

Volume 19 | Issue 1

Winter 2015

RadTalks: What Could Be Possible if the Law Really Stood for Black Lives?

Purvi Shah

Center for Constitutional Rights

Colette Pichon Battle

Gulf Coast Center for Law & Policy

Vincent Warren

Center for Constitutional Rights

Alicia Garza

National Domestic Works Alliance

Elle Hearn

GetEQUAL

See next page for additional authors

Follow this and additional works at: <https://academicworks.cuny.edu/clr>

 Part of the [Civil Rights and Discrimination Commons](#)

Recommended Citation

Purvi Shah, Colette P. Battle, Vincent Warren, Alicia Garza, Elle Hearn, Carl Williams, Norris Henderson, Umi Selah & Maurice Mitchell, *RadTalks: What Could Be Possible if the Law Really Stood for Black Lives?*, 19 CUNY L. Rev. 91 (2015).

Available at: <https://academicworks.cuny.edu/clr/vol19/iss1/5>

The CUNY Law Review is published by the Office of Library Services at the City University of New York. For more information please contact cunylr@law.cuny.edu.

RadTalks: What Could Be Possible if the Law Really Stood for Black Lives?

Authors

Purvi Shah, Colette Pichon Battle, Vincent Warren, Alicia Garza, Elle Hearn, Carl Williams, Norris Henderson, Umi Selah, and Maurice Mitchell

RADTALKS: WHAT COULD BE POSSIBLE IF THE LAW REALLY STOOD FOR BLACK LIVES?

*A Series of Talks Delivered at the Law for Black Lives Convening,
Organized by the Bertha Justice Institute at the Center for Constitutional Rights*

I. INTRODUCTION: PURVI SHAH	91
II. COLETTE PICHON BATTLE	95
III. VINCENT WARREN	103
IV. ALICIA GARZA	107
V. ELLE HEARNS	111
VI. CARL WILLIAMS	113
VII. NORRIS HENDERSON	117
VIII. UMI SELAH	121
IX. MAURICE “MOE” MITCHELL	126

I. INTRODUCTION: PURVI SHAH[†]

“You’ve got to seriously ask yourself, what are you willing to sacrifice to change the human condition? Radical means going against the norm or changing the norm. Radical means stepping outside the box. Radical means giving up comfort. Radical means being excited by the challenges of poverty and war America, as a matter of fact, as a culture does not encourage; it works tenaciously at obstructing the path to radical thought, to radical development, to radical thinking—and as a consequence, all day long we are being subliminally bombarded with mass media, technology, with press to stay away from anything that changes the norm.”

—Harry Belafonte, 2014¹

† Purvi Shah is the Bertha Justice Institute Director at the Center for Constitutional Rights, where her work focuses on deepening the theory and practice of movement lawyering across the United States and the world. She recently co-founded the Ferguson Legal Defense Committee, a national network of lawyers working to support the Ferguson movement and the growing national Black Lives Matter movement. Prior to coming to the Center for Constitutional Rights, she spent a decade working as a litigator, law professor, and community organizer. At the Community Justice Project at Florida Legal Services—a project she co-founded and started—she litigated on behalf of taxi drivers, tenants, public housing residents, and immigrants in a variety of class actions and affirmative damages litigation. She was an adjunct clinical professor at the University of Miami School of Law, where she co-founded the Community Lawyering Clinic. She graduated from Northwestern University and the Berkeley School of Law at the University of California.

¹ Harry Belafonte, Artist/Activist, Keynote Address at the Center for Constitutional Rights Social Justice Conference 2014 (June 6, 2014), <http://www.ccrjustice.org/home/BerthaJusticeInstitute/social-justice-conference-2014> [<http://perma.cc/X58G-8WWQ>].

“In order for us as poor and oppressed people to become part of a society that is meaningful, the system under which we now exist has to be radically changed. This means that we are going to have to learn to think in radical terms. I use the term radical in its original meaning—getting down to and understanding the root cause. It means facing a system that does not lend itself to your needs and devising means by which you change that system.”

—Ella Baker, 1969²

Is our radical imagination dead?

For many of us, going to law school was a radical choice. We chose the law because at some point in our lives, we witnessed injustice and oppression up close—maybe in our own homes, maybe in our neighborhoods, maybe in a community far away from home. But somewhere along the way we developed a gut-sense that something was deeply wrong with the world. And as we searched for a way to be useful in the fight to improve the human condition, we imagined law would help us solve some of society’s most daunting and intractable problems—from poverty and police brutality to climate change and xenophobia.

When we arrive at law school, we spend countless hours reading hundreds of pages of legal jurisprudence for classes where there is no mention of these societal problems. We are advised that we would be best served by learning to distinguish fact from opinion and to divorce our passion from reason. While we try to make sense of this new sterile way of thinking, we are introduced to a new set of myths: about the importance of lawyers, about the neutrality of the law, about how the law protects all equally. We begin to believe that as lawyers, we have the answers.

When we join the field, we learn the cold-truth that lawyers working for the most vulnerable in our society are severely under-resourced and outnumbered. We work day and night, drowning and overwhelmed by the never-ending stream of crisis, cases, and clients. The hours we spend slouched in meetings and on conference calls talking over and past each other give rise to disillusionment and detachment from the sense of purpose that initially drove us to this work. Our imagination starts to dwindle, and our cynicism blooms. We become cogs in the wheel.

As some of us begin to run legal organizations, we experience levels of alienation, competition, ego, and oppression reminiscent

² BARBARA RANSBY, ELLA BAKER AND THE BLACK FREEDOM MOVEMENT: A RADICAL DEMOCRATIC VISION (2003).

of the corporate world we used to impugn. We talk about our work in terms of deliverables and platitudes, sexy enough yet safe enough to satisfy the funders that keep our organizations afloat. We're too busy to evaluate our work in authentic ways. As leaders, we are fearful and fail to solicit real feedback from our staff, clients, and partners, [because] being honest about the failings of our work would mean losing what little self-worth we have. Worst of all, some days when we go home, we can't feel anything at all. The law has turned us into problem-managers instead of problem-solvers.

However, in rare moments of contemplation, we may hear a voice inside us that asks quietly: are we really making things better? Is my work truly radical? Am I fundamentally transforming power relations, or am I simply tinkering at the margins by treating the symptoms of injustice instead of the root causes? And just as soon as that voice emerges, with our bodies tired and our brains on super-drive, we push these overwhelming existential questions aside and return to the comfort of having what appears to be a noble job, and the simplicity of checking things off our to-do lists.

RadTalks intends to re-route this common trajectory. RadTalks is an intervention in the ever-pressing grind of day-to-day social justice work. It is a space where our individual and collective imaginations are free to run wild. A space where bold ideas pierce through the cynicism and routine of social justice work, re-centering us on what is possible when we find the courage to dream.

RadTalks is a curated series of short, inspiring talks given by visionary social justice thinkers on a theme relevant to the current moment. Speakers are asked to use their radical imaginations to present radical ideas that will lead the audience toward radical action.

Though the legal community is an intended audience for RadTalks, the talks are intentionally interdisciplinary, featuring visionaries in law, organizing, art, design, and entrepreneurship. By centering legal visionaries amongst other types of change-makers, RadTalks hopes to inspire the cross-pollination of radical ideas from different sectors working towards social justice. RadTalks asks speakers to subvert the traditional discourse of band-aid solutions and instead present transformative visions of how we might sever the very root of oppression and injustice in our communities.

In light of these goals, we launched the first RadTalks at the Center for Constitutional Rights' (CCR) Law for Black Lives con-

vening in the summer of 2015.³ Law for Black Lives was a national gathering of lawyers, law students, legal workers, and jailhouse lawyers committed to building a world where Black Lives Matter. More than a meeting or a conference, the gathering was a call to action for legal advocates from diverse parts of the country to join together and spend a day dreaming about how we can support the growing Movement for Black Lives. Law for Black Lives unapologetically prioritized the voices and leadership of people of color—most importantly Black lawyers and legal advocates.

Birthered out of CCR's experiences building legal infrastructure for the resistance in Ferguson and Baltimore, Law for Black Lives was a groundbreaking conversation that ignited a new level of inspiration, motivation, and intention within the legal community to support the Black Lives Matter movement. The two-day convening, endorsed by seventeen organizations, was hosted at the historic Riverside Church in Harlem and at Columbia University, and consisted of a combination of thirty-three workshops, panel discussions, and plenaries conducted by more than eighty renowned organizers, lawyers, and activists. About 1,000 participants joined us in person to dream big about how we can support the growing Movement for Black Lives. Beyond those who attended in person, the convening reached 4,400 people across the world through our livestream of the event. This conference trended nationally as one of the top three hashtags on Twitter (#Law4BlackLives).

The prompt for the first set of RadTalks was "What Could Be Possible if Law Really Stood for Black Lives?" and centered the voices of those often marginalized within the law—Black lawyers, community organizers, jailhouse lawyers, transgender individuals, and lawyers from the South. The combination of viewpoints and ideas in these first RadTalks was exhilarating and electric. From Alicia Garza's vision on how Black workers must be a part of the fight to make Black Lives Matter, to Norris Henderson's recounting of his perseverance as a jailhouse lawyer working to free himself after being wrongfully incarcerated in the Louisiana State Penitentiary at Angola for twenty-seven years, to Elle Hearn's vision of what it would take to build a world where transgender victims of police violence are not misgendered after their deaths, to Colette-Pichon Battle's talk on disaster recovery and how we go from resilience to resistance—each talk expanded our hearts and minds,

³ See LAW FOR BLACK LIVES, <http://www.law4blacklives.org> [<http://perma.cc/CRJ8-WDKZ>].

each talk made us reflect on our own work, each talk challenged us to think more radically.

What the transcripts you are about to read will not communicate is the energy of the room. The audience sat rapt during the RadTalks, incredibly moved by the speakers, at times bursting into applause.⁴ And at the end of the talks, many of us were moved to tears, having remembered how healing it is to dream about what is possible.

I created RadTalks⁵ to answer Mr. Belafonte's call to take radical action and to heed Ms. Baker's wisdom to focus on the root of the causes of injustice, and to give us fuel and inspiration in the long haul of social transformation. I hope at the end of reading these talks, you too will feel re-centered in your radical imagination and willing to take the risk to be as radical as possible in your work.

If changing the world begins with the belief that it is possible, then this is the moment. The problems of oppression, poverty and human suffering are not intractable, but solving them requires awakening the most creative and expansive part of ourselves.

Are you willing to dream with us?

II. COLETTE PICHON BATTLE†

Bonjour. It's so great to be here—thank you for having me.

The first question that most folks from the Gulf Coast get when we're in places like New York is, "Where were you when Katrina hit?" Well, I was in [Washington,] D.C., practicing corporate law, trying to achieve success. Anybody feeling me? Any Black lawyers out here move to D.C. to achieve success? It's a whole bunch of success out there. Beautiful Black people, beautiful suits, nice

⁴ You can see videos of the RadTalks at <http://www.law4blacklives.org/videos>.

⁵ It should be noted that RadTalks has been shaped by a series of conversations I've had with visionary thinkers, artists, and creatives, most notably Bryonn Bain, Harry Belafonte, Andre Robinson, Malik Benjamin, Steven Pargett, Camilo Ramirez, and Sally Rumble.

† Colette Pichon Battle, Esq. serves as Director of the Gulf Coast Center for Law & Policy (GCCLP) managing programs focused on Global Migration, Community Economic Development, Climate Justice and Equitable Disaster Recovery. She works to develop regional and state advocacy initiatives, manages and provides legal services, and oversees training and analysis development for local community leaders on issues that intersect with race, systems of power, and ecology. Her legal specialization is in immigration and disaster law. She is a lead coordinator for Gulf South Rising 2015, a regional initiative around climate justice in the South. She earned her Bachelor's Degree in International Studies from Kenyon College, and is a former Thomas J. Watson Fellow and a graduate of the Southern University Law Center. This RadTalk can be viewed at <https://youtu.be/NzMILlj8XNg>.

cars, they go to museums, they eat out. It's great, it's fantastic. Best couple of years of my life, loved every minute of it.

