

Sustaining the Struggle for Justice: Remembering and Renewing Abolitionist Advocacy

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“Our visions hold up our reality to us as unredeemed”ⁱ

Robert Cover

*I had to kick their law into their teeth in order to save them.
However I have heard that sometimes you have to deal
Devilishly with drowning men in order to swim them to shore.
Or they will haul themselves and you to the trash and the fish
Beneath
(When I think of this, I do not worry about a few
Chipped teeth)ⁱⁱ*

Gwendolyn Brooks

Last year I began teaching a course titled “Race, Law, and Literature.” In the seminar we consider the ways that both literature and the law address questions of individual morality, crime, identity, equality, freedom, and the intersections of race, gender, sexuality, class and colonization. I teach this course because it gives me an excuse to read some wonderful books, but also because the stories we read help students to see how law is a narrative – a story we tell as a community, a container of our morality. In both legal and literary texts we negotiate and define the meaning of justice. Law and literature both inhabit the realm of interpretation, rhetoric, form, ethics and epistemology. They mediate our relationship to society and shape how we imagine the world, each other and ourselves. As Robert Cover

has written, “No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning. For every constitution there is an epic, for each Decalogue a scripture.”ⁱⁱⁱ In reading the stories told in both literary and legal texts, I want my students to recognize and take responsibility for their own significant participation as lawyers in the creation of the institutions, prescriptions, and narratives that constitute law, that shape our vision of justice, and give our lives meaning.

I want to begin this morning by reading you a passage from one of the novels that we read in my course. The novel, *The Known World*, by Edward P. Jones,^{iv} tells the story of Henry Townsend, a black farmer, a former slave, and a slave holder. The story takes place in Manchester County Virginia, where, Jones tells the reader, the 1860 census counted 2,670 slaves.^v There were also thirty-four free black families, with a mother and father and one child or more, and eight of those free families owned slaves. Henry, his father, Augustus Townsend, and his mother, Mildred Townsend, had all been the property of William Robbins, a white man who owned 113 slaves and was the most powerful man in the county. Augustus was a skilled carpenter and wood carver, and Robbins permitted him to hire himself out. His master kept the largest part of what he earned, and, with what remained, Augustus bought his freedom. Three years later he had saved enough to buy his wife, Mildred, from Robbins. It took much longer for the two of

them to earn enough to purchase freedom for their son, Henry. Robbins had discovered what a bright boy he was, had made him his groom and developed a close relationship with the boy.

Henry is 19 when Augustus finally purchases his freedom. But Henry continues to travel with his former master and assist him with his business, and, when Henry is 21, Robbins helps him to purchase some land and then sells Henry his first slave, a man named Moses. In the scene I will read, Augustus and Mildred have come to visit Henry and discover that their son has purchased a slave.

“Papa, I got my own man. I bought my own man. Bought him cheap from Master Robbins. Moses.”... “He a good worker. Lotta years in him. And Mr. Robbins lend me the rest of the men for the work.”

Mildred and Augustus looked at each other and Mildred lowered her head.

Augustus stood up so quickly his chair tilted back and he reached around to catch it without taking his eyes from Henry. “You mean to tell me you bought a man and he yours now? You done bought him and you didn’t free that man? You own a man, Henry?”

“Yes. Well, yes, Papa,” Henry looked from his father to his mother.

Mildred stood up too. “Henry, why?” she said. “Why would you do that?” She went through her memory for the time, for the day, she and her husband told him about what he should and should not do. No goin out into them woods without Papa or me knowin about it. No steppin foot out this house without them free papers, not even to go to the well or the privy. Say your prayers every night.

“Do what, Mama? What is it?”

Pick the blueberries close to the ground, son. Them the sweetest, I find. If a white man say the trees can talk, can dance, you just say yes right along, that you done seen em do it plenty of times. Don't look them people in the eye. You see a white woman ridin toward you, get way off the road and go stand behind a tree. The uglier the white woman, the farther you go and the broader the tree. But where, in all she taught her son, was it about thou shall own no one, havin been owned once your own self. Don't go back to Egypt after God done took you outa there.

"Don't you know the wrong of that , Henry?" Augustus said.

"Nobody ever told me the wrong of that."

