. As reflected in UCI Law's early history, it is hard to do a truly new thing. This decennial provides a key moment to evaluate whether the Law School is still doing a new thing—or, as we all suggest to some degree in our letters, becoming somewhat less distinguishable from the standard elite institution in a profession that overwhelmingly replicates and reinforces deep structural inequalities in our society.

There are difficult decisions to be made about whether and to what extent UCI Law must bow to the higher education “arms race.”¹⁸⁷ Many well-qualified applicants—the kind that keep the Law School's numbers high and rising—want

186. Louis D. Brandeis, *The Opportunity in the Law*, 39 AM. L. REV. 555, 559 (1905).

187. See, e.g., Robert Frank, *Are Arms Races in Higher Education a Problem?*, F. FOR FUTURE HIGHER EDUC., <http://forum.mit.edu/articles/are-arms-races-in-higher-education-a-problem/> [https://perma.cc/AG9X-VV66] (last visited Oct. 28, 2019).

access to elite law firms, clerkship bonuses, and other markers of prestige. Their ideal interaction with public interest may take the form of law school pro bono work and firm pro bono practice. But as we have noted, the latter plays a key role in solidifying the very social and legal structures causing the symptoms addressed by that same pro bono work. And in any event, a model motivated by the norms of the capitalist, elite, and private industry status quo is antithetical to the very purpose of a public law school and public higher education generally. If any law school can (or must?) be a “center for social justice, rather than merely vocational schools for lawyers who deploy professional skills to endow those with wealth and power with more of the same,”¹⁸⁸ it is the public law school. And of those many esteemed institutions, UCI Law chose to self-identify not just as committed to the public interest but *innovatively* so.¹⁸⁹ And so the Law School is faced with hard questions: where is the innovation as to its purported core mission? And, as Ariela noted, how is the Law School not just doing good but doing less harm?

Finally, I will note one last common theme: a demand that the Law School take seriously the institutional and structural barriers present when entering full-time public interest work and commit meaningful resources to ensure that corporate interest work is not the default career path for Law School graduates. This goes beyond critical review of existing programmatic choices or putting the Law School’s money where its mouth is (so to speak)—although we have argued here in some detail that both are necessary. Instead, this requires deeper engagement with the systems and economic incentives shaping the legal marketplace, and directly engaging with stakeholders outside of the Law School to move that marketplace in a better direction.

The truth is that the incentives often line up against pursuing a public interest career. You may be “public-interest minded,” but need to support your parents in the very near future. You may have spent your law school years racking up pro bono hours, but want to finally build some generational wealth in your family. For so many reasons, public interest-minded students turn into big law attorneys. Small things, like failing to have repayment clauses on full-ride public interest fellowships, speak volumes in a context where the slightest boost—or burden—can make a career-long difference. All three of us know this, and some of our classmates more painfully so.

Our letters have provided more questions than answers, but that is appropriate. As alums, we have somewhat limited opportunity to create and execute solutions to the profound challenges facing our profession and our Law School. But the starting point is to ask. Recalling our early conversations, one of the reasons we started this exchange was to think about what the right questions might be. Our sense, I recall, was that they had yet to be asked in relation to the Law School’s decennial.

188. Ashar, *supra* note 61, at 357.

189. *Innovative Approach*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/about/our-history/innovative-approach.html> [<https://perma.cc/3JHP-NZFP>] (last visited Oct. 28, 2019).

Ariela, I love that you asked, “What if the Law School imagined its own model for placing graduates in civil justice organizations across the country?” It reminds me that “what if” is the starting place for all innovation, including the innovation at the heart of this epistolary: the creation of UCI Law. So, the call of our challenge to the Law School is thus (appropriately framed, of course, as a set of questions): What if the Law School actually rose to meet the moral and historical needs of this time? What if the Law School pursued justice, not just on a case-by-case basis but on the broadest scale and of the deepest scope? What if the Law School pushed the legal profession toward a more equitable, just, and ethical status quo? What would this even look like? I think we can imagine some of the answers, perhaps including the Law School’s own language as quoted in these pages.

I propose that a concrete next step, and a fitting outcome of this special edition of the *Law Review*, would be a decennial working group tasked with answering the questions we raise here and those raised in the other pages of this Issue. Our correspondence here calls for a deeper introspection and a true reexamination of the ways in which the Law School has not—we believe not *yet*—lived up to its potential.

In solidarity,
Jamila

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