And then there was this really big storm in the Gulf. I checked on my family, and the next day we saw these images. And it took about two weeks before I knew everyone in my family was okay. There was one thing I understood as a lawyer: they might need some help with paperwork. [I thought,] "I'll go down and I'll volunteer. I'll go home for a little while." But what I didn't understand as a movement leader was how much injustice was located in the middle of disaster.

My community has been in Slidell, Louisiana, actually just outside, since the 1770s. Our community, so says the oldest people there, who gave us testimony after the storm, said the water had never been that high. Where people live with water all the time, it had never come up that far. There was a thirty-foot tidal surge off the Gulf of Mexico and my community was completely underwater.

I was told I was talking to some lawyers today, so I don't have an inspirational talk. What I did make was a list of damages, so I thought you'd appreciate that. I'm not one of those [lawyers], I hate trial, [and] I don't like speaking in front of folks. Interestingly enough, in disaster work, there's a lot of different roles for lawyers. And one of the roles I found over the last ten years was just keeping a list of all of the things that we should be receiving damages for.

The first thing I want to mention is [that] we're waiting for damages from the oil companies that dredged canals in the lower part of Louisiana and allowed for the salt water intrusion to destroy the marshes that protect the land.⁶ I don't know how much money that will be, but if you could just restore the south of Louisiana, that would be okay. Whatever that equals, we'll take those damages.

The second damages on my list go to the federal government. Because it was actually the failure of levees built by our federal gov-

⁶ A lawsuit filed by the Southeast Louisiana Flood Protection Authority-East (a Louisiana statute-created board of experts tasked with overseeing flood protection on the Louisiana coast) against ninety-seven oil and gas companies that operate in Louisiana, seeks an injunction and unspecified damages. Various reports estimate the restoration of the coastline in a range of eighteen-billion to fifty-billion dollars. The actual figure to restore the coastline is hotly contested. *See Bd. of Comm'rs of the Se. Louisiana Flood Prot. Auth.-E. v. Tenn. Gas Pipeline Co., LLC*, 29 F. Supp. 3d 808, 808 (E.D. La. 2014).

ernment that flooded an entire city.⁷ New Orleans was 80% underwater, not because of Katrina, but because of levees that broke. What was found out at trial was that those levees were not built to the standards they were set to, and the standards that were set were not good enough to protect that city.⁸ There was a lawsuit; they even won.⁹ Turns out you can't sue the federal government for damages when the Army Corps of Engineers is at fault.¹⁰

The third on my list is the New Orleans Police Department. We just want damages for all the Black people they killed.¹¹ And when they do the calculations for the civil part of the trial, we would appreciate if you would value Black lives the way white lives get valued when these kind[s] of things happen.

Next on the list is the Jefferson Parish Sheriff's Office. I don't know if you heard, but in the middle of the storm, people literally tried to leave the city [to] get away from the water that was slowly rising. There were armed sheriffs on the bridge of the Crescent City connection telling people that they could not get out, and [they] sen[t] them back into Orleans Parish.¹² We would like some damages for that. I'm not sure how to calculate that; I'm willing to work with you all to figure out how that's gonna break down. But something about that seems a little illegal, and I think we have some civil claims to that.¹³ I asked my trial friends to help me with that.

Next on the list is BP [British Petroleum]. Five years after we

⁷ See *In re Katrina Canal Breaches Litig.*, 673 F.3d 381, 399 (5th Cir. 2012), *opinion withdrawn on reh'g*, 696 F.3d 436 (5th Cir. 2012).

⁸ *Id.* at 386.

⁹ *Id.*

¹⁰ See *In re Katrina Canal Breaches Litig.*, 696 F.3d 436, 448 (5th Cir. 2012).

¹¹ One study claims the exact figure will never be known, but estimates that 610 Black people died during Hurricane Katrina. See POPPY MARKWELL & RAOULT RATARD, DEATHS DIRECTLY CAUSED BY HURRICANE KATRINA, <http://dhh.louisiana.gov/assets/oph/Center-PHCH/Center-CH/stepi/specialstudies/KatrinaDeath1.pdf> [<http://perma.cc/PJX9-CJZX>].

¹² Gardiner Harris, *Police in Suburbs Blocked Evacuees, Witnesses Report*, N.Y. TIMES (Sept. 10, 2005), http://www.nytimes.com/2005/09/10/us/nationalspecial/police-in-suburbs-blocked-evacuees-witnesses-report.html?_r=0.

¹³ Four civil lawsuits stemming from the blockade have been filed in United States District Court for the Eastern District of Louisiana. Plaintiffs in those actions had alleged constitutional violations, as well as some state violations. All of those claims were dismissed by a federal judge. However, the Jefferson Parish Sheriff's Office reached a settlement with the Cantwell family of Algiers Point for \$10,000. See Richard Rainey, *Crescent City Connection blockade after Hurricane Katrina wasn't illegal, U.S. Justice Department says*, THE TIMES-PIYAYUNE (Sept. 30, 2011), http://www.nola.com/politics/index.ssf/2011/09/us_justice_department_says_pol.html [<http://perma.cc/9Z6K-EJM2>].

were recovering from Katrina, and the levee breaches and the floods, just when people were starting to come out of the trauma that follows a disaster like that, there was a massive disaster in the Gulf of Mexico. 3.1 million barrels—three hundred million gallons—of oil, not regular oil, [but] heavy crude oil.¹⁴ And if that wasn't bad enough, BP, the federal government, [and] several other people, said, "Let's sink the oil floating on the top by spraying toxic dispersant on it."¹⁵ And let's use toxic dispersants that are banned in Europe for their human impact,¹⁶ for their *known human impact*—the cancer-causing properties of this stuff—let's spray it on South Louisiana."¹⁷ And that's what they did. Recently there was a judgment. Some people were happy about it, [but] most people in South Louisiana were not. The judgment was \$20 billion against BP.¹⁸ Some people think that's a lot of money. But \$20 billion was what was settled for the Alaska Exxon Valdez, an oil spill that was a fifth the size, one state, on rocky coast, with no population. We would like the rest of our money. We could just multiply that and count it out.

Finally, we would like damages from all of the people who came down to South Louisiana, South Mississippi, and South Alabama to exploit for their careers, interests, and volunteer desire. [They] came down to exploit my people for [their] benefit. We would like our damages.

Our disaster recovery is not a game. It's not a learning moment. There are some injustices going on, and if you're not coming to help us find justice, we don't need you there. If you came and you get a paper, or you got some kind of grant, or you wrote some[thing], [or made] a movie or such, we'll take all of the profits that you got from that. Just send it on down.

¹⁴ *In re Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico*, on Apr. 20, 2010, 808 F. Supp. 2d 943 (E.D. La. 2011).

¹⁵ Lisa Katzman, *Big Oil Uses Toxic Chemicals to Clean Up Spills. Will the Feds Finally Make Them Stop?*, MOTHER JONES (Apr. 24, 2015 5:00 AM), <http://www.motherjones.com/environment/2015/04/bp-corexit-deepwater-horizon-epa-dispersant> [http://perma.cc/D5TM-74CB].

¹⁶ Marian Wang, *In Gulf Spill, BP Using Dispersants Banned in U.K.*, PRO PUBLICA (May 18, 2010, 1:24 PM), <http://www.propublica.org/blog/item/In-Gulf-Spill-BP-Using-Dispersants-Banned-in-UK> [http://perma.cc/4DF4-VGHJ].

¹⁷ Antonia Juhasz, *Investigation: Two Years After the BP Spill, a Hidden Health Crisis Festers*, THE NATION (Apr. 18, 2012), <http://www.thenation.com/article/investigation-two-years-after-bp-spill-hidden-health-crisis-festers/> [http://perma.cc/43PM-LME2].

¹⁸ Rakteem Katakey et al., *BP's Record Oil Spill Settlement Rises to More than \$20 Billion*, BLOOMBERG BUS. (Oct. 5, 2015), <http://www.bloomberg.com/news/articles/2015-10-05/bp-s-record-oil-spill-settlement-rises-to-more-than-20-billion> [http://perma.cc/MS8Q-6HM9].

So, small list of damages. [In] a room full of lawyers, I know we can figure out a way to work this out. These are my “radical ideas” . . . damages for things that are very clearly to be paid to us.

I made another list, [be]cause I like lists. [T]here are some changes we’d like to make in South Louisiana and in the Gulf South, and they have to do with laws.

The first thing we want is to see a change in federal disaster law. Does anybody know what the federal government has to do in disasters? What does the federal government *have* to do in disasters? Not a damn thing. The next time Sandy comes through, [or] the next time something happens to your community, please note it is a discretionary movement of the federal government to act.¹⁹ We don’t have any law on our books that says the federal government has to come to the aid of its citizens in a disaster. And if you lived in Louisiana at the time of George [W.] Bush, and you had a Democratic governor and a Republican president, you quickly find out what decisions people make when they have the discretion.²⁰ Somehow, when there’s discretion, Black lives don’t get valued. We’re not the ones that get saved, and we weren’t chosen, and we weren’t valued, and we weren’t saved.

Next, I just want to mention this little thing called voting rights. Thought I’d mention it, because when you displace millions of people at gunpoint with one-way tickets and you don’t help them get back home, and then you hold elections, and you say there’s just no voter turnout, and then you purge the voter rolls, because they just haven’t been home, but there are no homes to come back to—well, we’ve come to the conclusion that we might need some voting rights in disasters.²¹ So, [for] the conversation on voting rights that’s happening right now . . . be ready for when the disaster comes, because that is the hit. That is the moment when our power really gets taken away: when we are at our weakest, most traumatic space.

The next change: we just need a law that protects public institutions. When there’s a hurricane that hits your coast, and levees

¹⁹ 42 U.S.C. § 5148 (2015); *McWaters v. Fed. Emergency Mgmt. Agency*, 436 F. Supp. 2d 802, 809 (E.D. La. 2006) (holding that the Federal Emergency Management Agency’s decision to terminate provision of assistance is a “discretionary function,” irrespective of the potential negative impact on a particular class of persons).

²⁰ Eric Lipton et al., *Political Issues Snarled Plans for Troop Aid*, N.Y. TIMES (Sept. 9, 2005), http://www.nytimes.com/2005/09/09/us/nationalspecial/political-issues-snarled-plans-for-troop-aid.html?_r=0.

²¹ See Damian Williams, *Reconstructing Section 5: A Post-Katrina Proposal for Voting Rights Act Reform*, 116 YALE L.J. 1116, 1130-36 (2007).

that flood your city, we need laws that protect the strongest buildings that are on the highest ground, that are meant to withstand wind, where even the rich people go because they're the strongest buildings in the city. That's our public housing; that was our public housing in New Orleans. It got torn down.²² Not because it flooded. But because somebody wanted to "shift the density of poverty," is what they said.²³ What it actually meant is it permanently displaced thousands of people, who are still not home, because they were living in public housing, and they were never allowed to come back to their city.²⁴ We think public housing should be protected in disasters. All public institutions.

And speaking of public institutions, we might want to protect our hospitals, too. We have a big hospital called Charity. It was built at the same time that our public housing was built. It's [in] downtown New Orleans, and the only thing that flooded was its basement.²⁵ [It] turns out that [when] the whole team of medical staff . . . and the military group [that] cleaned it [and] got it surgery-ready . . . told the government, "We're ready to receive patients at Charity," the government and a few other folks put a gag order on the doctors and military, opened the windows, and re-flooded Charity Hospital.²⁶ The dollars that were supposed to go to rebuild Charity Hospital, clean it up, [and] save the people who were stuck went to a new facility right next door.²⁷ When you come down, check it out. They could've just rebuilt Charity [or] cleaned it up. But Charity Hospital is a hospital for poor Black people. And

²² ROBERT D. BULLARD & BEVERLY WRIGHT, RACE, PLACE, AND ENVIRONMENTAL JUSTICE AFTER KATRINA: STRUGGLES TO RECLAIM, REBUILD AND REVITALIZE NEW ORLEANS AND THE GULF COAST 28-30 (2009).