*"Why should anybody haveta teach you the wrong, son?" Augustus said.
"Ain't you got eyes to see it without me tellin you?"*

"Papa, I ain't done nothing I ain't got a right to. I ain't done nothing no white man wouldn't do."^{vi}

The power of this story rests in Mildred's question to herself, "How can it be that I did not teach my child this fundamental truth of right and wrong?" Where did *I* fail in helping him understand that his own *self* is at stake his safety, his humanity, his freedom, his relationship to his community and his God?

Henry's father echoes what many of us are thinking. "*Why should anybody haveta teach you the wrong, son?*" he says.

But the mother's thoughts ring more true for me. I know, from my own life, from my experience as both a parent and a child, as a teacher and a student, that every important truth is taught and learned, especially the truths of justice and injustice, and that each of us is responsible for that teaching and learning.

And listen to Henry's answer to his father's outrage at his act. He says, "Papa, I ain't done nothing I ain't a right to. I ain't done nothin no white man wouldn't do."

Henry's answer to his father brings me to my own worry for myself and for all of us who gather today to consider our own responsibility and role, as lawyers, in assuring that all have access to justice. For, we cannot answer the question of what we should do to ensure justice, unless we first ask ourselves what we mean by justice. What do we know? What have we learned? What have we forgotten? What do we believe about right and wrong?

As I prepared this talk I wondered how we would answer Henry's parents' questions about *our* world. What do we know? What do we believe is right and wrong? How do we understand justice and injustice? When we speak of "access to justice" do we mean that our laws and institutions are *just*; that all we need do is insure that each individual can walk through the doors of our courts and legislatures to find that justice? Do we believe that the world our laws and institutions rationalize, support, and *justify* is a just world?

Here are some contemporary stories to contemplate. Would our mothers wonder, as Henry's mother did, "What did I forget to teach them?" Is our answer, like Henry's, that we ain't doin' nothin' the law doesn't give us a right to do?

Story #1

Millions of men, women and children in the United States go to sleep hungry at night, and have no real bed in which to sleep.^{vii} In Hawai‘i, Native Hawaiians, from whom this land was illegally seized, make up the largest percentage of those without housing.^{viii} Millions more in need of treatment for mental or physical health problems, or substance abuse, or relief from domestic violence are met with long waiting lists or no help at all. State data show that abuse protective orders have doubled since 1966—from 2,553 to 5,095. In 2006 local domestic service providers and domestic violence hotlines received more than 30,000 calls. As many as 44,000 local children are exposed to domestic violence annually. There were seventy three domestic violence homicides between 1977 and 2010.^{ix}

Story #2

Native Hawaiian students comprise the largest group of students within our public education system. They are more often labeled “special ed” or “behaviorally handicapped.” Schools with a predominantly Native Hawaiian population have a larger proportion of uncertified, untenured teachers, and are more often labeled “failing” under No Child Left Behind....Native Hawaiian students have the highest rates of self-reported drug use, Native Hawaiian high school students attempt suicide at least twice as often as non-Hawaiian students, and Native Hawaiian high school females are raped at roughly twice the rate of non-Hawaiians.^x

Story #3

Poverty in this country now, more than ever before, defines children’s life trajectories in the harshest terms: poor academic achievement, high dropout rates, and health problems from [obesity](#) and [diabetes](#) to heart disease, [substance abuse](#), and mental illness. Children are now our poorest group, with almost 25 percent of children under 5 living below the federal poverty level. Last month the House Agricultural Committee passed a farm bill that would cut \$20.5 billion from the Supplemental Nutrition Assistance Program. The bill would take foods stamps away from 2 million Americans and hundreds of thousands of children in the midst of a recession when more people rely on foods stamps than ever before. This

comes on top of severe sequestration cuts to the WIC program that provides nutritional aid to millions of pregnant mothers and infants.^{xi}

Alongside these stories of our neighbors who experience hunger, deprivation, abuse, and failing schools, I read stories of another America, an America with wealth, power, and unlimited access to the institutions that write and interpret the law.

