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Uncompromising Hunger for Justice: Resistance, Sacrifice, and LatCrit Theory

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Uncompromising Hunger for Justice: Resistance, Sacrifice, and LatCrit Theory

Edwin Lindo,¹ Brenda Williams,² & Marc-Tizoc González³

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³ Professor of Law, St. Thomas University School of Law. Professor González thanks his co-authors for initiating and sustaining this collaboration, the organizers of the Twentieth Annual National Latina/Latino Law Student Association Conference in 2016, Latina & Latino Critical Legal Theory (LatCrit) Conference in 2017, the LatCrit 2017 symposium editors at the *Seattle Journal for Social Justice*, and his research assistant, Gracy Crumpton. Contact the author at mtgonzalez@stu.edu, [@marctizoc](https://twitter.com/marctizoc), or <https://foodsharinglaw.net>.

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In any nonviolent campaign there are four basic steps: collection of the facts to determine whether injustices exist; negotiation; self-purification; and direct action. We have gone through all these steps in Birmingham. There can be no gainsaying the fact that racial injustice engulfs this community. . . .

—Dr. Martin Luther King, Jr., Letter from a Birmingham Jail (April 16, 1963)⁴

INTRODUCTION

In this Article, three law professors report on and theorize a nonviolent direct-action campaign of the kind discussed by Dr. King in his famous *Letter from a Birmingham Jail*. Using the basic steps of the nonviolent campaign as an organizing framework, they analyze and report on the 18-day hunger strike by the Frisco 5 (*a.k.a.*, Frisco5). This direct action protested the extrajudicial killings of Amilcar Perez-Lopez, Alex Nieto, Luis Góngora-Pat, and Mario Woods by San Francisco Police Department (SFPD) officers and advocated for institutional change to reduce the risk of homicides against persons with similarly racialized minority-group identities.⁵ Two weeks after the Frisco 5's 18-day hunger strike ended, San Francisco Mayor Ed Lee called for the resignation of SFPD Chief Greg Suhr.⁶ Before firing Chief Suhr, however, Mayor Ed Lee sought to subdue the pressure he felt as the result of the hunger

⁴ Martin Luther King, Jr., *Letter from a Birmingham Jail* (Apr. 16, 1963), https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html [<https://perma.cc/83AX-ZH8Z>]; See also Martin Luther King, Jr., *Letter from a Birmingham Jail*, (Apr. 16, 1963), <https://kinginstitute.stanford.edu/king-papers/documents/letter-birmingham-jail> [<https://perma.cc/ZF54-NXQ5>] (featuring a draft of the letter and an audio-recording of King reading the letter).

⁵ Jonah Owen Lamb, 'Frisco Five' on Hunger Strike to Protest SF Police Brutality, San Francisco Examiner, (April 29, 2016), <http://www.sfexaminer.com/frisco-five-hunger-strike-protest-sf-police-brutality/> [<https://perma.cc/EWS8-9FBK>].

⁶ E.g., Emily Green et al., *SFPD Chief Greg Suhr Resigns After Police Killing of Woman*, SFGATE (May 20, 2016) <http://www.sfgate.com/bayarea/article/Police-Chief-Greg-Suhr-resigns-after-killing-of-7758122.php> [<https://perma.cc/JF37-U4MD>] (announcing Chief Suhr's resignation after the killing of Jessica Williams Nelson); Brandon E. Patterson, *San Francisco Police Chief Resigns Following Recent Police Shooting*, MOTHER JONES (May 20, 2016), <http://www.motherjones.com/politics/2016/05/chief-greg-suhr-resigns/> [<https://perma.cc/MNR9-RTPH>].

strike by making a shallow peace offering of \$17.5 million dollars towards police reform and violence prevention.⁷

First, Brenda Williams uses personal narrative to introduce and overview the Frisco 5 hunger strike, contrasting this direct action with how legal education often accedes to the racial inequities endemic to the criminal justice system of the United States. She asks, where does the hunger strike, as a tool for justice, fit into legal discourse? How does the hunger strike resist dominant legal paradigms that constrain a lawyer's justice work to the courtroom rather than promote justice work by lawyers in collaboration with community members in the streets of the Mission District in San Francisco? Next, Edwin Lindo reports and reflects on his experience participating in the hunger strike as one of the Frisco 5. Also, he charts a partial history of hunger strikes and their legal significance. Finally, Marc-Tizoc González theorizes the Frisco 5 hunger strike within critical race theory (CRT) and Latina and Latino Critical Legal theory (LatCrit theory). He applies critical concepts and practices like counterstorytelling and *testimonio*, evokes the critical ethnic legal history *de la comunidad* Latina/o/x (of the Latina/o/x community), and briefly discusses the political and religious significance of people's public uses of food under First Amendment freedoms (i.e., free exercise of religion, free speech, petition of government for redress, and peaceable assembly). He concludes by asserting that the Frisco 5 acted within a genealogy of struggle—a fictive kinship of people who have fasted individually and collectively, inside and outside of prison, to protest injustice and to advocate

⁷ *Mayor Lee Announces \$17.5 Million in Investments in Comprehensive Police Reforms & Violence Prevention*, CITY AND COUNTY OF S.F.: OFFICE OF THE MAYOR (May 10, 2016), <http://sfmayor.org/article/mayor-lee-announces-175-million-investments-comprehensive-police-reforms-violence-prevention> [https://perma.cc/SE5Q-7UZG]. We characterize the peace offering as shallow because instead of firing the SFPD chief whom the Frisco5 held responsible, Mayor Lee in effect offered to increase funding of the SFPD. (About a year and a half later, Mayor Lee died after a heart attack. Rachel Swan & Evan, Sernoffsky *San Francisco Mayor Ed Lee Dead at 65*, SFGATE (Dec. 12, 2017), <https://www.sfgate.com/news/article/San-Francisco-Mayor-Ed-Lee-dead-at-65-12423708.php>. Mr. Lee was San Francisco's first Asian American mayor. *Id.*)

for institutional reform, within historically contingent socio-legal relations of power.

I. BRENDA WILLIAMS—SILENCE AS A PRECURSOR

Silence comes in different forms and plays out in different ways in our lives, depending on the circumstances of the moment when we could speak, but ultimately decide not to speak.⁸ On November 4, 2015, I learned about University of Missouri graduate student Jonathan Butler, who was engaged in a hunger strike following racist incidents at the university, including a swastika drawn in feces on the wall of a new dorm.⁹ His letter to the University of Missouri Curators gave voice to the minority and underrepresented student experience where normalized racism disrupts their learning environment.¹⁰ His stated intention was to decline food until the President of the University resigned.¹¹

Starting today November 2, 2015 at 9:00 AM I will be embarking on an indefinite hunger strike in opposition of having Tim Wolfe as the University of Missouri system

⁸ Cf. Margaret E. Montoya, *Mascaras, Trenzas, y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 15 CHICANO-LATINO L. REV. 1, 18–26 (1994) (utilizing outsider storytelling or “counter-narrative” as a discursive technique for resisting cultural and linguistic domination).

⁹ Michael E. Miller, *Black Grad Student on Hunger Strike in Mo. After Swastika Drawn with Human Feces*, WASH. POST (Nov. 6, 2015), https://www.washingtonpost.com/news/morning-mix/wp/2015/11/06/black-grad-student-on-hunger-strike-in-mo-after-swastika-drawn-with-human-feces/?utm_term=.c0904a0225ad [https://perma.cc/7M6D-55VG]; Mará Rose Williams, *University of Missouri Student on a Hunger Strike to Oust System President*, KAN. CITY STAR (Nov. 6, 2015), <http://www.kansascity.com/news/politics-government/article43334286.html> [https://perma.cc/469X-DF54].

¹⁰ See, e.g., Cheryl I. Harris, *Law Professors of Color and the Academy: Of Poets and Kings*, 68 CHI.-KENT. L. REV. 331 (1992), <https://scholarship.kentlaw.iit.edu/cklawreview/vol68/iss1/24> [https://perma.cc/SBK6-CEPJ].

¹¹ Jonathan L. Butler, *A Letter to the University of Missouri Curators*, GENIUS (Nov. 2, 2015), <https://genius.com/Jonathan-l-butler-a-letter-to-the-university-of-missouri-curators-annotated> [https://perma.cc/4E5W-SHSV].

president. During this time to strike, I will not consume any food or nutritional sustenance at the expense of my health until either Tim Wolfe is removed from office or my internal organs fail and my life is lost.¹²

While Jonathan Butler's hunger strike was taking place on the campus of the University of Missouri, I was sitting almost 2,000 miles away in an office within William H. Gates Hall, the building that houses the University of Washington School of Law. Despite the distance (Missouri feels a world away from Seattle) and our roles (he as a student, myself as a law professor), nothing about Jonathan's hunger strike felt foreign to me. The student's intellectual and personal dissonance described briefly in his letter and emphasized by his action, resonated deeply with my own past campus experiences, as a Chicana student navigating undergraduate and graduate education. The resonance was so personal that I found it difficult to focus as the day passed, yet I carried on with the essential tasks, walking through the halls, attending a faculty meeting, talking with students and planning my upcoming lecture.

In each of the varied moments of that day, I was consistently aware that I identified more with Jonathan Butler (the University of Missouri) than with any other actor within my law school environment (the University of Washington). In that identification, I also understood intrinsically that I was alone. I was alone, where those around me were silent on the topic of racial incidents in both undergraduate and graduate education. The silence was painful yet completely familiar. Professor Zuni-Cruz succinctly described this type of silence as the law of white spaces. In her article "Making the Invisible, Visible" she discusses the law of white spaces as explaining "what I felt, but could not see, what I encountered, but could not quite understand or seek to address" and further describes the white space as a form of "non-recognition, silence or denial of race, color and culture and their privileging or disabling

¹² *Id.*

impacts.”¹³ This description of racial invisibility and its companion denial of racial tension and violence within the academic space captures my personal experience in the days that followed, as I collected the facts about the injustice that was occurring at the University of Missouri.¹⁴

I collected facts about Jonathan’s hunger strike from news sources (independent and mainstream) and frequently checked Twitter, in observation of the urgency of the injustice leading to the action at the University of Missouri. The conclusion of my inquiry into this young man’s principled struggle was an intellectual, emotional, and compassionate understanding that hunger strikes for justice carry staggering risk, despite progressing at a slow, agonizing pace. Hunger strikes do not raise general alarm in the initial moments of the action.¹⁵ Instead, the potential for calamity escalates, slowly and consistently, second by second, minute by minute, and day by day.¹⁶ Sociology Professor Stephen Scanlan, et al., differentiated the hunger strike from other forms of nonviolent action by highlighting that “[n]o other tactic involves the potential self-destruction of the body, making hunger strikes

¹³ Christine Zuni Cruz, *Four Questions on Critical Race Praxis: Lessons from Two Young Lives in Indian Country*, 73 *FORDHAM L. REV.* 2133, 2139 (2005).

¹⁴ See John Eligon, *At University of Missouri, Black Students See a Campus Riven by Race*, *N.Y. TIMES*, Nov. 11, 2015, <https://www.nytimes.com/2015/11/12/us/university-of-missouri-protests.html> [<https://perma.cc/VQ2A-GJXX>] (describing the 39 day hunger strike protesting the loss of jobs by French National Assembly Representative Jean Lassalle—a member of the social liberal *Union pour la Démocratie Française*—in the public vestibule of the Paris’ *Palais Bourbon* as partially effective due to the public and slow demise of his physical state and the impact this progression had on his parliamentary colleagues).

¹⁵ See e.g., Barbara Gronau, *Asceticism Poses a Threat: The Enactment of Voluntary Hunger*, 36 *CRITICAL STUD.* 99 (2012) (describing the 39 day hunger strike protesting the loss of jobs by French National Assembly Representative Jean Lassalle (a member of the social liberal *Union pour la Démocratie Française*) in the public vestibule of Paris’ *Palais Bourbon* as partially effective due to the public and slow demise of his physical state and the impact this progression had on his parliamentary colleagues).

¹⁶ See generally Stephen J. Scanlan, Laurie Cooper Stoll and Kimberly Lumm, *Starving for Change: The Hunger Strike and Nonviolent Action*, 28 *RES. IN SOC. MOVEMENTS, CONFLICTS, & CHANGE* 275, 276 (2008) (describing the hunger strike “as a nonviolent tactic of last resort” commensurate with the level of “intensity of the injustice being protested”).

dangerous in only a few days as the body begins to break down fat in order to produce energy and ultimately consuming itself from within to survive.”¹⁷ As an outsider following the course of Jonathan’s hunger strike, I found my sense of moral obligation growing on a similar trajectory, second by second, minute by minute, and day by day until I could no longer deny the realization occupying my mind. I understood intrinsically that I was morally obligated to join him in his hunger strike.

But, the questions were obvious. How could I join Jonathan? What might my action look like? How would my action influence students and others? My mind raced with the image of me sitting publicly and alone on the floor of Gates Hall, wearing a T-shirt inscribed by sharpie marker, #UWHungerStrikewithMizzou. My mind imagined next how I would observe the seconds, minutes, and days with Jonathan. Simultaneously, my rational mind demanded attention with unrelenting reason, starting first with family. I have a husband, two children (at the time ages four and eight). My rational mind repeatedly told my empathetic self, *Now it is obvious. You have lost all reason!*

Throughout Jonathan’s hunger strike, I sat still with these complex realizations juxtaposed over my silence and inaction. But the rational thought was not static. It began to lose luster as the hours passed.¹⁸ As I researched the circumstances at the University of Missouri, I learned about the particular acts of violence occurring on campus such as the incident endured by Briana Grey, a female African American undergraduate student who found a photo

¹⁷ Stephen J. Scanlan, et. al., *Starving for Change: The Hunger Strike and Nonviolent Action*, 28 RES. IN SOC. MOVEMENTS CONFLICTS, & CHANGE 275, 276 (Patrick G. Coy ed., 2008).

¹⁸ See generally Cheryl I. Harris, *Law Professors of Color and the Academy: Of Poets and Kings-Chicago-Kent Dedication Symposium: Legal Education II*, 68 CHI.-KENT. L. REV. 331 (1992), <https://scholarship.kentlaw.iit.edu/cklawreview/vol68/iss1/24> [<https://perma.cc/SBK6-CEPJ>]. (Cheryl Harris describes the process of reflection, contemplation and action as basically “[t]he challenge for scholars of color in the academy . . . to render the invisible visible and tangible, to move what is in the background to the foreground; to tell a different story that is neither known or familiar and indeed may be disturbing, annoying, and frightening”).

of an African American female being lynched tacked to her dorm room door.¹⁹ Next, I learned about the anonymous threats made to African American students, posted on Yik Yak in November of 2015.²⁰ A white student from Missouri University of Science and Technology, a campus that is part of the University of Missouri System, was prosecuted following the posts for making terrorist threats.²¹ Next, I learned of a separate incident involving a truckload of white students following Payton Head, an African American student leader on the University of Missouri campus, shouting an epithet at him.²² I read these stories knowing from my own educational experiences, that the stories I read described only a fraction of the total number of racist incidents on campus.

These stories clearly established the racist injustice existing at the University of Missouri. Given this injustice, it was obvious to me that Jonathan's conviction would endure and that Jonathan could die at the hands of a nonresponsive institution. I also knew that he was morally right, which raised the undeniable question—where my personal experiences confirm that this action against injustice was a moral act, how could my continued silence possibly be moral? Despite the clear answer, I remained silent, personally

¹⁹ Frank Morris, *How Racial Incidents Sparked Change at the University of Missouri*, NPR, Nov. 10, 2015, <https://www.npr.org/2015/11/10/455432690/how-racial-incidents-sparked-change-at-the-university-of-missouri> [<https://perma.cc/GA9P-8QA2>]; John Eligon, *At University of Missouri, Black Students See a Campus Riven by Race*, N.Y. TIMES, Nov. 11, 2015, <https://www.nytimes.com/2015/11/12/us/university-of-missouri-protests.html> [<https://perma.cc/D8GE-6DMC>].

²⁰ Edgar Sandoval, Jason Silverstein, Leonard Greene, *U-Missouri Police Arrest Student for Yik Yak Campus Threat*, N.Y. DAILY NEWS, Nov. 11, 2015, <http://www.nydailynews.com/news/national/mizzou-police-arrest-suspect-yikyak-campus-threat-article-1.2430788> [<https://perma.cc/8UR3-62HV>] (Two arrested for making threats to University of Missouri students on Yik Yak as fears of violence spread through Columbia campus).

²¹ *Id.*

²² Morris, *supra* note 19; Eligon, *supra* note 19.

stuck at that intellectual crossroad, unable to act affirmatively in support of Jonathan Butler. Somehow, giving voice to this truth (making the invisible, visible) was locked in my mind with a constructed framework of “action risks personal cost.” Thus, I continued to collect the facts and concluded internally that yes, injustice exists at the University of Missouri. It was only upon later reflection, that I understood my silence as a kind of internal signal that this was an opportune moment to analyze my inaction in order to nurture my own moral conscience in support of future action.

In the end, Jonathan Butler’s strike concluded without obvious calamity, albeit with extreme physical sacrifice and suffering. The hunger strike concluded in part because his community supported him. On November 8, 2015, six days after Jonathan’s letter, the black University of Missouri football players announced they would not play football until President Wolfe resigned, threatening the upcoming game and risking a one million dollar penalty to the school.²³ Missouri football player Anthony Sherrils announced the boycott on Twitter, accompanied by a photo of the players and coaches locking arms. The tweet stated:

The athletes of color on the University of Missouri football team truly believe ‘Injustice Anywhere is a threat to Justice Everywhere.’ We will no longer participate in any football related activities until President Tim Wolfe resigns or is removed due to his negligence toward marginalized students’ experiences. WE ARE UNITED!!!!²⁴

Subsequently, Coach Gary Pinkel tweeted his support stating, “The MizzouFamily stands as one. We are united. We are behind our players.

²³ Robby Kalland, *Missouri’s Black Football Players Refusing to Play until President Ousted*, CBS SPORTS, Nov. 8, 2015, <https://www.cbssports.com/college-football/news/missouris-black-football-players-refusing-to-play-until-president-ousted/> [<https://perma.cc/MD9X-LRJB>].

²⁴ @1Sherrils_2MIZZ, TWITTER (Nov. 7, 2015), https://twitter.com/1Sherrils_2MIZZ/status/663176221249769472 [<https://perma.cc/T94Y-K8S5>].

#ConcernedStudent1950GP.”²⁵

One day later, on November 9, 2015, President Wolfe resigned.²⁶

A. *The Frisco5 Hunger Strike for Justice*

Fast-forward five months to April 25, 2016. I was, once again, sitting in my office at the University of Washington School of Law. This time, I opened an email in my inbox, written by my colleague Bill Covington, the Director of the Tech Policy Clinic at the University of Washington School of Law.²⁷ Bill is African American. Copied on the email were my co-chair for the Dean’s Advisory Committee for Diversity, Equity and Inclusion. The email read:

Edwin Lindo graduated from this law school roughly three years ago. One of the things he did here was organize a photograph where UW law students showed solidarity with Trayvon Martin by wearing hoodies. Edwin is now in the fifth day of a hunger strike protesting police misconduct in San Francisco. Please see the article below. Would it be a good idea to encourage interested persons at UW Law to send him texts of support? Edwin can be texted at . . . Bill.²⁸

I opened the link to the article contained in the email and read the following:

²⁵ See Erick Fernandez, *Missouri Football Players Won’t Play Until University President Resigns*, HUFFINGTON POST, Nov. 8, 2015, https://www.huffingtonpost.com/entry/missouri-football-players-strike-calling-for-university-presidents-resignation_us_563f4630e4b0411d30715897 [<https://perma.cc/8MNE-774D>].

²⁶ Daniel Arken, Alex Johnson and John Schuppe, *University of Missouri President Tim Wolfe Resigns Amid Racial Unrest*, NBC NEWS (Nov. 9, 2015), <https://www.nbcnews.com/news/us-news/tim-wolfe-university-missouri-president-says-hes-resigning-amid-racial-n459941> [<https://perma.cc/4FBS-JDM6>].

²⁷ William Covington is the Director of the Technology Law & Public Policy Clinic at the University of Washington School of Law.

²⁸ Email from William Covington, Dir. of Tech. Law & Pub. Policy Clinic, Univ. of Wash. Sch. of Law, to Authors (Apr. 25, 2016) (on file with author).

Four [later five] activists arrived at the Mission Police Station Thursday morning to begin a hunger strike to protest police shootings. They came with a class of preschoolers in tow, leading them in a chant of “Queremos paz,” or, “We want peace.” Organizer Maria Cristina Gutierrez said she brought the children to show officers who she wants to protect from future run-ins with police. Gutierrez, 66, is the executive director of *Compañeros del Barrio* preschool on 16th and Valencia. Gutierrez, her son Ilyich Sato, also known as the rapper *Equipto*, Edwin Lindo, currently a candidate for District 9 supervisor, and Ike Pinkston, a preschool teacher at *Compañeros del Barrio*, officially began their hunger strike on Thursday, though some have not eaten since Wednesday. Each of the hunger strikers said they would hold on for as long as they could – ideally until they achieve their goal of unseating Police Chief Greg Suhr.²⁹

I knew Edwin during his time as a student at UW Law. He graduated in 2012. In this moment of realization, my mind raced and I turned to the task of envisioning possible next steps, without hesitation. While the long-term steps were somewhat unclear, the initial step was obvious to me. I picked up my phone and sent Edwin the following text. “This is Brenda from the law school. Your law school community supports you!”

I wondered briefly, do I have authority to speak for the UW law school community? Belatedly, I concluded that I initially phrased the internal question inaccurately. Edwin’s life was on the line. His action speaks for those who cannot speak. His actions speak for Amilcar Perez-Lopez,³⁰ Alex

²⁹ Laura Wenus & Joe Rivano Barros, *Activists Begin Hunger Strike to Protest Police Shootings*, MISSION LOCAL, Apr. 21, 2016, <http://missionlocal.org/2016/04/preschool-teachers-rapper-d9-candidate-begin-hunger-strike/> [https://perma.cc/2FHK-X5RT].

³⁰ See *Killed by SFPD on February 26, 2015*, JUSTICE FOR AMILCAR PEREZ-LOPEZ, <https://justice4amilcar.org/> [https://perma.cc/XX2Q-G7BH].

Nieto,³¹ Luis Góngora Pat,³² and Mario Woods,³³ each killed by SFPD officers without trial. Simply put, my own personal authority was an inadequate framework for analyzing, understanding and communicating about the circumstances of this hunger strike.

The reality of killings by law enforcement without a trial process (extrajudicial) is that trial courts and the criminal justice process could have afforded each of the deceased findings of fact and conclusions of law on the question of the legality of their actions up to and until the moment, the SFPD officers elected to use lethal force. In any law enforcement encounter where police officers utilize lethal force, the legality of the action turns away from constitutional presumptions and protections for the accused, as is the case in a criminal proceeding, toward presumptions and protections for law enforcement.³⁴ Where the accused is deceased, surviving family members must initiate a separate, potentially costly and lengthy §1983 legal proceeding prior to raising the question of the defendant's constitutional protections. The principled action by each of the hunger strikers gave voice to the otherwise silent constitutional assertions of the deceased. Given this reality, it was clear to me that my action carried the potential to shift the balance of power on the topic of injustice in San Francisco, by expanding public knowledge of the hunger strike to include the University of Washington Law School community. Morally, I would no longer be silent.

³¹ See *Killed by the SFPD on March 21, 2014*, JUSTICE FOR ALEX NIETO, <https://justice4alexnieto.org/> [<https://perma.cc/Y897-G8UZ>].

³² See *Killed by SFPD on April 7, 2016*, JUSTICE FOR LUIS GÓNGORA PAT, <https://justice4luis.org/> [<https://perma.cc/Q94K-WT34>].

³³ Franklin E. Zimring, *Mario Woods' Unnecessary Death*, S.F. CHRON., Dec. 11, 2015, <http://www.sfchronicle.com/opinion/article/Mario-Woods-unnecessary-death-6686745.php> [<https://perma.cc/6DLV-G6F5>].

³⁴ During my 20 years as a public defender, I have witnessed countless courtroom rulings in criminal proceedings by judges finding that action by law enforcement officers exceeded constitutional constraints. Where the defendant is deceased, the principled action by hunger strikers gives voice to those otherwise silent constitutional assertions.

B. *Collecting the Facts of Injustice in San Francisco*

I began to research the particular circumstances of this hunger strike and the killings by police that prompted this action.³⁵ I reviewed independent and mainstream news reports. I searched Twitter, Instagram, and YouTube. The twitter campaigns were #HungerForJusticeSF and #Frisco5. I looked at images of the on-going strike and reviewed the comments of their supporters and detractors. I watched YouTube footage from inside the police station, from the sidewalk, and interviews of each of the hunger strikers. The images generated by supporters carried messages such as, “Stop Police Murder,” “No Justice, No Feast,” “Enough is Enough,” and “Queers Support Hunger Strikers.”