²³ Andrew Vanacore, *Report: New Orleans' shift toward rental vouchers, and away from public housing, chips away at density of poverty*, THE ADVOCATE (July 8, 2015, 12:00 AM), <http://theadvocate.com/news/neworleans/neworleansnews/12851831-123/report-new-orleans-shift-toward> [<http://perma.cc/2BUL-C2EN>].

²⁴ JANE HENRICI ET AL., INST. FOR WOMEN'S POLICY RESEARCH, GET TO THE BRICKS: THE EXPERIENCES OF BLACK WOMEN FROM NEW ORLEANS PUBLIC HOUSING AFTER HURRICANE KATRINA (2015), <http://www.iwpr.org/publications/pubs/get-to-the-bricks> [<http://perma.cc/JX46-W5CW>]; Roberta Brades Gratz, *Who Killed Public Housing in New Orleans*, THE NATION (June 2, 2015) <http://www.thenation.com/article/requiem-bricks/> [<http://perma.cc/D88N-89ND>].

²⁵ Roberta Brandes Gratz, *Why was New Orleans's Charity Hospital Allowed to Die?*, THE NATION (Apr. 27, 2011) <http://www.thenation.com/article/why-was-new-orleans-charity-hospital-allowed-die/> [<http://perma.cc/TLU2-N8YE>].

²⁶ *Id.*

²⁷ Adam Nossiter, *Dispute Over Historic Hospital for the Poor Pits Doctors Against State*, N.Y. TIMES (Dec. 17, 2005), http://www.nytimes.com/2005/12/17/us/dispute-over-historic-hospital-for-the-poor-pits-doctors-against-the-state.html?_r=0.

so they just pushed it to the side, and . . . they're starting to privatize the public money put into those hospitals.

Finally, another public institution: schools. Turns out New Orleans has become the epicenter of the charter [school] movement.²⁸ But let me tell you what's really happening. We're seeing children who go to four schools in four years, because a charter school really [just] takes \$300 and a signature to start. These children can't write their names, they can't add, they can't figure anything out, and there's no connection to the crime that we see in our city. "It's just their fault for not making better choices." It ought to be our fault for not protecting our children and the public institutions that they need to grow.

So for housing, hospitals, and schools, let's just protect them as public institutions, and let's not allow your tax dollars to go to help privatize these institutions, which is what's happening now.

The next law we ought to think about: a federal law banning racial and religious profiling. After Katrina, there were thousands of immigrants brought into our city to help with the recovery and rebuilding. When those immigrants asked for their paychecks, they were fired, and they immediately lost their status.²⁹ When they lost their status and they drove from their home to their work, or to find more work, they were profiled for being brown.³⁰ Turns out Black folks in New Orleans knew all about that trick. Black men in my family [have] been profiled all my life. And right after [September] 11, our Muslim brothers and sisters started getting profiled, too.

A suggestion: we need a federal law that bans racial profiling. It's come up, [but for] some reason it can't get passed. I don't know why this isn't a priority, but when police have the right to stop you based on your skin color, that ought to be illegal.

We also need some laws that actually promote an alternative economic system. It turns out that in the middle of a disaster, capitalism [is] not the best thing. Not the best thing for Black lives. In

²⁸ See generally CTR. FOR POPULAR DEMOCRACY & COAL. FOR CMTY. SCHS., SYSTEM FAILURE: LOUISIANA'S BROKEN CHARTER SCHOOL LAW (2015), http://populardemocracy.org/sites/default/files/Charter-Schools-Louisiana-Report_web3.pdf [<http://perma.cc/Q6XG-N8N8>].

²⁹ Griselda Nevarez, *Latino Workers Helped Rebuild New Orleans, But Many Weren't Paid*, NBC NEWS (Aug. 28, 2015), <http://www.nbcnews.com/storyline/hurricane-katrina-anniversary/latino-workers-helped-rebuild-new-orleans-many-werent-paid-n417571> [<http://perma.cc/B2Y2-V55Y>].

³⁰ Joseph Tanfani & Brian Bennett, *Homeland Security Email Points to Ongoing Racial Profiling by Local Police*, L.A. TIMES (Oct. 15, 2015, 4:34 PM), <http://www.latimes.com/nation/la-na-border-profiling-20151015-story.html> [<http://perma.cc/QS5E-GPM5>].

fact, what we saw in South Louisiana after Katrina was the barter system, because the ATMs weren't full and the banks were closed. We saw people actually using what they had and getting what they need[ed].

I remember one morning, I woke up to a bag of okra in my FEMA trailer as payment for some legal services that I had done. Now, I love okra, so that was a very good payment for me. But it was [from] a lady down the street who didn't have any money. She gave me some okra, I was hungry: it all worked out. I don't understand why these kinds of [systems] can't be part of our conversation.

And one last suggestion. And this one you might not connect immediately to Black lives, but trust me, it's connected. We need federal recognition for the United Houma Nation. The United Houma Nation is a Native American tribe in South Louisiana with 17,000 tribal roll members.³¹ They are the Nation that put the red stick in the ground that we now call Baton Rouge. They've always existed where we are. But our federal government doesn't recognize them.³²

The problem when the federal government doesn't recognize you when you're the largest tribe in South Louisiana is that you don't get royalties when your land sits on a lot of oil and gas.³³ You also don't get a say in how disasters are cleaned up in your community, with your tribe. We want federal recognition for the United Houma Nation, not only because it's the right thing to do, but because what we've figured out in South Louisiana is that none of our struggles, none of our movements, will go anywhere until we have movements and justice for our indigenous brothers and sisters.

So, I'll wrap it up. I just thought I'd give you some things to think about, because the question was, "If law worked for Black lives, what would the world be like?" Well, this is just a suggestion

³¹ *About UHN, UNITED HOUMA NATION*, <http://www.unitedhoumanation.org/about> [<http://perma.cc/6GN3-J4JD>].

³² Alva C. Mather, *Old Promises: The Judiciary and the Future of Native American Federal Acknowledgment Litigation*, 151 U. PA. L. REV. 1827, 1847 (2003).

³³ NICHOLAS NG-A-FOOK, AN INDIGENOUS CURRICULUM OF PLACE: THE UNITED HOUMA NATION'S CONTENTIOUS RELATIONSHIP WITH LOUISIANA'S EDUCATIONAL INSTITUTIONS 8 (2007) ("[S]uddenly the land that the Houmas had called home for so long became even more important and of prime interest to non-Indians—oil was under it Nonetheless, the federal government refuses to increase oil and gas royalties, a demand that is continually requested each year by the Louisiana government, in order to improve its education, levee, and coastal restoration systems. The United Houma Nation has yet to see any royalties from the land they previously inhabited." (quoting J. Curry, *A History of the Houma Indians and Their Story of Federal Nonrecognition*, 5 AM. INDIAN J.L. 8, 20 (1979))).

on where we could start, and this is from ten years of disaster recovery in the Gulf South. So I'm going to leave you with one request, and I'm going to let you know what's going on down in the Gulf South.

The request is: remember us on August 29. This is ten years since Hurricane Katrina, and no matter what you hear up here in New York, or over there in Ohio, or way on the West Coast, don't believe that the recovery is finished. Don't believe that we're okay. Don't believe that justice has been served. That has not occurred. And if you don't believe it, we invite you down to come see for yourself.

There's an initiative called Gulf South Rising led by local Black people.³⁴ Local Black people saying, "This is how we want to remember Katrina ten years later." Those people are taking to the city, and they're asking you to join them for a march and for healing rooted in traditional arts and culture. The Gulf South Rising movement is going to build power: we're building our own infrastructure, leaders, [and] financial system. That's goal number one. We invite you to join us.

Goal number two is that we're coming together, not just to party . . . specifically, to heal our bodies, our minds, our relationship with one another, and our relationship to Mother Earth. We've got some healing to do, and the healing is going to go down in New Orleans on August 29.

We're also moving from this notion of resilience to resistance. Now, we do acknowledge that we are resilient people. We are [resilient], thank you very much: when you punch me, I can come back. That's right. It's good, I can take it—thanks. We figured that out. But stop hitting me.

So we're building a movement to just stop the punches. We don't need to prove anymore to the nation or anyone else that we can take a punch. We can take a punch. Stop hitting us, stop hurting us, stop killing us, [and] don't forget about us. And so this narrative from resilience to resistance is what we're going to be shouting on August 29. If you can't join us, at least remember that the legacy of resistance in this nation started in the Gulf South.

III. VINCENT WARREN†

How do we know that Black lives really do matter? One of the

³⁴ *Who We Are*, GULF SOUTH RISING, <http://www.gulfsoutrising.org/#whowear> [<http://perma.cc/8ADR-P5V4>].

† Vincent Warren is the Executive Director of the Center for Constitutional

ways I think about that is to look very far into the future, not to the campaign cycle, not to the fiscal year, not to the three-year strategic plan with measurable outcomes, but really far into the future. I am thinking not about our kids, not about their kids, or even their kids, but the generation after that. When *that* generation looks back on this moment, the question will be, “What do Black people thank us for?” It is a tough question to which I do not know the answer. However, what I do see, looking back from us so many generations away, are smiling faces. I see Black people that are at ease, I see Black people that are full of wonder, I see Black people that are unencumbered, I see Black people that are unafraid, and I see Black people that are full of joy.

But we have a problem; one that was best summed up by James Baldwin in “The Fire Next Time,” where he writes:

This past, the Negro’s past, of rope, fire, torture, castration, infanticide, rape; death and humiliation; fear by day and night, fear as deep as the marrow of the bone; doubt that he was worthy of life, since everyone around him denied it; sorrow for his women, for his kinfolk, for his children, who needed his protection, and whom he could not protect; rage, hatred, and murder, hatred for white men so deep that it often turned against him and his own, and made all love, all trust, all joy impossible.³⁵

When I look into the future; I think our call is to create joy. As lawyers, as people in the legal profession working with movements, it is an enormous task to think about how to create joy from a legal document. Perhaps you cannot. But I want to throw out a question to you all. I want you to think about our Constitution, which was ratified in 1789. Let us not think about it as a foundational document, but let us think about it as it really is—a [Microsoft] Word redlined document. For those who have worked on editing documents, you know how this works. You work on a document, you

Rights. He oversees CCR’s groundbreaking litigation and advocacy work, which includes using international and domestic law to hold corporations and government officials accountable for human rights abuses; challenging racial, gender and LGBT injustice; and combating the illegal expansion of U.S. presidential power and policies such as illegal detention at Guantanamo, rendition, and torture. Prior to his tenure at CCR, he was a national senior staff attorney with the American Civil Liberties Union, where he litigated civil rights cases, focusing on affirmative action, racial profiling, and criminal justice reform. He was also involved in monitoring South Africa’s historic Truth and Reconciliation Commission hearings, and worked as a criminal defense attorney for the Legal Aid Society in Brooklyn. He is a graduate of Haverford College and Rutgers School of Law. This RadTalk can be viewed at <https://youtu.be/gDWUAEgvK-c>.

³⁵ JAMES BALDWIN, *THE PRICE OF THE TICKET: COLLECTED NONFICTION, 1948-1985*, at 376 (1985).

make changes to the documents, and you make comments to the documents. Yet, this is what has happened to our Constitution. Our Constitution was redlined so that it excluded Black folks, women, Native Americans, and anyone who was not the landed white gentry.³⁶ That is the basic document that we are working with in our field.

If you think about that analogy, what then did we do? We deleted the section that said “three-fifths” for a Black man;³⁷ we added the section that said “yes, woman have rights too,”³⁸ and then the Supreme Court, the legal infrastructure, clicked “save as final.” There is, however, also a comments section and the comments section is also something that the legal professional has sought to occupy. As a result, we will have comments in our documents that say, for example, that the Fourth Amendment should be read to include the following words before the actual amendments unless a police officer feels otherwise: “You have the right to be free from unreasonable searches and seizures.”³⁹ There are other parts in the comments section that we put in as well.⁴⁰ Therefore, when we ask Black people in Black communities what the most important thing to them is, they will tell us the same things time and time again: education, housing, healthcare, being able to protect and provide for families, and not a single one of them is a right in our Constitution. So what are we spending our time doing? We are spending time in the comments section, trying to get our courts to accept changes. I do not think that is the path to joy. I do not see the path to showing that Black lives matter in the process we are currently engaged in.

