

# INTELLECTUAL ACTIVISM AND THE PRACTICE OF PUBLIC INTEREST LAW

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## ABSTRACT

Intellectual activism is both a philosophy and a practice for engaging in scholarship relevant to real-world problems and challenges, putting its prescriptions into action, and learning from the process and results of implementation. In the legal context, intellectual activism involves conducting and publishing original research and analysis and then applying that work to the tasks of reforming and improving the law, legal systems, and the legal profession. This article explores the concept and practice of intellectual activism for the benefit of interested law professors, lawyers, and law students.

This is a very personal piece, grounded in extensive scholarly, public education, and advocacy work that I have done in two areas: (1) fostering

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The descriptive portions of this article cover a lot of personal experiences, some of which are marked with citations, others being drawn from memory. Whenever possible, I have provided references to associated legal and policy developments.

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the enactment of workplace anti-bullying legislation and building public awareness of the phenomenon of bullying at work; and (2) participating in an emerging legal and social movement to challenge the widespread, exploitative practice of unpaid internships. It also discusses my involvement in multidisciplinary networks and institutions that have nurtured my work, examines the relevant use of social media, and provides examples of how law students can function as intellectual activists. The article closes with an Appendix containing a short annotated bibliography of books that are broadly relevant to the topics discussed in the text.

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## I. INTRODUCTION

How can law professors, lawyers, and law students engage in legal scholarship to inform and inspire law reform initiatives that benefit the public interest? How can we bridge the gap between academic analyses that sharpen our understanding of important legal and policy issues, and practical proposals that test the application of these insights? How can we bring an integrated blend of scholarship, social action, and evaluation into our professional practices?

I would like to explore these questions by invoking a simple concept that I call *intellectual activism*. Intellectual activism serves as both a philosophy and a methodology for engaging in scholarship relevant to real-world problems, putting the resulting prescriptions into action, and learning from the results of implementation. In the legal context, intellectual activism involves conducting and publishing original research and analysis, and then applying that work to reforming the law, legal systems, and the legal profession.

The process starts with a foundational writing, usually a traditional law review article. This writing harnesses the requisite source materials, engages in legal and policy analysis, and offers a prescriptive proposal for change. In turn, it serves as the basis for a variety of applied writings, such as proposed legislation and regulations, appellate and amicus briefs, policy papers, op-ed pieces, blog posts, and multimedia presentations, as well as other forms of public education and advocacy. The process is ongoing, creating a cycle of scholarship, action, and evaluation.

This article explores the concept and practice of intellectual activism

for interested law professors, lawyers, and law students. It is a very personal piece, grounded heavily in thirty years of experience in law and a teaching career shaped by a commitment to public interest law and workers' rights, and increasingly influenced by insights from psychology. Among other things, I discuss the considerable scholarship, public education, and advocacy work that I have done in two areas: (1) researching and authoring proposed workplace anti-bullying legislation and building public awareness of bullying at work,<sup>1</sup> and (2) playing a visible role in an emerging legal and social movement to challenge the widespread, often exploitative practice of unpaid internships.<sup>2</sup> This article also examines my involvement in relevant social networking activities and in three unique, multidisciplinary networks that have nurtured my work.

Although this article is particularly intended for those who are drawn to practicing in an intellectual activist mode, it does not presume that all legal scholars and lawyers should be writing this way. Amid healthy debates over the nature and purposes of legal scholarship, it behooves all of us to accept and tolerate different perspectives and approaches.<sup>3</sup> However, I hope that intellectual activism constitutes a response to the common criticism that legal scholarship lacks useful connections to challenges of law and policy in the real world.<sup>4</sup>

With those introductory comments made, let me begin this inquiry. Part I of the article will explore the basic tenets of intellectual activism. Part II will look at applications of intellectual activism through the work I

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<sup>1</sup> See David C. Yamada, *The Phenomenon of "Workplace Bullying" and the Need for Status-Blind Hostile Work Environment Protection*, 88 GEO. L.J. 475 (2000) [hereinafter Yamada, *Phenomenon of Workplace Bullying*].

<sup>2</sup> See David C. Yamada, *The Employment Law Rights of Student Interns*, 35 CONN. L. REV. 215 (2002) [hereinafter Yamada, *Student Interns*].