Despite the assortment of sources reviewed on that day, one particular video solidified for me the seriousness of the moment. The video I watched documented Edwin as he spoke to a reporter on April 25, 2016.³⁶ He described the manner and mechanism by which the Captain of the Mission Police Department, Dan Perea, methodically sought to remove the hunger strikers from the sidewalk and the public space.³⁷ Edwin detailed how the Captain notified them that the hunger strikers and their supporters could no longer use the restrooms and power outlets located inside the public reception area of the police station, that their presence on the sidewalk violated the San

³⁵ See John Morrison, *Starving for Change: ‘Frisco Five’ Hunger Striking Police Brutality*, EL TECOLOTE, Apr. 29, 2016, <http://eltecolote.org/content/en/features/starving-for-change/> [https://perma.cc/T98P-WPH2].

³⁶ Liberated Lens, *OGC Interview with Edwin Lindo 04-25-2016*, YOUTUBE (Apr. 29, 2016), https://www.youtube.com/watch?v=c8eZ83aRR_s (last visited Dec. 17, 2016).

³⁷ *Id.*; See generally @hngr4justicesf, TWITTER (Apr. 27, 2016), <https://mobile.twitter.com/hngr4justicesf/status/725386007047069696> [https://perma.cc/6SSX-L7DX0] (image depicting at least six uniformed SFPD on motorcycles physically occupying the sidewalk space between the hunger striker’s camp on the sidewalk and the building housing the SFPD Mission District branch).

Francisco Police Code, and that they were at risk of arrest.³⁸ I watched footage of Edwin, the other hunger strikers, and community members verbally engaging with law enforcement regarding the parameters of the space in which they would be “allowed” to exist.³⁹ It was obvious from the video footage, news reports, and personal accounts I read that this was law enforcement in the United States attempting to silence this action by shutting the protest down.⁴⁰

Despite that realization, a very small part of my soul smiled. I perused the video and news reports of the events from this day of the strike, and I knew Edwin’s legal training would serve him well in his “face to face” encounters with SFPD Captain Perea. Constitutional Law, Criminal Law, and Criminal Procedure, all required courses for the first and second-year law student, ensured in my mind that Edwin understood the features that make protest legal and the limited circumstances where the state may exercise control on

³⁸ Zachariah Wilburn, *Hunger Strike for Justice Day 5*, YOUTUBE (Apr. 26, 2016), <https://www.youtube.com/watch?v=rYWBKjFnzJE> (last visited Dec. 17, 2016).

³⁹ 48 Hills, *Edwin Lindo Speaks to Community After Negotiating with Police Officers*, YOUTUBE, April 26, 2016, <https://www.youtube.com/watch?v=2SVm-C58dhk> (last visited Dec 17, 2016). From the description, “On day 5 of the hunger strike, organizer and hunger striker represented the protesters in a discussion with the police after they locked access to the public bathrooms at the Mission police station. Originally, police officers told protesters the toilets were locked because they were out of order, later they said it was because they were unsanitary. In this video, Edwin speaks to fellow protesters and media after successfully negotiating with police to open the locked toilet doors.”

⁴⁰ 48 Hills, *San Francisco Police Officer Threatens Hunger Strikers with Arrest*, YOUTUBE (April 26, 2016), <https://www.youtube.com/watch?v=-rd-XdZGLF8> (last visited Dec. 8, 2018) (“At 8 PM on Monday evening, a San Francisco police officer threatened to arrest the five hunger strikers for sleeping in tents on a public street. He cited section 647(e) of the Penal Code and Section 22(a) of the Municipal Police Code. Section 22(a) refers to blocked sidewalks. Section 647(3) penalizes “lodging.” It is a State law prohibiting lodging in a building without the consent of the owner (it is a law against “squatters”) but it has been used in the past to convict protesters. In 2012 homeless advocate, Linda Lemaster was convicted of “unlawful lodging” and sentenced to community service and probation”).

speech.⁴¹ I observed intently as he used his legal training to advocate for and to protect the constitutional right to demonstrate, to protest the unlawful use of police power, and to engage in a hunger strike, free from intervention by police officers with guns, handcuffs, and modern means of surveillance. I watched footage as Edwin announced that they had negotiated the reopening of the restrooms, the lobby of the police department as shelter, and the power outlets as open to the public and those supporting the hunger strikers.⁴² I observed that Edwin used his legal training in a way that differed substantially from how I use my legal training. He, on the streets of San Francisco, and I, in the courtroom on behalf of persons confined in chains and locked in concrete cells with metal beds and metal toilets. Edwin's position, physically free from the chains of the state, is undoubtedly the superior position from which to resist systemic oppression and state violence. Despite the superior position, the power of the moment, the compassion and the selflessness of this action, two sentences from the You Tube video repeated in my mind, "I'm six days into the hunger strike. I haven't eaten in 144 hours."⁴³

Sometime during my research, Edwin replied by text, "Thank you, this means so much."

This exchange started the dialogue that continues with this article.

⁴¹ See generally Mara Silver, *Testing Cruzan: Prisoners and the Constitutional Question of Self-Starvation*, 58 STAN. L. REV. 631 (2005); George J. Annas, *American Vertigo: "Dual Use," Prison Physicians, Research, and Guantánamo*, 43 CASE W. RES. J. INT'L L. 631 (2011); Muneer I. Ahmad, *Resisting Guantanamo: Rights at the Brink of Dehumanization*, 103 NW. U. L. REV. 1683 (2009) (contrasting the hunger strike by individuals who are not detained with the hunger strike carried out within the jail setting, paying particular attention to the power of the state to intervene forcefully within the jail setting).

⁴² See 48 Hills, *supra* note 39 (speaks to community).

⁴³ See Liberated Lens, *supra* note 36.

C. From Silence to Action

Over the course of the next few days, I spoke with everyone I encountered within the law school about Edwin, the hunger strike (direct action), the Frisco 5 and the injustice they were challenging. Though I do not have a Twitter account, I circulated #HungerForJusticeSF and #Frisco5 widely, via email, word of mouth and by hanging a prominent sign on my office door. I emailed then Dean of UW Law, Kellye Testy, members of the faculty, and students. Continuously, I counted the seconds, minutes and hours that Edwin, Mamá Cristina, Equipto, Ike and Sellasie starved. Over the days that followed, I read about the health and continued action of the hunger strikers. I observed as the number of supporters on social media and news sources continued to grow. I sent texts of support to Edwin frequently, keeping in mind the colossal reality he and the others were likely facing as the hours turned to days and the days to weeks. Nevertheless, even as these conversations were taking place, I knew intrinsically that the emails, the conversations and the Twitter posts by proxy, were inadequate measures of support. Mamá Cristina, Ilyich “Equipto” Sato, Edwin Lindo, Selassie Blackwell and Ike Pinkston were going hungry to protest injustice, to change policing in their community.⁴⁴ They could die. I knew I could support their action, by speaking honestly with those that otherwise might not know of the injustice in San Francisco or may not have heard the voices of those killed by law enforcement.

I am trained in the law.⁴⁵ Edwin is trained in the law. With that stated, Edwin’s work differs substantially from the work I typically perform each

⁴⁴ See Erin Allday, *Hunger Strikers Put Suffering on Display, But Are They in Danger?*, May 4, 2016, S.F. CHRON., <https://www.sfchronicle.com/bayarea/article/Hunger-strikers-put-suffering-on-display-but-are-7393912.php> [<https://perma.cc/FNL6-UXUY>].

⁴⁵ Brenda Williams directs the Tribal Court Public Defense Clinic at the University of Washington School of law where second and third year law students, under supervision,

day advocating for constitutional protections on behalf of those accused within our court systems. While it is fulfilling for me to represent my clients' interests and easy to believe that I am doing the best for my clients that I can, lawyers often have an impact only one person or one client at a time. With 20 years of public defense now in my past, I can safely assert that I have met with thousands of defendants, many in chains and housed in jail cells, most sick, and all living in poverty. Even with public defender services, the state continues to exercise coercive control over most of those clients long after the formal findings of fact, conclusions of law and sentencing hearings have concluded, and the court discharges the attorney from the representation. In analyzing this hunger strike, I was able to contrast public defense work within the realm of coercive power that is our nation's courts and jail cells, with the action taken by the Frisco 5, within the realm of coercive power that is our nation's police system.

On day seven of the hunger strike (two days after I received the email from my colleague), I decided to travel to San Francisco, in order to acknowledge the injustice in San Francisco and to sit with each of the hunger strikers. In my own personal capacity, I elected to witness the imperative of their action in person and to contribute my voice to holding the leadership of the SFPD accountable.⁴⁶ As a teacher at Edwin's alma mater, I knew I should go to San Francisco to sit with him, to support him, and to let him know that I, as a

represent persons detained and charged in Tulalip Tribal Court criminal proceedings. Prior to joining the faculty in 2008, Brenda served for 10 years as a public defender at The Defender Association in Seattle representing clients in all areas of public defense, including juvenile and adult felony practice and dependency proceedings. She holds a Juris Doctor from the University of Washington School of Law and a Master of Public Administration from the University of Washington Evans School of Public Affairs, where she focused on policy work within the criminal justice system. Currently, she focuses her research on the history of habeas corpus and the Native American, from treaty making through the Indian Civil Rights Act, as revised through the Law and Order Act of 2010 and the Violence Against Women Act of 2013. Her research specifically focuses on the evolution of the habeas process for tribal appellate courts.

⁴⁶ See generally Lionel Wee, *The Hunger Strike as a Communicative Act: Intention Without Responsibility*, 17 J. LINGUISTIC ANTHROPOLOGY 61 (2007) (describing the accountability of the institutional authority for the suffering of the intentional hunger striker as a linguistically explainable phenomenon of only the hunger strike).

member of his law school community supported him. I also knew that I should communicate to him that his law school community recognizes his action as profound. I prepared for my journey to San Francisco so that I could bring this story home to the UW Law community. I spread the word of my decision to travel to San Francisco, spoke with Dean Kellye Testy of the law school, and asked members of the faculty to write handwritten letters of support to Edwin. I gave them a short deadline. “Get letters of support into my box by close of business tomorrow, Friday, April 27, 2016.”

Close in time to this email, I concluded that as a law teacher my trip would be incomplete unless I invited a law student to join me in witnessing this principled action by a former student.⁴⁷ Within 36 hours of that decision, UW Law student Tadeu Velloso and I flew to San Francisco carrying a stack of handwritten notes from professors and students, a blanket sent personally from Dean Kellye Testy, a portable cell phone charger (a gift from a law student), and a note with drawings and messages of hope from my daughter.⁴⁸ Intended as beacons of survival, the small notes and gifts symbolized an attempt at nourishment for Edwin’s soul.

Later that morning, Tadeu and I were sitting on a Valencia Street sidewalk, in front of the Mission Police Department, with Edwin, Mamá Cristina, Ike, Equipto, and Sellasie. We witnessed the unfolding human imperative and the seemingly unending flow of other people who similarly came to bear witness to this principled action. I observed as others arrived to sit with the hunger strikers, these visitors appeared to attempt, with deep enduring embraces, to

⁴⁷ This conclusion came from a seed planted by Prof. Margaret Montoya at the 2nd annual National Latina/o Law Student Conference at UCLA in 1998. She was an invited speaker at that event. After she spoke, she told me she was leaving to join the Society of American Law Teachers conference across town. She said to me without hesitation, come with me to see what we do. As a result of that invitation, I, then a rising 3L student, went into a space that was constructed for law professors, except when one of them took the initiative to invite me to join.

⁴⁸ Conversations with my daughter on the topic of the hunger strike as a component of my decision to spend Saturday with Edwin and the other hunger strikers, opened the door to an ongoing mother daughter dialogue on the modern-day principled action where she might have only learned of the principled direct action from children’s books retelling the history of Rosa Parks, Martin Luther King, Nelson Mandela and Ruby Bridges.

somehow hold onto the physical embodiment of each of the individual hunger strikers in a collective symbolic nod to a lifetime of future potential at risk. “These are the FriscoFive. Stop police brutality. Two rappers, an educator, a [San Francisco Board of Supervisors] candidate, and a grandmother. They won’t eat until Chief of Police Greg Suhr is fired or resigns.”⁴⁹ That day, each of these community members (now hunger strikers) demonstrated a steady, consistent, and determined resolution. I came away understanding their principle, keenly aware of the potential for their death and determined to move more swiftly from silence to action.

D. Justicia: From the Background to the Center of Dialogue

Even as the days of the hunger strike turned to weeks, Chief Suhr continued in his refusal to resign his position. Mayor Ed Lee, despite having the legal authority to render the decision, refused to terminate Chief Suhr’s employment. Given this reality, the hunger strike continued.⁵⁰

As the days passed, the urgency of the situation increased. I turned next to emailing and talking with anyone I knew inside of and outside of the law building. I continued to text Edwin daily support. Outside of the law school environment, this meant bringing the topic of police killings to all with whom I engaged. At this particular time, it so happened that I was participating in a program called the Leadership Excellence Project at the University of Washington, which put me in regular email and personal contact with leaders from the campus administration and rising leaders from the various departments and schools. I wondered just briefly, *do I have authority to insert the topic of police killings into the dialogue with campus leaders and colleagues?* Again, I reoriented my thinking and changed the internal

⁴⁹ TeleSUR English, *Meet the Frisco Five*, YOUTUBE (May 3, 2016), https://www.youtube.com/watch?v=j8pO_rZ2Dyk (last visited Nov. 12, 2018); See Liberated Lens, *supra* note 36; 48 Hills, *Day 10 Frisco Five Hunger Strike, Davey D*, YOUTUBE (May 1, 2016), <https://www.youtube.com/watch?v=ZFHgxKADcV4> (last visited Nov. 12, 2018).

⁵⁰ Jonah Owen Lamb, *‘Frisco Five’ on Hunger Strike to Protest SF Police Brutality*, S.F. EXAM’R, Apr. 29, 2016, <http://www.sfexaminer.com/frisco-five-hunger-strike-protest-sf-police-brutality/> [<https://perma.cc/SMS8-BAU8>].

question: how can I not speak about San Francisco Police Officers killing Latinos in the Mission District? Edwin is a UW alumnus. We, as a university, regularly celebrate and highlight alumni engaging with complex societal problems in original, innovative, and extraordinary ways. Edwin, as a member of the Frisco 5, demonstrated this kind of innovative engagement, the best of what the university represents. I located an email concerning an upcoming meeting and selected Reply All:

I write to draw your attention to a hunger strike by University of Washington Law School graduate Edwin Lindo (2012). He, along with four other strikers, is protesting police misconduct in San Francisco. Tomorrow when we meet he will be on his 9th day without eating. I write to ask you to read the articles that have been written so far, and to consider spreading the word, or tweeting support to him, if you are on twitter. I attached a photo from UW law students supporting Edwin to this email.⁵¹

This email was a form of storytelling that provided an avenue for dialogue, ensuring that others knew the reality of the injustice in San Francisco and the important work of this UW Law graduate.

I forwarded that brief email about Edwin, as an alumnus of the University of Washington, repeatedly. That brief email started conversations in spaces where the topic of police officers shooting Latinos in the Mission District of San Francisco would otherwise not have occurred. I had previously been unable to bring the topic of police officers shooting Latinos into the administrative space in which I work. Now, catalyzed by knowing an alumnus engaged in this particular hunger strike, I spoke honestly and regularly about unjustifiable police officer shootings and those willing to risk their lives to change the course of history.

Ultimately, the Frisco 5 hunger strike ended after 18 days of starvation. Edwin and the other hunger strikers began their respective long journeys to

⁵¹ Email from Author, to Univ. of Wash. Sch. of Law (Apr. 25, 2016) (on file with author).

nourishment, journeys that most probably continue today.⁵² Edwin returned to the Seattle community, where his wife Estel was in residency at the University of Washington Medical Center.⁵³ During the weeks that followed, Edwin and I engaged in a continuing and evolving dialogue. He agreed to share his experiences with members of the University of Washington campus community at an event entitled, “An evening with Edwin Lindo of the Frisco 5.”⁵⁴ Following this talk, Edwin and I engaged regularly on the topic of the hunger strike as a form of direct action to prompt change within power systems.

We theorized that one might organize the activities of disparate actors, confronting oppressive state power, to fit within the framework of Dr. King’s “four steps of the non-violent campaign,” with each actor representing the embodiment of all or portions of the steps. The steps from Dr. King’s letter are: “1) collection of the facts to determine whether injustice exists; 2) negotiation; 3) self-purification; and 4) direct action.”⁵⁵ Edwin and I concluded that action by those challenging injustice could easily fit within these steps, or spheres as we came to call them, depending on where they are positioned and the type of justice work in which they are engaged.⁵⁶ When working with allies, one can utilize the framework to facilitate the identification of areas where reinforcement and collaboration with others will benefit the work of confronting power, completing “the four steps of the non-violent campaign.”

We began to share the story of our collaboration, organizing our individual stories within the spheres developed from Dr. King’s framework. We first

⁵² Hamed Aleaziz & Wendy Lee, *Frisco Five Say Hunger Strike Is Over*, SFGATE, May 8, 2016, <http://www.sfgate.com/bayarea/article/Raucous-City-Hall-protest-brings-arrests-7420771.php> [<https://perma.cc/Y2C5-K3G8>].

⁵³ Estel Williams, Edwin’s wife, is a Surgery Resident at the University of Washington Medical Center.

⁵⁴ Edwin Lindo, Lecturer, The Univ. of Wash. Sch. of Medicine, *An Evening with Edwin Lindo* (June 11, 2016) (video recording of the event on file with Authors).

⁵⁵ King, *supra* note 4.

⁵⁶ A Venn diagram depicting the steps of the non-violent campaign is located in the conclusion of this article.

presented at the 20th Annual National Latina/o Law Student Association (NLLSA) Conference. We invited LatCrit scholar Marc-Tizoc González to present collaboratively with us.⁵⁷ The 20th Annual NLLSA conference was held September 29 through October 1, 2016, in Boston, Massachusetts.⁵⁸ Edwin, Marc-Tizoc, and I collaboratively shared this story on a panel entitled “Weaving Theory, Practice and Action: LatCrit Theory, Lawyers and Active Participation in Social Change,” which led the students through a discussion and analysis about their future roles as lawyers and leaders in social change.⁵⁹ Subsequently, on January 25, 2017, I presented this story at a workshop held at Harvard Law School (HLS), featuring Professor Margaret Montoya,

⁵⁷ Professor González’ research interests include critical race theory (CRT) and Latina and Latino Critical Legal theory (LatCrit theory). He has most recently written about the public—political and religious—significance of people’s use of food under First Amendment freedoms (i.e., free exercise of religion, free speech, petition of government for redress, and peaceable assembly).

⁵⁸ See generally Marisa Sarnoff, *Latino Law Students Urged to Fight*, ALBUQUERQUE J., Oct. 18, 1997 (documenting the purpose of the first national gathering of Latino law students at the University of New Mexico School of Law as an opportunity to encourage students to use their education to fight for justice, taking an activist approach with their law degree).

⁵⁹ Twenty-one years ago, three law students (Brenda Williams, Antonio Maestas and Miguel Davis Velasco) returned from the Summer Law Institute in Guanajuato, México with a commitment to organize a National Latina/o Law Student Conference (NLLSC). With the support of University of New Mexico Law Professor Margaret Montoya, those students organized the first NLLSC in 1996. Simultaneously, Professor Montoya was part of the scholar-activist law teachers who organized the Latina and Latino Critical Legal Theory (LatCrit) movement out of the Hispanic National Bar Association Law Professor Section. In the ensuing decades, LatCrit, the NLLSC, and the eventual NLLSA Conference have collaborated many times, and in 2006 they formalized the Introduction to LatCrit Workshop, which introduces law students to the “Politics of Knowledge Production” [i], under LatCrit’s distinctive centring of Latina/o identity in law and society, methodology of multidimensional analysis, and principle of anti-subordination. After Professor González introduced LatCrit theory, praxis, and community, Professor Williams discussed how activist law students assembled to lay the organizational infrastructure for facilitating connections across institutional borders, as a counter to how traditional institutions devalue Latina/o identities, and concluded with social activator Edwin Lindo discussing how he implements theories of socio-legal change by interfacing directly with social justice movements to protect black and brown lives. Margaret E. Montoya & Francisco Valdes, *“Latinas/os” and the Politics of Knowledge Production: LatCrit Scholarship and Academic Activism as Social Justice Action*, 83 IND. L.J. 1197, 1201 (2008).

entitled, “Latinx Advocacy In/Different Spaces.”⁶⁰ Through this workshop, HLS *La Alianza* students led by Marco Castanos and Edith Sangüeza, organized small group discussions on “Social Justice Stories, Values, and Skills.” Most recently, Edwin Lindo and I shared the story of this collaborative experience at the LatCrit conference in Orlando, Florida in October of 2017.

This article memorializes the past and continuing dialogue and collaboration between the three authors.

II. EDWIN LINDO—*JUSTICIA Y SACRIFICIO* (JUSTICE AND SACRIFICE)

Justice. It is so clear, yet elusive in the same breath. We know we want it. We know we deserve it, but we have not, as of yet, experienced it. It is also highly interpretive, even though it should not be. People so often debate about which are the best tools and strategies to achieve justice, that sometimes one can feel lost for the best approach, or left to embrace any approach they feel they can participate in.

During a speech in New York where he discusses freedom struggles, Frederick Douglas said, “If there is no struggle, there is no progress.”⁶¹ Thus, the logical question follows: what kind of struggle?

It can be debated how to strategically achieve justice and how to precisely determine the “struggle.” Is it a physical struggle? Is it a spiritual struggle?⁶² Is it a struggle to convert the compassionate hearts of our neighbors? These questions are unanswerable in the abstract. What I can say with confidence is that a struggle for consciousness and self-determination is central to achieving justice. What oppressive systems or institutions, historical or contemporary, have changed merely out of the goodness of its managers’ or rulers’

⁶⁰ Brenda Williams, Presentation at the Harvard Latinx Law Conference: Latinx In/Different Spaces, (Jan. 27-28, 2017).

⁶¹ Frederick Douglas, Speech at Canandaigua, N.Y., *West India Emancipation* (Aug. 3, 1857), <http://www.blackpast.org/1857-frederick-douglass-if-there-no-strugglethere-no-progress> [<https://perma.cc/2Q57-5RMV>].

⁶² *Id.*

conscience?⁶³ It is struggle, resistance, and a clear self-understanding of justice while questioning systems of power that forces change within those systems. Oftentimes, oppressive systems and institutions react to struggles for justice by terminating those struggles. The most expeditious way to do so is to pacify the uprising or rebellion, making those in struggle accept less than they initially demanded, while forcing them to be thankful for receiving more than they had previously, in their plight of injustice.⁶⁴

Our society calls this social exercise compromising—colloquially believed to be the intermediate state where no one receives everything sought, but each receives more than they currently have. Supposedly, this negotiated position achieves the so-called “happy medium”⁶⁵ or the “middle ground,”⁶⁶ the perceived fairest arrangement for the parties involved. Others refer to this “compromising” exercise as achieving a “win-win” situation, where one cannot claim a loss to the negotiation if better off after the compromise than before it. The business world compromises in embracing the notion that one can never expect to receive everything one asks for. By the social definition, this makes sense because receiving everything you ask for is not a compromise. Instead, receiving everything you ask for is, by definition, one party winning, as we know the word in a competitive context. The other person who did not receive all they asked for, in contrast, loses the negotiation. Generally, business culture views compromise as a fair, utilitarian practice that ultimately moves the two competing parties forward.

⁶³ I acknowledge there is a philosophical question whether systems, juridical and otherwise, can even carry a conscience. That discussion, however, is not one I will explore here.

⁶⁴ See generally FRANCIS FOX PIVEN & RICHARD A. CLOWARD, *REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE* (2nd ed. 1993) (arguing persuasively that public welfare programs expanded only after social protest and contracted after social protest had subsided, in part because of the pacifying effect of various forms of poor relief).

⁶⁵ “A good choice or condition that avoids any extremes.” *Happy Medium*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/happy%20medium> [https://perma.cc/7KZA-3V58].

⁶⁶ “A standpoint or area midway between extreme or opposing positions, options, or objectives.” *Middle Ground*, MERRIAM WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/middle%20ground> [https://perma.cc/D4L9-9RAM].

This may or may not be true for business, but does it apply when we are discussing the particulars of justice?

Can a society compromise toward justice? The notion of compromising toward justice sits hollow and oxymoronic. If the goal is to achieve justice, how can one compromise their position? The word itself, compromise, means to concede in order to achieve an agreed-upon position.⁶⁷ If we are willing to concede our position then was it justice we sought in the first place? I ask because I believe there is no grey area between justice and injustice. A position is either just or it is not just. If one's position is initially on the side of justice, but one later concedes that position to achieve a compromise, then the concession falls short of the threshold of justice. Dr. King, in his 1963 Letter From a Birmingham Jail, eloquently wrestled with the inherent tension of negotiating with injustice:

One may well ask, "how can you advocate breaking some laws and obeying others?" The answer is found in the fact that there are two types of laws: there are just and there are unjust laws. I would agree with St. Augustine that "An unjust law is no law at all."⁶⁸

Dr. King's words are clear; laws are either just or unjust. Similarly, when seeking justice from specific systems of power and actors in authority, their actions are either just or unjust. Later in the same letter to the white clergy of Birmingham, Alabama, Dr. King asked, "How does one determine when a law is just or unjust?"⁶⁹ This poignant question concerning personal and political conscience requires a clear accounting of values. Values can insulate the people from unjust laws and unchecked actions by those in positions of power.