Story #1

A bill making its way through The House would exempt broad swaths of risky trades from regulation by the Treasury Department. The big banks did not leave it to lawmakers to draft this legislation. E-mails reviewed by the New York Times reveal that Citigroup's lawyers/lobbyists were the bill's primary drafters. Citigroup's recommendations were reflected in more than 70 lines of the House committee's 85-line bill. Two crucial paragraphs, prepared by Citigroup in conjunction with other Wall Street banks, were copied nearly word for word. (Lawmakers changed two words to make them plural.)^{xii}

Story #2

On March 28 President Obama signed H.R. 933, a continuing resolution spending bill. A provision buried 78 pages within the bill protects biotech corporations such as Monsanto from litigation. The provision allows agriculture

giants that market genetically modified organisms (GMOs) to continue to plant and sell GMOs, even as questions remain largely unanswered about the health risks these types of products pose to consumers. The bill effectively bars federal courts from halting the sale or planting of GMO or genetically-engineered crops and seed, no matter what evidence of health consequences from the consumption of these products is presented to them.^{xiii}

Story # 3

Apple CEO, Timothy Cook came to Capitol Hill to answer lawmakers' questions about evidence that Apple had avoided paying billions in taxes. Congressional investigators had unveiled a detailed report showing how Apple subsidiaries based in Ireland had helped the company pay as little as one-twentieth of 1 percent in taxes on billions of dollars in income. According to one study 30 of the largest American multinationals, with more than \$160 billion in profits, paid nothing in federal income taxes over a recent three-year period. A New York Times article reported that by the time Mr. Cook walked out of the hearing, "the big cats on a Senate committee were practically eating out of his hand."^{xiv}

Story #4

Wealthy Manhattan moms have found a way to cut the long lines at Disney World—by hiring disabled people to pose as family members so they and their

kids can jump to the front. The “black-market Disney guides” run \$130 an hour, or \$1,040 for an eight-hour day. “My daughter waited one minute to get on ‘It’s a Small World’—the other kids had to wait 2 1/2 hours,” crowed one mom, who hired a disabled guide through Dream Tours Florida. “You can’t go to Disney without a tour concierge,” she sniffed. “This is how the 1 percent does Disney.”^{xv}

And finally, a story that brings the powerful and privileged face to face with the excluded and dispossessed.

Seven home-owners who faced foreclosure by some of the nation's biggest banks, after doing the best they could to save their homes, faced a D.C. Superior Court judge Tuesday. They were in court for the act of civil disobedience: blocking the entrance to the law firm of Covington & Burling, which has among its clients some of the banks that have been trying to take their homes. Called the "Covington Seven," they were participating with the Home Defenders League in its recent Week of Action to call attention to the failure of the Justice Department to hold the nation's largest banks accountable for the actions they took that led to the 2008 financial crash and millions of people losing their homes to foreclosure. The seven homeowners were arrested and charged with "unlawful entry" for blocking the entrances to Covington & Burling, while they chanted to law enforcement officials, “Who do you protect? Who do you serve?” Both Attorney General Eric

Holder and top prosecutor at the Department of Justice Criminal Division, Lanny Breuer, were partners at Covington before heading to the Department of Justice.^{xvi}

I tell these stories because they require us to ask ourselves what we have forgotten or unlearned about justice—about what is right and what is wrong. Have we normalized the extremities of wealth, power, and opportunity in our society? Do we accept them because they seem inevitable, because our laws have defined them as just? Or, at some unconscious level, do we believe that these vast inequalities are natural; that homeless, hungry, children deserve to be poor, just as the children of the rich are entitled to cut the lines at Disney World, not to mention our best schools and colleges? How did we come to believe that it is just for Apple to avoid billions in taxes while we reduce the deficit by cutting funding for hungry children? Why is it OK for Citibank and Goldman Sachs to avoid regulation and prosecution for creating the bundled securities that crashed our economy, while working class people face foreclosure on the very mortgages that made the big banks richer? When we say a corporation is too big to fail, or too big to prosecute, or too big to sue in a class action, does this justification sound any different than Henry's claim that he has done nothing beyond what the law entitles him to do?

The Known World reminds us that we once viewed the institution of slavery as normal. The practice of owning human beings as property was accepted by most Americans as *just* and enshrined in our Constitution and laws. When Henry is

allowed to participate in this system, that valued and protected property rights in human beings, he does not see its injustice. This story of black slave owners and slaves teaches us that the ownership and exploitation of human beings for profit—the stories told, the laws enshrined to make it seem moral and just—infected the whole community, the entire known world. For justice, as law, in this time was understood by “what a white man had a right to do.” Thomas Jefferson proclaimed, “We hold these truths to be self-evident that all men are created equal.”^{xvii} Of course this truth, proclaimed as *self-evident* by a slaveholder, did not include the truth of slavery’s wrong that Mildred worries she has failed to teach her son.