Catherine Albisa,⁴¹ one of the board members for the Center

³⁶ See, e.g., U.S. CONST. art. I, § 2, cl. 3, *amended by* U.S. CONST. amend. XIV, sec. 2 (“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.”).

³⁷ U.S. CONST. amend. XIV, sec. 2 (“Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.”).

³⁸ U.S. CONST. amend. XIX (“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.”).

³⁹ See generally *Warden Penitentiary v. Hayden*, 387 U.S. 294 (1967); *Terry v. Ohio*, 392 U.S. 1 (1968); *Tennessee v. Garner*, 471 U.S. 1 (1985).

⁴⁰ See, e.g., *Griswold v. Connecticut*, 381 U.S. 479, 484 (1965) (“The First Amendment has a penumbra where privacy is protected from governmental intrusion.”).

⁴¹ Catherine Albisa is the Executive Director and co-founder of National Economic and Social Rights Initiative, a non-profit dedicated to building legitimacy for

for Constitutional Rights, told me not too long ago that there are only two things worth doing in life. One is creating joy, and the other is eliminating pain. What we are doing here today, what we are trying to assemble, is a strategy to do both things simultaneously. I do not have to tell you that it is not easy because if it were easy someone in this room would have done it already. Yet it is obvious, and as Brother [Rev. Osagyefo] Sekou⁴² said to us just yesterday, we live in a time when stating the obvious is a revolutionary act, and we have been stating the obvious for two days in this conference.

When thinking about what that revolutionary act looks like moving forward, we need to think radically about our profession, about the role of our profession with respect to movements, groups, with respect to communities, but most importantly, we have to ask ourselves, “Can we get to where we need to be by doing the things we are doing now?” The answer is “No.” But that is actually why we are here today; that is why we are at this conference, because Law for Black Lives is about creating radical innovation in the way we think about our work as lawyers, which will then get us out of the “comments” section, into actually envisioning a legal document that includes fundamental, basic rights, and recognizes the humanity of Black people.

We are planting the seed. When you think about those generations moving forward and ask them what are they thankful for, they may say that it was that our generation came together to plant the seed. Then again, they may not, and for that reason this work also requires humility. When you go to a beautiful forest, for example, you are walking about, and you are enjoying the trees. You do not know the names of the people who planted them and made it possible, but they matter to you, so that even though you do not know their names, you thank them for it. Perhaps, then, with humility, with innovation, with solidarity, with comradery, we will be able to plant a seed so that years and years down the road, Black people will say, “We know that many years ago, there was a discussion about changing the way our society works, and our communities were involved, and our lawyers were involved. For that, we are eternally thankful.”

human rights in general, and economic and social rights in particular, in the United States.

⁴² Rev. Osagyefo Uhuru Sekou is an author, documentary filmmaker, public intellectual, organizer, pastor, and theologian based in St. Louis, Missouri.

IV. ALICIA GARZA†

Black Lives Matter is a powerful network of Black people who have come together to finally eradicate anti-Black racism and state-sanctioned violence, once and for all.⁴³ For far too long, Black lives have not mattered in this country, nor have they mattered around this world.

Now, how do we know that? We know this, because, of the two-and-a-half million people who are locked in prisons and cages, one million of those people are Black.⁴⁴ We know this because no fewer than nine million people are under state supervision, and many of those people are Black.⁴⁵ We know this because, according to our comrades at the Malcolm X Grassroots Movement, every twenty-eight hours in this country, a Black person is murdered by police, security guards, or vigilantes.⁴⁶ We know this because Black women are the fastest growing prison population.⁴⁷ We know this because while the Confederate flag may have come down in South Carolina, it has not come down in Mississippi.⁴⁸ In fact, it is the state

† Alicia Garza is the Special Projects Director for the National Domestic Workers Alliance (NDWA). In 2013, she co-founded #BlackLivesMatter, an international organizing network developed after the murder of Trayvon Martin, focused on combating anti-Black racism in all of its forms. Before the NDWA, she served as Executive Director of People Organized to Win Employment Rights (POWER) in San Francisco. This RadTalk can be viewed at <https://youtu.be/cniRNj6m0-A>.

⁴³ *About the Black Lives Matter Network*, BLACK LIVES MATTER, www.blacklivesmatter.com/about/ [<http://perma.cc/4QD7-W9W7>].

⁴⁴ LAUREN E. GLAZE & DANIELLE KAEBLE, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CORRECTIONAL POPULATIONS IN THE UNITED STATES, 2013 (Dec. 2014), www.bjs.gov/content/pub/pdf/cpus13.pdf [<http://perma.cc/QBY6-P53D>] (reporting 2,220,300 people incarcerated); TODD D. MINTON & ZHEN ZHENG, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, JAIL INMATES AT MIDYEAR 2014 (June 2015), www.bjs.gov/content/pub/pdf/jim14.pdf [<http://perma.cc/8RV5-B9T7>] (reporting that of the 744,600 inmates in city and county jails, 263,800 are black); E. ANN CARSON, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PRISONERS IN 2014 (Sept. 2015), www.bjs.gov/content/pub/pdf/p14.pdf [<http://perma.cc/6SQ9-6V5C>] (reporting that of the 1,561,500 prisoners in state and federal facilities, 516,900 are black).

⁴⁵ GLAZE & KAEBLE, *supra* note 44, at 1 (reporting 6,899,000 people under adult supervision).

⁴⁶ TONGO EISEN-MARTIN, MALCOLM X GRASSROOTS MOVEMENT, WE CHARGE GENOCIDE AGAIN! (2012), <https://mxgm.org/wp-content/uploads/2013/05/we-charge-genocide-FINAL.pdf> [<https://perma.cc/P67W-V843>].

⁴⁷ *See generally* GLAZE & KAEBLE, *supra* note 44.

⁴⁸ *North Carolina Takes Down Confederate Flag*, HUFFPOST LIVE (Apr. 4, 2013), <http://live.huffingtonpost.com/r/segment/north-carolina/515ab3ce78c90a5be9000033> [<http://perma.cc/9YT4-7HM8>]; *Mississippi Votes to Keep Controversial Flag*, ABC NEWS, <http://abcnews.go.com/US/story?id=93537> (last visited Dec. 7, 2015).

emblem.⁴⁹ It is the symbol that says to Mississippi, “Black lives do not matter here.” We know this because Black women make 64 cents to every 78 cents that a white woman makes, to every dollar that a white man makes.⁵⁰ We know this because the average life expectancy of a Black transgender woman is thirty-five-years-old.⁵¹

I could go on and on about how we know that Black lives do not matter in this country and around this world, but more importantly, it is critical that we understand that Black Lives Matter both as a powerful network and as an international movement that was ignited by the murders of people like Michael Brown.⁵² Ignited by the murders of people like India Clarke.⁵³ Ignited by the murders of people like Jonathan Sanders.⁵⁴ Ignited by the murders of people like Jordan Davis.⁵⁵ Ignited by the people who are murdered like Aiyana Stanley-Jones.⁵⁶ Ignited by people who are murdered like Penny Proud,⁵⁷ like Oscar Grant,⁵⁸ like Sandra [Bland],⁵⁹ like

⁴⁹ *State Flags*, MS.GOV, <https://www.ms.gov/content/Pages/flags.aspx> [<https://perma.cc/P789-JXSZ>].

⁵⁰ *Your Right to Equal Pay*, THE WHITE HOUSE, <https://www.whitehouse.gov/issues/equal-pay> [<https://perma.cc/85JD-WZ7T>].

⁵¹ This statistic is extrapolated from a 2014 study conducted by the Inter-American Commission on Human Rights (IACHR). According to the IACHR, eighty percent of documented killings of transgender persons in the Western Hemisphere, particularly trans women, were thirty-five years of age or younger. *See* Press Release, Inter-Am. Comm’n on Human Rights, IACHR Expresses Concern over Pervasiveness of Violence against LGBTI Persons and Lack of Data Collection by OAS Member States (Dec. 17, 2014) [hereinafter IACHR Press Release], http://www.oas.org/en/iachr/media_center/preleases/2014/153.asp [<http://perma.cc/KXY6-CAUX>].

⁵² Michael Brown was an eighteen-year-old Black man shot and killed by Darren Wilson, a police officer, in Ferguson, Missouri on August 9, 2014. In December 2014, a grand jury in St. Louis County refused to indict Wilson on criminal charges for Brown’s murder.

⁵³ India Clarke was a twenty-five-year-old Black transgender woman murdered in Tampa, Florida on July 21, 2015.

⁵⁴ Jonathan Sanders was a thirty-nine-year-old Black man who was killed by a police officer in Stonewall, Mississippi, on July 8, 2015.

⁵⁵ Jordan Davis was a seventeen-year-old Black teenager who was killed by Michael Dunn, a forty-five-year-old white man, in a Jacksonville, Florida gas station parking lot on November 23, 2012. In October 2014, Dunn was found guilty of Davis’s murder and sentenced to life in prison.

⁵⁶ Aiyana Stanley-Jones was a seven-year-old Black child who was shot and killed during a police raid of her home in Detroit, Michigan on May 16, 2010. Detroit Police Officer Joseph Weekley was initially charged with involuntary manslaughter for Jones’s killing, but was eventually cleared of all charges.

⁵⁷ Penny Proud was a twenty-one year-old Black transgender woman murdered in New Orleans, Louisiana, on February 9, 2015.

⁵⁸ Oscar Grant was a twenty-two-year-old Black man killed by Bay Area Rapid Transit (BART) Police Officer Johannes Mehserle at the Fruitvale BART Station in Oakland, California on January 1, 2009. In 2010, Mehserle was found guilty on a lesser charge of involuntary manslaughter and sentenced to two years in prison; he was released on parole in 2011.

Rekia Boyd,⁶⁰ like so many others. We know this because as all of these people are having their lives taken unnecessarily, we know that Black Lives Matter is about much more than police terror. It is about our fundamental right to live as Black people with dignity and respect.

In my work at the National Domestic Workers Alliance, we see ourselves as an integral part of the movement for Black lives. However, you may be asking yourself, what do domestic workers have to do with Black Lives Matter? Domestic work, caregiving that is administered in other people's homes, is rooted in and shaped by the legacy of slavery. Historically, enslaved Africans were forced to work in other people's homes, on other people's land, mostly for folks who were generating profit off of our backs. That is the legacy of domestic work.

How, then, did we get there?² During the New Deal, Southern lawmakers and union leaders made a compromise that excluded domestic workers and agricultural workers from federal labor protections that were afforded to all other workers.⁶¹ Why did they do that? Because domestic workers and agricultural workers, at that time, were predominately Black.⁶²

Today, that means that domestic workers often live and work in the shadows of our society and in the shadows of our economy. They are often isolated as the only employee inside a home and oftentimes not even considered to be an employee but instead a member of the family. They are subject to exploitation and abuse. One woman I know personally said that she was brought here from Brazil with the promise that she could work for a family and be able to go to school. Instead, she had her passport taken from her, and she was forced to sleep on the porch while she cleaned and nourished and fed a family that was wealthy. They were, in fact, cancer researchers.

Domestic workers are often increasingly unprotected by the very laws that ensure that this type of exploitation does not happen.⁶³ Many domestic workers are Black immigrant women from

⁵⁹ Sandra Bland was a twenty-eight-year-old Black woman who was found hanged while in police custody in Waller County, Texas, on July 13, 2015.

⁶⁰ Rekia Boyd was a twenty-two-year-old Black woman, who was shot and killed by an off-duty police detective on March 21, 2012 in Chicago, Illinois.

⁶¹ See Juan F. Perea, *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act*, 72 OHIO ST. L.J. 95 (2011).

⁶² *Id.* at 98.