Nevertheless, why do we compromise when attempting to achieve justice? The account I share below explores the journey of refusing to compromise justice, while considering the experience of achieving justice through

⁶⁷ See *Compromise*, MERRIAM WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/compromise> [<https://perma.cc/HKM9-4AUM>].

⁶⁸ King, *supra* note 4.

⁶⁹ *Id.*

collective, social struggle. It is a story that falls outside of the institution of law, outside of the walls of the courtroom and, perhaps, even outside of the standard decorum of the law.⁷⁰ Ultimately, however, it achieved a justice that should have been attainable within the traditional bounds of the law, but was instead simply not possible in that realm. This is the story of a hunger strike that engaged deliberately with pain, sincerely thought about death, and achieved justice for a community that demanded it, even where the legal system would not allow for it.

This is my first humble attempt to document⁷¹ the journey that transformed my life and the lives of those around me. I hope and aim to present to you a question that may initially resonate as extreme. Nevertheless, and even if extreme, it is a question worth contemplating: what are we willing to die (sacrifice) for? Alternatively, what are we unwilling to compromise? My premise (a lesson I learned during this hunger strike journey that ultimately altered my life and trajectory) is that when we find what we're willing to die (sacrifice) for, we can next find what we are fundamentally willing to live for; and in turn, through this finding, we can experience a level of self-liberation. In this process of liberation, we reclaim a semblance of our own justice. I acknowledge this deserves a degree of clarity for many: I am not encouraging or demanding anyone put his or her life on the line resisting injustices (though some of us have and some will continue to do so) for that is not everyone's reality or purpose. I do suggest, however, that the pursuit of a collective justice and liberation of the most oppressed, dispossessed, and subordinated communities⁷² requires significant sacrifice. This sacrifice need not be a hunger strike, and it may not even be a physical sacrifice, but it must be a

⁷⁰ See CAL. PEN. CODE § 647(e) (Deering 2018).

⁷¹ Throughout the hunger strike, I kept scarce notes. While I wanted to document the process and the events of the hunger strike, I had very little time to do so. The time we did have was either spent sitting and sleeping to conserve energy or engaging with supporters. As a result, this is my first written exploration of the hunger strike. It is not a complete account, but it is a thorough account. I thank the reader in advance for their patience and willingness to engage this topic.

⁷² Francisco Valdes, *Legal Reform and Social Justice: An Introduction to LatCrit Theory, Praxis and Community*, 14 GRIFFITH L. REV. 148 (2005).

sacrifice nonetheless. A sacrifice can be giving up our Sundays to organize with community, using our privilege to benefit someone who does not carry said privilege, or writing the thought-provoking piece that questions systems of power and their relation to the oppressed.

I believe that sacrifice serves as a vehicle of humanization. Sacrifice connects us to the struggle, connects us to those we stand in solidarity with, and demonstrates the significance and righteousness of the issue. The sacrifice I speak of does not have to be of the level I share in this article; it simply needs to be *a* sacrifice. Without sacrifice, we are not accountable; we move as free agents that may come and go without consequence. Instead, we must question and be critical of action, without sacrifice—someone who operates without risk of loss, also most often, operates in self-interest. My goal in this piece is not to inject guilt in order to make others sacrifice unwillingly. Rather, my aim is to provoke self-examination and to raise the pressing question: what are we willing to sacrifice? I raise this important question because it is through understanding what we are willing to sacrifice, that the fundamental answer of how to strategically struggle will be revealed (as Frederick Douglass put it).

Many people asked how we contemplated and why we elected to engage in a hunger strike. The answer was lucid to us: our individual injustice thresholds were unequivocally crossed, and collectively we chose to act. The remainder of this section offers a counter-narrative⁷³ of this collective action, through the storytelling of injustice, sacrifice, and a search for justice, akin to ancestral tradition.

⁷³ See generally, Montoya, *supra* note 8 (Preeminent critical race scholar Professor Montoya uses the “counter-narrative” powerfully to demonstrate the essential role of the counter-narrative to “un/mask” the legal discourse, in favor of subordinated communities and the quest to achieve true justice. She distinctively identifies the fundamental question; how can the legal system be just if they do not include our stories).

A. *Four Killings en la Misión*

From 2014 to 2016, four black and brown men living in historically marginalized areas of San Francisco were shot and extra-judicially killed at the hands of the San Francisco Police Department.

Alex Nieto, Mario Woods, Amilcar Perez-Lopez, and Luis Góngora Pat. These are the names of those executed.

1. Alex Nieto, ¡*Presente!*⁷⁴

Alex Nieto, a Latino male, was only 28 years old when they executed him.⁷⁵ He and I were the same age, and we grew up around the corner from each other. He was a Buddhist and an honor student at San Francisco City College, where he studied to become a youth probation officer.⁷⁶ The San Francisco Police Department executed him on Bernal Heights Hill, a majestic mountain in San Francisco that offers pristine views of the Mission District and downtown. When I was just a boy, my father would take me to Bernal Hill frequently. We would sit on the park bench and look over our neighborhood, the predominantly Latino Mission District, and he would say, “Son this is where I grew up when I came from Nicaragua, and this is where you grew up. Now they are kicking us out of San Francisco. I want you to know that no one can ever tell you that this is not your city. We helped make this city what it is, and for that reason, you will always be a part of it.”

⁷⁴ In many communities from the Global South, there is a spiritual ritual of remembrance for those that have passed. Usually in a larger group, someone may shout the name of the individual who passed, and the larger group responds by shouting, “¡*Presente!*” In Spanish, *¡presente!* means present or here. The goal of this ritual is to remember, always, the individual that passed and to call the names so loudly that the person’s spirit will hear the cheer and know they are remembered. See *Generally*, ROBERT E. BIRT, THE QUEST FOR COMMUNITY AND IDENTITY: CRITICAL ESSAYS IN AFRICANA SOCIAL PHILOSOPHY 136 (Robert E. Bird ed. 2001).

⁷⁵ *Medical Examiner/Investigator’s Report*, JUSTICE 4 ALEX NIETO (Feb. 27, 2018), <https://justice4alexnietodotorg.files.wordpress.com/2014/09/med-ex-report-2014-0292-cert-rep.pdf> [<https://perma.cc/BE8Q-XX72>].

⁷⁶ Alex Emslie, *Jury Clears S.F. Police Officers of Wrongdoing in Nieto Shooting*, KQED NEWS (March 8, 2016), <https://www.kqed.org/news/10891736/jury-clears-s-f-police-officers-of-wrongdoing-in-nieto-shooting> [<https://perma.cc/BR68-6TWN>].

The evening of Friday, March 21, 2014, Alex Nieto sat on a park bench on Bernal Hill eating dinner before the start of his work shift as a security guard. He sat on that same park bench each Friday before going into work. That particular Friday, he enjoyed his tinfoil-wrapped burrito while watching the bustling streets of the Mission District. As part of his job, he carried a licensed taser holstered to his belt. That sad evening, he wore a red 49ers jacket and a 49ers baseball cap. Alex stood about 6'1," and was relatively built, obviously cut from the cloth of the San Francisco Mission District—full of Latino culture and critical consciousness.

While sitting on the park bench, eating his burrito, Alex admired the sky as sunset approached over the beautiful city by the bay. Suddenly a large Siberian husky, walked unleashed by a recent transplant to San Francisco, sprinted toward him, barking, in a quest for Alex's burrito.⁷⁷ At first, Alex gently "shooed" the dog away, but the dog became uncomfortably aggressive in its pursuit of Alex's food and began to jump at Alex. Alex became wary of the dog's aggressive behavior and retreated, then jumped up onto the bench to get away from the unleashed dog and pulled out his taser, in case the dog attacked. Finally, the dog's owner arrived, and after some heated words, the

⁷⁷ Rebecca Sonlit, *Death by Gentrification*, GUARDIAN, Mar. 21, 2016, <https://www.theguardian.com/us-news/2016/mar/21/death-by-gentrification-the-killing-that-shamed-san-francisco> [<https://perma.cc/BNL5-JGZ8>] (the specific description of the interaction between Alex Nieto and the dog is based upon Guardian writer Rebecca Sonlit's reporting in reliance upon the legal deposition of the owner of the Siberian Husky, Evan Snow).

racialized⁷⁸ white male leashed his dog and walked away from Alex.⁷⁹ Having seen only the conclusion of this interaction, another newcomer to the neighborhood called the police, reporting a Hispanic male, approximately

⁷⁸ I use the term “racialized white” the same way I use the term “racialized brown” or “racialized black.” In this country, and in many parts around the world, individuals assume an identity not by their choosing, but because they were given it. Sometimes, in this society, that identity is beneficial, such as when seen as “white.” For people of color, however, the identity of the racialized other has had a complicated relationship with the United States (to put it lightly). So what does to be racialized mean? To be racialized is to be anointed with a race by an apparatus of power, like the United States. For example, I did not have a choice to be “brown,” but this country very distinctly identified me as such. That category is one that I am proud to claim, but only because the brown community has fought to redefine and preserve the humanity of said identity, even after generations of malicious attempts to either eliminate or force our communities to assimilate into the “American” culture. Thankfully, the San Francisco Mission District instilled me with the strength to be proud of my identity. Nonetheless, even in this “brown” identity, there is a duality of consciousness and definition that I always carry in tension. There is the racialized definition of “brown” promulgated by the United States that thrust a stereotype upon me. In contrast there is the definition of “brown” that I chose to assume through an education of history, culture, and politic; a definition I am proud of and more than willing to assume. Racialization, therefore, is the process of a societal hegemony prescribing racial categorization, without the consent of the individual given the prescription. Upon receiving this dictate, the individual must decide whether to adhere or denounce their racialization. More often than not, people of color combat the racialization of their bodies. This is understandable because the racialization of people of color is a process of dehumanization and cultural gentrification. Restated, the apparatus of white supremacy in this country continues to racialize communities, positioning stereotypes and societal values to maintain the ill-believed superiority. So how can a “white” person be racialized? A “white” person also goes through the process of being stereotyped and given a societal value; usually that value, in this country and so long as the “white” person is not poor, is in close proximity to the powerful. A “white” person, however, has the option to assume that positionality or to denounce it—it is not often, denounced. When it is, however, we witness the beginning stage of the dismantling of white supremacy. In the scenario described above the individual, through the personification of the fear of a “brown” man, was evidently racialized to act, as he did, because of his proximity to the majority power and his distance from those who look like Alex Nieto.

⁷⁹ Joe Rivano Barros, *Witness Says Alex Nieto Pointed Taser at Him Before Police Shooting*, MISSION LOCAL (Mar. 8, 2016), <https://missionlocal.org/2016/03/witness-says-alex-nieto-pointed-taser-at-him-before-shooting/> [<https://perma.cc/7GCR-PX3L>] (A local journalist reported that this individual used a racial slur to describe Alex in a text message to a friend after the incident. As reported, the man wrote that he wished he were in Florida so he could shoot Alex).

200 pounds, in a red jacket with a gun on his hip.⁸⁰ Police officers arrived following the call, with two squad cars driving up Bernal Hill full speed, on a non-access road. Four officers quickly threw their doors open, took tactical positions behind those same bulletproof doors, and pointed their loaded guns at Alex.

This is where the stories diverge. The SFPD official police report claims that while pointing their guns at Alex, they shouted for him to place his hands above his head, but instead of following their command, he allegedly took out his taser, pointed it at them and said, “*No, show me your hands!*”⁸¹ SFPD claims that Alex then fired his taser at them;⁸² in response, they shot at him 59 times—with 14 to 15 of those bullets wounding and ultimately killing him.⁸³ The SFPD officers fired so many rounds that one of the officers was able to reload his clip and nearly empty it again during the volley.⁸⁴ After the initial round of shots, Alex fell to his knees because of the pain from the penetrating bullets, before succumbing.⁸⁵ The coroner for the City and County of San Francisco noted a penetrating gunshot wound to the left side of his forehead, as one of the fourteen (14) gunshot wounds observed during the autopsy.⁸⁶ The officers claimed he had assumed a “tactical” position that

⁸⁰ Alex Emslie, *Scanner Audio From Police-Involved Shooting in Bernal Heights*, KQED NEWS (Apr. 16, 2014), <https://www.kqed.org/news/132895/scanner-audio-from-police-involved-shooting-in-bernal-heights> [<https://perma.cc/TS6Q-74QN>].

⁸¹ Dan Noyes, *I-Team: San Francisco Officers Testify in Alex Nieto Civil Trial*, ABC 7 NEWS (Mar. 2, 2016), <https://abc7news.com/news/i-team-sf-cops-testify-in-alex-nieto-civil-trial/1228651/> [<https://perma.cc/25PD-VN7Y>] (“Police say they yelled at Alex Nieto to show his hands, and that he responded, ‘Show me your hands.’ But the same witness who saw Alex Nieto’s hands in his pockets say police only yelled “Stop!” and began firing almost immediately”) (emphasis added).

⁸² *Lawyer for Alex Nieto’s Parents Describes 59 Shots Fired at Son*, KRON 4 (Mar. 1, 2016), <http://kron4.com/2016/03/01/lawyer-for-alex-nietos-parents-describes-59-shots-fired-at-son/> [<https://perma.cc/9WRE-7DNN>].

⁸³ *Medical Examiner/Investigator’s Report*, *supra* note 75.

⁸⁴ Noyes, *supra* note 81.

⁸⁵ *Id.*

⁸⁶ *Medical Examiner/Investigator’s Report*, *supra* note 75.

was threatening.⁸⁷ Alex died immediately.⁸⁸ After the officers shot Alex Nieto to the ground, where he was lifeless, they handcuffed him as though he were suspected of committing a crime.⁸⁹ They did not find a gun on Alex's person.⁹⁰

The execution of Alex Nieto, a Buddhist, community college student, and son, became a rallying cry for the black and brown community of San Francisco to demand police accountability in a city that is void of this form of justice. Justice was not served by those in power, nor was justice attempted. Only four days after the killing of Alex, SFPD Chief Greg Suhr made his public declaration of support for his police officers and their actions.⁹¹ The San Francisco District Attorney, George Gascón, ultimately failed to file charges against any of the officers, claiming that the police actions were constitutional.⁹² To put it bluntly, the black and brown community was livid. We realized that even in "progressive" San Francisco, those in power would never grant justice.

2. Mario Woods, ¡Presente!

Mario Woods was a young black man executed by SFPD. SFPD shot and killed Mario in the Bayview-Hunters Point neighborhood of San Francisco, a predominantly black neighborhood.⁹³ SFPD claimed he had a knife and that he had allegedly stabbed someone with said knife.⁹⁴ When the police

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Jonah Owen Lamb, *Witness Contradicts police version of Alex Nieto Killing, Says officers opened fire without cause*, SF EXAMINER (March 3, 2016) (Eye witness, whom the City Attorney attempted to discredit, saw officers arrest him after shooting at him).

⁹⁰ *Medical Examiner/Investigator's Report*, *supra* note 75.

⁹¹ Noyes, *supra* note 81.

⁹² *Id.*

⁹³ Vic Lee, *Graphic New Video Released in Fatal San Francisco Police Shooting of Mario Woods*, ABC 7 NEWS (Dec. 11, 2015), <https://abc7news.com/news/graphic-video-released-in-fatal-sf-police-shooting-of-mario-woods-1119055/> [<https://perma.cc/8PCD-W9VX>].

⁹⁴ Phil Matier & Andy Ross, *Mario Wood' Last Moments: 'You better squeeze that ... and kill me.'* SFGATE, Feb. 9, 2016, <https://www.sfgate.com/bayarea/article/Mario-Woods-last-moments-You-better-6778777.php> [<https://perma.cc/7G5Z-X9DL>] (The other

approached Mario, he was visibly struggling to walk and communicate, and was stumbling down the street.⁹⁵ SFPD officers shot him with beanbags fired from shotguns.⁹⁶ In response, Mario leaned against the façade of a home, as he stumbled, hunched over.⁹⁷ Five police officers closed in and followed, as he continued to stumble against the wall.¹⁰⁰

The officers next assumed a position similar to that of a firing squad, with each aiming their guns at Mario, as he stopped in front of a garage door.⁹⁸ Mario again stumbled against the wall, when Officer August, who was pointing his gun at Mario, cut off his path, and opened fire, within six feet of Mario.⁹⁹ The other officers then engaged in so-called “contagious” fire,¹⁰⁰ leaving Mario to die after 20 bullets penetrated his body. Bystanders recorded the killing, and the recordings were widely disseminated. Still, even with video evidence, justice was denied. Once again, San Francisco District Attorney George Gascón failed to charge officers who arguably violated protocol as well as the communities’ constitutional protections.¹⁰¹ As he did

incident should not have had any bearing nor should it be used as justification for his execution).

⁹⁵ Law Offices of John Burris, *Mario Woods Shooting Previously Unreleased Courtesy of the Law Offices of John L. Burris*, YOUTUBE (Dec. 11, 2015), <https://www.youtube.com/watch?v=ADr7I8m0HNA&feature=youtu.be> (last visited Dec. 17, 2018).

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See, e.g., Chuck Joyner, *Fighting the Contagious Fire Phenomenon*, POLICEONE, Jan. 29, 2010, <https://www.policeone.com/police-products/firearms/articles/1996906-Fighting-the-contagious-fire-phenomenon/> [<https://perma.cc/TK9L-5SMY>] (Still, no scientific evidence supports the theory of contagious fire).

¹⁰¹ See Charlotte Silver, *DA Declines to File Charges in Another SF Police Shooting, Activists React*, MISSION LOCAL, Oct. 23, 2017, <https://missionlocal.org/2017/10/da-declines-to-file-charges-in-another-sf-police-shooting-activists-react/> [<https://perma.cc/K8TS-AFRT>]; See also GEORGE GASCÓN, REPORT ON THE OFFICER-INVOLVED SHOOTING DEATH OF MARIO WOODS (2018), <https://www.sfchronicle.com/file/314/9/3149-OIS%20Report%20-%20Mario%20Woods.pdf> [<https://perma.cc/RN3T-RG5C>] (This report is laughable because the independence of the investigation in squarely implicated by the fact that the office of the prosecutor works lock-step with the police department to incarcerate

in the Alex Nieto shooting, SFPD Police Chief Greg Suhr publicly supported his officers throughout the aftermath of Mario's killing.¹⁰²

3. Amilcar Perez-Lopez, ¡Presente!¹⁰³

Soon thereafter, SFPD officers killed Amilcar Perez-Lopez.¹⁰⁴ Amilcar was a mono-lingual Latino accused of stealing a bicycle at knifepoint.¹⁰⁵ The police, in their official statement, claim they arrived on the scene and that he ran towards them with the knife, and for this reason they shot him six times in the chest.¹⁰⁶ Would you believe that the autopsy showed that he was in reality, shot six times in the back as he was running away?¹⁰⁷ Again, despite conclusive evidence showing that the police officers lied, District Attorney

thousands of people, and in turn acts as the investigating body for officer-involved shootings. What independence can possibly exist? The officers were so bold many of them even chose to ignore the investigator's request for an interview. In the report, the District Attorney's office concludes that the officers acted within protocol and within the confines of California case law because they feared "serious bodily harm," therefore they chose not to press charges against the officers involved in killing Mario Woods. My reaction to this is visceral, I acknowledge that. However, under legal standards of law, there is sufficient evidence to question whether the officers actually acted within the law that a jury should decide. In effect, the prosecutorial discretion has been used, not just in this case but in so many others, for the sole purpose to protect officers. There are thousands of black, brown, queer, and poor folks, that don't even have half the case or evidence against them as these officers have, but yet, the District Attorney finds more than sufficient evidence to press charges and pursue trial. Based on the evidentiary standard laid out by George Gascón in the report for Mario Woods, more than half of the individuals in San Francisco County jail should be released because I am confident that far less evidence exists against them than the officers involved in Mario's execution.)

¹⁰² Michael Barba, *Suhr Claims Video Shows Mario Woods with Raised Knife; Community in Disbelief*, S.F. EXAM'R, Dec. 4, 2015, <http://www.sfexaminer.com/suhr-claims-video-shows-mario-woods-raised-knife-at-officer-community-in-disbelief/> [<https://perma.cc/PU7Y-K25L>].

¹⁰³ I understand it may feel excessive detailing each of the killings, but it is both my communal and ceremonial duty to do so, ensuring their names are never forgotten.

¹⁰⁴ Oliver Laughland, *Chronicle of a Death Untold: Why Witnesses to Killings of Latinos by Police Stay Silent*, GUARDIAN, June 2, 2015, <https://www.theguardian.com/us-news/2015/jun/02/amilcar-perez-lopez-san-francisco-police-killing> [<https://perma.cc/W2TL-Q887>].

¹⁰⁵ *Id.*

¹⁰⁶ *Amilcar's Story!*, JUSTICE FOR AMILCAR PEREZ-LOPEZ, <https://justice4amilcar.org/amilcar-story/> [<https://perma.cc/KC6Q-6ULE>].

¹⁰⁷ *Id.*

George Gascón declined to file charges and Police Chief Suhr publicly supported his officers.¹⁰⁸

4. Luis Góngora-Pat, ¡Presente!

SFPD was also responsible for the execution of Luis Gongóra-Pat, an unhoused¹⁰⁹ Yucatec Mayan man who was a victim of gentrification—evicted from his home in the Mission District less than one month before his execution by police.¹¹⁰ At the time, Luis was living in one of San Francisco’s unsanctioned tent camps, where unhoused¹¹¹ neighbors build tent communities on sidewalks throughout the city.

Luis spoke no English and no Spanish; he was of Mayan descent and only fully understood the Mayan language.¹¹² Like Mario Woods’ execution, his killing was video recorded by bystanders. After receiving a 911 call about an erratic man with a knife, officers approached Luis in a squad car, immediately

¹⁰⁸ *Amilcar Perez-Lopez: No Charges for Cops in SF Man’s Death*, KTVU NEWS (Apr. 12, 2017), <http://www.ktvu.com/news/ktvu-local-news/amilcar-perez-lopez-officers-wont-be-charged-in-sf-mans-death-during-officer-involved-shooting> [<https://perma.cc/PF7N-XPBV>].

¹⁰⁹ Nuala Sawyer, *Family of Slain Homeless Man Confronts Gascón in Quest For Justice*, S.F. WEEKLY, Feb 28, 2018, <http://www.sfweekly.com/news/family-of-slain-homeless-man-confronts-gascon-in-quest-for-justice/> [<https://perma.cc/B69G-2AYJ>].

¹¹⁰ *Luis’s Story*, JUSTICE FOR LUIS GÓNGORA PAT, <https://justice4luis.org> [<https://perma.cc/Z7FA-WXYU>].

¹¹¹ I use the term “unhoused” because I am of the belief that those who are without a house should be the ones that describe their circumstance. Many in the “homeless” community receive the word “homeless” as a means of robbing them of their humanity. They have a home, wherever they rest their head or wherever they believe is their home. As some say, “Home is where the heart is.” Just because our neighbors may not have a house, does not mean they do not have a home. Therefore, I have and will continue to refer to our neighbors as unhoused and not homeless. See Jessica Park, *Is ‘Homeless’ The Right Word For Those Living On The Street?*, HOODLINE, Dec. 8, 2016, <https://hoodline.com/2016/12/is-homeless-the-right-word-for-those-living-on-the-street> [<https://perma.cc/XUQ5-LPWY>].

¹¹² Laura Waxman, *City Attorney Says Cops Shot Homeless Man in Self Defense*, MISSION LOCAL, Dec. 12, 2016, <https://missionlocal.org/2016/12/city-attorney-says-cops-shot-homeless-man-in-self-defense/> [<https://perma.cc/DDA5-ZHUM>] (Luis Góngora Pat was of Mayan descent and monolingual).

exited and briskly walked toward him.¹¹³ Within 30 seconds of exiting the vehicle, officers shot and killed Luis.¹¹⁴

The recording showed that after exiting their car the officer shouted at Luis to “Get down!”—words that he could not understand.¹¹⁵ Luis continued to walk around after being screamed at, not having a clue that the police were ordering him to lie on the ground. SFPD officers shot him six times, justifying their actions by claiming Luis did not follow police orders.¹¹⁶

For us, the marginalized and the dispossessed communities of the Mission District, Luis was the last execution our community could endure.

B. Mamá Cristina Takes a Stand

Mamá Cristina is an amazing and powerful 66-year-old, Colombia-born woman, who operates a wonderful bilingual preschool in San Francisco.¹¹⁷ Mamá Cristina has inspired children for more than 30 years through her teaching. She was the impetus for the Frisco 5—Equipto, (Mamá Cristina’s son), who is a legendary Bay Area rapper; Sellassie, also a talented conscious rapper and activist; Ike Pinkston, a teacher at Mamá Cristina’s preschool, and myself—coming together. When Mamá Cristina asked us to meet with her, she sat with us and said, “Mijos [sons], I’m going to do this hunger strike.” She explained why she could no longer witness the senseless killings without taking action. This was only three days before the first day of the hunger

¹¹³ Kale Williams and Vivian Ho, *SF Police Shooting Unfolded in 30 Seconds, Video Shows*, SFGATE (Apr. 8, 2016), <https://www.sfgate.com/crime/article/Video-shows-San-Francisco-police-shooting-7237146.php> (last visited Nov. 12, 2018) (Caution: Video of killing embedded in article).

¹¹⁴ *Id.*

¹¹⁵ Waxman, *supra* note 112.