Today, as lawyers, we, too often, equate what the law allows with justice. My title intentionally speaks of *the Struggle for Justice* because I believe in Fredrick Douglass’ admonition that we can never achieve justice without struggle.^{xviii} As the young voices for freedom say today, “No Justice, no Peace.” My title also calls on us to remember and renew our role, and our responsibility, as lawyers, to be abolitionists, to be freedom fighters, to take sides in the struggle for justice. The Ante-bellum Abolitionists were outsiders. The legal, establishment considered them extremist and radical, but there were lawyers among their number. They believed that slavery was deeply unjust, that, despite its enshrinement in our Constitution and our laws, it was their duty to uphold the underlying meaning of that Constitution and its commitment to the equality of all people. They believed

they were obligated as citizens and human beings “to hold our reality up to us as unredeemed.”^{xi}

The relatively recent history of legal aid, legal services, and public interest advocacy reveals a lineage of abolitionist advocacy, of lawyers who allied themselves with the poor and the powerless; who saw themselves as agents of social change and architects of justice. Organizations like the NAACP Legal Defense Fund, MALDEF, and the Asian Law Caucus were founded with the express purpose of providing legal representation for peoples movements against the ideologies and structures of oppression that are slavery’s legacy.

When Charles Houston, one of the founders of what became the Legal Defense Fund, assumed the deanship at Howard Law School he did so with the express purpose of training a cadre of lawyers who would employ the law to fight against segregation and racism, and serve the needs of the black community. Dean Houston told his students they had to be social engineers or else they would be parasites. Houston believed that a law case was about more than winning or losing, it was an “opportunity to lead and teach the black population in whatever community it arose.”^{xx}

In the summer of 1966 I recall riding south in a beat up Plymouth with a group law students from Harvard, Yale, and Columbia. We were sponsored by the

Law Students Civil Rights Research Council, and each of us would clerk for a lawyer in Carolina, Georgia, Mississippi, or Alabama. These lawyers, Julius Chambers, Howard Moore, C.B. King, and Marion Wright Edelman were sole practitioners, often the only lawyers willing to represent black people in the communities where they lived. The NAACP Legal Defense Fund paid them and covered their expenses when they brought school desegregation or voting rights suits, but they saw themselves as movement lawyers and were on call whenever and for whatever, the movement needed a lawyer's skills. When I drove with C.B. King from Albany, Georgia into Baker County, where the Sheriff had beaten a black man to death in his jail and never been prosecuted, the farmers from the local movement met us at the county line and literally rode shotgun with us, the barrels of their guns pointing out of pickup truck windows, until we reached the courthouse.

That day we were representing several people who'd been arrested as they drove home from a movement meeting, and been charged with running a stop sign and breach of the peace. The courtroom was packed with black folks from the county, who watched proudly as C.B. spent the entire day cross-examining the all-white jury commission, laying the groundwork for our motion to challenge the jury array and file a removal petition in Federal Court, and—just as importantly—telling an eloquent and powerful story about racial oppression in Baker County and

making that story part of the law's text. As Arthur Kinoy writes of this period, "The century-old conspiracy between the official state government power structure and their unofficial armed forces, the KKK, was in full operation, with the object of preserving a segregated society...."^{xxi} "Only the solid and lasting organization of the black people themselves, ..., demanding a share in the political process, could provide any meaningful defense against the violence and oppression of the power structure."^{xxii} As people's lawyers our job was to find a way to help the people do whatever they must do at this moment of struggle. Kinoy argued that "nothing is more crucial to the task of the movement lawyer than to fashion forms of action which transform those attacked into the accusers,"^{xxiii} ...exposing the power structure and their lawyers as betraying the very principles upon which the constitutional structure is supposed to rest."^{xxiv}

When I graduated from law school in 1969, the best and brightest students in my class were passing up offers from top law firms to work for the federal Office of Economic Opportunity (OEO) Legal Services Program (LSP). Over 300 legal services organizations had received grants totaling over \$40 million and the LSP had created and funded a number of national law reform centers to bring test cases and to support lawyers working in local legal services offices. My first job out of law school was with one of these, the Center for Law and Education at Harvard. By 1971 OEO was funding legal services to the tune of \$56 million with 2,660

staff attorneys working in over 850 offices.^{xxv} The original OEO *Guidelines for Legal Services Programs* made clear its expectations that their offices would provide the poor with the full range of legal services that corporate or government clients would expect from their lawyers.^{xxvi}

All areas of the civil law should be included and a full spectrum of legal work should be provided: advice, representation, litigation and appeal...