⁶³ See INT'L LAB. OFFICE-GENEVA:ILO, DOMESTIC WORKERS ACROSS THE WORLD: GLOBAL AND REGIONAL STATISTICS AND THE EXTENT OF LEGAL PROTECTION (2013),

the Caribbean and from across the continent.⁶⁴ More than 500,000 Black immigrants are living in the shadows of our democracy. They are both being criminalized for being undocumented and they are being criminalized for being seen as Black American.⁶⁵ And while the tales are horrific, the organizing, which is led by these women, who hold the tatters of our democracy and our economy together, is restoring life and humanity to our homes and to our workplaces. Domestic workers have formed a powerful national alliance driven by them to fight for basic labor protections to set a fair floor, not just for us, but for everyone.⁶⁶ Domestic workers are also innovating and shaping the fastest growing economy. We are building new and innovative models of full and fair employment that can finally uproot structural racism from caregiving, once and for all.

In our work, we have won five state-level bills in five states in five years, and we are just getting started. Domestic workers from across the African Diaspora have joined the powerful movement for Black lives. Because not only are we workers, but we are also mothers. We are mothers who have a hard time sleeping at night, because we are worried that our children will not return home. We are mothers who live in communities where the police join forces with federal agents, and they separate our families, and they criminalize our children. We know all too well, as my sister Heather McGhee from Demos has said, Black bodies were the first currency of this nation, and as such we are uniquely positioned to transform this nation.

Black Lives Matter is much more than a hashtag. It is much more than a moment. Black Lives Matter is a powerful assertion. It is a demand that we value humanity. It is a demand that we restore the right to breathe. It is an assertion that our children deserve to grow up to be adults. It is a movement that is designed to restore

http://www.ilo.org/wcmsp5/groups/public/—dgreports/—dcomm/—publ/documents/publication/wcms_173363.pdf [<http://perma.cc/LWU8-93QE>]; see also LINDA BURNHAM & NIK THEODORE, NAT'L DOMESTIC WORKERS ALL., HOME ECONOMICS: THE INVISIBLE AND UNREGULATED WORLD OF DOMESTIC WORK (2012), <http://www.domesticworkers.org/sites/default/files/HomeEconomicsEnglish.pdf> [<http://perma.cc/5EQH-SXMA>].

⁶⁴ *Id.*

⁶⁵ See U.S. DEP'T OF HOMELAND SECURITY, ICE ENFORCEMENT AND REMOVAL OPERATIONS REPORT (2014), <https://www.ice.gov/doclib/about/offices/ero/pdf/2014-ice-immigration-removals.pdf> [<https://perma.cc/2X8K-VAHA>].

⁶⁶ See, e.g., DOMESTIC WORKERS UNITED, NAT'L DOMESTIC WORKERS ALL., & THE COMM. DEV. PROJECT AT THE URBAN JUSTICE CTR., DOMESTIC WORKERS AND COLLECTIVE BARGAINING: A PROPOSAL FOR IMMEDIATE INCLUSION OF DOMESTIC WORKERS IN THE NEW YORK STATE LABOR RELATIONS ACT (Oct. 2010), <http://www.domesticworkers.org/sites/default/files/pdfs/collectivebargaining.pdf> [<http://perma.cc/J7JD-8VMT>].

dignity and respect to a nation that was built off of our backs in the very first place. And we know that we will win.

V. ELLE HEARNS†

Hello everyone. The law has lied to us. The law has lied to you. Your academic degrees have lied to you as well. If the law really stood for Black lives, we would not have to continue to learn to say the names of countless beautiful Black people who have been murdered. If the law really stood for Black lives, we would understand exactly what state violence is and how it manifests itself in the lives of Black people. We would know that systemic and structural violence is a form of state violence, along with the very visible forms of police brutality that we all know. If the law really stood for Black lives, the officers who murdered Sam Dubose in Cincinnati, Ohio would have been fired the first time they murdered a Black man and got away with it.⁶⁷

If the law really stood for us as Black people, we would not have to defend ourselves against the very thing that is supposed to protect us. If the law really stood for Black lives, people from Paterson, New Jersey to Cleveland, Ohio would be able to live unapologetically in all of their Black glory without death being a constant in their lives.⁶⁸ I would not have been arrested after defending myself against a transphobic attack. The jail that I was placed in would not exist if the law really stood for Black lives.

Laws would not be the gateway to a better quality of life—investing in people would be. The ego of the law would be left at the door when coming in contact with those who are most impacted by laws. We would have a better practice in identifying and connecting to our human existence, as opposed to the circumstances that

† Elle Hearn is the Central Region Coordinator for GetEQUAL, and she was appointed to the position in early 2015. She is also a strategic partner of #BlackLivesMatter and works collaboratively with the #BlackLivesMatter team. This RadTalk can be viewed at <https://youtu.be/lSFeI0X1jJE>.

⁶⁷ See John Mura & Sheryl Gay Stolberg, *Samuel DuBose's Death in Cincinnati Points to Off-Campus Power of College Police*, N.Y. TIMES (July 31, 2015), <http://www.nytimes.com/2015/08/01/us/samuel-duboses-death-in-cincinnati-points-to-off-campus-power-of-college-police.html> (“Mr. DuBose is the third black man to die after encounters with the [University of Cincinnati] police since 2010; Kelly Brinson, a 45-year-old psychiatric patient, and Everette Howard, an 18-year-old student, died in 2010 and 2011 after campus police officers fired Taser stun guns at them, according to lawsuits filed by their families.”).

⁶⁸ See generally Nicholas Quah & Laura E. Davis, *Here's A Timeline Of Unarmed Black People Killed By Police Over Past Year*, BUZZFEED NEWS (May 1, 2015, 5:46 PM), <http://www.buzzfeed.com/nicholasquah/heres-a-timeline-of-unarmed-black-men-killed-by-police-over#.brDXqxw12> [<http://perma.cc/ZCB8-FVBF>].

often keep us divided. If the law really stood for Black lives, white people, you would not be so confused about the privilege you carry. There would be specific language around the dismantling of white supremacy, patriarchy, and capitalism in laws, if they really were for Black lives. We would have received reparations.

If the law really stood for Black lives, Ky Peterson, a Black transgender man who murdered his rapist, would not be in prison currently serving twenty years in Georgia.⁶⁹ Mya Hall's murder would not have gone unnoticed if the law really stood for Black lives.⁷⁰ Anthony Sowell would have never made the news if the law really stood for Black lives.⁷¹ The "House of Horrors" in Cleveland, Ohio would have been torn down long before Anthony Sowell had the opportunity to capture and detain Black women.⁷²

If the law really stood for Black lives, you all would know that I fear you, just like Black people fear the police. As a Black transgender woman, when I come into a space with you, I do not know if you will kill me, misgender me, out me, or verbally attack me. If the law really stood for Black lives, we would not have to listen to Bill O'Reilly.⁷³ If the law really stood for Black lives, we would not have had to watch in horror as Black people in Ferguson were not allowed to mourn, grieve, protest, or claim the very city they domi-

⁶⁹ Sunnive Brydum & Mitch Kellaway, *This Black Trans Man Is in Prison for Killing His Rapist*, THE ADVOCATE (Apr. 08, 2015, 11:15 AM), <http://www.advocate.com/politics/transgender/2015/04/08/black-trans-man-prison-killing-his-rapist> [http://perma.cc/N2VP-42JL].

⁷⁰ Peter Hermann, *Baltimore's transgender community mourns one of their own, slain by police* (Apr. 3, 2015), https://www.washingtonpost.com/local/crime/baltimores-transgender-community-mourns-one-of-their-own-slain-by-police/2015/04/03/2f657da4-d88f-11e4-8103-fa84725dbf9d_story.html [https://perma.cc/GXF9-G5J9].

⁷¹ Anthony Sowell, otherwise known as the "Cleveland Strangler," was arrested on November 1, 2009 after a SWAT team entered his house and found the bodies of eleven rape victims that had been decomposing throughout his home. Prior to his 2009 arrest, Anthony previously served a fifteen-year prison sentence for kidnapping, raping, and torturing a twenty-one-year-old pregnant woman. See generally ROBERT SBERNA, *HOUSE OF HORRORS: THE SHOCKING TRUE STORY OF ANTHONY SOWELL, THE CLEVELAND STRANGLER* (2012).

⁷² David Lohr, *Serial Killer Anthony Sowell's 'House Of Horrors' Demolished*, THE HUFFINGTON POST (Dec. 7, 2011, 5:07 PM), http://www.huffingtonpost.com/2011/12/06/anthony-sowell-serial-killer-house-demolished_n_1130815.html [http://perma.cc/S25E-SFN7].

⁷³ For example, days after a white man shot nine people in a Black church in Charleston, South Carolina, Bill O'Reilly, the host of FOX News Channel's *The O'Reilly Factor*, compared the Black Panthers to bigots, blamed the Black community for "Black-on-Black crime," and stated that "there is not an epidemic of racism in the United States of America." Bill O'Reilly, *Bill O'Reilly: Demonizing America as a racist nation*, FOX NEWS (June 25, 2015), <http://www.foxnews.com/transcript/2015/06/25/bill-oreilly-demonizing-america-as-racist-nation/> [http://perma.cc/S9AP-ZKNE].

nate.⁷⁴ If the law really stood for Black lives, Mike Brown's body would not have laid in the street for hours.⁷⁵ Detroit would be just as vibrant as it once was. We would not know the names of Black women like Sandra Bland, Raynette Turner, Kindra Chapman, Joyce Curnell, and Ralkina Jones.⁷⁶ We would not have to speculate whether or not they committed suicide. We would have confirmation for what we already know about their deaths.

If the law really stood for Black lives, one out of two Black transgender women would not have to live with the reality that they will sit in jail at some point in time in their life.⁷⁷ Black transgender women would have a life expectancy longer than thirty-five-years old.⁷⁸ Black transgender women would be able to anticipate making more than \$10,000 a year.⁷⁹ If the law really stood for Black lives, you would know I, as a Black transgender woman, am not interested in inclusion. I am not interested in marriage. I am not interested in equality. I am interested in the liberation, in the freedom, of Black people.

VI. CARL WILLIAMS†

Law for Black lives. The law is our enemy. The law is our enemy.

⁷⁴ See, e.g., Alex Altman, *Ferguson Protesters Try to Block Use of Tear Gas*, TIME (Dec. 12, 2014), <http://time.com/3631569/ferguson-protesters-try-to-block-use-of-tear-gas/> [<http://perma.cc/7U2L-AU5Y>] (explaining that a federal judge in St. Louis ordered local police to limit their use of tear gas on Ferguson protesters following news that a grand jury had declined to indict officer Darren Wilson in the death of Michael Brown).

⁷⁵ See Kim Bell & David Hunn, *Timeline: Four Hours After The Michael Brown Shooting*, ST. LOUIS POST-DISPATCH (Sept. 13, 2014, 3:57 PM), http://www.stltoday.com/timeline-four-hours-after-the-michael-brown-shooting/table_79c7ed69-4fbc-57fb-bf77-e1888dffd4e.html [<http://perma.cc/RN4G-MLRY>].

⁷⁶ Breanna Edwards, *At Least 5 Black Women Have Died in Police Custody in July; WTF?!*, THE ROOT (July 30, 2015, 3:00 AM), http://www.theroot.com/articles/news/2015/07/at_least_5_black_women_have_died_in_police_custody_in_july_wtf.html [<http://perma.cc/2FSE-4YXR>].

⁷⁷ JAIME M. GRANT ET AL., NAT'L CTR. FOR TRANSGENDER EQUALITY & NAT'L GAY & LESBIAN TASK FORCE, INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 163 (2011), http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf [<http://perma.cc/4M65-758L>].

⁷⁸ See IACHR Press Release, *supra* note 51.

⁷⁹ GRANT ET AL., *supra* note 77, at 2 (finding that black transgender women were nearly four times more likely to have a household income of less than \$10,000/year as compared to the general population).