¹¹⁶ Julie Carrie Wong, *The Life And Death of Luis Góngora: The Police Killing Nobody Noticed*, GUARDIAN, Feb. 12, 2016, <https://www.theguardian.com/society/2016/aug/12/luis-óó-san-francisco-police-shooting-homelessness> [<https://perma.cc/JW4M-G8BD>] (“Góngora posed an immediate and deadly threat, and our officers’ use of lethal force was necessary and legally justified”).

¹¹⁷ Natalia Voynovskaya, *San Francisco Rapper Equipto Hunger Strike Against Police Brutality*, EAST BAY EXPRESS, May 4, 2016, <https://www.eastbayexpress.com/CultureSpyBlog/archives/2016/05/04/san-francisco-rapper-equipto-leads-hunger-strike-against-police-brutality> [<https://perma.cc/H8HL-9NC5>].

strike. It is significant that the four *mijos* are each San Francisco natives who grew up in the streets of the Fillmore, Hunters Point, and the Mission, because our lives and bodies have also been targets of the San Francisco Police Department.

Equipto, not willing to allow his mother to engage in a hunger strike alone, committed to joining her. He texted each of us to ask if we would also join. This was a sincere request—one that required time before I could respond. I went home. I prayed. I meditated. I said to myself, *these are heinous killings. I know they are wrong, but what am I willing to do about it?* I'll be brutally honest: I didn't know if I was ready to die when I committed to join the hunger strike, but I was ready to act. For me, Alex Nieto's killing resonated strongly in my mind as I made the decision to join the hunger strike. Alex was a neighbor, whose parents knew my grandparents. We shared the same streets of the Mission District. In the emotional pain of Alex's killing, I faced the reality that I could have been Alex on that day: a brown man, with a red 49ers jacket, killed by the gentrifying bullets of SFPD, known to shoot first and ask questions later. Not only could I have been Alex, but so could hundreds of thousands of others that similarly fit his description. For Alex, myself, and many other politically black and brown people in San Francisco, the only crime we have committed is simply being a black or brown individual living in his childhood neighborhood long after gentrification.¹¹⁸ Alex's killing is

¹¹⁸See generally Nancy Raquel Mirabal, *Geographies of Displacement: Latina/os, Oral History, and The Politics of Gentrification in San Francisco's Mission District*, 31 THE PUB. HISTORIAN 7, 8-9, 13 (2009) (discussing a community oral history project documenting and theorizing the gentrification of the Mission District in the 1990's and 2000's. By the late 1990's and early 2000's more than 1,000 Latina/o families were displaced. The number of rental evictions nearly tripled from 965 in 1993 to 2,730 in 2000. Owner move-in evictions rose from 433 in 1996 to 1,253 just two years later in 1998. From 1994 to 1998, the median rent for a vacant, one-bedroom apartment in San Francisco increased more than 56 percent, from \$800 to \$1245. In June of 1998, the Bay Guardian reported that 73 percent of all low-income renters in San Francisco and Oakland were spending more than 50 percent of their income on housing. On Valencia Street, 50 percent of the businesses that existed in 1990, mostly local operations that catered to the low-income Latino community, were gone by 1998). See also, Solnit, *supra* note 77. See, e.g., *A Changing Mission*, S.F. CHRON., <https://www.sfchronicle.com/the-mission/> (last visited

significant, like each of the others, because it personifies the mechanism by which gentrification exacerbates and contextualizes¹¹⁹ state-sanctioned violence against communities of color.¹²⁰ The individual who called 911 alleging Alex had a gun had recently moved to the neighborhood, an apparently racially white male,¹²¹ who, if more familiar with the community, might have met Alex in a more humane encounter.

Instead, the encounter was inhumane and deadly, therefore we felt action was necessary. Ultimately, the five of us agreed to embark on this hunger strike, to demand the removal of San Francisco Police Chief, Greg Suhr. After all, it was under his leadership that SFPD officers executed these black and brown men. It was under Greg Suhr's leadership that racist text messages circulated amongst his police force.¹²² Under Greg Suhr's leadership, these text messages referred to black people on the street as "a pack of wild animals

Feb. 28, 2018) (addressing the question, "To whom does San Francisco's oldest neighborhood belong?").

¹¹⁹ I use the word contextualize in the form of state-sanctioned violence being explained and driven by gentrification.

¹²⁰ Mirabal, *supra* note 118, at 18. (For José Daniel Cruz Solis, the policing of space was a direct result of the influx of white residents uncomfortable with young Latina/o male and female bodies occupying and using 'the street.' "I remember it was cool to walk down the street really late at night. But then it became, you know. Cops were coming every night harassing people of color and telling them "oh, it's too late for you to be out on the street." But when it was white folks, I never saw that they [the cops] approached them, you know what I mean? So that's definitely something that I noticed").

¹²¹ See generally, Dan Kopf, *San Francisco's Diversity Numbers Are Looking More And More Like A Tech Company's*, THE ATLANTIC, May 9, 2016, <https://www.theatlantic.com/business/archive/2016/05/san-francisco-diversity-migration/481668/> [<https://perma.cc/8J27-DSUV>] ("The people moving in are more likely to have higher levels of formal education, and they tend to be younger, white, and Asian. The people moving out are less likely to have completed college, and they tend to be older, African American, and Hispanic").

¹²² See *More San Francisco Officers Accused of Sending Racist Texts*, CHI. TRIB., Apr. 1, 2016, <http://www.chicagotribune.com/news/nationworld/ct-san-francisco-racist-texts-20160401-story.html> [<https://perma.cc/ZTY2-S6RV>]; Scott Glover and Dan Simon, 'Wild Animals': Racist Texts Sent by San Francisco Police Officer, *Documents Show*, CNN, Apr. 26, 2016, <https://www.cnn.com/2016/04/26/us/racist-texts-san-francisco-police-officer/index.html> [<https://perma.cc/YFW2-KTNQ>].

on the loose”¹²³ and communicated pronounced excitement for the opportunity to “burn a cross on their lawn [referring to the black community].”¹²⁴ We, the hunger strikers, believed removing Chief Greg Suhr, at the very least, would send a message that we, and the larger community, would no longer stand for these injustices.

C. The Hunger Strike Starts Quietly

Looking back at how it all began, we started with very little: we had four chairs, a pack of water, and no idea or thought that we should have asked for medical help. We arrived at the SFPD Mission Station in the early afternoon with preschool students in tow from Mamá Cristina’s preschool (with parental permission, of course). They shared hand-drawn pictures of hearts with the words, “*Queremos Paz*” [We want Peace], intended for the Captain of the Mission precinct. We then chose, out of principle and necessity, to occupy the front entrance of the police station, making sure officers and the public, leaving or entering, knew we were there and why we were there. That simple start was the beginning.

What I have written below is an attempt to share this unique journey. The hunger strike itself was a journey of unimaginable proportions that I initially thought was simply a test of physicality, but instead, became a deeply spiritual, political, and emotional test.

1. Stomach Pangs

Time flew by. We had friends, supporters, and loved ones surrounding us, and there were no concerns. But after the first 24 hours, closing in on 48, my body screamed relentlessly, “*WHY ARE YOU NOT FEEDING ME?!*” My stomach punched me with pangs. During the following 48 hours, days three and four, my body faced the harsh reality of starvation, reminding me with a 24-hour long unceasing and excruciating headache. This was the first of many

¹²³ Joseph Serna, *More Racist Text Messages Uncovered Among San Francisco Police Officers*, L.A. TIMES (Apr. 27, 2016, 10:57 AM), <http://www.latimes.com/local/lanow/la-me-ln-sfpd-racist-text-messages-20160426-story.html> [<https://perma.cc/57MU-CTNN>].

¹²⁴ *Id.*

physical challenges for me: first, I rarely have headaches (I've maybe had five during my entire life); second, I do not take over-the-counter medication, so I withstood the pain by staying silent. Still, 24 hours of continuous throbbing pain in your cranium is not a fun situation.

Day five and six were the days I realized that hunger was a privilege. By this point in the process, I had lost all feeling of hunger. It was unimaginable, but I became immune to the pangs of hunger. Our bodies are beautifully complex and resilient, evident by the survival of this traumatic process, and on day six, when the pangs of hunger ceased, the only descriptor I can provide is a feeling of euphoric purging of the body's impurities. From day six on, my body continued to feel physically tired and emotionally fatigued, but not hungry, or at least I did not feel hunger.

Presently, there are 7,000 unhoused people living in San Francisco, and half of them sleep on the streets.¹²⁵ I understand that what we did was a privileged action. Hunger is a privilege because to be hungry means I had eaten something the day before, and therefore had something my body could feel hungry for. This is a privilege that not everyone carries. Unlike us, many of our unhoused neighbors lack a choice when it comes to feeling hunger. They lack the choice to sleep in their house or to sleep on the streets. Luis Góngora Pat certainly lacked a choice, once he was evicted from his apartment. It is this revelation that fundamentally changed my understanding of the immense amount of privilege we as housed individuals carry, in relation to our unhoused neighbors.¹²⁶

¹²⁵ See *San Francisco's Tent Cities*, THE ECONOMIST (Nov. 4, 2016) <https://www.economist.com/graphic-detail/2016/11/04/san-franciscos-tent-cities> [<https://perma.cc/H5MX-P2WH>].

¹²⁶ As a side note, I have to say, being camped out in front of the police station every night of the hunger strike was eerie: I kept telling people who would come visit us how I never felt so comfortable in front of a police station in my life. The comfort arrived in me because I knew we were protected by the community. Every night, community volunteers, who were also military veterans, made it their mission to protect us while we slept. Believe me, throughout my life I stayed as far away as possible from police officers and police stations. Between being harassed by officers growing up and seeing friends brutalized by them, I felt nervous anytime I saw red and blue lights.

By day eight, the community had transformed the corner of 17th and Valencia Street, the corner where we were camped, into the community living room. Four tents, our homes for the duration of the strike, lined the sidewalk in front of the police station entrance, along with drums, benches, chairs, pillows, and blankets for those who chose to stay. The community transformed the street and sidewalk with political chalk art and a continual, communal presence. Surprisingly, the issue of us sleeping in tents became a seemingly novel legal question for the SFPD, particularly regarding their discretion to enforce San Francisco's 2010 sit/lie ordinance.¹²⁷ This particular ordinance criminalizes the unhoused where they sleep on public land.¹²⁸ And here, we not only were sleeping on public property, but we also had made it home and welcoming for others to join us by lining 15 chairs along the sidewalk facing street side. We had two piles of donated blankets that stood five feet tall each. We had enough water to last us months. We had so many supplies that a supporter brought a bookcase to serve as our inventory shelf so we could store our supplies. That bookshelf sat right next to the precinct entrance door. The tension around our occupying the space rose to the point where some of the officers realized they were no longer in control. Officers walked out of the station, and I saw in their eyes, that they had lost their sense of power because this space was no longer "their" police station. Instead, they were now, borrowing, the space from the community. We utilized the law that all police stations in San Francisco are public buildings. They stay open 24 hours a day, with restrooms that must stay open 24 hours a day. The doors must stay open, but it was obvious the officers had never experienced this type of action before, putting this public good to the test.

Also, by day eight, we had become so comfortable and confident in our position that we decided in addition to the outside, we would similarly occupy

¹²⁷ SAN FRANCISCO, CA., POLICE CODE §168 (2010).

¹²⁸ See generally, Donald E Baker, *Comment: "Anti-Homeless" Legislation: Unconstitutional Efforts to Punish the Homeless*, 45 U. OF MIAMI L. REV. 417; See Civil Sidewalks Ordinance, S.F. POLICE DEP'T, <https://sanfranciscopolice.org/civil-sidewalks-ordinance> [<https://perma.cc/6M3U-PK43>].

the inside of the police station. This was in part, out of necessity. Some nights were becoming unbearable with the cold wind and rain, especially for Mamá Cristina. We collectively placed some of the chairs inside the station lobby, and the officers passed by us each day, without saying a word. I can best describe their looks as ranging from anger to fear, and even, at times, confusion. Hundreds of people continued to visit us, sit with us, and bring us water. It was powerful. I was getting physically weaker, but the community support kept me feeling strong. Witnessing random people, taking time out of their day or their lunch hour to support us, to bring us water, and to bring us strength, nurtured my being.¹²⁹

I remember waking up one day at 5:30 AM, as I heard two cars roll up. Someone exited one of the cars, dropped water on the sidewalk, got back in the car, and drove off, without a word or expectation of thanks. This act demonstrates the powerful exercise of community power; this hunger strike exemplified how we might organize our communities. When you give space for people to participate and not necessarily be at the front lines, then they might feel like they too can contribute to the action. What many of our supporters may not have understood was that each hug, each bottle of water, and each car honk of support was a statement declaring their solidarity to keep us alive to continue the fight.

2. The Spiritual Journey

Without knowing, we had wandered upon a serious and spiritual journey. That journey takes me to April 3, 1968, when Dr. Martin Luther King, Jr. gave a speech to a large, invigorated crowd in Memphis, Tennessee. In that speech, the last one he gave before his assassination, he declared, “We’ve got

¹²⁹ It was around this time that the media attention began to mushroom beyond what we could have imagined. Between Shaun King, the local news, and high-profile celebrities who shared statements of solidarity, the word began to get out. I’m not sure exactly when it began, but around day six or so, we were being referred to as the Frisco 5 and the Frisco 5 hunger strike. Frisco was a fitting term to use considering it is a local slang term used by Native San Franciscans of color. A basic search for the term Frisco 5 or #Frisco5/#FriscoFive showed the reach of this phrase and hashtag.

some difficult days ahead. But it really doesn't matter with me now, because I've been to the mountaintop. . . . And I've seen the Promised Land. I may not get there with you. But I want you to know tonight, that we, as a people, will get to the promised land."¹³⁰ When I first heard the statement, as a teenager, I just did not fully understand why he believed he "may not get there..." The hunger strike clarified this for me.

On day seven or day eight, Dr. Rupa,¹³¹ a family physician from the University of California, San Francisco Medical Center (UCSF) approached the hunger strikers. When she first visited us, she shared that she was inspired to support us after seeing the action on social media and the news. She visited with medical students at her side and they said, "we're going to care for you." We did not ask them to come. We frankly didn't even know that we needed doctors. We thought since we all looked healthy and felt strong that there would be no issue. Yet they visited, measured our vital signs and took blood samples.

On day nine we learned that one of the hunger striker's blood results were abnormal due to a lack of necessary nutrition. Without a doubt, these medical professionals kept us alive during the hunger strike.¹³² It may seem counterintuitive to have medical professionals watching your health during a hunger strike since the action necessarily sustains physical harm with the goal and the purpose of creating political pressure on those able to make the

¹³⁰ Martin Luther King, Jr., *I've Been to the Mountaintop*. Address at the Church of God in Christ Headquarters in Memphis, Tennessee (Apr. 3, 1968), <http://www.americanrhetoric.com/speeches/mlkivebeentothemountaintop.htm> [<https://perma.cc/C894-NEC9>].

¹³¹ I wouldn't do the story justice if I did not personally thank the amazing medical support we received while on the strike.

¹³² Again, we never considered the medical attention that is required if we wanted to approach the hunger strike in a medically sound way. What we learned from Dr. Rupa and others while we were on the hunger strike is that many people who engage in a hunger strike typically receive pre-strike physicals to check vitals and physical strength to endure the traumatic nature of a prolonged hunger strike. We certainly did not approach this strike with such diligence; but I can look back now and affirm that had I appropriately known of the physical pain and struggle of the hunger strike, I would have convinced myself out of it. I would have overthought it and likely reconsidered. In this case, ignorance was truly bliss.

changes. The goal, however, is not solely to inflict harm, but to withstand the harm long enough to organize a community, create significant pressure, and clearly articulate the demands—that is where the medical professionals play a significant role.

D. The Body Politic of a Hunger Strike

The traditional definition of “body politic” is one that uses the human body as a conceptual proxy to represent the operations of a nation-state government—the idea is that each branch and department serves as a metaphorical limb that, collectively, act in unison to move as one unit, like the body.¹³³

I, however, do not use “body politic” in its traditional sense; I use in its direct application to explain the transformational force of the physical body as a political tool to achieve justice against systems of oppression. Our bodies, the bodies of the oppressed and the subordinated, are innately political. Their presence is political. Their survival is political. Their thriving is political. And their sacrifice is political. Our bodies are political because the systems of power have made them so.¹³⁴ The systems created and operated by those in power relegate the oppressed to the fringes of justice. Therefore, simply by being born into the identity of those historically and contemporarily facing injustice, my body was forced to the center of our nation’s politics. None who confronts structural inequality and oppression chooses to be the center of those politics. Our hunger strike was merely a response to this oppression, an intentional act of resistance and the companion obligatory need to survive. I did not ask to be a Latinx male from the inner city, raised by a single dad on

¹³³ See *Body Politic*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/body-politic> [<https://perma.cc/2SAB-U9TG>].

¹³⁴ NATIONAL COALITION OF ANTI-VIOLENCE PROGRAMS, LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER, AND HIV-AFFECTED HATE VIOLENCE IN 2016, June 12, 2017, http://avp.org/wp-content/uploads/2017/06/NCAVP_2016HateViolence_REPORT.pdf [<https://perma.cc/6YXU-C7MW>] (A media release presenting the data of hate violence against the LGBT community).

government assistance. That was my reality, and I embraced the need to survive through it. Still, I did not make my being and my body political. Rather, the system made it political by forcing me, and those like me, to fend for ourselves; the systemic pressure of oppression dragged us into the political fray. There would be no politics of the oppressed if there were no oppressors.¹³⁵

While my definition of body politic is distinct from the traditional form, the two definitions squarely interact with each other. That is, we would not deprive our own bodies of food if it were not for the inequities perpetuated by the body politic (in the traditional sense) of this country, a body politic that continues to oppress and subordinate our bodies.

When Day 12 arrived, Dr. Rupa explained that we were approaching the threshold of serious bodily harm—the consequences ranging from irreparable harm to the potential for death. Knowing the physical danger that could occur, and respecting our political wishes of engaging in a hunger strike, Dr. Rupa explained that we should make our wishes clear as to how we would like to be cared for in the event of a severe decline in our health. Each of us received a Do Not Resuscitate (DNR) form. The five of us chose to make the decision whether or not to sign the form independently and in secret, to ensure we did not influence each other in the decision. While I did not know what my comrades ultimately decided, I knew it was not an easy decision for them; it certainly was not easy for me. After prayers, meditations, and tears shed with my significant other, and deliberations with my dad, I ultimately signed the DNR form.

¹³⁵ PAOLO FREIRI, *PEDAGOGY OF THE OPPRESSED*, Ch. 1 (1968) (“Nor does the discovery by the oppressed that they exist in dialectical relationship to the oppressor, as his antithesis—that without them the oppressor could not exist—in itself constitute liberation”).

The DNR form mandated that “if my heart stops beating or if I stop breathing, no medical procedure to restart breathing or heart functioning will be instituted.”¹³⁶

This was the most powerful and liberating decision that I have ever made. At that moment, when I was in my tent, praying and talking through the decision with my life partner Estell,¹³⁷ I realized that I wasn’t afraid to die. I did not know this previously. I did not know that I was ready to make that decision. Yet there, on the corner of 17th & Valencia (*with the wafting smell of carne asada coming from the taquería on the opposite corner*) I found my freedom. When I gave Dr. Rupa my signed DNR form, I felt light. I felt as though chains and shackles had fallen from my wrists and ankles. I’ve never felt freer in my life; all because I found what I was willing to die for. When I understood what I was willing to die for, I understood what I was ultimately willing to live for.

Because of the hunger strike, I embraced freedom and the feeling of achieving it. I also finally understood Dr. King’s speech—he knew his days were numbered and was free from the fear of that fact, but was certain that the struggle for justice and freedom must continue. Personal freedom means the ability to be free or apart from dominion or control. However, societal freedom, implicates the state, and is limited under oppression and marginalization. The struggle for societal freedom is a fight we must continue to pursue because otherwise we live a contradiction where we achieve personal (spiritual or otherwise) freedom while simultaneously living in oppressed conditions. In this journey, our personal freedom was having the ability to choose for ourselves how to utilize our bodies in enduring the pain and potentially irreparable harm. I understood the power of my body politic.

¹³⁶ CALIFORNIA MEDICAL ASSOCIATION, EMERGENCY MEDICAL SERVICES PREHOSPITAL DO NOT RESUSCITATE (DNR) FORM, <https://ems.ca.gov/wp-content/uploads/sites/47/2017/07/DNRForm.pdf> [<https://perma.cc/UP2U-AT4D>].

¹³⁷ My life partner is a true heroine of mine. She is a preeminent surgeon and justice seeker in her own right. I am grateful for her support and love throughout this journey. It would not have been possible without her.

I signed the DNR form. From that point forward, I looked at the police officers exiting the station with a kind of newly found strength. I remember seeing the guns in their holsters (*the same guns used to kill Alex Nieto and Mario Woods*) and thinking to myself, “Wow, that gun can no longer harm me. It no longer carries the power they wish it did.” I embraced the reality that one cannot harm or hold power over another who has reclaimed their power—in this case, the officers’ state-sanctioned power is the ability to kill and imprison. What power did SFPD officers retain over someone who did not fear their gun? One cannot kill another who has already accepted death. If an officer’s power rests with the discretion to kill, what power then remains? I argue, only as much power as we grant them.

During the heart of our hunger strike, I remember the clarity of this feeling of reclaimed power from the SFPD. An unexpected visitor clearly communicated this message to me. This visitor was a tourist, who happened to be visiting San Francisco, from Ireland. He explained that he learned of the Frisco 5 hunger strike while watching the morning news in his hotel room, on his last day in San Francisco. He determined to visit with us because, as he told me, he could not have left without meeting and thanking us. Not knowing any one of us on the hunger strike, he approached me. I was seated, exhausted and resting, trying to conserve any energy that I had left from the day. He knelt on one knee, hugged me, and said “Thank You.” He was no older than 31, a young man. What he shared with me, however, was a profound moment of the hunger strike.

He stayed on his knee, locked in on my eyes, and said, “it was meant for me to visit San Francisco at this exact moment.” He elaborated, “I don’t know if you know about the history of Ireland, but what you’re doing is powerful and I know you will achieve your justice, because the Irish people did. Bobby Sands, I don’t know if you know of him?” I had to be honest with him, I did not know about him or the Irish struggle he mentioned. He continued, “Well, Bobby died after a 66-day hunger strike, demanding Ireland be free from the

imperial British.¹³⁸ And eventually, we were free.” While holding my hand clasped to his like old friends, he brought me near and asked, “Can I share something with you that’s very special to me?” I said yes. He told me, “I never knew why my father always read me this poem, but now I do. My father was a cell mate of Bobby Sands, and he said that Bobby shared this poem with him . . .” The young man then recited, verbatim, the poem Bobby Sands shared with his father, and had written while in prison.¹³⁹

All things must come to pass as one
 So hope should never die
 There is no height or bloody might
 That a freeman can’t defy.
 There is no source or foreign force
 Can break one man who knows,
 That his free will nothing can kill And
 from that freedom grows

He told me this poem was meant for me. To me, the words were true, powerful and profound. Not many people know (and neither did I for a time), but I carry a decent amount of Irish blood from my mother’s side. Her father, my grandfather, was the son of an Irish man who traveled to Panama to work on the Panama Canal, eventually settling in El Salvador, where my grandfather was born. Knowing this, as I listened to the Bobby Sands poem, chills shot through my spine. In some ancestral and mythical way, I heard the message communicated to me to continue. What I could not fully comprehend at the time was just how deep the Irish ancestry ran when it came to the practice of hunger strikes.

Throughout history, others understood the significance of hunger strikes and their ability to resist and overcome oppressive systems of power.

¹³⁸ See generally, *Remembering Bobby Sands—35 Facts About the Revolutionary Hunger Striker*, THE IRISH POST, May 5, 2016, <https://www.irishpost.com/news/remembering-bobby-sands-35-facts-revolutionary-hunger-striker-88038> [<https://perma.cc/T2FM-MNEC>].

¹³⁹ BOBBY SANDS TRIBUTE, <http://bobbysandtribute.weebly.com/all-things-must-come-to-pass.html> [<https://perma.cc/8H6Y-8887>].

E. *Descendants of Hunger Strikers*

In the next section, I will highlight individuals that contemplated and others that engaged in hunger strikes as a means to achieve justice. The list of hunger strikers throughout history is extensive and too long to restate, but I highlight a few here.

1. The Radical Dr. King

Coincidentally, or out of a divine touch of fate, I purchased a book well before the hunger strike about Dr. Martin Luther King, Jr., called *The Radical King*,¹⁴⁰ a collection of Dr. King's writings that demonstrated his radical strategies and ideologies in search of justice. In the book, I found stories of a Dr. King that I was not exposed to in school or on television. This book transformed my perception of him; I read about a Dr. King that had an unconditional love for oppressed people and understood the culprit for the state of oppression to be a system of power that relied upon economic exploitation to oppress and control the dispossessed in this country. In the book, Dr. King continually referred to a need to struggle and fight back¹⁴¹ against the inequities faced by oppressed people.¹⁴² Because of this book, and considering the pending hunger strike, I attempted to find any reference I could to Dr. King fasting or engaging in a hunger strike. Though I found nothing that spoke directly to the subject, I did find mention of civil rights activists, potentially including Dr. King and others, using hunger strikes as a tactic. Still, there was no evidence that he participated in or even spoke of hunger strikes. Knowing that it was in the vein of our civil rights freedom fighters, I concluded that to engage in a hunger strike was not a departure from what others had done.