Advocacy of appropriate reforms in statutes, regulations, and administrative practices is a part of the traditional role of the lawyer and should be among the services afforded by the program. This may include judicial challenge to particular practices and regulations, research into conflicting or discriminating applications of laws or administrative rules, and proposals for administrative and legislative changes.^{xxvii}

California Rural Legal Assistance (CRLA) was generally acknowledged to be the Legal Services Program's finest, most butt-kicking law firm. They established local offices in nine rural California communities. Each office employed a directing attorney and three or four staff attorneys, clerical workers equaling the number of lawyers, and two or three community workers who acted as investigators and valuable liaisons between the lawyers and the community. CRLA maintained an office in the state capital that represented their clients in legislative and administrative matters, and a central office in San Francisco that oversaw operations of the local offices, conducted trainings for staff, and assisted field attorneys in high impact matters.^{xxviii}

Staffed largely by young lawyers, CRLA modeled itself on civil rights movement lawyers like King and Kinoy. Their chosen clients, Mexican Americans, immigrants and migrant laborers, were among the nation's most vulnerable and oppressed populations.^{xxix} And, like the lawyers who had represented civil rights organizers in the south, their clients were part of a movement led by the United Farm Workers and its inspirational leader Cesar Chavez. CRLA lawyers saw themselves as people's lawyers, as an integral part of political struggle.

The political backlash against CRLA provides clear evidence that these young lawyers had assumed the mantle of abolitionist advocates, and joined their clients in the struggle for a fair share in the political process and in the economic fruits of their labor. Governor Reagan threatened to Veto CRLA's funding, and the Board of Governors of the California State Bar Association sent a telegram to OEO Director Sargent Shriver opposing CRLA's initial grant application on the ground that federal funds would be used "to take sides in an economic struggle still pending."^{xxx} To his great credit, Shriver told the president of the State Bar, "Look I'll make an agreement with you. If you will agree that no lawyers in California will represent the growers, I will agree that no legal services people will represent the pickers."^{xxxi}

In 1971 Governor Reagan vetoed the California OEO grant on the grounds that legal services funds had been diverted to an activist political agenda, and governors in Florida, Connecticut, Arizona and Missouri soon followed suit. This marked the beginning of a three-decade assault by the opponents of legal services and law reform. In 1973 the Nixon administration defunded the back-up centers and placed restrictions on the scope of authorized legal work including, demonstrations, picketing, lobbying, referenda, desegregation suits, and abortion litigation.^{xxxii} In 1980 the President Reagan called for the defunding of federal legal services because of its “radical” and “socialist” agenda of law reform.^{xxxiii} In 1996 Congress further restricted Legal Services by prohibiting funding to programs that engaged in redistricting, class actions, legal assistance for aliens, attorney fee claims, prisoner litigation, and any activities to reform federal or state welfare systems, except for individual assistance claims.^{xxxiv}

I recite this history to remind us that our government abandoned public support for these zealous advocates for the poor and disenfranchised, not because we determined the poor no longer needed this kind of representation or because we thought this an ineffective means of providing the poor with access to justice. Rather, we withdrew our support because they were representing their clients too well, because they were demanding too much justice.

I am well aware that in calling this morning for us to renew and re-commit ourselves to abolitionist advocacy I am preaching to the choir. Happily, we can take pride in much that we do in this community that embraces the faith that lawyers must be activist and law must be an instrument for social change. I am proud to teach at a Law School that includes among its programs the Culture and Jury Project, the Family Courts Project, the Hawai‘i Innocence Project, the Health Law Policy Center, The Medical Legal Partnership for Children, the Environmental Law Program, the Elder Law Program, and the Ka Huli Ao Center for Excellence in Hawaiian Law. I know that many of you in this audience engage in forms of abolitionist advocacy each day. But, I also know that we have much work to do before we can adequately answer Henry’s parents’ question to their son.