† Carl Williams is a staff attorney at the American Civil Liberties Union (ACLU) of Massachusetts. He was previously a criminal defense attorney with the Roxbury Defenders Unit of the Committee for Public Counsel Services and a Givelber

The law as it stands today in this country and in this time is our enemy. Historically, it's what's enslaved us as Black people. It's what's Jim Crow-ed us. It's what gave us anti-miscegenation laws. Those were laws, structures that were in place in this country, and today we have even more of them. They have different names. They're parts of different systems. They're mandatory minimums. They're the school-to-prison pipelines. They're the war on drugs. They're stop-and-frisk procedures. All across the country from Portland, Maine [to] Portland, Oregon, from Miami to San Diego. Those laws that exist today are part of the core of what makes up the system of white supremacy in this country.

And those laws didn't just appear from nowhere. They appeared at the foundational points of this country. Vince was talking about the Constitution and sort of the ways to amend it and change it. The Constitution, and I always point this out, the very easy place to remember when it was first written. It's Article 1, section 2, [clause] 3 explicitly talks—it doesn't use the words “Black people”—but it explicitly talks about Black people, and many of you all know, maybe all of you know what it says right about Black people. Three-fifths of a human being. So it talked about us, at the core, *specifically* are not human beings. And I would be remiss if I left out our Native brothers and sisters—I'm arrogant myself—if we left out our Native brothers and sisters. What does it say about Native brothers and sisters in that same Article 1, section 2, clause 3 . . . of the Constitution? Not even three-fifths. Don't count. Zero.

So our Constitution—or *their* Constitution, excuse me—talks about people of color. And it says we're maybe three-fifths, a little bit more than half, or zero, and that's the foundational document of this country. And the Declaration of Independence also speaks specifically about Native American people and refers to them as bloodthirsty savages.⁸⁰ Right? So that's from whence we come. That's where we come from. We need a wholesale change to the legal system of this country. We need that for ourselves, for Black people, for oppressed people inside the borders of this country, and we need it for the rest of the world.

Distinguished Lecturer on Public Interest Law at Northeastern University School of Law, where he taught a class on social justice movements and the law. He is a graduate of the University of Rhode Island and the University of Wisconsin Law School. This RadTalk can be viewed at <https://youtu.be/3grlVu9XTRE>.

⁸⁰ THE DECLARATION OF INDEPENDENCE para. 29 (U.S. 1776) (“He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian Savages whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.”).

And more than that, we need to change the culture around it. I was at an activist gathering, and someone came up to me and said, "Couldn't we make it against the law so when a policemen kills somebody, that that should be murder? It should be illegal." And I said, "So what you're saying is when someone takes a gun and shoots a person, there should be a law that says that that's something and we could call that murder?" He said, "Yeah, we should have a law that says that." I said "There's probably, I don't [know], maybe fifteen [laws] in this state, and there's federal ones. We have those laws, but it isn't that law. It's the culture that surrounds it. It's the district attorneys. It's federal prosecutors. It's defense attorneys sometimes.

And it's the judges, and it's the grand juries, and it's the juries that look and say, "Doesn't look like that to me." It's that system, and it's that culture that we need to get to the root at, rip out and change.

We all know what Audre Lorde said: "The master's tools will never [dismantle] the master's house."⁸¹ With some apologies to the sister, I'm going to change it a little bit and say the master's laws will never destroy the master's system: white supremacy.

We can use those laws to bail ourselves out when we're on that journey, right? To get some people out of jail, to maybe have some less harsh conditions when people are behind enemy lines when people are in prison. We can use it to bail people out. Sometimes we can use our bar card to assist that process, but that is not going to destroy this system of white supremacy that is crushing human beings in this country.

So, where does that leave us? Right? Because that's the depressing part. Someone asked me, and I'm sure everyone in this audience has been asked, "Well, what does this Black Lives Matter movement want?" And I hate that question. But I thought about it, and I said, "We need to answer [to] these white supremacist people who keep saying this stuff." Right? We have to have some response to that. And I'm a trial lawyer at heart, so you'll forgive me for answering that. When I answer that for people, I answer it in a story.

I'm going to start out by asking a question to folks. How many people here have very young Black children? Put your hands up. First of all, everybody should clap for them because they're raising young Black children right?

⁸¹ AUDRE LORDE, *The Master's Tools will Never Dismantle the Master's House*, in *SISTER OUTSIDER: ESSAYS & SPEECHES* 110-13 (1984).

Now. Wait, wait. Keep your hands up. Keep your hands up. So for all of those folks, what I want to see happen . . . and y'all can tell me if it's what you want to see, too. I want to know the time when this happens, because I know that it will happen. I want that young child, not in the very far future, to grow up and come to their parent, their mother, their father, other folks, and [ask], "Is it true that in this country"—or maybe there won't be countries anymore, because we'll all be free—but, "When you were younger, was it true that Black people weren't free?" And you're going to be absolutely eloquent, absolutely on point, and explain exactly what it was like to live in this country today. And your beautiful Black child is going to look at you and go, "I don't understand. I don't understand what you mean. That doesn't make any sense. How could people live like that? How could people let other people—for our allies and accomplices in the room—let other people, let us, let you, mom, dad, other folks live like that?" And then you're going to try to explain again and they're just going to [say], "I don't understand that. It doesn't make any sense to me." That's the day we win.

That day is coming. The only question is, how far that day is off? How far is it away? And that brings us to who we are and why we're here. So the only thing that all of this, the gathering in Cleveland, the movement for Black lives that happened, and everything that's happening around this country, everything that's happening around the world, for Black liberation, for racial justice, and for the liberation of people. The only thing that we are all doing is making that day come a little bit sooner. Right? So all we're doing is there's an X on the calendar, and we're just saying, "Let's move the date up a little bit, just a little bit closer to today," right? Let's have it so that child is a little bit more confused at this situation that was in this country today a little bit sooner. We want to invoke that. We want to speed up that confusion. And I think one of the things on a very core emotional level that we need to do to bring that day sooner, and one of the things that we can do right now in this room, is to believe.

[Imagine] if all of us were to get together, and we were a society of civil engineers, and we said, "We're going to go out and build a skyscraper." But a lot of us said, "Well, I don't believe that that's possible really. It's a nice dream, and we like to talk about it, and we write poems about it, and we sing about it, and we chant about it, and we have workshops about it, but I don't really actually believe it's a possibility. It's an impossible thing to happen."

How many of you have sometimes doubted that we actually can be free? Fully free? I'm going to put my hand up, because I believe sometimes I doubt it. We have to one hundred percent commit ourselves to the belief that human beings want to be free, that we yearn to be free, and that we can make and believe in our own power in making ourselves free. Because like the engineers who don't believe in the skyscraper, it ain't never gonna get built. If we start to believe right now, right here—we may be wrong in the end—we one hundred percent have to believe that it is possible.

And in that, I want you all to put your hand against your heart and feel a little bit of your life inside. And I don't need you to chant it, because I don't want you to say it out loud so everybody outside can hear. I want you to say it inside, but with your voice. Say it. Say the words. Say, "I believe. I believe. I believe that we will win. I believe that we will win. I believe that we will win."

[Audience chants, "I believe that we will win."]

I got a little bit more for you. I'm not done. Just one last piece. Put your fist in the air. And now say, "I fuckin' know that we will."

Don't laugh. Say it. I'm going to [say] that again. "I fuckin' know that we will."

VII. NORRIS HENDERSON†

This is supposed to be about something radical, about how we see ourselves in this moment This moment is about how we show up and how we show up for each other in this moment. One of the things about having legal skills and knowing the power of what you can do with it is how to pay it forward. What do we do with the skillset that we have acquired? So for all the lawyers, the jailhouse lawyers, and law students, the question to yourself is, how do you show up in the moment? When you look in the mirror in the morning, what do you see? Do you see this pretty person, this beautiful, handsome person, this lovely, gorgeous person, or do you see somebody who is really engaged and willing to commit themselves to helping others?

One of the things about acquiring a skill set is that you have to

† Norris Henderson is currently Executive Director of Voice of the Ex-Offender (VOTE), a nonprofit organization designed to educate, organize, and mobilize formerly incarcerated persons about their right to vote in Louisiana. Wrongfully incarcerated for twenty-seven years, he was self-taught in criminal law during his years in prison as a paralegal, advocate, and organizer. He is a former Open Society Foundations Soros Justice Fellow, who promoted community organizing and advocacy campaigns to transform the criminal justice system in New Orleans. This RadTalk can be viewed at <https://youtu.be/cjms7Oxz8kw>.

do something with it. For example, I am a CPR instructor, but I cannot perform CPR on myself. I learned that so I could do it for somebody else. So when you learn the law, it is for you to use this talent that you have acquired to the benefit of somebody else. A service to humanity is the best work in life. And so how do we show up in these different moments? We are having a critical moment right now. Things are happening, and we are responding to them. But the thing is, I need to know where you are in that critical moment. I do not need to be in battle walking with you, and then when I get to the line of conflict, look over my shoulder and you are not there. I need to know that you are going to be there with me. For that reason, my biggest ask for everybody here is how we show up. How we show up in these critical moments when things are happening all around us.

Conversely, we cannot twist people because of their position or possessions. We have to meet people as we find them. We have to find people who are willing to do what they are capable of doing. We cannot get mad with people who say, "Check this out brother, this is as far as I can go." If they tell me that is as far as they can go, I have to accept that and respect that. However, do not walk here with me, talking this talk, and then when I get there, say that I have to go. One of the things Michael [Jackson] said about talking to that man in the mirror is [that] he must check himself. If we do not check ourselves, we are going to wreck ourselves. We always talk about leaving the egos at the door, but somehow we seem to sneak them in our pocket and bring them in. This is about us being honest with each other.

I have been truly blessed. I am not supposed to be here. I had a life sentence. For years, I could not figure out how I got into the circumstance I found myself in. But I was there. I took a bad situation and turned it into something good. I learned the law by hook or crook, trying to figure out how to get myself out of prison. Before I found a way out for myself, however, I was also able to help thousands of other people.

This is about us coming together as a collective. Recently, we left our regional caucus and had a call about an incident in Mississippi. People drove eighteen hours to make a call stating that they may need help soon. Will we show up for those folks in Mississippi like we showed up in Ferguson, Baltimore, and Oakland? If we talk about winning, and about how we win, I have a very simple formula for that. We have to be willing to fight one day longer than our opposition. It is that simple—it is not a complicated thing.

Envision that. For example, I remember [Joe] Frazier and [Muhammad] Ali, the “Thrilla in Manila.” I can hear Bundini Brown say, “All night long, champ, all night long.” But the expression on Ali’s face said, “I don’t know if I can go any farther.” Truth be told, he did not want to continue to fight, but at that moment, Joe quit on the other side of the ring; he threw in the towel. Ali did not even know it, he was still contemplating whether he could go back out there. Angelo Dundee looked over his shoulder, he saw that Joe threw in the towel, and he forced Ali to get up. Why? Because if we can look up, we can get up—that is what this is all about.

I am a bit late to organizing one-on-one, but we need to use this energy. We did not organize one-on-one in prison. Organizing in prison was a “no-no.” If you find yourself organizing in prison, you find yourself moving on the fast train in the wrong direction. However, we found a way to do it, though we had to do it spontaneously. Shit happens, somebody responds to it, and that is what is starting to happen across this country. Shit is happening, people are responding to it. Now we are trying to do it in a more organized way, so that when shit happens, we have a group of lawyers already waiting so that we are passing through the jail but not spending the night. In the old days, they spent the night in jail because the lawyer was trying to figure out what to do. We know what to do now. We need to have bail money, and we need to have someone right there advising somebody of what their rights are: “Don’t say anything. This is my client,” and he goes in and passes back out so he can get right back on the front line. That is how we built this army.

If we want to build an army, that is how we are going to build it. We build it one soldier at a time. At the same time, however, we cannot afford to get mad at our soldiers. One of our experiences on the inside when we was organizing, for example, was that there were some brothers inside who could not read and write. Their contribution to our movement was that they stuffed enveloped and licked them and put stamps on them. So imagine in a prison where you have 5,000 people sending out 10,000 pieces of mail, and you got a handful of people folding and licking envelopes and licking stamps. Nobody else wanted to do it, but they took on the task of doing it. So there is a role for everybody in this fight. Everybody.