¹⁴⁰ See generally, MARTIN LUTHER KING, JR., *THE RADICAL KING* (Cornel West ed., 2015).

¹⁴¹ See generally, *Id.* Dr. King makes it clear that he had a keen eye on transforming our system of oppression through a moral, political and economic revolution, one that included non-violent direct action (though not excluding self-defense) and resistance.

¹⁴² KING, *supra* note 140.

More recently, however, I learned of Dr. King's intimate relationship with hunger strikes and fasting, inspired in part by Mahatma Gandhi. Gandhi's hunger strikes in India, sought liberation from British colonialism.¹⁴³ Dr. King studied Gandhi and the Indian people's non-violent movement. One of the many aspects of the Indian people's movement respected and adopted by Dr. King were practices engaged in while in prison. Chuck Fager, a fellow civil rights advocate and known Quaker who spent time in a Selma, Alabama jail with Dr. King, tells the story of the Selma jail 'trusty'¹⁴⁴ who offered Dr. King and Dr. Ralph Abernathy¹⁴⁵ their nightly supper. They turned the offer down.¹⁴⁶ Dr. King turned down the 'trusty' by providing a history lesson of Gandhi and his practices while in jail. "Gandhi decided that imprisonment was to be for him a time of religious retreat, with a regular routine of spiritual meditation and practice, to free and purify his spirit while he worked to free and purify his country."¹⁴⁷

Dr. King explained his resolve for following a similar practice:

Long ago, Dr. Abernathy and I resolved that whenever we went to jail, we would try to be placed together, and together we too would make our prison sentences times of spiritual retreat and religious refreshment, with a regular routine of prayer, meditation and study. And to put ourselves into the proper frame of mind for these times of retreat, we have always made it our practice that for the first two days we are in jail, we will fast.¹⁴⁸

Dr. King and his comrades in the civil rights struggle understood the strength of fasting, but they did not engage in fasting for political demands of

¹⁴³ See MAHATMA GANDHI EVENTS CHRONOLOGY, <https://www.gandhiheritageportal.org/chronology/event-chronology-listing/MTA=> (last visited May 1, 2018).

¹⁴⁴ "Trusty" is a dated word for what we contemporarily know as a prison guard.

¹⁴⁵ Chuck Fager, *Eating Dr. King's Dinner – A Moderately Long Holiday Read*, A FRIENDLY LETTER, Feb. 1, 2015, <http://afriendlyletter.com/eating-dr-kings-dinner/> [<https://perma.cc/K9XQ-TMXP>] (Dr. King and Dr. Abernathy were cell mates in this particular instance).

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

the prevailing system or ruling class. They were engaging in fasting for self-purification and mental clarity.¹⁴⁹ While Dr. King never engaged in a prolonged hunger strike, he did contemplate it seriously towards the end of his life.¹⁵⁰ In the book, *Going Down Jericho Road*, a vivid account of Dr. King's last campaign to galvanize the country and collectively demand justice in the United States, it is said "he considered going on a fast against violence, as Gandhi had done in his last days, to unify and purify his movement. . . ."

Like Dr. King, Cesar Chavez also studied Gandhi and the tactics of nonviolent direct action, eventually participating in a number of hunger strikes.¹⁵¹ Chavez embarked on at least three extended hunger strikes, lasting no less than 24 days.¹⁵² These hunger strikes sought to bring awareness to farm workers' rights and the dire working conditions under which they labored. Fasting and hunger strikes played a significant role in Dr. King's and Chavez's vision for justice, exemplifying the importance of these tactics in struggles for justice.

2. The Suffragettes

While the movement of the 1960's and 1970's may have, in part, been inspired by Gandhi's action, Gandhi in turn gained inspiration from the actions of the British suffragettes at the turn of the 20th century.¹⁵³ In 1909, Marion Wallace Dunlop, a suffragette, began a hunger strike that lasted 91 hours after her arrest and jailing for stenciling a political slogan on a wall in the House of Commons. The slogan read, "It is the right of the subjects to

¹⁴⁹ I briefly discuss the spiritual and purifying effects of the hunger strike above and could speak more on the topic, but that conversation is best reserved for a future article.

¹⁵⁰ MICHAEL K. HONEY, *GOING DOWN JERICO ROAD* 378 (2007).

¹⁵¹ PERFORMING THE US LATINO AND LATINA BORDERLANDS 96 (Arturo Aldama, Chela Sandoval, Peter Garcia eds., 2012) ("Mahatma Ghandi, the great human rights thinker and activist, had a tremendous influence on Cesar Chavez....").

¹⁵² *The Story of Cesar Chavez*, UNITED FARM WORKERS, <https://ufw.org/research/history/story-cesar-chavez/> [<https://perma.cc/SXJ5-9NDZ>] ("In 1968 Cesar went on a water only, 25 day fast. He repeated the fast in 1972 for 24 days, and again in 1988, this time for 36 days.")

¹⁵³ Joseph Lennon, *Fasting for the Public: Irish and Indian Sources of Marion Wallace Dunlop's 1909 Hunger Strike*, in ENEMIES OF EMPIRE: NEW PERSPECTIVES ON IMPERIALISM, LITERATURE AND HISTORY 19, 26 (2007).

petition the King, and all commitments and prosecution for such petitions are illegal.”¹⁵⁴ Dunlop’s hunger strike was among the first documented in Britain and her story resonated throughout Britain.¹⁵⁵ The demand of her hunger strike was her release, for she did not believe that her acts were illegal or grounds for her initial arrest. Her hunger strike lasted 91 hours before ultimately achieving her release based in part upon the political pressure brought by action.¹⁵⁶ Her action served as a notable prologue of resistance against the British Empire.¹⁵⁷

The practice of hunger strikes became commonplace amongst the suffragettes and proved successful in swaying public opinion.¹⁵⁸ In addition to influencing public opinion, inspiration to resist the empire burgeoned, as exemplified by the 1920 hunger strike of Terrence McSweeney. McSweeney was an Irish Republican, and the Lord Mayor of Cork, who protested the English imprisonment of Irish people without trial.¹⁵⁹ His hunger strike lasted 74 days, and was seen as a direct, political assault on the colonial British.¹⁶⁰ During his hunger strike he said, “It will not be those who can inflict the most but those who can suffer the most who will conquer.”¹⁶¹ Though we, on the hunger strike in San Francisco, had not previously heard these particular words, we intimately understood the sentiment as we sat in front of that police station. Our suffering, we prayed, would overcome and thwart the pain the San Francisco Police Department had inflicted on our community.

¹⁵⁴ *Id.* at 22.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at 38–39.

¹⁵⁸ *Id.*

¹⁵⁹ *Long Ordeal of Hunger Striker Who Vowed to be Free, ‘Alive or Dead’*, IRISH TIMES Dec. 8, 2003, <https://www.irishtimes.com/news/long-ordeal-of-hunger-striker-who-vowed-to-be-free-alive-or-dead-1.398128> [<https://perma.cc/G7HW-ZZ42>].

¹⁶⁰ *Id.*

¹⁶¹ Pete Hamill, ‘*It is Those that Can Suffer the Most Who Will Conquer*’, N.Y. TIMES, Sept. 5, 1971, <https://www.nytimes.com/1971/09/05/archives/the-secret-army-the-ira-19161970-by-j-bowyer-bell-illustrated-404.html> [<https://perma.cc/6NM6-HWVX>].

Continuing with the historical connections, McSweeney, Gandhi, and others in turn influenced the hunger strike of Bobby Sands, mentioned above. Like McSweeney, Sands sought liberation from British colonialism.

Even though men dominate much of the conversation around modern hunger strikes, it is women, like Mamá Cristina in our hunger strike, who led the way. While Marion Dunlop and the suffragettes were the impetus and the stewards of hunger strikes as a tactic of political resistance during the 20th century, the history of hunger strikes is significantly more ancestral. In the following subsection, I briefly review the pre-colonial tradition of hunger strikes, as a means of legal recourse and discuss how that tradition manifested itself in our hunger strike.

F. The Pre-Colonial Legal History of Hunger Strikes

The history of hunger strikes as a tool of achieving justice finds its roots in ancestral and pre-colonial legal tradition. There is also an undeniable symmetry between the practice of hunger strikes in pre-colonial India and Ireland. The similarities exist in the traditional Hindu law of fasting and in traditional Gaelic Brehon laws, both formulated around the fifth century.¹⁶²

In both instances, the practice of hunger strikes was a tool of compulsion against someone who committed an injustice against another. In India, the traditional law called this the practice of sitting “dharna” where a person who believed himself wronged had the legal right to place himself in front of the wrongdoer’s front door and fast, in a demand for their justice.¹⁶³ “[T]he practice long had a political dimension of resisting state or dominant powers.”¹⁶⁴ In the ancient Brehon law, “He who refuses to cede what should

¹⁶² Lennon, *supra* note 153, at 25.

¹⁶³ *Id.* at 25–26.

¹⁶⁴ *Id.* at 26.

be accorded to fasting, the judgment on him according to the Feini,¹⁶⁵ is that he pay double the thing for which he was fasted upon.”¹⁶⁶

Fasting existed as one element of recourse in a complex legal system that forced litigants to reveal their determination publicly in suing another party, as a sign of the justness of the suit [or demand].¹⁶⁷ Hunger strikes served as a means to prove that you, the wronged, had a sufficiently valid claim, one for which you were even willing to sacrifice your body.¹⁶⁸

The efficacy and implicit goal of justice is apparent in the exercise of these ancient traditional laws: if an individual was willing to strike, then regardless of class or social order, they had sufficient standing to seek redress for an injustice. That is, a peasant could fast in front of the home of a prince, with the prince obligated to respond and provide redress.¹⁶⁹

Sir Henry Maine, a legal scholar of comparative law, noted the similarities between pre-colonial Irish Brehon Laws and India’s laws of Menu. Maine, however, a British imperialist sympathizer, argues that fasting as a means of achieving legal recourse “existed ‘at a period when Courts of Justice [were] not yet armed with resistless powers of compelling attendance and submission.’”¹⁷⁰ Joseph Lennon, an Irish Studies scholar who writes on the history and origins of hunger strikes, contextualizes Maine, explaining how Maine implies “[t]hese ‘compelling’ and ‘resistless’ powers arrived only with the advent of British imperialism.” Lennon explains that Maine believed “[u]ntil then, these pre-imperial societies relied on barbaric practices, in accordance with mere ‘supernatural sanctions’ to enforce the law.”¹⁷¹ He

¹⁶⁵ WILLIAM N. HANCOCK, THADDEUS O’MAHONEY, ALEXANDER G. RICHEY, WILLIAM M. HENNESSY, ROBERT ATKINSON, ANCIENT LAW OF IRELAND, VOLUME I 17 (1865).

¹⁶⁶ Lennon, *supra* note 153, at 26.

¹⁶⁷ *Id.* at 29.

¹⁶⁸ Lennon, *supra* note 153, at 30.

¹⁶⁹ *Id.* at 32.

¹⁷⁰ *Id.* at 33.

¹⁷¹ *Id.* at 29.

concludes, “most of [Maine’s belief] has a strong air of fancifulness and unreality.”¹⁷²

Sir Henry Maine, as one can tell, is highly deferential to the western idea of law and the courts, even prideful of their ability to compel attendance and submission of a defendant. He is settled in the belief that hunger strikes were solely reliant on ‘supernatural sanctions.’¹⁷³ Perhaps they were, and perhaps those supernatural sanctions were as enforceable and consequential as a sentence by a court. Perhaps alternatives to the western approach to law are not barbaric or less effective—perhaps they are just that, alternatives. Perhaps they were something different and not intended to serve the powerful and wealthy.

Scholars like Laurence Ginnell disagree with Maine and believe hunger strikes were a viable legal recourse with sufficient enforcement mechanisms:

Sir Henry Maine thought that fasting was regarded with a superstitious awe. I rather think the law, without superstition at all was calculated to inspire a good deal of awe, and that the distinguished defendant if [they] possibly could, paid the debt or gave a pledge in order to get the faster, as a dangerous nuisance, away from [their] door. Distress by way of fasting, now so strange to use because so long obsolete, was early designed in the interests of honesty and of the poor as against the mighty. How or why it assumed this particular form is not known, and shall probably never be known. It was not peculiar to Ireland, however. A system precisely similar has existed in India from time immemorial, and exists in some parts of that country at the present day. It is called ‘sitting dhurna.’¹⁷⁴

Ginnell speaks to the use of fasting as a legal tool in the interest of achieving honesty and the interest of the “poor as against the mighty.” Hunger strikes continue to serve as a means of achieving justice, in particular where there is a clear imbalance of power. Interestingly enough, this was our

¹⁷² *Id.*

¹⁷³ *Id.* at 31.

¹⁷⁴ *Id.* at 32, n.39.

position when progressing through the Frisco 5 hunger strike. We had exhausted all other avenues, from board of supervisor meetings, police commission meetings, to emailing the mayor and speaking to our elected officials during public comments—nothing short of the strike, seemed to work.¹⁷¹ We found that our only true recourse was in the hunger strike on the door step of the Mission police station. Bringing shame, unwanted attention, and scrutiny to the mayor, the police department, and the police chief brought the trial of police misconduct to the court of the people. In our hearts, we grasped the concept of justice by hunger strike to be a clear legal avenue.

Still, we operated without the historical legal knowledge and context of just how many oppressed ancestors had previously used the practice of the hunger strike as a means to achieve their justice. One might argue that there is no direct linear connection between the ancestral legal practice described here and our hunger strike. However, the purpose was the same and the effects were identical to those hunger strikes in the fifth century, where the poor demanded justice from the powerful, and, as James Kerr, a scholar of hunger strikes suggests,

To ‘fast’ upon a wrong-doer as a means of forcing [them] to do justice was a legal process as common and as recognized in ancient Ireland as the distraint of a tenant’s furniture by a landlord is to-day in British Law. . . . To ‘fast’ was therefore to make a two-fold appeal for justice—first, a direct appeal to the humanity of the defendant, and, secondly, an appeal at large to the spirit of justice of the community.¹⁷⁵

For those 18 days, we were not operating outside, around, or subversive to the law; we were operating squarely within the walls of ancient, pre-colonial law. While they may not be the codified laws of today’s injustice system, I would argue that they are the codified moral laws of justice that were written thousands of years ago and still apply as strictly today as they did then.

¹⁷⁵ Lennon, *supra* note 153, at 31, n.37.

G. *The Fight to Survive*

On a number of occasions throughout the hunger strike, we had altercations with the Mission Station police officers. One altercation entailed the police station attempting to close permanently, the public restrooms, suggesting they had stopped working. They denied a pregnant woman, who was a noted supporter of the hunger strike, who needed to use the restroom, access; she eventually had to relieve herself in the alley across the street, because no other restrooms were open at 11PM. However, just 15 minutes before they declared the restrooms inoperable, someone had used the restrooms without issue. Earlier that same day officers had threatened to arrest us for sleeping in the tents. San Francisco's sit/lie ordinance, enforceable by citation, prohibits anyone from sleeping on the sidewalk and subjects those who sit/lie to arrest.¹⁷⁶ We ensured we had placed our tents on the sidewalk with sufficient room for pedestrians to walk freely up and down the sidewalk.

Nonetheless SFPD officers told us that, by their interpretation of the code, we were squarely in violation of the law and therefore subject to arrest if they caught us sleeping in the tents. Yet, after the threat we responded by saying that arresting us would violate our freedom of speech and right to peaceably assemble, after which, we were free of their harassment over our sleeping arrangements for the rest of the hunger strike. This leads to an interesting intersection between First Amendment protections and the sit/lie ordinances passed by a myriad of municipalities to forcibly remove and criminalize the unhoused.¹⁷⁷ If SFPD afforded us the right to sleep on the sidewalk because it was pursuant to protest, what stops unhoused individuals from sleeping on the sidewalk in protest of a city government that has failed to build sufficient affordable housing? Their First Amendment protections should apply equally.¹⁷⁸

¹⁷⁶ Civil Sidewalks Ordinance, *supra* note 128.

¹⁷⁷ NAT'L CTR. ON HOMELESSNESS & POVERTY, *No Safe Place* 16, https://www.nlchp.org/documents/No_Safe_Place [<https://perma.cc/97UD-73FA>].

¹⁷⁸ Cf. Julie A. Nice, *No Scrutiny Whatsoever: Deconstitutionalization of Poverty Law, Dual Rules of Law, and Dialogue Default*, 35 FORDHAM URB. L.J. 629, 655 (2008).

When taking a macro view of the entire situation, it speaks volumes to what incites systems of power to respond and attempt to quash resistance. We were simply five regular people who were doing nothing besides choosing not to eat. Yet that act alone stirred the system to respond with the threat of arrest. The police and the station captain eventually realized that this hunger strike had grown beyond anything they could overcome. Their attempt to close the restrooms led to a Facebook post that went viral, and within 15 minutes, what felt like more than 100 people arrived at the front door of the police station lobby.¹⁷⁹ Before the crowd rushed into the lobby, the five hunger strikers agreed to speak with the officer in charge and confirm that they would not open the bathroom doors. (*Because it's a police station, one is only allowed to speak with the officers through bulletproof glass and a telephone receiver*). We approached the counter and the Sergeant (*who was second in command at this point, since the Captain was not at the station*) in a curt fashion said, "we are not opening the bathrooms." I looked at the sergeant through the bulletproof glass (*and I see him sweating and breathing quickly*), and I said, "brother you look scared." (*He was aware of the large crowd gathering outside*). "So I'd advise you to open this restroom because there's a hundred people right now and they are going to come in here demanding you open the restroom." He responded, "I've received orders that no one is allowed to use the restrooms." I said, "OK. Great," and told the crowd outside to come in. All the people entered the lobby and began chanting, "Open the bathroom! Open the bathroom!" Because of the echo and the close-proximity of the walls, it felt like a 1000-person protest to open the bathroom. (*The acoustics were deafening. The crowd packed the station. For the next 10 minutes all one could hear was a roar of people chanting.*) Eventually, the Sergeant asked to speak with us again. He told us that he just received word that he was now allowed to open the restrooms and that there had been a miscommunication.

¹⁷⁹ Please understand that if they closed the restrooms, we wouldn't have a place to use the restroom which we felt was their attempt to force our strike to end and for them to criminalize us if we did use the restroom in the street.

He stated a rookie officer was “misinformed” and was not supposed to close the bathrooms. (*This was a blatant lie*).

The incident circulated widely on social media and in mainstream news sources. From that point on, the police did not engage or interfere with us. We owned that space. We owned that police station. To restate it though, in reality, what we did was simply reclaim space that belongs to the people. We reclaimed it in varied and amazing ways: from Aztec dancers blessing us, to bands playing salsa music in the middle of the street and sofas and hammocks set up for the community to enjoy. It was a beautiful sight and an enduring experience.

Because San Francisco Mayor Ed Lee made it clear throughout our strike that he would not fire the Chief, we planned a march for Day 12 of the strike. We planned to disrupt the San Francisco Board of Supervisors¹⁸⁰ meeting to demand they take a position on firing the Chief. We knew the Chief, Greg Suhr, was responsible for the behavior of SFPD. Previous to his time as chief, Suhr was involved in the killing of a young man in 1997.¹⁸¹ He was a sergeant at the time and the arresting officer—while this killing of the young man was not addressed in court, Suhr was demoted for his actions in the case and subsequently demoted for another violation. Despite this history, he was later promoted to Captain, eventually becoming Chief of the department. His ascension to the top position of the department is unfathomable. In other professional arenas, if one is demoted twice, I am almost certain they would not ascend to CEO. Still Chief Suhr did ascend, and he did so rapidly. Our goal was to bring that ascension to a halt. He caused enough damage in our communities. Our demand was simple: fire Chief Suhr. That was the message to Mayor Ed Lee and the message we brought to the Board of Supervisors on

¹⁸⁰ Sana Saleem and Tim Redmond, *Day XIII: Ed Lee Hides as 700 Protestors March to City Hall*, 48 HILLS (May 3, 2016) <https://48hills.org/2016/05/day-xiii-frisco-5-supporters-march-city-hall-arrive-find-mayor-office/> [<https://perma.cc/LS4K-KSQX>].

¹⁸¹ Mattier & Ross, *What Really Happened in Greg Suhr’s Meeting With Ed Lee*, SAN FRANCISCO CHRONICLE (May 22, 2016, 6:00 AM) <http://www.sfchronicle.com/bayarea/mattier-ross/article/What-really-happened-in-Greg-Suhr-s-meeting-7918487.php> [<https://perma.cc/PK45-Q6HG>].

Day 12. We also made a personal request to Ed Lee to meet with us at his office when we arrived at city hall—he never responded.

On that 12th day, over 1000 people showed up at 12 PM on a Tuesday to march to city hall with us. Our doctor, Dr. Rupa, only allowed us to march if we proceeded to city hall in wheelchairs. (*She was concerned that our bodies would be too weak at this point in the hunger strike to travel safely the nearly two miles by foot*). For the almost two miles, our community pushed us to city hall, chanting, singing, and remembering those taken at the hands of SFPD. When we arrived at city hall, Ed Lee failed to meet with us. So, as promised, we rushed into the Board of Supervisors' meeting and interrupted their agenda until they opted to postpone the entire meeting. We were clear that business would not operate as usual in San Francisco as long as Greg Suhr remained police chief. Not a single supervisor was willing to stand with us and make a public statement demanding that Greg Suhr be terminated—they claimed that a statement of the police chief's employment would be in violation of city law. However, after returning from city hall back to our camp on 17th and Valencia, and over the next two days, four sitting supervisors made public statements, in violation of city law.¹⁸² They said that they believed it was time for Greg Suhr to step down or to be terminated, and also time for a new chief to be appointed. At this point, we were getting weaker, but we could feel the momentum building.

Approaching day 15 and 16, the press was in a frenzy; we were receiving coverage around the world, ending up on the front page of BBC World News.¹⁸³ The pressure was mounting on Mayor Ed Lee to act. It became something of a ticking time bomb, the longer we stayed on the hunger strike

¹⁸² Joe Rivano Barros, *Supervisor David Campos Calls for Police Chief's Removal*, MISSION LOCAL, May 11, 2016, <https://missionlocal.org/2016/05/supervisor-david-campos-calls-for-police-chiefs-removal/> [<https://perma.cc/NQ3Z-EZ9X>] (Sitting elected officials are not allowed to speak on personnel matters that fall under the purview of the mayor).

¹⁸³ #Frisco5 Protest: US 'Police Racism' Hunger Strike Ends in San Francisco, BBC, May 8, 2016, <http://www.bbc.com/news/world-us-canada-36240628> [<https://perma.cc/4HFZ-NH7F>].

the more likely one of us would become seriously injured. The press asked the mayor on a number of occasions what he planned to do regarding the Frisco 5. His response was typically that of respecting our right to protest while confirming his confidence in Greg Suhr's leadership as chief.¹⁸⁴ Even though he stated this publicly, we heard from within the mayor's office that Mayor Ed Lee had no idea what to do about us, the hunger strike, or Greg Suhr. We learned that he became even more uncertain and nervous with each piece of national media coverage we received. *(The reality is more and more people began to demand the termination of Greg Suhr, even though they couldn't say it publicly because of their connection to the mayor, they were supporting us by providing key information and insight into his thinking)*. We also learned, from a reliable source that shall remain unnamed, that Ed Lee was at such a loss for what to do with the Frisco 5 that he called the Chancellor of the University of San Francisco, who is also an ordained priest, seeking his spiritual guidance on the matter. Understandably, Ed Lee sought guidance because he realized he was facing communities that were unequivocal in their position and demands, and he was ultimately going to be on the wrong side of political history. Put yourself in his position: how do you respond to a group of people whose potential bodily harm is in your hands, yet their demand is non-negotiable? The Mayor did call us once, I believe it was on day 13 or 14, asking to have a conversation about what kind of agreement we could come to. He also dismissed any responsibility for harm that came to us by engaging in a hunger strike. We made it very clear to him that if he was not willing to fire the chief, the conversation would be futile. In response, he said he supported the chief and believed he was the best chief this city had ever seen. To close the conversation, he made it a point to explain that this hunger strike was our choice and nothing he made us do. *(Why he said this, I'm uncertain. But in a strange way, and looking back on it, it seems like an attempt to absolve himself of the moral responsibility of his inaction)*. We

¹⁸⁴ Michael Barba, *Mayor Lee Addresses Ongoing Hunger Strike*, S. F. EXAMINER, Apr. 26, 2016, <http://www.sfexaminer.com/lee-breaks-silence-hunger-strike-outside-mission-station/> [<https://perma.cc/DQF5-ZDZA>].

immediately hung up the phone. He took that stance even up until the last day of the hunger strike. He was relentless in his support of Chief Suhr. In almost syncopated breaths, Greg Suhr, during an interview either immediately after or the day after the mayor called us, explained that he had considered resigning.¹⁸⁵

Late in the evening on day 16, Dr. Rupa advised us that, because we were becoming more fragile, it would be best if we were monitored in the hospital. As a collective, the five of us agreed that it would be best if we agreed to the monitoring, in a setting where we could each decide if we wanted to continue after receiving full diagnostic information. When day 17 arrived, and while we were still in the hospital, a group of over 100 community members organized in support of the hunger strike and shut down the Board of Supervisors meeting for the second week in a row. Unsurprisingly for San Francisco law enforcement, the San Francisco Sheriff's department took to violence, using batons to beat reporters and protestors in their attempt to evacuate the building due to the protest. Dozens of people were injured and/or arrested and held overnight.¹⁸⁶

Many of the protestors that shut down the second Board of Supervisors' meeting in the name of the Frisco 5, assumed the more inclusive name, the Frisco Five Hundred, also known as the Frisco 500. The Frisco 500, after being released from custody the next morning, visited us in the hospital and called for a community meeting. In that community meeting, the Frisco 5 and the Frisco 500 had a community conversation regarding next steps. The Frisco 500 and the larger community asked that we end the hunger strike so we could continue the struggle against police brutality. At this point, Mayor Lee had not fired Chief Suhr nor had Suhr resigned. Personally, I could feel that we

¹⁸⁵ Zusha Elinson, *San Francisco Leaders at Odds Over Police Chief's Job*, WALL STREET J., May 28, 2016, <https://www.wsj.com/articles/san-francisco-leaders-at-odds-over-police-chief-greg-suhrs-job-1463563801> [<https://perma.cc/DBH8-E4AY>].