I believe this work must begin by our questioning and challenging the stark inequities that have been rationalized, justified, and accepted as normal in our law and in our world—that banks should be bailed out but not the individuals whose mortgages they are foreclosing; that it’s OK to balance the budget by taking food from hungry children; that the Constitution protects the right of corporations to spend what they will on elections, but not a poor family’s right to adequate food and housing; that we have already overcome the legacy of slavery, segregation,

colonization, and an illegal overthrow of a sovereign Hawaiian nation, and therefore we no longer need for affirmative action or reparations.

A second part of this work must be to use our voices, our votes, and our political influence to once again secure public support for abolitionist lawyers who will have the independence and resources to represent the poor with the same zealotness and capacity as do lawyers for the rich and powerful. They tell us that we face a crisis in law school enrollment because there are not enough jobs for the students we graduate. But surely the poor are still in dire need of lawyers. True access to justice would mean the poor and working class would get the same kind of legal representation as the wealthy, that the families facing foreclosure would have the same access to Congress, the Justice Department, and the Courts as firms like Covington provide to the hedge funds and banks, to Monsanto and Apple. And believe me, our students would line up to do this justice work and the lines for admission to our law schools would grow long again as well.

Finally we must join with others in the struggle for justice not just as lawyers but as citizens, as neighbors, as human beings. Mari and I have joined Aikea a new political movement and coalition working for justice in housing, education, jobs, the environment, Hawaiian self-determination health, equality, arts, and culture. A movement committed to the idea that working families, indigenous peoples and those who continue to be excluded from the halls of power,

must lead ...so that everyone can work, everyone can learn, everyone has a home, and everyone respects and preserves our island home. Mari Matsuda teaches the students in her class on organizing for social change that the first task of organizing must be to make “the ask”—to not be shy to ask one’s friends to come to the gay pride parade, to join the demonstration at the capitol against GMOs, to lobby at the legislature to stop condo conversion, to go with us to knock on doors and talk to our neighbors face to face about our movement. When Mari teaches I learn. So I am asking you today to join us in this movement.

Several Weeks ago Ai-jen Poo, a wonderful young organizer and founder of the National Domestic Workers’ Alliance, visited Hawai‘i and spoke here at this law school. She titled her talk “Organizing at the Speed of Love,” (What a wonderful title), and she began by introducing her grandmother, a woman who had worked as a domestic and who had taught her granddaughter that caregiving is life’s greatest gift. Ai-jen wanted us to understand that this work she is doing, to organize the most vulnerable, immigrant women workers who care for our children and elderly, this movement she was asking us to join, was the loving work of transforming intimate relationships. She called the Alliance’s political campaigns “containers for transformation.” But she wanted us to know that this loving relationship work was also about power and so she read us a quote from Dr. Martin

Luther King Jr. that I had not heard for a long time. In a 1967 speech entitled “Where Do We Go From Here?” Dr. King Said,

[P]ower without love is reckless and abusive, and that love without power is sentimental and anemic. Power at its best is love implementing the demands of justice, and justice at its best is power correcting everything that stands against love.^{xxxv}

The work of lawyers must mean much more than the representation of clients or the administration and adjudication of law. We must also be lovers who demand justice with and for our neighbors. We must use our power to correct everything that stands against love. And the special task of our trade, as those who have taken up the vocation of telling the law’s story, must be the articulation of the moral vision and the creation of the political will to know justice and to do justice—to spare our mothers and grandmothers the pain of wondering, “What did we forget to teach them?”

THANK YOU.

ⁱ Robert Cover, *Nomos and Narrative*, 97 Harv. L. Rev. 4, 9 (1983).

ⁱⁱ Gwendolyn Brooks, *Negro Hero*, in *THE ESSENTIAL GWENDOLYN BROOKS*, 16 (Elizabeth Alexander ed., 2005).

ⁱⁱⁱ Cover, *supra* note 1 at 4.

^{iv} EDWARD P. JONES, *THE KNOWN WORLD* (2003).