I say this to the generals. For the generals, those folks, some self-anointed generals, and some of us who have lifted people up to be generals. The greatest action of the general occurs, not during

the battle, but in the first few minutes after. You have to find something to say to get those troops back there on the battlefield and keep them fighting. So when you take on this leadership position or are anointed or whatever, think about that and think about the impact your decisions have on all of the people you are asking to follow. Sometimes we make selfish decisions, and I tell people all the time when they say that we might go to jail, “Jail don’t scare me, I’ve been there.” Jail does not scare me, but for the person standing next to me, that may be a horrific experience for that person. I have to value that person’s opinion and feelings and position. So I cannot get upset with this person who says, “I cannot afford to go to jail.” I have got to respect that. At the end of the day, all I am saying is that we have a moment in front of us that if we do the right thing with it—if we do the right thing with it, we can accomplish so many things. So many great things.

And so my final ask of everybody in the room is that, when we look at that mirror in the morning, we bring our whole self. I tell people all the time, “You know you better than I know you.” You know what you are capable of doing. You know how much commitment you are going to give, because inside, all you have inside is loyalty and commitment. That is all you have. You do not have the cash to pay for this and pay for that. Your face takes you everywhere you need to go to inside. Your face and your reputation for packing fair with people. And if we learn to pack fair with each other, [we’ll] have people in this room from all over the country.

I came here early this morning, and I started to count the chairs. I was just sitting down and I saw it: ten rows here, ten rows deep. Well, that is one hundred [people], that is six hundred people who are going to fill up this room. This is a lot, this is a critical mass of people with real skills. We got organizers, we have advocates, we have attorneys, we have law students, but what do we do with it? The test of this is going to be when we leave here, today, tomorrow, or the next day. For those who live in New York, what do we do with this moment? How do we continue to stay connected to each other so that we do not always show up when it is critical, [like] when there is a Trayvon Martin⁸² or Mike Brown⁸³ or Freddie Gray?⁸⁴ We have to continue to show up for each other all the time.

⁸² Trayvon Martin was a seventeen-year-old Black youth shot and killed by George Zimmerman in Sanford, Florida on February 26, 2012. In July 2013, a jury found Zimmerman not guilty of second-degree murder in Martin’s death.

⁸³ See *supra* note 52.

⁸⁴ Freddie Gray was a twenty-five-year-old Black man killed in police custody on

I get tired of going to funerals. We are in a place that leads the nation for capital incarceration. If that was really the solution, I do not think we would be leading the nation in crime, but those things are on the same parallel track. It tells me that something is wrong with this picture. However, we are in a position to make a change.

I always say “we” inclusively, because I am a part of this, whether it goes right or whether it goes wrong. We have to become owners of saying, “If it’s to be, it starts with me.” Now think about what that saying means. You have made a commitment to yourself. You have just made a covenant with yourself that if anything is supposed to change, it starts with you. So, if it is not moving, blame yourself.

VIII. UMI SELAH†

*One day . . . when the glory comes . . . it will be ours, it will be ours. Ohhhhhhhoo . . . one day . . . When the war is won . . . It will be sure . . . It will be sure . . .*⁸⁵ I want to introduce myself, my name is Umi Selah.

I gotta center myself. Anybody with B.O.L.D.? Black Organizer for Leadership and Dignity?⁸⁶ Anybody? Anyone Black Love? We learn to center ourselves, so I’m gonna center myself. I’m gonna ask that the ancestors be with me. I wanna tell you all a story about my name.

Now I’m not gonna act like I’m not the same person I was two months ago. I’m not gonna hit you with that. There are many things that are similar with Umi and Phillip Agnew. Umi is a little bit taller though. Plays basketball; he’s fantastic.

My name came to me in a dream. It was a crazy dream. It came to me on the evening of my thirtieth birthday: June 22nd, 2015. I’ve never had a dream like this—one that I remembered so vividly. I remembered every part of my dream. And I woke up and kinda laughed, because I thought I was awake. I thought I was awake in

April 19, 2015 in Baltimore, Maryland. In May 2015, a Baltimore grand jury indicted six police officers for Gray’s death.

† Umi Selah, formerly known as Phillip Agnew, is a co-founder and Organizer/Mission Director of the Dream Defenders, an organization committed to bringing social change by training and organizing youth in students in nonviolent civil disobedience, civic engagement, and direct action. He is a graduate of Florida A&M University. This RadTalk can be viewed at <https://youtu.be/rchmWq1S0o0>.

⁸⁵ COMMON & JOHN LEGEND, *GLORY, ON SELMA* (Columbia Records 2014).

⁸⁶ BOLD is a national training program designed to help rebuild Black social justice infrastructure in order to organize Black communities more effectively and re-center Black leadership in the U.S. social justice movement. See [BOLDORGANIZING.ORG](http://boldorganizing.org/), <http://boldorganizing.org/> [<http://perma.cc/4YQ5-64NC>].

the dream. In the dream we were all sitting in a circle. Aja [Monet] was there,⁸⁷ and there was a bunch of folks and for some reason we were in Cuba. In the dream we had taken a trip to Cuba. For some reason we were talking about The Amistad—the ship. And in the dream, there was a young woman and she was saying, “You know, Cinqué?”⁸⁸ Cinqué get all the love. You know, ‘give us up free.’⁸⁹ But there was a slave on there, a slave woman named Umi, who was really holding it down.” And I didn’t know this, and I said “Really? Really? That sounds crazy. I never heard of this Umi.” And she said “Well you know, Umi? Umi was gangster. Umi was the one. Umi? She moved to Pensacola right afterwards.” This didn’t make sense in my mind, but I remember in the dream saying, “My great-grandmother is from Pensacola.” And the woman in the dream said to me, “Your name is Umi. Your name is Umi.”

I looked up the name afterwards, and it has three meanings, for everybody that thinks I just chose a name without quality meanings. It has three different meanings in multiple languages to appeal to many folks. In Japanese, it means “beach.” In Arabic, it means “mother.” In Egyptian, it means “life.” I said, “All three of those sound cool. I would like to live on the beach with my mom.”

This is beautiful. And so a few days later, Aja [Monet] said, “Why don’t you look up the Amistad?” You all know the story of Amistad. I thought I knew it all, I’d seen the movie with Matthew McConaughey. I know *everything* about the story; obviously, they wouldn’t lie to me in the film.

So I looked it up. Honestly, I knew a fair degree of the story. I knew that the captured Africans had fought back and revolted and had killed everybody on the ship. And they had left the captain and his second-in-command alive, and they told him, “Take us back to Africa. Take us back to Africa.” But they tricked them and they wound up in the northeast of the United States, and they were taken in and there was a trial. They eventually were granted their freedom by the United States government, which does that often—grant freedoms.

⁸⁷ Aja Monet is a poet, singer, and activist based in Brooklyn, New York.

⁸⁸ *Joseph Cinqué*, BLACKHISTORYNOW.COM, <http://blackhistorynow.com/joseph-cinque/> [<http://perma.cc/8MK7-ZHTM>] (“Joseph Cinqué (c.1814-c.1879) led an 1839 mutiny on board the Cuban schooner Amistad, initiating the first slave rebellion in history to be successfully defended in American courts. Captured off Long Island and nearly prosecuted on charges of murder, Cinqué and his fellow Amistad rebels were eventually set free following a Supreme Court decision that opposed the will of the President of the United States.”).

⁸⁹ AMISTAD, at 1:33:52 (HBO Films 1997).

[Audience laughter]

But the interesting thing I found out was that the ship—before the mutiny that happened—the ship had just left Havana, Cuba. I said to myself, “Man, there’s no way I could have known that. That’s a little bit crazy.” And so, I was on Wikipedia . . . [in] . . . the Wikipedia rabbit hole. I clicked on everything. I clicked on every name. I clicked—I clicked, I clicked. I was deep in. I was like, looking at *The Godfather*, I don’t know how. I began reading about the experience of our people on slave ships. And it was then that I began to really feel that the literal meaning of my name was trivial compared to the journey that I was supposed to be on.

I began to read about the experience of our people on slave ships. And that shit was horrible, y’all. One of the stories that I read was of an abolitionist reverend who fancied himself an abolitionist pirate. And what he would do is, after the transatlantic slave trade was abolished, he would go with a bunch of abolitionists to the high seas and look for slave ships. They would board them and they would liberate the slaves. He was a pretty gangster dude. And in one of the stories he talked about boarding this one specific slave ship. And on the slave ship he began to describe in vivid detail the conditions of the ship. He said the stench was one that would cause a man, or a woman, to collapse.

He spoke about a ship that had been at sea for seventeen days, storing over 500 Africans when it left the west coast of Africa, minus the fifty-six that it had thrown overboard. He talked about opening the hull—the grate that covered our people. And he talked about how small the area was; how they were stacked side-to-side-to-side laying down. Some of them chained two and three together. Stacked like muffins in an oven. He said the height from one floor to the next wasn’t wide enough for them to ever turn. So for sometimes months our people would lay, just like this, in their own stool, in the stool of their neighbors, in their own vomit. He said there was a part of the ship where our people were stuffed in between each other’s legs—hands in between legs—and some of them had to sit because they hadn’t found the space to lay down for seventeen days. And he said on board the ship, it was eighty-nine degrees but the temperature couldn’t read how hot it was, that smell that emanated from the bow of that ship.

There was a portion there, as he rounded out his depiction of the ship, where he was telling his abolitionist friends what he had seen on this ship, and they said, “Brother, that’s nothing. Because we boarded a ship just a little while ago where the slaves were tied

two and three together. Sometimes we would pull one and the other two men would be dead, chained to him.” They said that there was a suffocating, stifling stench, and that they could not breathe. Many of them were in various stages of suffocation and death. Some of them were foaming at the mouth. And he went on to say that, in their last gasp, in their last ability to grasp onto life-giving air, that some of the men would strangle the man next to them. And that some of the women would dig at the eyes of the women next to them, so that they could just breathe. He said some of the children had died. And that when they came up aboard the ship, they would kill each other for a drop of water. And all they could remember was the stench. All they could remember was the stench.

I want to be very, very honest with y’all right now. I’m not a movement leader. Sometimes I feel dead inside because in this movement, this movement moment, sometimes I feel suffocated by a stench of death. Sometimes I feel numb. Things that would cause my thumb to stop and pause now I can pass up without the slightest glance. Everyday I’m inundated with news of somebody dying with the grotesque details of the last seconds of some of our sisters’ and brothers’ lives. And, I have to be honest, I’m tired of it. I can only speak for myself but sometimes I feel a dark cloud over the movement. I feel that we’ve decided to show folks that black lives matter by proving that only black deaths matter.

I want to be honest with you for a second and tell y’all that I’m not a movement leader. I’m a flawed person trying every day to do at least what I think is right but sometimes I feel a numbness. Sometimes I feel an aloofness about what’s going on in the world. Sometimes I can feel a cynicism creeping up inside of me because I can feel the stench of yet another passing. Some days I feel a deep melancholy come over me and I don’t want to go to the rally. I don’t want to go to the vigil. I don’t want to share the video. I don’t want to know the story. I don’t want to say the name because it gets tiring. It gets heavy. It’s hard. Dang [it] feels good to say that.

We’re in a moment of great, critical importance to the future of all of us. We’re in a moment where we’ve got to remember that our lives truly do matter and we’ve got to prove that far before we deliver the eulogy. That our communities do matter far before blood runs in their streets. That our families matter far before their fathers, and their mothers, and their sisters, and their brothers, and their siblings are ripped from them. We’ve got to stop making celebrities out of people just doing their human duty. We’ve got to

stop making celebrities out of families that have lost theirs. And we've got to remember that no matter what you say, many of us are still on that slave ship and we'll strangle somebody just to get a little breathe of air. We will dig into the brains of our sister just to get one little piece of air while they live in abundance. We've got to remember who the enemy is. We've got to remember who's the one holding the whip. And we've also got to remember a crucial thing—and I'll end it here.