¹⁸⁶ Sana Saleem, *33 Arrested at 'Frisco Five Hundred' City Hall Shutdown*, 48 HILLS, May 7, 2016, <https://48hills.org/2016/05/33-arrested-police-violence-following-frisco-five-hundred-city-hall-shutdown/> [<https://perma.cc/RBY2-QCD2>].

were incredibly close to achieving our goal. I knew that if we could hold on, there was a good chance he would soon be fired. Alternatively, the argument to end the strike and continue the struggle outside of the hunger strike was convincing and it also felt right because of the commitment and the support from our community. We, as the strikers, decided then that we would end the strike, declaring victory in what we saw as community galvanized to defend San Francisco against police brutality and impunity.

1. Jessica Nelson-Williams, *¡Presente!*

Approximately 12 days after the end of the hunger strike, SFPD officers shot and killed Jessica Nelson-Williams, a 29-year-old black woman who was in a vehicle that had been reported stolen. The involved officer claims she attempted to run him over and, in an act of self-defense, he shot her. One bullet. She was the fifth person killed by SFPD in a span of a year and a half.¹⁸⁷ Within minutes of Jessica Nelson-Williams' killing, Greg Suhr resigned, at the request of then Mayor Ed Lee.¹⁸⁸

Jessica is another soul that served as a martyr and the final catalyst for Greg Suhr to be removed from his post. I remember watching the news and crying. I cried for Jessica and her family and I also cried tears of struggle, knowing that our community's demand for Suhr to be fired was achieved. The moment was unreal. Less than 12 hours before Jessica's killing, Ed Lee reaffirmed that he would not fire Greg Suhr. Twelve hours later, I watched Ed Lee explain how he believed it was time for Greg Suhr to step aside and allow for new leadership. (*I don't applaud Ed Lee for his action, considering that it took*

¹⁸⁷ Vivian Ho, *No Charges in 2016 Police Shooting of Unarmed Woman Driving Stolen Car*, SFGATE, Oct. 18, 2017, <http://www.sfgate.com/crime/article/San-Francisco-officer-cleared-in-shooting-of-12289247.php> [<https://perma.cc/6BCN-YV2J>].

¹⁸⁸ Phil Matier & Andy Ross, *What Really Happened in Greg Suhr's Meeting with Ed Lee*, S.F. CHRON., May 22, 2016, <https://www.sfchronicle.com/bayarea/matier-ross/article/What-really-happened-in-Greg-Suhr-s-meeting-7918487.php> [<https://perma.cc/D833-384Y>].

*another death for him to finally act. Additionally, it was later revealed that Greg Suhr had submitted his resignation the day we marched to city hall on day 12 of the strike, but Ed Lee did not accept the resignation, showing his true colors, saying “he was not going to turn the city over to what he called ‘the mob mentality’”.*¹⁸⁹

No one believed Greg Suhr would be fired. He was the highest paid police chief in the country,¹⁹⁰ was part of the good ol’ boys club, attended the right schools, and never overstepped his political currency with the mayor. He was a favorite. Even people who did not like him respected him. When I joined the hunger strike, I was a candidate for the San Francisco Board of Supervisors, right smack in the middle of fundraising, garnering endorsements, and hosting house parties. After joining the strike, I lost endorsements. People called and texted attempting to dissuade me, but the support we received was far greater than the support I personally lost, and that is what mattered most. The chord that struck the loudest was the one emphasizing that we were on the right side of history. As time went on in the hunger strike, those in opposition became neutral, and towards the end of the hunger strike, those that were neutral became supporters—it was remarkable to witness the full evolution.

H. Uncompromising Justice, In and Out of the Law

I am no hero or individual with special character or skills—I am, along with my comrades who journeyed on this path, just a person who could no longer stand for the harm done to our community.

There will be times, and I believe more often than we would like, where we will need to stand outside the confines of the justice system, so we can transform the justice system. Our systems perpetuate themselves to preserve

¹⁸⁹ Matier & Ross, *supra* note 188.

¹⁹⁰ Christopher Peak, *San Francisco Police Chief to be Nation’s Highest Paid for Overseeing 14th Largest Force*, S.F. PUB. PRESS, Aug. 22, 2012, <https://sfpublicpress.org/news/2012-08/san-francisco-police-chief-to-be-nations-highest-paid-for-overseeing-14th-largest-force> [<https://perma.cc/92E7-J6TM>].

a status quo, that in turn maintains a certain decorum and order that a powerful elite prefer.

My section of this article started with a quote by Frederick Douglas, where he exclaimed, with great wisdom, that change cannot occur without struggle. I understand, like many who struggle for justice understand, that systems and dominant groups in power never have and never will make change in the interest of the oppressed if that change requires the system or group to relinquish elements of its own power.¹⁹¹

The story I share above about my journey on a hunger strike expands on this notion of struggle to highlight that the struggle is truly a practice of self-sacrifice. Once we understand what we are willing to sacrifice and find that thing we are willing to sacrifice for, we ultimately find what we are willing to live for. We must be resolute, but full of grace with each other. We must draw our line of justice and be prepared to respond when it is crossed.

In the contemporary imagination, hunger strikes are something of an ill-advised tactic that some say is politically incongruent with justice because you are harming yourself in the process of seeking change by those in power, who effectively caused the injustice in the first place. History shows, however, that the pre-colonial practice was far from illogical or incongruent; it was a legal recourse for justice, regardless of your socio-political status in pre-colonial Indian or Irish culture. The practice was a means to demonstrate that your cause was worth sacrificing your life.

¹⁹¹ See generally, RICHARD DELGADO & JEAN STEFANCIC, CRITICAL RACE THEORY: AN INTRODUCTION, 25 (2001) (An introductory analysis of structural determinism provides a framework of the fundamental inertia that keeps our current system operating as it does); and See generally, Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 Harv. L. Rev. 518, 523 (1980) (Professor Bell critically analyses the landmark *Brown v. Board of Education* case through the lens of Interest-Convergence and posits the premise that perhaps progress for civil rights shall only ever come through an interest convergence with the dominant population. That is, “[t]he interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites”).

Without knowing the history of hunger strikes, the Frisco 5 hunger strike carried that pre-colonial tradition of seeking redress for injustice by demanding it at the doorstep of the wrongdoer. We understood our actions to be a legal recourse for our community, even if no courts were involved. It was clear to us that the legal recourse was of a traditional and spiritual kind that would hold Mayor Ed Lee, Greg Chief Suhr, and the San Francisco Police Department accountable to the moral judgment of the people.

III. MARC-TIZOC GONZÁLEZ—LATCRIT THEORY, FOOD, HUNGER STRIKES, AND FIRST AMENDMENT FREEDOMS

What can the LatCrit community and others, inside and outside of the U.S. legal professoriate, learn from Brenda Williams's framing and Edwin Lindo's recounting of the Frisco 5's 18-day hunger strike? Jurisprudentially, the Frisco 5 hunger strike implicates multiple First Amendment freedoms, including the free exercise of religion, the free speech doctrines of expressive conduct/symbolic speech, the right to petition the government for a redress of grievances, and the right of the people to peaceably assemble.¹⁹² The Frisco 5 occupied the sidewalk outside of the SFPD Mission Station, along with its lobby and bathroom, as crucial public space, utilizing it to petition City and County of San Francisco Mayor Edwin M. Lee to fire SFPD Chief Greg Suhr by way of a hunger strike. The strikers transformed this space from the normal function of pedestrianism bureaucracy and waste management, while simultaneously transforming the activity of not eating for a sustained period—from an incident of poverty and hunger (*a.k.a.*, very low food security) or religious observance of fasting—to the epitome of what the Supreme Court of the United States has interpreted over the course of the twentieth century under doctrines of symbolic speech and expressive conduct.¹⁹³ Strikingly, however, the SFPD never arrested the Frisco 5.

¹⁹² U.S. CONST. amend. I.

¹⁹³ See, e.g., JOHN D. INAZU, LIBERTY'S REFUGE: THE FORGOTTEN FREEDOM OF ASSEMBLY (2012); HARRY KALVEN, JR., THE NEGRO AND THE FIRST AMENDMENT

Notwithstanding a notorious local “civil sidewalks” law that criminalizes sitting or lying on a public sidewalk (*i.e.*, a sidewalk owned by the City and County of San Francisco) between 7 AM and 11 PM,¹⁹⁴ and despite verbal threats of arrest by SFPD officers if the Frisco 5 slept in their tents,¹⁹⁵ the SFPD never enforced the sit/lie ordinance against the Frisco 5. Perhaps the SFPD leadership apprehended that arresting the Frisco 5 would not serve their institutional and political interests? Forcibly removing the hunger-striking activists would likely provide greater public attention to and sympathy for their cause. Moreover, the resulting litigation might imperil the sit/lie law itself by successfully challenging its constitutionality.¹⁹⁶

(1965); EDUARDO M. PEÑALVER & SONIA K. KATYAL, PROPERTY OUTLAWS: HOW SQUATTERS, PIRATES, AND PROTESTORS IMPROVE THE LAW OF OWNERSHIP (2010); TIMOTHY ZICK, SPEECH OUT OF DOORS: PRESERVING FIRST AMENDMENT LIBERTIES IN PUBLIC PLACES (2009); Marc-Tizoc González, *Criminalizing Charity: Can First Amendment Free Exercise of Religion, RFRA, and RLUIPA Protect People Who Share Food in Public?*, 7 U.C. IRVINE L. REV. 291 (2017); James M. McGoldrick, *Symbolic Speech, A Message from Mind to Mind*, 61 OKLA. L. REV. 1 (2008).

¹⁹⁴ SAN FRANCISCO, CA., POLICE CODE §168 (2010); *See also* John Coté, *Protests in S.F. Against Sit/Lie Law*, S.F. CHRON., Mar. 28, 2010, <http://www.sfgate.com/bayarea/article/Protests-in-S-F-against-sit-lie-law-3194535.php> [<https://perma.cc/54YC-8DBG>]; City and County of San Francisco, *Civil Sidewalks Ordinance FAQs*, <https://sanfranciscopolice.org/civil-sidewalks-ordinance> [<https://perma.cc/3UZC-PFNM>].

¹⁹⁵ *See supra* notes 168-70 and accompanying text.

¹⁹⁶ *Cf. Martin v. City of Boise*, 902 F.3d 1031, 1035 (9th Cir. 2018) (holding that an ordinance violates the Eighth Amendment insofar as it imposes criminal sanctions against homeless individuals for sleeping outdoors, on public property, when no alternative shelter is available to them); *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 901 F.3d 1235, 1238 (11th Cir. 2018) (holding that on the record of their as-applied challenge, the plaintiffs-appellants’ outdoor food sharing is expressive conduct protected by the First Amendment); Brief of *Amici Curiae* Marc-Tizoc González, Florida Legal Services, Inc., Latina and Latino Critical Legal Theory, Inc., and Society of American Law Teachers, Inc. Supporting Plaintiffs-Appellants Urging Reversal, *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, No. 16-16808, 2017 WL 835127 (11th Cir. 2017) (Appellate Brief) [hereinafter Brief of *Amici Curiae*] (explaining how the jurisprudence of symbolic speech and expressive conduct should apply to a food-sharing case); Marc-Tizoc González, *Hunger, Poverty, and the Criminalization of Food Sharing in the New Gilded Age*, 23 AM. U. J. GENDER & SOC. POL’Y & L. 231 (2015) (introducing the food-sharing cases and discussing a split in authority regarding the constitutionality of municipal laws that outlaw people who publicly share food with those who hunger); Statement of Interest of the United States, *Bell v. City of Boise*, No. 1:09-cv-540 (D. Idaho Aug. 6, 2015), <https://www.justice.gov/crt/file/761211/download>

Rather than speculate further on why San Francisco authorities did not arrest the Frisco 5, however, below I explore the theoretical implications of the Frisco 5 hunger strike by discussing Brenda's framing and Edwin's narrative of and reflection on the Frisco 5 hunger strike under several concepts developed in the discourse of CRT and LatCrit theory, praxis and community (*viz.*, counterstorytelling, Latina autobiography, subjugated knowledge, and *testimonio*). Then, I briefly discuss how the Frisco 5 hunger strike implicates and evokes the critical ethnic legal history of the diverse Latina/o/x communities that comprise the core culture of San Francisco's Mission District. Finally, I explain how the Frisco 5 hunger strike complicates and expands sociolegal discourse regarding the public—political and religious—significance of how people use food in public.

A. *Understanding the Frisco 5 Narrative within LatCrit Theory*

Edwin Lindo's narrative appears to fit well within subgenres of critical race and LatCrit theory extolled by scholars like Richard Delgado, Margaret Montoya, and others. For example, in 1989 Delgado called this practice "counterstorytelling."¹⁹⁷ In 1994, Montoya innovated a version of it as "Latina autobiography."¹⁹⁸ In 2000, Sumi Cho and Robert Westley discussed related practices as constituting forms of subjugated knowledge.¹⁹⁹ These scholars, and many others, agree that writing and reading narratives, like those written here by Williams and Lindo, can substantially benefit the

[<https://perma.cc/WA9L-M9HL>] (arguing that the Cruel and Unusual Punishment Clause of the Eighth Amendment outlaws a city from punishing unavoidable, universal, and entirely innocent human conduct, like sleeping, if it is impossible for a homeless person to secure shelter space within that city).

¹⁹⁷ Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2414 (1989).

¹⁹⁸ Montoya, *supra* note 73.

¹⁹⁹ Sumi Cho & Robert Westley, *Critical Race Coalitions: Key Movements that Performed the Theory*, 33 U.C. DAVIS L. REV. 1377, 1406 (2000), reprinted as Sumi Cho & Robert Westley, *Historicizing Critical Race Theory's Cutting Edge: Key Movements that Performed the Theory*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY (Francisco Valdes, Jerome McCristal Culp, Jr. & Angela P. Harris eds., 2002), at 32. All subsequent citations will be to the reprinted version.

discourse of socio-legal scholars *and* the practice of social justice activists.²⁰⁰ Indeed, scholars from later generational cohorts of LatCrit theory, like Lindsay Pérez Huber, have discussed these practices under the concept and methodology of *testimonio*.²⁰¹ I recently urged scholars of LatCrit theory, and other schools of critical outsider jurisprudence, to cultivate new fields of “critical ethnic legal histories” by collaboratively braiding together multiply diverse partial histories into centurial and transnational narratives that can empower today’s and tomorrow’s activists by inculcating lessons from past, and ongoing, struggles for sociolegal justice.²⁰²

1. Counterstorytelling

Recall that for Delgado, counterstorytelling could “shatter complacency and challenge the status quo” by telling stories about the normally silenced views of people from “outgroups” on social reality, which would thereby challenge (in viewpoint, content, tone, and style), the majority in-group’s “stock stories.”²⁰³ Lindo’s account of the Frisco 5 hunger strike contextualizes the group’s decision to stop eating, publicly and outside of the SFPD Mission Station, within the mounting death toll of Mission District community members at the hands of SFPD officers. Where stock stories atomized or isolated the several deaths as obviously unrelated, for the Frisco

²⁰⁰ Cf., e.g., MARK BRAY, *ANTIFA: THE ANTIFASCIST HANDBOOK*, xxi, xxiv (2017) (“I wish there were no need for this book. But someone burned down the Victoria Islamic Center in Victoria, Texas, hours after the announcement of the Trump administration’s Muslim ban. I hope *Antifa* will aid and inspire those who will take up the fight against fascism in the years to come so that someday there will be no need for this book”).

²⁰¹ Lindsay Pérez Huber, *Beautifully Powerful: A LatCrit Reflection on Coming to an Epistemological Consciousness and the Power of Testimonio*, 18 AM. U.J. GENDER SOC. POL’Y & L. 839 (2010).

²⁰² Marc-Tizoc González, *Critical Ethnic Legal Histories: Unearthing the Interracial Justice of Filipino American Agricultural Labor Organizing*, 3 U.C. IRVINE L. REV. 991 (2013); *Accord* PAUL ORTIZ, *AN AFRICAN AMERICAN AND LATINX HISTORY OF THE UNITED STATES* (2018); George A. Martínez, *African-Americans, Latinos, and the Construction of Race: Toward an Epistemic Coalition*, 19 CHICANO-LATINO L. REV. 213 (1998).

²⁰³ Delgado, *supra* note 191, at 2412, 2414, 2430 & 2434.

Five, each homicide was “a fresh cut in an old wound,”²⁰⁴ which could no longer be endured silently but instead demanded ethical, collaborative, and public protest.

2. Latina Autobiography

In accord with Delgado’s conceptualization of counterstorytelling, Margaret Montoya argued persuasively that, “Personal narratives, and in this particular case, Latina autobiography, are more than stories. They are an important site of resistance. Furthermore, they invent, reform and refashion personal and collective identity.”²⁰⁵ She continued:

In the hands of Outsiders, storytelling seeks to subvert the dominant ideology. Stories told by those on the bottom, told from the “subversive subaltern” perspective, challenge and expose the hierarchical and patriarchal order that exists within the legal academy and pervades the larger society. Narrative that focuses on the experiences of Outsiders thus empowers both the story-teller and the story-listener by virtue of its opposition to the traditional forms of discourse.²⁰⁶

Lindo’s narrative of the Frisco 5 hunger strike indeed feels deeply empowering to read, for it helps one to imagine the seemingly impossible activity of fasting for 18 days—in solidarity with a small group of *compañeras/os de la lucha* (comrades in the struggle), and with widespread community support. Moreover, the members of the Frisco 5 are alive today. They are neither socially distant figures, like people “detained” in the U.S. Naval Base at Guantánamo Bay, Cuba, or imprisoned in a state or federal penitentiary,²⁰⁷ nor are they historically distant figures like Marion Wallace

²⁰⁴ Cf. Tamara F. Lawson, *A Fresh Cut in an Old Wound—A Critical Analysis of the Trayvon Martin Killing: The Public Outcry, the Prosecutors’ Discretion, and the Stand Your Ground Law*, 23 U. FLA. J. L. & PUB. POL’Y. 271 (2012).

²⁰⁵ Montoya, *supra* note 73, at 27; see also *id.* at 28-32 (elaborating her arguments).

²⁰⁶ *Id.* at 31 (citations omitted).

²⁰⁷ See Ahmad, *supra* note 41; Annas, *supra* note 41; Avi Brisman, *Fair Fare: Food as Contested Terrain in U.S. Prisons and Jails*, 15 GEO. J. ON POVERTY L. & POL’Y 49, 79-

Dunlop, Mahatma Gandhi, Terence MacSwiney, César Chávez, or Bobby Sands.²⁰⁸ Indeed, one of the Frisco 5, Edwin Lindo, is even a lawyer. Instead of acting (conventionally) like a lawyer (i.e., offering to represent a client, filing a complaint seeking equitable and legal forms of relief, etc.), however, Lindo listened carefully to a “subversive-subaltern” perspective—that of Mamá Cristina, who invited, and indeed challenged, him to join her in what became the Frisco 5 hunger strike. In other words, Lindo, and the other three men of color who answered Mamá Cristina’s call to action, learned from her

89 (2008); Scott Packard, *How Guantanamo Bay Became the Place the U.S. Keeps Detainees*, ATLANTIC (Sept. 4, 2013); Monique Peterkin, “I’m on Fire”: A Call to Eradicate Excessive Solitary Confinement Sentences for Nonviolent Offenses, 60 HOWARD L.J. 817, 826, 837-38 (2017); Silver, *supra* note 41; Jocelyn Simonson, *Democratizing Criminal Justice through Contestation and Resistance*, 111 NW. U. L. REV. 1609, 1615, 1619-20 (2017).

²⁰⁸ On César Chávez’s use of fasts to galvanize the United Farm Worker movement, see, e.g., STEVEN W. BENDER, ONE NIGHT IN AMERICA: ROBERT KENNEDY, CÉSAR CHÁVEZ, AND THE DREAM OF DIGNITY 28-33 (2008); KENNETH C. BURT, THE SEARCH FOR A CIVIC VOICE: CALIFORNIA LATINO POLITICS 260-61 (2007); CÉSAR CHÁVEZ: A BRIEF BIOGRAPHY WITH DOCUMENTS 13, 19, 42-43, 60-61, 117, 120 (Richard W. Etulain ed., 2002); CESAR CHAVEZ, AN ORGANIZER’S TALE: SPEECHES xxii, xxvii-xxviii, xxxix, xl-xli, 46-48, 134-35, 139-40 (Ilan Stavans ed., 2008); SUSAN FERRISS & RICARDO SANDOVAL, THE FIGHT IN THE FIELDS: CESAR CHAVEZ AND THE FARMWORKERS MOVEMENT 47, 141-45, 151, 167, 169, 197-98, 208, 225-26, 245-47, 254-55 (1997); MATT GARCIA, FROM THE JAWS OF VICTORY, THE TRIUMPH AND TRAGEDY OF CESAR CHAVEZ AND THE FARM WORKER MOVEMENT 2, 70, 115, 142, 250, 257, 286-87 (2012); CRAIG J. JENKINS, THE POLITICS OF INSURGENCY: THE FARM WORKER MOVEMENT IN THE 1960S 165-66 (1985); JACQUES E. LEVY, CESAR CHAVEZ: AUTOBIOGRAPHY OF LA CAUSA 272-87, 339-51, 463-67 (1975); F. ARTURO ROSALES, CHICANO!: THE HISTORY OF THE MEXICAN AMERICAN CIVIL RIGHTS MOVEMENT 139, 142, 145-46, 150 (1996); STAN STEINER, LA RAZA: THE MEXICAN AMERICANS 139, 321-23 (1969). On Gandhi, see generally ERIK H. ERIKSON, GANDHI’S TRUTH: ON THE ORIGINS OF MILITANT NONVIOLENCE (1969); HOMER A. JACK, THE GANDHI READER: A SOURCEBOOK OF HIS LIFE AND WRITINGS (1994); Anita Desai, *A Different Gandhi*, N.Y. REV. BOOKS (Apr. 28, 2011), <http://www.nybooks.com/articles/2011/04/28/different-gandhi/> [<https://perma.cc/4CHN-REF8>]. On Bobby Sands, see generally BOBBY SANDS, WRITINGS FROM PRISON (1997); Brisman, *supra* note 207, at 83; Sara Cloon, *Competent Hunger Strikers: Applying the Lessons from Northern Ireland to the Force-Feeding in Guantanamo*, 31 NOTRE DAME J.L. ETHICS & PUB. POL’Y 383 (2017); Michael Hartnett, *Who Killed Bobby Sands*, in MICHAEL HARTNETT, A BOOK OF STRAYS (Peter Fallon ed., 2003), at 18.

knowledge and experience, which critical scholars have conceptualized as popular or subjugated forms of knowledge.

3. Subjugated Knowledge

In their influential critique of, and contribution to, the historical origins of CRT, Sumi Cho and Robert Westley assert that “[t]he work of student diversity activists [is] part of a valuable body of subjugated knowledge.”²⁰⁹ They explained, “subjugated knowledge as defined by Michel Foucault . . . [includes] ‘a whole set of knowledges that have been disqualified as inadequate to their task or insufficiently elaborated: naive knowledges, located low down on the hierarchy, beneath the required level of cognition.’”²¹⁰ Foucault further discussed his sense of subjugated knowledge as involving “a popular knowledge (*le savoir des gens*) . . . a particular, local, regional knowledge, a differential knowledge incapable of unanimity and which owes its force only to the harshness with which it is opposed by everything surrounding it[.]”²¹¹

Cho and Westley’s application of Foucault’s concept of subjugated knowledge is useful. Whether discussing the activism of law students,²¹² farm workers and agricultural labor organizers,²¹³ or Mexican American lawyers,²¹⁴ the concept bears significant explanatory power. Applying it to

²⁰⁹ Cho & Westley, *supra* note 199, at 48.

²¹⁰ *Id.* at 49 (citing MICHEL FOUCAULT, *POWER/KNOWLEDGE: SELECTED INTERVIEWS AND OTHER WRITINGS 1972-1977* 82-83 (Colin Gordon ed., 1980)).