^v *Id.* at 7

^{vi} *Id.* at 136–138.

^{vii} Florence Wagman Roisman, *The Lawyer as Abolitionists: Ending Homelessness and Poverty in Our Time*, 19 St. Louis U. Pub. L. Rev 237, 224 (2000); *see also*, National Alliance to End Homelessness, *The State of Homelessness in America 2013*, available at, http://b3cdn.net/naeh/bb34a7e4cd84ee985c_3vm6r7cjh.pdf, (placing the number of homeless at 633,782 nationally).

^{viii} *See* Trisha Kehaulani Watson, *Homelessness*, in *THE VALUE OF HAWAII: KNOWING THE PAST, SHAPING THE FUTURE* (Craig Howes & John Osorio eds., 2010). Watson writes, “We should be ashamed of how we allow our brothers and sisters to live. We should be utterly ashamed of how we are allowing kupuna to live.” *Id.*, 126.

^{ix} Susan Hippensteele, *Domestic Violence*, in *THE VALUE OF HAWAII: KNOWING THE PAST, SHAPING THE FUTURE*, 133 (Craig Howes & John Osorio eds., 2010).

^x Noelani Goodyear Ka’opua, *THE SEEDS WE PLANTED: PORTRAITS OF A NATIVE HAWAIIAN CHARTER SCHOOL* (2013).

^{xi} Sean F. Reardon, *No Rich Child Left Behind*, NEW YORK TIMES, April 27, 2013, available at <http://opinionator.blogs.nytimes.com/2013/04/27/no-rich-child-left-behind/>; Paul Krugman, *From the Mouths of Babes*, NEW YORK TIMES, May 31, 2013, A-19; *See also*, David Stuckler and Sanjay Basu, *How Austerity Kills*, NEW YORK TIMES, May 13, 2013, A-19 (reporting research that shows that there were 4,750 “excess” suicides in the United States between 2007 and 2010 caused by the effects of the recession and that the rates of such suicides were significantly greater in the states that experienced the greatest job losses).

^{xii} Eric Lipton & Ben Protess, *Banks’ Lobbyists Help in Drafting Financial Bills*, NEW YORK TIMES: DEALBOOK, May 23, 2013, available at <http://dealbook.nytimes.com/2013/05/23/banks-lobbyists-help-in-drafting-financial-bills/>.

^{xiii} Jack Kaskey, *Monsanto Crop Bans by Courts Would Be Reversed in Bill*, BLOOMBERG BUSINESSWEEK, Jun. 19, 2012, available at, <http://www.businessweek.com/news/2012-06-19/house-bill-would-override-court-bans-on-planting-monsanto-crops>; Mark Bittman, *Why Do G.M.O.’s Need Protection?*, NEW YORK TIMES, Apr. 2, 2013, available at, <http://opinionator.blogs.nytimes.com/2013/04/02/why-do-g-m-o-s-need-protection/#1>; Tom Philpott, *Congress’ Big Gift to Monsanto*, MOTHER JONES, Jul. 2, 2012, available at, <http://www.motherjones.com/tom-philpott/2012/07/gmo-industry-flexes-its-muscles-capitol-hill>

^{xiv} Nelson D. Schwartz & Brian X. Chen, *Disarming Senators, Apple Chief Eases Tax Tensions*, NEW YORK TIMES, May 21, 2013, available at <http://www.nytimes.com/2013/05/22/technology/ceo-denies-that-apple-is-avoiding-taxes.html?pagewanted=all& r=0>.

^{xv} Tara Palmeri, *Rich Manhattan Moms Hire Handicapped Tour Guides so Kids Can Cut Lines at Disney World*, NEW YORK POST, May 14, 2013, available at http://www.nypost.com/p/news/local/manhattan/disney_world_srich_kid_outrage_zTBA0xrvZRkIVc1zItXGDP.

^{xvi} Will Wrigley, *Occupy Justice Department: Foreclosed Homeowners Arrested Protesting U.S. Refusal To Prosecute Big Banks*, THE HUFFINGTON POST, May 20, 2013, available at http://www.huffingtonpost.com/2013/05/20/occupy-justice-department_n_3309305.html.