You know, the more *hotep* of our community,⁹⁰ they will tell you that we all came from kings and queens, and we all came from the people that built the pyramids. I've come to tell you that that is a lie. That by virtue of you being here, you probably were not a king or a queen. That you probably were just a farmer, and in the middle of the night, slavers came to take your forefather and your foremother, scared, not knowing what happened, they were placed in the bowel of a ship, arm to leg, arm to leg, arm to leg, arm to leg. I'm here to tell you that you weren't a king or a queen, but you were then a slave and you were then taken to the point of no return. And your foremother and your forefather scratched at the walls. They screamed out to *Oshun* in their language.⁹¹ They begged for forgiveness. They begged for help. They wondered what they had done to wind up in Mississippi. And they cried as their father was ripped from their family, and you weren't a king or a queen, but your forefather and your foremother, they worked every day and night beneath the beating sun of Alabama. And, they cried when they saw black bodies swinging from those southern trees. They knew very well the stench of burning flesh. I came to tell you that you were not a king or a queen, but your forefathers and foremothers plowed and plowed a plot of land. After [being] freed by this great government of ours, they plowed and plowed a plot of land that they planned to be yours. And raiding cowards in white robes came and sought to take that land away. And your forefathers and your foremothers decided to run north. No, you weren't a king or queen, but they decided to settle in Cleveland and Chicago and in New York and in St. Louis. And late at night,

⁹⁰ "Hotep" is a slang term that refers to Afrocentric-based cultural nationalism. See, e.g., Tunde Adeleke, *Black Americans, Africa and History: A Reassessment of the Pan-African and Identity Paradigms*, 22 W. J. OF BLACK STUD., 182, 189 (1998).

⁹¹ "Oshun" is an orisha (Yoruba deity) associated with water and fertility. Orishas and other aspects of traditional African religions made their way to Latin America and the Caribbean through the transatlantic slave trade. See, e.g., Sheila Walker, *Everyday and Esoteric Reality in the Afro-Brazilian Candomblé*, 30 HIST. OF RELIGIONS 103, 109 (1990).

they would think about you. They said, “I don’t have much to give but my life, and I will give it for you.” And every single day they withstood the insults. They withstood the “boy,” the “girl.” They withstood the sitting in the back. They withstood the fear and the fury of police because they knew that they didn’t come from kings or from queens but they came from survivors.

When you think about that slave ship and you think about that passage and you break it down to the month and the nautical miles that we traveled—that our people traveled—in the darkness, and in the stench of death, it feels familiar doesn’t it? But I’m reminded about a ship that came to me in a dream. An *Amistad* whose captured Africans rose up and fought for their freedom. They call out to us today.

A weird kind of footnote in my story. A classmate of mine three weeks ago added me on Instagram. And her name was “Black Pensacola.” It’s a true story. I went to her page. And the last post she had posted was a [paraphrased] quote from Cinqué, saying that, “I call out to my ancestors and they will be there with me.”⁹²

As I stand to defend myself, my family, my community, my people, my ancestors will be there with me. And they’re here with us today. They’re here with us today, saying, “We have a beautiful history, but the one we will create in the future will astonish the world.” Saying, “You will find me in the whirlwind.” Saying, “You can find me in the whirlwind.” Saying, “Up, you mighty race.” Saying, “Up, you mighty race. Up, you mighty race. Accomplish what you will.”⁹³

IX. MAURICE “MOE” MITCHELL†

Oh my God, you’re so beautiful! Could you look at one another and just acknowledge your presence, your beauty, your fierceness? Just look and say, “I see you.” And if you do have love in your heart for that person, say, “I love you.” [*Audience: “I see you. I love you.”*].

Blackbird was founded by myself, Thenjiwe McHarris, and Mervyn Marcano in this year of protest and resistance to respond rapidly and lovingly to the urgent needs of Black liberation. When

⁹² AMISTAD, *supra* note 89, at 2:06:58.

⁹³ This is a reference to a famous quote by Marcus Garvey, an activist who led the Black Nationalist Movement in the early 1900s, based in Harlem, New York. See HENRY HAMPTON & STEVE FAYER, VOICES OF FREEDOM: AN ORAL HISTORY OF THE CIVIL RIGHTS MOVEMENT FROM THE 1950S THROUGH THE 1980S 38 (1990).

† Maurice is a co-founder of Blackbird and an organizer in the movement for Black Lives. This RadTalk can be viewed at <https://youtu.be/6yrxu8RbK2s>.

Blackbird was called to South Carolina and in Missouri, we both witnessed and heard of extreme violations of people's legal and civil rights. We also saw, in response, the courageousness of a small but dedicated legal community, right? In South Carolina, when we talked to members of street organizations—people who face constant intimidation and surveillance by law enforcement—we saw as they joined with direct action takers, and they shared with us how they too desired freedom and their freedom was linked to their communities' freedom. What we saw on the streets of Baltimore, in Missouri, and in many other communities, was this uncommon, unflinching desire to be free that brings many of us into this room.

However, a legal community that is in full defense of Black lives needs to be engaged *before* the killings, needs to be engaged *before* the tragic headlines, needs to be engaged *before* the hashtags. It needs to be concerned with the full spectrum of violence meted against Black bodies.

Standing with Black lives means the creation of a bench of lawyers dedicated to the particular and unique needs of trans Black women. Standing with Black lives means never being the type of attorney that would allow Kalief Browder to languish in jail for years.⁹⁴ Standing with Black lives means eschewing the respectability politics to join young people on the streets wherever they may go, in resistance to curfews, and to embrace all of their tools—if that might be slingshots and rocks, or tweets, or direct action, being on the front line ducking rubber bullets, ammunition, and tear gas canisters with young people. Standing with Black lives means challenging false dichotomies around good protesters and bad protesters, around violent and non-violent crime, around political and apolitical prisoners.

I want to free the U.S. Two Million. I don't want just some of our people to be free; we have to go in and free all of our people.

So, let me bring into context what many of you know and some people on this stage have already lifted up. The millions and millions of us who are in some way involved in the criminal justice system, the [seven] millio[n] of us who are in some form at the behest of correctional supervision,⁹⁵ and the more than two million of us who are behind bars,⁹⁶ one million being Black bodies.⁹⁷

⁹⁴ See Michael Schwirtz & Michael Winerip, *Kalief Browder, Held at Rikers Island for 3 Years Without Trial, Commits Suicide*, N.Y. TIMES (Jun. 8, 2015), <http://www.nytimes.com/2015/06/09/nyregion/kalief-browder-held-at-rikers-island-for-3-years-without-trial-commits-suicide.html>.

⁹⁵ See GLAZE & KAEBLE, *supra* note 44, at 1.

⁹⁶ *Estimated number of persons under correctional supervision in the U.S., 1980-2013*, BU-

Black people are being executed on these streets.

Black parents are being sentenced to jail sentences because of their desire for a quality education for their children.⁹⁸ In a broken economy, Black people are finding ways in the informal economy to live out valuable and dignified lives, and are being punished because they want to feed their families and live their lives in dignity in an economy that doesn't have quality, just, and dignified labor.

So the law, currently, and primarily, functions as an instrument of the relatively privileged to maintain their privilege, to protect their property, to accumulate wealth, to disappear social problems, and to socially control Black people.

And when the law bends, and when it bends in its application, it's not towards fuzzy concepts of human rights. Unfortunately, it bends towards the often-irrational racial anxieties of a white middle class and the overwhelming momentum of globalized capitalism. So, the law in its application is an extension of racism, white supremacy, and capitalism, right? We need to have a clear analysis of what we're dealing with if we want to fix any problem, and we need to have that clarity. And we need to speak it. We need to say, capitalism—and the way that we deal with each other, the way that it turns ourselves, each other, into consumers, and laborers, and labor hours, and denies our capacity for love—is a problem. And the way that the law supports that is a fundamental problem.

What we witnessed in Ferguson, and Baltimore, and Oakland, in the streets of New York, and other places, was working-class Black people—many of them young, many of them women, many of them queer, many of them trans—channeling an uncommon courage to expose these contradictions in the most dark and uncompromising way, and we all owe all of them a debt of gratitude.

So do we have the freedom of assembly? Do we have the freedom of speech? Do we?

Not when it interrupts white comfort. Not when it interrupts irrational but deeply felt white racial anxiety. The answer consist-

BEAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE (Aug. 20, 2015), <http://www.bjs.gov/index.cfm?ty=kfdetail&iid=487> [<http://perma.cc/75T9-3MCF>].

⁹⁷ *Criminal Justice Fact Sheet*, NAACP, <http://www.naacp.org/pages/criminal-justice-fact-sheet> [<http://perma.cc/Y8D6-56HN>].

⁹⁸ See Julianne Hing, *Kelley Williams-Bolar's Long, Winding Fight to Educate her Daughters*, COLORLINES (May 16, 2012, 9:30 AM), <http://www.colorlines.com/articles/kelley-williams-bolar's-long-winding-fight-educate-her-daughters> [<http://perma.cc/5V3S-32P2>]; Daniel Tepfer, *Tanya McDowell sentenced to 5 years in prison*, CONN. POST (Mar. 27, 2012), <http://www.ctpost.com/news/article/Tanya-McDowell-sentenced-to-5-years-in-prison-3437974.php#item-38492> [<http://perma.cc/3BGK-H47P>].

ently is no. Is there a right to a speedy trial? Not when those subject to arrest are objects of political or social control. The answer consistently is no.

So, when human dignity and justice is so tragically and wholly out of reach, the law's tendency to maintain order is actually a barrier to the achievement of justice, right? What is the value of order, what is the value of decorum, what is the value of law, in a caste system, in a state that essentially replicates this racial caste? What is the value of law, if not a replicator and a hardener of that racial caste system? So, a legal community that is in solidarity and stands for Black lives is committed to a *movement* of Black lives and must do a few things.

Number one: unflinchingly follow Black leadership. I'll say it again. Unflinchingly follow Black leadership.

Number two: put at the center the people who feel the brunt of the violence. Formerly incarcerated people. People who participate in informal economies, sex workers, corner boys, folks who are outside of traditional economies. Transgender women—folks who feel the brunt of state violence—must be at the center of our mission, of our cause, and are ultimately the experts in their own existence and their own experience.

Number three: take risk. Resist counsel that prioritizes order. What is the value, again, of order, when there is no justice?

And in leaning into risk, push your lawyering further. Embrace discomfort. Right? If you don't feel discomfort and fear, then you're not allowing yourself to move into the margins where the fight is. So challenge your lawyering and challenge your practice, and move it closer and closer to the theater of fear and discomfort, because that's where our people are every single day. That's our lived experience.

Match the urgency, intensity, promise, and scale of this movement. So we don't need small law. We need big, audacious, unflinching, powerful, revolutionary law. Right?

And build long term infrastructure for winning. Where are the pipelines for young Black folks to become movement lawyers? Where are the pipelines for young trans sisters, young trans brothers, young trans siblings, to become movement lawyers in order to lawyer to their community?

And the last piece: turn up. This movement is rooted in the turn up. We are all inspired by those young revolutionaries in Ferguson, and in Baltimore, who eschewed the counsel of their elders, of the pastors, of the traditional organizations, eschewed the re-

spectability politics, eschewed all of that, and channeled the courage that we haven't seen in decades. Let that be your guiding star, let that be your North Star. When you're behind your desk, when you're preparing for whatever legal battles you're in, figure out ways that you can channel that. So, in every space that you're in, deny orthodoxy, deny safety, deny white silence and white comfort, unchecked racism and gradualism. Don't allow any of those things to have safe quarter in your presence.

So, in closing, my people:

Center Black leadership. Ashe?⁹⁹ [*Audience: Ashe*].

Prioritize human dignity and justice over order. Ashe? [*Audience: Ashe*].

Match the urgency, scale, intensity, and promise of this moment. Ashe? [*Audience: Ashe*].

Lean into risk, and channel the courage of the young people on the streets. Ashe? [*Audience: Ashe*].

And turn up.

⁹⁹ "Ashe" is a Yoruba word, referring to the power to make change. *Ase (Yoruba)*, WIKIPEDIA, [https://en.wikipedia.org/wiki/Ase_\(Yoruba\)](https://en.wikipedia.org/wiki/Ase_(Yoruba)) [<https://perma.cc/U7XS-E5R7>].