²¹¹ FOUCAULT, *supra* note 210, at 82; *Cf.* GEORGE LIPSITZ, *TIME PASSAGES: COLLECTIVE MEMORY AND AMERICAN POPULAR CULTURE* 213-14, 228-31 (1990) (defining counter-memory as “[a] way of remembering and forgetting that starts with the local, the immediate, and the personal [looking] to the past for the hidden histories excluded from dominant narratives. . . . [to] reframe and refocus dominant narratives purporting to represent universal experience.”).

²¹² Rachel Anderson, Marc-Tizoc González & Stephen Lee, *Toward a New Student Insurgency: A Critical Epistolary*, 94 CAL. L. REV. 1879 (2006).

²¹³ González, *supra* note 193.

²¹⁴ See Marc-Tizoc González, *La gran lucha: Latina and Latino Lawyers, Breaking the Law on Principle, and Confronting the Risks of Representation*, 13 HASTINGS RACE & POVERTY L.J. 61 (2016).

Lindo's narrative of the Frisco 5 hunger strike suggests the importance of the histories and experiences of the individual members of the Frisco 5, particularly the generative role played by Mamá Cristina, as she took a stand against the rash of homicides committed by SFPD officers against members of the Mission District's Latina/o/x community.²¹⁵ What contextualized her decision to call for a hunger strike and the others' decisions to answer her call?

Given constraints of space and time, it is not possible to detail Mamá Cristina's biography or engagement with the Chicana/o Movement in this Article. Nevertheless, local media reports allow us to sketch out certain aspects of her life story. María Cristina Gutiérrez, affectionately called Mamá Cristina in Lindo's narrative, was 66 years old and the executive director of *Compañeros del Barrio*, a preschool founded during the Chicano Movement, when she organized the Frisco 5 hunger strike.²¹⁶ She not only lived in the Mission District, she also organically became integral to its Latina/o/x community through her 40-plus years of residence therein.²¹⁷ Born in Colombia to a father who was a labor organizer, she had prior experience

²¹⁵ LatCrit theory innovated the neologism "Latina/o" to emphasize the expressly gendered language of Spanish, to critique the implicit patriarchal presumption of the plural masculine form, "Latinos," to equally include people of all genders, and to highlight Latinas within the racialized ethnic group. See, e.g., Anderson et al., *supra* note 212, at 1880 n.4 (discussing the neologisms Chicana/o and xican@). Latina/o/x, Latin@, and Latinx are further neologisms, with the -x ending highlighting and contesting the hetero-patriarchal presumptions, especially binary sex-gender identities, of earlier usages See, e.g., ORTIZ, *supra* note 202, at 9 ("The Spanish language is a gendered language, and I have adopted the newer term 'Latinx' to reflect my students' search for a 'gender-inclusive way of referring to people of Latin American descent residing in the United States.") (citing "WHAT DOES 'LATINX' MEAN?" (Apr. 19, 2017) (Latinx graduation ceremony brochure and the University of Florida); and Roberto Rodriguez, *Rodriguez: The X in LatinX*, DIVERSE ISSUES IN HIGHER EDUC. (Jun. 7, 2017), <http://diverseeducation.com/article/97500/> [<https://perma.cc/RT5T-T8JW>].

²¹⁶ Wenus & Barros, *supra* note 29; Laura Wenus, *Who Are the Hunger Strikers at SF's Mission Police Station?*, MISSION LOCAL, (Apr. 29, 2016), <https://missionlocal.org/2016/04/who-is-on-hunger-strike-at-sfs-mission-station> [<https://perma.cc/ARC8-LZX4>]. *Compañeros del Barrio* is located on Valencia Street about a block away from the SFPD Mission Station and literally translates to English as "Companions of the Neighborhood." *Id.*

²¹⁷ Wenus & Barros, *supra* note 29.

as a student activist, including at least one hunger strike, before she immigrated to the United States at age 17.²¹⁸ Thereafter, she studied social work at the City College of San Francisco and San Francisco State University “though she eventually dropped out to become more active in the Chicano movement.”²¹⁹ Though outsiders might be surprised to learn it, beyond its core constituency of Mexican Americans, the Chicana/o Movement, perhaps especially in the San Francisco Bay Area (because of its distinctive Latina/o/x demographics),²²⁰ featured a polyglot of immigrants from myriad Latin American countries and their U.S.-born children, and this internal diversity has only grown over the subsequent decades.²²¹ Thus, though Mamá Cristina first engaged with *Compañeros del Barrio* as a parent whose children attended its preschool, she eventually began to work there and ultimately became its executive director.²²²

In other words, Mamá Cristina can be regarded as an elder of the Mission District’s internally diverse Latina/o/x community, who committed her life’s work to educating her community’s multiply-diverse children in order to help their families provide a firm foundation upon which to build their lives and to make their contributions to the Mission, San Francisco, the Bay Area, and

²¹⁸ Wenus & Barros, *supra* note 29; Wenus, *supra* note 216.

²¹⁹ Wenus, *supra* note 216.

²²⁰ See POLICYLINK & PERE, THE NINE-COUNTY SAN FRANCISCO BAY AREA REGION (2017), at 16,

http://nationalequityatlas.org/sites/default/files/Final_9_County_BayAreaProfile.pdf. [<https://perma.cc/9SW3-ZBWQ>] (listing eight categories of Latina/o/x subgroups and enumerating their members within the nine-county San Francisco Bay Area region).

²²¹ In 1970, the U.S. Census counted 69,633 “Persons of Spanish Origin or Descent” as 9.7% of the population of the San Francisco City and County. MTC-ABAG Library, *San Francisco City and County, 1860-2010, BAY AREA CENSUS*, at <http://www.bayareacensus.ca.gov/counties/SanFranciscoCounty.xlsx> (last visited Oct. 26, 2018). By 2010, the figures had grown to 121,774 and 15.1%. *Id.* Note, but for the displacement of longtime residents under dot-com gentrification, the number and percentage of Latina/o/x San Francisco residents would likely be significantly higher: analyzing U.S. Census reports, historian Nancy Mirabal notes that between 2000 and 2005, “10 percent of San Francisco’s Latina/o community moved out of the city.” Mirabal, *supra* note 114, at 14. Further, in that period, “San Francisco was the only major city in the United States to experience loss in its Latina/o population.” *Id.*

²²² Wenus, *supra* note 216.

the greater U.S. society.²²³ When she resolved to launch the hunger strike that the Frisco 5 ultimately undertook, therefore, she acted not as an atomized individual but rather within the rich history of nonviolent civil rights struggle known as *el Movimiento*, the Chicana/o Power Movement.²²⁴ Further research is necessary to unearth more of the subjugated knowledge that informed Mamá Cristina's call for the Frisco 5 hunger strike, and scholars affiliated with LatCrit theory have developed an empowering concept and methodology to guide such research, *testimonio*.

4. Testimonio

Within LatCrit theory, community, and praxis, Lindsay Pérez Huber has theorized *testimonio* most completely. As she explains, "Originally developed in the field of Latin American studies, *testimonio* centers on the participant, who narrates her experiences to reveal exploitative and oppressive conditions while validating her own experiential knowledge."²²⁵ Pérez Huber further explains:

Combining the basic elements of *testimonio* and LatCrit [theory], *testimonio* interviews function to (1) validate and honor the knowledge and lived experiences of oppressed groups by becoming a part of the research process; (2) challenge dominant ideologies that shape traditional forms of epistemology and methodology; (3) operate within a collective memory that transcends a single experience to that of multiple communities; and (4) move toward racial justice by offering a space within the academy for the

²²³ *Accord id.*

²²⁴ See generally IAN F. HANEY LÓPEZ, *RACISM ON TRIAL: THE CHICANO FIGHT FOR JUSTICE* (2003); ELIZABETH MARTÍNEZ, *DE COLORES MEANS ALL OF US: LATINA VIEWS FOR A MULTI-COLORED CENTURY* (1998); CARLOS MUÑOZ, JR., *YOUTH, IDENTITY, POWER: THE CHICANO MOVEMENT* (1989); ROSALES, *supra* note 208.

²²⁵ Pérez Huber, *supra* note 201, at 841 n.4 (citation omitted); Cf. MARIO T. GARCÍA, *MEMORIES OF CHICANO HISTORY: THE LIFE AND NARRATIVE OF BERT CORONA* 341-54 (1995) (discussing *testimonio* and related concepts within Chicana/o Studies); TELLING TO LIVE: *LATINA FEMINIST TESTIMONIOS* 1-21 (The Latina Feminist Group ed. 2001) (discussing the collaboration of eighteen multiply-diverse Latina feminists to produce their book).

stories of People of Color to be heard. This method was designed to capture the complexities of the lived experiences of People of Color whose realities are mediated by multiple forms of oppression.²²⁶

In my view, this Article approaches the *testimonio* methodology, as described by Pérez Huber. Further, her development of the concept seems like an evolution of Delgado's counterstorytelling and Montoya's Latina autobiography: all of these concepts describe efforts to unearth different forms of subjugated knowledge developed by differently experienced and disciplined Latina/o/x scholars. Also, the several public dialogues organized by Brenda Williams, in 2016 and 2017, to feature Edwin Lindo's reflections on the Frisco 5 hunger strike, evidence the four functions of *testimonio* interviews as Pérez Huber describes them.

Consider first that Williams organized their public dialogues in venues including the University of Washington School of Law, the National Latina/Latino Law Student Association Conference at the Boston College Law School, and the Latina and Latino Critical Legal Theory Conference. In each of these venues, their dialogues validated and honored the experiences of the Frisco 5 by presenting them as vital to contemporary legal discourse. Second, these dialogues challenged mainstream legal scholars' dominant beliefs and ideologies regarding the traditional epistemology and methodology of legal scholarship: instead of focusing on interpreting judicial opinions or otherwise counterpoising various texts and arguments, Williams and Lindo featured the collective activities undertaken by the Frisco 5 and their myriad supporters and endorsed these experiences as necessary to the epistemology and methodology of legal scholarship. Third, these public dialogues, and this Article, transcend Lindo's particular experience by unearthing subjugated knowledge of hunger strikes deployed by different

²²⁶ Pérez Huber, *supra* note 201, at 841 n.4. (citation omitted).

social actors across the twentieth century that are grounded in precolonial legal systems from ancient societies of the South Asian subcontinent and the island known today as Ireland.²²⁷ Finally, Lindo's narrative of the Frisco 5 hunger strike "move[s] toward [inter]racial justice by offering a space within the academy for the stories of People of Color to be heard."²²⁸

While more research is needed—particularly *testimonio* interviews of the Frisco 5, especially Mamá Cristina—Williams' framing and Lindo's narrative are well understood as what Pérez Huber calls a "critical race *testimonio* . . . a verbal journey of a witness who speaks to reveal the racial, classed, gendered, and nativist injustices they have suffered as a means of healing, empowerment and advocacy for a more humane present and future[.]"²²⁹ In turn, an enterprising scholar, student, or collective could braid these, and similar, critical race *testimonios* into a critical ethnic legal history of San Francisco's Latina/o/x communities.

B. Hacia una historia crítica, Latina/o/x, y legal (Toward a Critical Latina/o/x Legal History)

One of the broader lessons from Williams' framing and Lindo's narrative of the Frisco Five hunger strike is the necessity for LatCrit scholars to expand counterstorytelling (to use Delgado's formulation) within mainstream academic discourse in the United States. Across the 20th century and into the 21st, scholars trained in non-law disciplines have published an increasing number of books to document and analyze the cultures, histories, politics, and social conditions of Mexican American and Chicana/o communities in the

²²⁷ See *supra* notes 155-67 and accompanying text.

²²⁸ Pérez Huber, *supra* note 201, at 841 n.4 (citation omitted).

²²⁹ Lindsay Pérez Huber, *Using Latina/o Critical Race Theory (LatCrit) and Racist Nativism to Explore Intersectionality in the Educational Experiences of Undocumented Chicana College Students*, 24 J. EDUC. FOUNDATIONS 77, 83 (2010) (citation omitted). (italics in original).

United States.²³⁰ Such scholarship contributed significantly to the creation of interdisciplinary fields like Chicana/o Studies and Latina/o/x-Studies.²³¹ Similarly, scholars trained in non-law disciplines have worked assiduously to document and analyze the histories of other Latina/o/x communities.²³² In

²³⁰ In order of publication, *see, e.g.*, GEORGE I. SÁNCHEZ, FORGOTTEN PEOPLE: A STUDY OF NEW MEXICANS (1940); ERNESTO GALARZA, MERCHANTS OF LABOR: THE MEXICAN BRACERO STORY (1964); JULIAN SAMORA, LA RAZA: FORGOTTEN AMERICANS (1967); ERNESTO GALARZA, HERMAN GALLEGOS & JULIAN SAMORA, MEXICAN-AMERICANS IN THE SOUTHWEST (1969); RUDOLFO ACUÑA, OCCUPIED AMERICA: THE CHICANO STRUGGLE TOWARD LIBERATION (1972); MARIO BARRERA, RACE AND CLASS IN THE SOUTHWEST: A THEORY OF RACIAL INEQUALITY (1979); DAVID MONTEJANO, ANGLOS AND MEXICANS IN THE MAKING OF TEXAS, 1836-1986 (1987); VICKI L. RUIZ, CANNERY WOMEN, CANNERY LIVES: MEXICAN WOMEN, UNIONIZATION, AND THE CALIFORNIA FOOD PROCESSING INDUSTRY, 1930-1950 (1987); MUÑOZ, JR., *supra* note 224; GILBERT G. GONZALEZ, CHICANO EDUCATION IN THE ERA OF SEGREGATION (1990); KITTY CALAVITA, INSIDE THE STATE: THE BRACERO PROGRAM, IMMIGRATION, AND THE I.N.S. (1992); MARY ROMERO, MAID IN THE U.S.A. (1992); GEORGE J. SÁNCHEZ, BECOMING MEXICAN AMERICAN: ETHNICITY, CULTURE AND IDENTITY IN CHICANO LOS ANGELES, 1900-1945 (1993); GARCÍA, *supra* note 225; ROSALES, *supra* note 208; MARTÍNEZ, *supra* note 224; VICKI L. RUIZ, FROM OUT OF THE SHADOWS: MEXICAN WOMEN IN TWENTIETH-CENTURY AMERICA (1998); JUAN GONZALEZ, HARVEST OF EMPIRE: A HISTORY OF LATINOS IN AMERICA (2001); GUADALUPE SAN MIGUEL, JR., BROWN, NOT WHITE: SCHOOL INTEGRATION AND THE CHICANO MOVEMENT IN HOUSTON (2001); BURT, *supra* note 208; ELIZABETH "BETITA" MARTÍNEZ, 500 YEARS OF CHICANA WOMEN'S HISTORY/500 AÑOS DE LA MUJER CHICANA (2008); MEMORIES AND MIGRATIONS: MAPPING BORICUA AND CHICANA HISTORIES (Vicki L. Ruiz & John R. Chávez eds., 2008); RICHARD R. VALENCIA, CHICANO STUDENTS AND THE COURTS THE MEXICAN AMERICAN LEGAL STRUGGLE FOR EDUCATIONAL EQUALITY (2008); CYNTHIA E. OROZCO, NO MEXICANS, WOMEN, OR DOGS ALLOWED: THE RISE OF THE MEXICAN AMERICAN CIVIL RIGHTS MOVEMENT (2009); JOE R. FEAGIN & JOSÉ A. COBAS, LATINOS FACING RACISM: DISCRIMINATION, RESISTANCE, AND ENDURANCE (2013).

²³¹ *See, e.g.*, RODOLFO F. ACUÑA, THE MAKING OF CHICANA/O STUDIES: IN THE TRENCHES OF ACADEME (2011); MICHAEL SOLDATENKO, CHICANO STUDIES: THE GENESIS OF A DISCIPLINE (2009).

²³² *See, e.g.*, THOMAS D. BOSWELL & JAMES R. CURTIS, THE CUBAN-AMERICAN EXPERIENCE: CULTURE, IMAGES AND PERSPECTIVES (1984); ARLENE M. DÁVILA, SPONSORED IDENTITIES: CULTURAL POLITICS IN PUERTO RICO (1997); MARÍA CRISTINA GARCÍA, HAVANA USA (1996); GONZALEZ, *supra* note 230; KEYWORDS FOR LATINA/O STUDIES (Deborah R. Vargas, Nancy Raquel Mirabal & Lawrence La Fountain-Stokes eds., 2017); LATINOS: REMAKING AMERICA (Marcelo Suarez-Orozco & Mariela Páez eds., 2002); THE LATINO STUDIES READER: CULTURE, ECONOMY, AND SOCIETY (Antonia Darder & Rodolfo D. Torres eds., 1998); THE NEW LATINO STUDIES READER: A TWENTY-FIRST-CENTURY PERSPECTIVE (Ramon A. Gutierrez & Tomas Almaguer eds., 2016);

this context, legal scholars have only recently begun contributing to this discourse.

If one were to trace a lineage, Carey McWilliams could provide an intriguing start.²³³ Trained as a lawyer but more famous as a writer and long-time editor of *The Nation*,²³⁴ his books *Factories in the Field* (1939) and *North from Mexico* (1948) provided influential mid-20th century discussions of Mexican American communities in the United States. Alternatively, one might start with Alonso S. Perales, the third Mexican American to become a lawyer in the state of Texas,²³⁵ whose *Are We Good Neighbors?* (1948) documented and questioned the mistreatment of Mexican American communities in Texas.²³⁶ My research suggests, however, an almost 25-year lacuna before new generations of Mexican American or Chicano lawyers began to publish books on the sociolegal conditions of their internally diverse communities.²³⁷ While legal scholars, including those who self-identify as Mexican American or Chicano, published law review articles that focused on

ORTIZ, *supra* note 202; RAY SUAREZ, *LATINO AMERICANS: THE 500-YEAR LEGACY THAT SHAPED A NATION* (2013).

²³³ See, e.g., CAREY MCWILLIAMS, *FACTORIES IN THE FIELD: THE STORY OF MIGRATORY FARM LABOR IN CALIFORNIA* (1939); CAREY MCWILLIAMS, *NORTH FROM MEXICO: THE SPANISH-SPEAKING PEOPLE OF THE UNITED STATES* (1948).

²³⁴ See The Editors of Encyclopedia Britannica, *Carey McWilliams*, ENCYCLOPÆDIA BRITANNICA, <https://www.britannica.com/biography/Carey-McWilliams> [perma.cc/HX9S-BGXZ].

²³⁵ MICHAEL A. OLIVAS, IN *DEFENSE OF MY PEOPLE: ALONSO S. PERALES AND THE DEVELOPMENT OF MEXICAN-AMERICAN PUBLIC INTELLECTUALS XI-XII* (2013); González, *supra* note 202, at 116 n. 196.

²³⁶ ALONSO S. PERALES, *ARE WE GOOD NEIGHBORS?* (1948).

²³⁷ To check my hypothesis, I consulted by email with the Latino Law Professor listserv on Feb. 9, 2018. Several scholars, including Steven W. Bender, Richard Delgado, Ian F. Haney López, and Michael A. Olivas, responded and generally concurred although Delgado noted that non-lawyer authors wrote numerous books between the 1940s and 1990s that centered on Latina/o/x communities and Olivas informed me of several relevant early books that he had written and about which I had not previously known. Email from Richard Delgado to Marc-Tizoc González (Feb. 9, 2018) (on file with author); Email from Michael A. Olivas to Marc-Tizoc González (Feb. 10, 2018) (on file with author) [hereinafter Olivas Email].

Mexican American and Chicana/o communities in the 1970s and thereafter,²³⁸ after Alonso S. Perales's *Are We Good Neighbors?* (1948), Oscar Zeta Acosta (in 1972 and 1973) and Michael A. Olivas (in 1979, 1980, 1981, and 1986) appear to be the next Mexican American lawyers who published books regarding Mexican American communities.²³⁹ Next came Richard Delgado in 1995, Juan Perea in 1996, Delgado and Jean Stefancic in 1998, and Kevin Johnson in 1999.²⁴⁰

In the 21st century, increasing numbers of legal scholars have significantly expanded this discourse,²⁴¹ which accords with one of the main goals of

²³⁸ See, e.g., Guadalupe Salinas, *Mexican-Americans and the Desegregation of Schools in the Southwest*, 8 HOUS. L. REV. 929 (1971); Michael Bennett & Cruz Reynoso, *California Rural Legal Assistance (CRLA): Survival of a Poverty Law Practice*, 1 CHICANO L. REV. 1 (1972); Richard Delgado & Vicky Palacios, *Mexican Americans as a Legally Cognizable Class under Rule 23 and the Equal Protection Clause*, 50 NOTRE DAME L. REV. 393 (1975); Leo M. Romero, Richard Delgado & Cruz Reynoso, *The Legal Education of Chicano Law Students: A Study in Mutual Accommodation and Cultural Conflict*, 5 N.M. L. REV. 177 (1975).

²³⁹ OSCAR ZETA ACOSTA, *THE AUTOBIOGRAPHY OF A BROWN BUFFALO* (1972); OSCAR ZETA ACOSTA, *THE REVOLT OF THE COCKROACH PEOPLE* (1973); MICHAEL A. OLIVAS, *THE DILEMMA OF ACCESS* (1979); GEORGE H. BROWN, NAN L. ROSEN, SUSAN T. HILL & MICHAEL A. OLIVAS, *THE CONDITION OF EDUCATION FOR HISPANIC AMERICANS* (1980), translated as *EL ESTADO DE LA EDUCACIÓN PARA LOS HISPANOS EN LOS E. U.* (1981); *LATINO COLLEGE STUDENTS* (Michael A. Olivas ed., 1986). I thank Professor Olivas for bringing his early books to my attention when he responded to my query to the Latino Law Professor listserv. Olivas Email, *supra* note 237. N.B. While other Mexican American lawyers may have published books in this period, they did not focus on Latina/o/x communities. See, e.g., ENRIQUE HANK LOPEZ, *THE HARVARD MYSTIQUE: THE POWER SYNDROME THAT AFFECTS OUR LIVES FROM SESAME STREET TO THE WHITE HOUSE* (1979).

²⁴⁰ RICHARD DELGADO, *THE RODRIGO CHRONICLES: CONVERSATIONS ABOUT AMERICA AND RACE* (1995); *IMMIGRANTS OUT!: THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES* (Juan F. Perea ed., 1996); *THE LATINO/A CONDITION: A CRITICAL READER* (Richard Delgado & Jean Stefancic eds., 1998); KEVIN R. JOHNSON, *HOW DID YOU GET TO BE MEXICAN?: A WHITE/BROWN MAN'S SEARCH FOR IDENTITY* (1999).

²⁴¹ In order of publication, see, e.g., *A READER ON RACE, CIVIL RIGHTS, AND AMERICAN LAW: A MULTIRACIAL APPROACH* (George A. Martinez & Kevin R. Johnson eds., 2001); RACHEL F. MORAN, *INTERRACIAL INTIMACY: THE REGULATION OF RACE AND ROMANCE* (2001); STEVEN W. BENDER, *GREASERS AND GRINGOS: LATINOS, LAW, AND THE AMERICAN IMAGINATION* (2003); HANEY LÓPEZ, *supra* note 224; NICOLAS C. VACA, *THE PRESUMED ALLIANCE: THE UNSPOKEN CONFLICT BETWEEN LATINOS AND BLACKS AND WHAT IT MEANS FOR AMERICA* (2004); JOSÉ LUIS MORÍN, *LATINO/A RIGHTS AND JUSTICE IN THE UNITED STATES: PERSPECTIVES AND APPROACHES*

LatCrit theory, praxis, and community (*viz.*, “to develop a critical, activist and inter-disciplinary discourse on law and policy towards Latinas/os”).²⁴² Nevertheless, Lindo’s narrative of the Frisco 5 hunger strike and the reportage on Mamá Cristina’s affiliation with the Chicana/o Power Movement suggests to me that scholars affiliated with LatCrit theory have, as yet, insufficiently documented our communities’ critical ethnic legal histories.²⁴³ Despite LatCrit theory’s acknowledgement of the internal diversity of Latina/o/x communities and identities, and despite LatCrit praxis such as cultivating

(2005); REYNALDO ANAYA VALENCIA, SONIA R. GARCÍA, HENRY FLORES & JOSÉ ROBERTO JUÁREZ JR., MEXICAN AMERICANS AND THE LAW: *¡EL PUEBLO UNIDO JAMÁS SERÁ VENCIDO!* (2004); JOSÉ LUIS MORÍN, LATINO/A RIGHTS AND JUSTICE IN THE UNITED STATES: PERSPECTIVES AND APPROACHES (2005); COLORED MEN AND HOMBRES AQUÍ: *HERNANDEZ V. TEXAS* AND THE EMERGENCE OF MEXICAN AMERICAN LAWYERING (Michael A. Olivas ed., 2006); CARLOS R. SOLTERO, LATINOS AND THE LAW: LANDMARK SUPREME COURT CASES (2006); BENDER, *supra* note 208; LAURA S. GÓMEZ, MANIFEST DESTINIES: THE MAKING OF THE MEXICAN AMERICAN RACE (2007); STEVEN W. BENDER, *COMPRENDE?: THE SIGNIFICANCE OF SPANISH IN ENGLISH-ONLY TIMES* (2008); STEVEN W. BENDER, RAQUEL ALDANA, GILBERT PAUL CARRASCO & JOAQUIN G. AVILA, EVERYDAY LAW FOR LATINO/AS (2008); LATINOS AND THE LAW: CASES AND MATERIALS (Richard Delgado, Juan Perea & Jean Stefancic eds., 2008); STEVEN W. BENDER, TIERRA Y LIBERTAD: LAND, LIBERTY, AND LATINO HOUSING (2010); PHILIPPA STRUM, *MENDEZ V. WESTMINSTER: SCHOOL DESEGREGATION AND MEXICAN-AMERICAN RIGHTS* (2010); MARK A. WEITZ, THE SLEEPY LAGOON MURDER CASE: RACE DISCRIMINATION AND MEXICAN-AMERICAN RIGHTS (2010); KEVIN R. JOHNSON & BERNARD TRUJILLO, IMMIGRATION LAW AND THE U.S.–MEXICO BORDER: *¿SÍ SE PUEDE?* (2011); STEVEN W. BENDER, RUN FOR THE BORDER: VICE AND VIRTUE IN U.S.–MEXICO BORDER CROSSINGS (2012); MICHAEL A. OLIVAS, NO UNDOCUMENTED CHILD LEFT BEHIND: *PLYLER V. DOE* AND THE EDUCATION OF UNDOCUMENTED SCHOOLCHILDREN (2012); LUPE S. SALINAS, U.S. LATINOS AND CRIMINAL INJUSTICE (2015); STEVEN W. BENDER, HOW THE WEST WAS JUAN: REIMAGINING THE U.S. / MEXICO BORDER (2017). *See also* TANYA KATERÍ HERNÁNDEZ, RACIAL SUBORDINATION IN LATIN AMERICA: THE ROLE OF THE STATE, CUSTOMARY LAW, AND THE NEW CIVIL RIGHTS RESPONSE (2012).