^{xvii} THE DECLARATION OF INDEPENDENCE; *See* MIKE SHAPIRO, *Democracy’s Risky Business*, in *DEFORMING AMERICAN POLITICAL THOUGHT*, 165 (2006). Shapiro discusses Jacques Derrida’s compelling critique of Jefferson’s scripting of Euro-America’s founding document, The Declaration of Independence. Shapiro writes, “Derrida points to a temporal instability between a description of what has been the case and a performative utterance that establishes the case...Derrida asserts, ‘one cannot decide...whether independence is stated or produced by this utterance.’ To hold certain truths to be self evident, from Derrida’s perspective, is not merely to find a warrant for them as much as it is to constitute them. The self-evident truths to which the document refers are productively brought about by the statement.” *Id.* at 168.

Is it self-evident that corporations have a right to spend as much money as is needed to buy elections and the politicians we elect? *See generally*, *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010). Is it self-evident that we have no obligation to feed hungry children or house our neighbors who cannot afford a place to live?

^{xviii} Fredrick Douglass, *The Significance of Emancipation in the West Indies*, Canandaigua, New York, Aug. 3, 1857 in *THE FREDERICK DOUGLASS PAPERS* 1, v. 3, 204 (John W. Blassingame ed., 1985) (“Those who profess to favor

freedom and yet depreciate agitation, are people who want crops without ploughing the ground; they want rain without thunder and lightning; they want the ocean without the roar of its many waters. The struggle may be a moral one, or it may be a physical one, or it may be both. But it must be a struggle. Power concedes nothing without a demand. It never did and it never will.”).

^{xix} Cover, *supra* note 1.

^{xx} RICHARD KLUGER, *SIMPLE JUSTICE*, 128 (1977).

^{xxi} ARTHUR KINOY, *RIGHTS ON TRIAL: THE ODYSSEY OF A PEOPLE’S LAWYER*, 250 (1983).

^{xxii} *Id.* at 253

^{xxiii} *Id.* at 252

^{xxiv} *Id.* at 228

^{xxv} William P. Quigley, *The Demise of Law Reform and the Triumph of Legal Aid: Congress and the Legal Services Corporation From the 1960’s to the 1990’s*, 17 St. Louis U. Pub. L. Rev. 241, 250 (1998).

^{xxvi} See Jerome Falk and Stuart Pollak, *Political Interference with Publicly funded Lawyers: The CRLA Controversy and the Future of Legal Services*, 24 Hastings L. J. 599 (1973) The authors note that R. Sargent Shriver, the OEO’s first director, envisioned the lawyer’s role in the war against poverty broadly. “He had hoped that proving to poor people that justice was possible within the system, they would gain confidence in asserting their rights. He had also hoped that by working closely with the poor, lawyers would recognize the presence of injustices which previously had been unknown to the courts, legislatures and administrators” *Id.*, 603.

^{xxvii} *Id.*, at 604-05 (quoting CRLA Exhibit B-1, OEO, *Guidelines for Legal Services Programs*, in HEARINGS OF OEO COMM’N, 22-23).

^{xxviii} *Id.* at 605

^{xxix} Farm workers were exempted from the protections of the National Labor Relations Act, (which guaranteed other workers the right to bargain collectively; the Federal Fair Labor Standards Act, (which set minimum wages and maximum hours for industries engaged in interstate commerce); and the Federal Unemployment Tax Act. They were likewise excluded from coverage by state minimum wage, maximum Mexican Americans, immigrants and migrant laborers hour and unemployment protections. CRLA’s proposal to OEO also documented the lack of enforcement of many existing federal and state regulations including housing codes governing labor camp housing, regulations of working conditions in the field and regulations governing the employment, working conditions and hours of minors. *Id.* at n. 8.

^{xxx} *Id.* at n. 27.

^{xxxi} *Id.*

^{xxxii} Quigley, *supra* note 25 at 252.

^{xxxiii} *Id.* at 255.

^{xxxiv} *Id.*

^{xxxv} Martin Luther King, Jr., *Where Do We Go From Here?*, Aug. 16, 1967, available at [http://mlk-kpp01.stanford.edu/index.php/encyclopedia/documentsentry/where do we go from here delivered at the 11th annual sclc convention](http://mlk-kpp01.stanford.edu/index.php/encyclopedia/documentsentry/where_do_we_go_from_here_delivered_at_the_11th_annual_sclc_convention).