²⁴² *About LatCrit*, LATINA & LATINO CRITICAL LEGAL THEORY, <http://latcrit.org/content/about/> [<https://perma.cc/2MU6-VDVP>].

²⁴³ *Cf.* González, *supra* note 196, at 997-98 (urging sociolegal scholars to collaborate in order to the cultivate critical ethnic legal histories); González, *supra* note 214, at 66, 118-44 (arguing to understand Latina/o/x law professors within actual lineages and fictive genealogies of twentieth century Mexican American lawyers in California, New Mexico, and Texas).

critical coalitions,²⁴⁴ rotating centers,²⁴⁵ and shifting bottoms,²⁴⁶ I cannot readily identify a text, written by a legal scholar, that adequately accounts theoretically for the Frisco 5's internally diverse *latinidad* (assemblage of people with different Latina/o/x identities) and contextualizes the strategy and tactic of the hunger strike.

Even if my research has missed a few relevant books written by legal scholars of Latina/o/x heritage or identity that focused on Mexican American communities between Alonso S. Perales's *Are We Good Neighbors?* (1948) and Oscar Zeta Acosta's *The Autobiography of a Brown Buffalo* (1972), the gist of my point follows from the fact that Latina/o/x lawyers have only relatively recently joined the U.S. law professoriate in substantial numbers.²⁴⁷ Without a critical mass of legal scholars interested in the sociolegal condition of Latina/o/x communities, legal discourse fails to comprehend how an immigrant woman from Colombia would affiliate with the Chicana/o Power Movement, eventually lead the preschool that educated her own children, and subsequently guide a cohort of students to the SFPD Mission Station to announce the Frisco 5 hunger strike.

²⁴⁴ See Julie A. Su & Eric K. Yamamoto, *Critical Coalitions: Theory and Praxis*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY 379 (2002); Francisco Valdes, *Outsider Scholars, Critical Race Theory, and "OutCrit" Perpectivity: Postsubordination Vision as Jurisprudential Method*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY 399 (2002).

²⁴⁵ See Athena Mutua, *Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm*, 53 U. MIAMI L. REV. 1177 (1999).

²⁴⁶ *Id.*

²⁴⁷ González, *supra* note 214, at 61-63 nn.1-4; Miguel A. Méndez & Leo P. Martínez, *Toward a Statistical Profile of Latina/os in the Legal Profession*, 13 BERKELEY LA RAZA L.J. 59 (2002); Michael A. Olivas, *The Education of Latino Lawyers: An Essay on Crop Cultivation*, 14 CHICANO-LATINO L. REV. 117 (1994); Romero et al., *supra* note 230; Francisco Valdes, *Barely at the Margins: Race and Ethnicity in Legal Education - A Curricular Study with LatCritical Commentary*, 13 BERKELEY LA RAZA L.J. 119 (2002). While some readers might question my privileging the publication of books over law review articles, I suspect that more people read books than law review articles even in our current era of relatively easy online access to digital copies of law review articles.

Latina/o/x communities would substantially benefit from scholars willing to record and promote this form of subjugated knowledge, and the methodology of critical race *testimonio*, theorized and advocated by Pérez Huber and others might be one of the best ways to develop this genealogy of struggle.²⁴⁸ While recounting critical ethnic legal histories of the Colombian and/or Nicaraguan communities in the United States, with a focus on San Francisco, is beyond the scope of this Article, such histories contextualize the Frisco 5 hunger strike. My intuition is that diligent research might reveal actual lineages and fictive genealogies.²⁴⁹ If so, this research would illuminate the Frisco 5 hunger strike—not only in Mamá Cristina’s own experience as a student activist in Colombia—but also within the famous precedents set by César Chávez as he fasted to protest against union-busting California growers and to discipline the United Farm Workers of America.²⁵⁰

IV. CONCLUSION—FOOD’S PUBLIC (POLITICAL AND RELIGIOUS) SIGNIFICANCE

Deepening the study of the Frisco 5 hunger strike promises to teach much of interest to social justice activists and to scholars seeking to advance LatCrit theory. What is the genealogy of hunger strikes in and beyond the United States? How have individuals of impoverished and marginalized social groups deployed and evolved this (gendered and racialized) strategy and tactic to transform the ubiquity of hunger (*a.k.a.*, very low food security) into a powerful means to protest injustice, which legal institutions and actors

²⁴⁸ Cf. FOUCAULT, *supra* note 210, at 83 (“Let give the term *genealogy* to the union of erudite knowledge and local memories which allows us to establish a historical knowledge of struggles and to make use of this knowledge tactically today.”) (emphasis in original).

²⁴⁹ Cf. González, *supra* note 214, at 65-66, 118, 127-28, 131, 143 (theorizing the concepts of “actual lineages” and “fictive genealogies” of social justice activists, including Mexican American and Chicana/o/x lawyers).

²⁵⁰ See sources cited *supra* note 197 (regarding the fasting of César Chávez).

cognize as symbolic speech / expressive conduct?²⁵¹ Finally, what are the relationships between fasting and hunger strikes, inside of prisons and outside in civil society, and the increasing criminalization of sharing food in public by U.S. cities?²⁵²

While the oral argument in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission* questioned it,²⁵³ people’s use of food—whether to bake and decorate a cake for a wedding, to share a meal in a park with impoverished and hungry people, or to forego food to protest the homicides of community members by police officers—implicate, challenge, and have the potential to transform the law. Ultimately, the Frisco 5 hunger strike demonstrates that how courts interpret First Amendment freedoms is only one way to implement a rule of law over authority.²⁵⁴

²⁵¹ Compare *supra* notes 136-67 and accompanying text (tracing a genealogy of fasting and hunger strikes from Terence MacSwiney and Marion Wallace Dunlop to Mahatma Gandhi, Drs. Ralph Abernathy and Martin Luther King, Jr., César Chávez, Bobby Sands, and the Frisco Five, and rooting this genealogy of struggle within the pre-colonial legal traditions of India and Ireland), with McGoldrick, *supra* note 193, at *passim* (analyzing the U.S. Supreme Court’s symbolic speech jurisprudence); and Brief of Amici Curiae, *supra* note 196, at 22-24 (citing to and discussing an array of twentieth century symbolic speech / expressive conduct cases).

²⁵² Cf. González, *supra* note 193, at *passim* (introducing the food-sharing cases and discussing a split in authority regarding the constitutionality of municipal laws that outlaw people who publicly share food with those who hunger); González, *supra* note 193, at *passim* (analyzing the food-sharing cases that feature religiously motivated plaintiffs under a theory of the judicial contests of the emic and etic meanings ascribed to publicly sharing food).

²⁵³ Read *Oral Arguments in Masterpiece Cakeshop v. Colorado Civil Rights Commission*, CNN (Dec. 5, 2017, 4:05 PM), <https://www.cnn.com/2017/12/05/politics/scotus-oral-arguments-transcript/index.html> [<https://perma.cc/SH4U-X2TF>] (“[S]o that begs the question, when have we ever given protection to a food? The primary purpose of a food of any kind is to be eaten”); *Id.* at 14.

²⁵⁴ Cf. PETER LINEBAUGH, *THE MAGNA CARTA MANIFESTO: LIBERTIES AND COMMONS FOR ALL* 17, 212-13 (2008), (“[A]uthority under law,” or that “the King is, and shall be, below the law”).

V. EPILOGUE

A. Brenda Reflects

Two years have passed since the Frisco⁵ hunger strike occurred on the sidewalk before the front doors of the San Francisco Police Department Mission Station. Edwin, Marc-Tizoc, and I have frequently reflected upon the present day sociolegal significance of the hunger strike, coming together to record this story to share the lessons of strength, understanding, and purpose gained from this exercise of mutual support and protest against injustice. We structured this article to create space for each of our perspectives, uniquely shaped by our distinctive life experiences, legal education, and practice of law even, as those perspectives converge in this critique of the status quo tolerance of state-sanctioned violence and, also, in recognition of the quest for freedom and justice. We each, individually, have reflected upon the same immeasurable painful reality of hunger, the same inhumanity of state sanctioned police violence and the same unending human catastrophe that follows the decision to decline the filing of charges when those in uniform commit a crime.

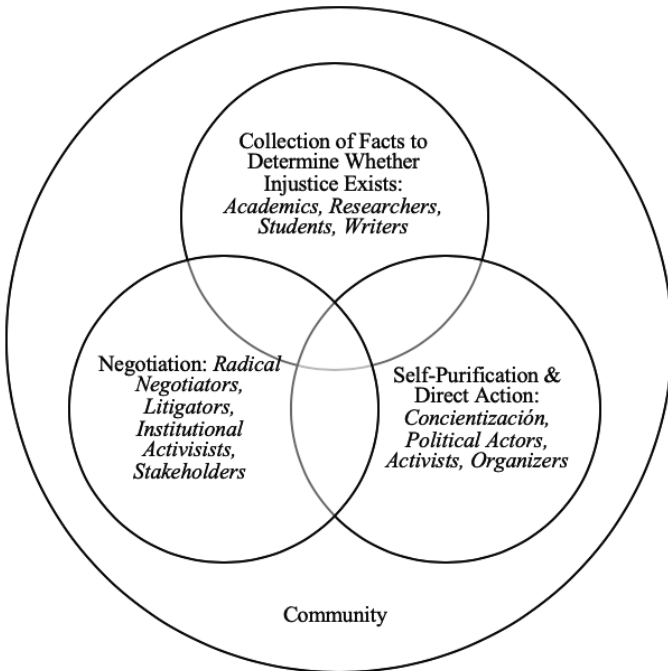
This Article experimented with a framework first articulated by Dr. Martin Luther King, Jr.: what happens when law-trained individuals choose to organize, not around abstract ideas of rights or justice, but instead organize themselves according to the locus they occupy within an uncomprehending socio-legal system? Dr. King's *Letter from a Birmingham Jail* is clear, in any non-violent campaign to transform the conditions that maintain injustice, there are four basic steps: Collection of the facts to determine whether injustice exists; Negotiation; Self-purification; and Direct Action.²⁵⁵

We each comprehend the problem of state-sanctioned violence from our positions, relegated by the social order of society. For some, society functions exceedingly well. (E.g., the Forbes 400.) For others, society does not function but instead systematically oppresses large segments of the

²⁵⁵ See King, Jr., *supra* note 4.

population. (E.g., families who seek asylum from the United States in 2018 at or near the border with Mexico). According to Dr. King’s steps, individuals should reflect upon their social position or role within a society that functions as an oppressive system, and after collection of the facts to determine whether injustice exists, develop relationships with others positioned differently within that system. As Dr. King’s *Letter* suggests, the relationship with others creates the necessary force and potential for radical social change.

Thus, the relationship amongst the three of us that led to the publication of this article, as we organized ourselves in recognition of our roles as individual socio-legal actors, inhabiting one or more of Dr. King’s basic steps of the non-violent campaign, with some overlap as in a Venn Diagram:



Without the activist, without the radical negotiators, and without the theorists, non-violent change is unlikely. Self-purification is necessary for each of the steps. This framework serves as a model to understand the steps necessary for change in any oppressive legal system, be it a legislature, administrative agency or courtroom. This framework also serves as a model to dismantle oppressive systems outside of the legal realm. Simply stated, the relationships and partnerships that form ultimately create the foundation for change.

Utilizing this framework allowed us to recount more than the story of the days that passed as the Frisco5 endured personal hunger, with the inevitable consequences of this personally deleterious yet increasingly public action. Rather than a linear recitation of the events, Dr. King's framework illuminates the Frisco 5 story, by inviting others to recount the action that challenged the lethal use of force by the San Francisco Police Department. The action, not only compelled city leadership to account publicly to the community, it ultimately demonstrated the complete failure of city leaders to provide justice to Alex Nieto, Mario Woods, Amilcar Perez Lopez, Luis Góngora-Pat, and Jessica Nelson-Williams.

With the publication of this article, we raise the question of how we as law-trained actors within the legal academy, regularly create value and meaning within a legal educational hierarchy structured to isolate, silence and ignore the day-to-day facts of systemic racialized oppression within the criminal justice system of the United States. By recounting and theorizing the Frisco 5 hunger strike within a genealogy of struggle, we add our voices to those who similarly seek to illuminate this lacuna within legal scholarship by speaking against legal violence perpetuated within the racialized criminal justice system of the United States.

Finally, through this journey, I reconnected with the ways that I, and more specifically the collective we, can be powerful despite our legal training.

B. Edwin Reflects

Acts of anti-subordination must be our calling. Like the process of transformational change outlined in King's letter, and presented by Professor Williams, we each are needed to achieve collective justice. The acts of anti-subordination supplement our counter-narratives, which are on their own powerful forms of resistance and justice. Without our narratives, at least within the jurisprudence, injustice continues—certainly for the subordinated. The non-violent campaign is the coupling of the counter-narratives of our existence with our affirmative acts of anti-subordination—such as demanding the dismantling of ICE at local detention centers or the boycott of grapes to demand safe working environments for farm workers or thousands chanting “Black Lives Matter” in the middle of a busy street or even the act of a hunger strike, protesting the repeated extra judicial killings of black and brown bodies. This coupling can transform the conditions that maintain injustice.

These acts expose the fragility of power. Power has sequestered itself to the hallow walls of money and titles—two variables that can succumb to the demand of the people. In our sustained action of hunger in front of the Valencia Street Police station, with a single goal of removing the Police Chief, this hypothesis of succumbing to the demands of the people was proven correct. For years, the San Francisco Police Chief was hailed by the elected and other sympathizers, as the most progressive chief in the country, a protective veil that looked and felt impenetrable. However, through a consistent and unrelenting demand, we saw that veil punctured by the community, as national, and international pressure forced a response conceding to the community. The narrative of the hunger strike or the hunger strikers is only as important as the narrative of the community's strength to force institutions, such as the city and county of San Francisco and the San Francisco Police Department, to respond and to change. Keep in mind, those institutions responded to a community depicted as financially and politically powerless, yet inevitably able to exert pressure forcing the institutions to meet the demand of the community.

Justice and Law are not analogous. In our legal academies, we continue to indoctrinate our students with the farce that Justice is achieved exclusively through the law and the courts—that our judicial systems are the most effective, least biased, and the ultimate arbiter of what is just and fair. We must teach law students to critique and analyze said system for the purpose of changing and developing it into a transformed system that is different than its current state, rather than continue to perpetuate the pedagogy that promotes the belief in a system that is proven to be unjust.

In many ways, the need to transform systems and institutions to achieve justice is what brought us, the three authors, together. We approach this work from a similar political identity, but differing yet necessary positional states, to further connect the praxis of subordinated theory and transformational action. The process, narrative, and analysis of this piece is the manifestation of the praxis—from my involvement in the hunger strike, Professor Williams’ consciousness to assume the role of radical negotiator, to Professor Gonzalez’s critical Latina/o/x exploration tethering the hunger strike to the historical struggles of the community.

Through bridging the spectrum of social justice work, from the streets to the academy and vice versa, we hope others replicate this example and practice, to exercise, hone and achieve the truest praxis. Let us continue to struggle together, especially with those closest to the issues, because this praxis and struggle brings us closer to justice.

C. Marc-Tizoc Reflects

Two-plus years after receiving Brenda’s first phone call regarding the Frisco 5 hunger strike, I can still recall her passion and suasion. Initially, I appreciated the fact that she, and now we, were acting to coordinate a national advocacy strategy to support the Frisco 5 with hopes of benefiting Latina/o/x communities across the United States that suffer and survive endemic legal violence (i.e., violence perpetrated under the color of law).²⁵⁶

²⁵⁶ For further discussion of the concept of legal violence, see, e.g., González, *supra* note 214, at 98 n.133.

Mainstream journalists and historians may well regard the Frisco 5 hunger strike as insufficiently important to garner national recognition or no more than a footnote in the archives. After the hunger strike ended, however, Brenda and Edwin's collaboration has educated numerous law students, and some lawyers and law professors, at events they organized in Seattle, Washington; Boston, Massachusetts; and Orlando, Florida. Their efforts, and now this Article, explain the salience of the Frisco 5 hunger strike to the ongoing struggle to bring authority, here a local United States law enforcement agency, beneath the rule of law.

Beyond feeling honored to contribute to a project of LatCrit theory, community, and praxis that features counterstorytelling, Latina autobiography, and *testimonio*, I discern that the Frisco 5 hunger strike proffers profound lessons to bring authority beneath the rule of law in other contexts, particularly the contemporary U.S. concentration camps that are popularly (and euphemistically) known as immigrant detention centers.²⁵⁷ As public scrutiny again focuses on the 15-plus years of outrageous, yet profitable, and putatively civil, "detention" of immigrants under the authority of the U.S. Immigration and Customs Enforcement (ICE) and other parts of the U.S. Department of Homeland Security (DHS),²⁵⁸ I wonder whether activists who are outside of the camps will consider targeted hunger

²⁵⁷ Cf. *Trump v. Hawaii*, 138 S. Ct. 1, 38 (2017) ("Whatever rhetorical advantage the dissent may see in doing so, *Korematsu* has nothing to do with this case. The forcible relocation of U. S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful and outside the scope of Presidential authority.") See also Edward Schumacher-Matos & Lor Grisham, *Euphemisms, Concentration Camps and the Japanese Internment*, NPR, February 10, 2012, <https://www.npr.org/sections/ombudsman/2012/02/10/146691773/euphemisms-concentration-camps-and-the-japanese-internment> [https://perma.cc/JGK3-JRZY].

²⁵⁸ See, e.g., Jonathan Blitzer, *How the Trump Administration Got Comfortable Separating Immigrant Kids from their Families*, NEW YORKER, May 30, 2018, <https://www.newyorker.com/news/news-desk/how-the-trump-administration-got-comfortable-separating-immigrant-kids-from-their-parents> [https://perma.cc/TG2R-UFMX]; Aaron Hegarty, *Timeline: Immigrant Children Separated from Families at the Border*, USA TODAY, <https://www.usatoday.com/story/news/2018/06/27/immigrant-children-family-separation-border-timeline/734014002/> [https://perma.cc/WW8N-UFGF].

strikes as part of a strategy to persuade particular elected officials to end their manifestly punitive, cruel, and unusual policies and practices. Further, could such hunger strikes help to educate judges to look past the fig leaf of the stalely formalistic legalism that the enforcement of immigration law is civil, not criminal,²⁵⁹ and hence not subject to various constitutional protections?

Mothers, who fled their homes in Central America to seek asylum for themselves and their children but were instead “detained” within today’s concentration camps, have already determined that hunger strikes are a viable means of protest, but they have also found the limits of this tactic when attempted within federal custody.²⁶⁰ Perhaps tomorrow’s activists might assemble in quintessentially public places like the halls of Congress, not merely to “occupy” them but instead to launch a hunger strike. Or if that location is too likely to result in immediate arrest,²⁶¹ then perhaps the steps of the United States Capitol or elsewhere in the National Mall might provide viable and crucial places to protest the unusual cruelty of today’s enforcement of immigration law.²⁶²

²⁵⁹ See, e.g., *Arizona v. United States*, 567 U.S. 387, 396 (2012) (“Removal is a civil, not criminal, matter.”). See generally Peter L. Markowitz, *Deportation is Different*, 13 U. PA. J. CONST. L. 1299 (2011).

²⁶⁰ Compare, Renée Feltz, *Mothers at US Immigration Center on Hunger Strike to Protest Year in Custody*, GUARDIAN, Aug. 15, 2016, <https://www.theguardian.com/us-news/2016/aug/15/immigration-women-hunger-strike-pennsylvania-berks-county> [<https://perma.cc/S5F7-PKDK>], with Renée Feltz, *Migrant Mothers at Pennsylvania Center Suspend Hunger Strike ‘Due to Threats’*, GUARDIAN, Aug. 24, 2016, <https://www.theguardian.com/us-news/2016/aug/24/migrant-mothers-pennsylvania-center-hunger-strike-berks> [<https://perma.cc/APN5-4ZKD>]. See also sources cited, *supra* note 41.

²⁶¹ Cf. Niraj Choksi, *Hundreds Arrested During Women’s Immigration Protest in Washington*, N.Y. TIMES, June 29, 2018, <https://www.nytimes.com/2018/06/29/us/politics/womens-march-arrests-dc.html> [<https://perma.cc/47EX-K2AE>] (“More than 500 people, including at least one member of Congress, were arrested and escorted from the Philip A. Hart Senate Office Building on Thursday after staging a sit-in during a women-led march against the Trump administration’s ‘zero-tolerance’ approach to illegal immigration”).

²⁶² *But see Clark v. Community for Creative Nonviolence*, 468 U.S. 288 (1984) (holding that a content-neutral National Park Service regulation that forbid sleeping in Lafayette Park and other parts of the Mall met the requirements for a reasonable time, place, or manner restriction of expression). Note that in *Clark*, the protestors had obtained a permit to erect two symbolic “tent cities” to petition the U.S. government to end homelessness,

I will end my reflection with a quotation from César Chávez, the renowned organizer and leader of the United Farm Workers of America, but beforehand, I reiterate my argument that the Frisco 5 can and should be understood within a genealogy of struggle. Like many before them, they hungered for justice, including *inter alia*, Khalid Qasim and the other hunger strikers at Guantánamo Bay, prisoners on hunger strike at Pelican Bay and elsewhere, Bobby Sands and the nine other Irish Republicans who starved to death in the Maze Prison, César Chávez who fasted to bolster La Causa (the multi-racial struggle for farmworker dignity through unionization) and ultimately died after his final fast, Ralph Abernathy and Martin Luther King, Jr., Mahatma Gandhi, Irish Republican Terence MacSwiney who starved to death in London's Brixton prison, and the British suffragette Marion Wallace Dunlop. Studying and expanding this genealogy will likely benefit those who consider whether to launch a hunger strike tomorrow, as well as those who might be asked to advise them, because the sociolegal conditions constrain and structure not only when and why people may launch a hunger strike but also the likely government response(s). For one example, a locally unprecedented hunger strike, enacted outside of a prison, might enable people to achieve their goal, but if too-quickly repeated, the state will likely adapt and resist complying. Also, hunger strikes in prison seem likely to end in irreparable injury or even death—in part because prisoners are isolated and rarely deemed sympathetic by a significant minority of the public.

Nevertheless, fasting and the hunger strike are potent tools and ever at-hand: after ending his first and perhaps most famous fast, which lasted for twenty-five days and ended on March 10, 1968, at a Catholic mass where Robert F. Kennedy was photographed handing him a piece of bread, César Chávez recalled:

but they sought to sleep overnight in those tents, which the regulation prohibited as "camping." *Id.* at 292. Thus, even if hunger strikers were not allowed to sleep on the steps of the Capitol, they might assemble therein throughout the day and retire nightly to nearby locations.

Because I was too weak, I couldn't even speak my thanks, but Jim Drake expressed my thoughts which I had put down earlier.

“Our struggle is not easy,” I wrote. “Those who oppose our cause are rich and powerful, and they have many allies in high places. We are poor. Our allies are few. But we have something the rich do not own. We have our own bodies and spirits and the justice of our cause as our weapons.

“When we are really honest with ourselves,” I concluded, “we must admit that our lives are all that really belong to us. So it is how we use our lives that determines what kind of men [sic] we are. It is my deepest belief that only by giving our lives do we find life.”²⁶³

²⁶³ LEVY, *supra* note 208, at 286 (quoting César Chávez). Cf. BENDER, *supra* note 208 (depicting one of the iconic photographs of César Chávez and Robert Kennedy on its cover).