<sup>3</sup> See generally Martha Minow, *Archetypal Legal Scholarship: A Field Guide*, 65 J. LEGAL EDUC. 65 (2013) [hereinafter Minow, *Archetypal Legal Scholarship*] (describing popular approaches to legal scholarship).

<sup>4</sup> Compare Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 36 (1992) (observing that "because too few law professors are producing articles or treatises that have direct utility for judges, administrators, legislators, and practitioners, too many important social issues are resolved without the needed input from academic lawyers") with Adam Liptak, *Law Scholarship's Lackluster Reviews*, N.Y. TIMES (October 22, 2013) (quoting Chief Justice John Roberts saying, "pick up a copy of any law review that you see and the first article is likely to be, you know, the influence of Immanuel Kant on evidentiary approaches in eighteenth century Bulgaria"). See generally Ross E. Davies, *In Search of Helpful Legal Scholarship, Part 1*, 2 J.L. 1 (2012) (discussing, among other things, how legal scholarship can be helpful to the U.S. Supreme Court); Ross E. Davies, *In Search of Helpful Legal Scholarship, Part 2*, 2 J.L. 255 (2012) (proposing a project to identify legal scholarship of potential value to the U.S. Supreme Court).

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have done in workplace bullying, unpaid internships, and broader concerns around human dignity, as well as comment on the uses of social media and the contributions of law students. Part III will offer a variety of lessons I have learned concerning the practice of intellectual activism. Finally, an Appendix includes a bibliography of books broadly related to intellectual activism with brief annotations.

## II. DEFINING INTELLECTUAL ACTIVISM

## A. FOUNDATIONAL WRITING

The process of intellectual activism starts with a foundational writing project that identifies a legal or policy problem and then investigates reality by conducting thorough research and analysis. It concludes with a legal or policy prescription and an assessment of its viability, strengths, and weaknesses. This may include a proposed litigation strategy, policy change, or structural reform.

This “policy analysis” approach is among the most common forms of legal scholarship.<sup>5</sup> As described by dean and professor Martha Minow, the “usual structure” of such a piece is to “present a problem; canvass alternatives; propose an evaluative scheme or method; [and] recommend [a] preferred solution.”<sup>6</sup> The analysis of the issue at hand may include parsing the pertinent sources of law, conducting or reviewing qualitative and quantitative social science research, and assessing the political, social, and economic environment.

Whenever appropriate, and in most instances it will be, the writing should utilize relevant information, research, and analysis from other academic and professional disciplines.<sup>7</sup> The importance of incorporating interdisciplinary perspectives, in terms of both research and the formulation of proposed responses and solutions, cannot be overemphasized. Consider the case of many legal scholars who identify with the label “interdisciplinary.” All too often, they do so by making forays into different academic and professional disciplines largely in the company of like-minded law professors, without creating sustained interactions with scholars and practitioners in those other fields. Sustained

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<sup>5</sup> See Minow, *Archetypical Legal Scholarship*, *supra* note 3, at 66 (describing policy analysis approach to legal scholarship).

<sup>6</sup> *Id.*

<sup>7</sup> See *id.* (suggesting that analysis be informed by “historical review, economic model, psychological research or evidence from other fields”).

interdisciplinary interactions foster the kind of cross-fertilization that often deepens our understanding of societal issues and sharpens our ability to fashion complementary initiatives.

For law professors, lawyers, and law students, the most likely publication venue for this foundational writing will be through a law journal. The traditional law review article, even with its stodgy and sometimes excessive conventions of style and citation, requires us to document our sources and to spell out, in painstaking detail, the bases of a conclusion or recommendation.<sup>8</sup> In this sense it also serves as the primary database of sources informing our work, containing through footnotes our main bibliography, which in turn shows how these materials relate to the overall analysis and argument. When the writer succeeds in the tasks of research and analysis, then the recommended policy actions may justifiably be considered “evidence-based.”

This foundational piece may be the least read of one’s body of work on a particular project, given that popular demand for even the most compelling law review articles is limited. However, law review articles can be written in ways that make them more accessible to interested individuals, including those outside of the legal profession or academia. Clear writing and organization, avoidance of unnecessary jargon, and short explanations of concepts that may otherwise distract or confuse a reader are among the techniques that enhance readability. Making one’s work more accessible is another way to build a general readership. Easy measures include posting one’s work to sites such as a Social Science Research Network page<sup>9</sup> and linking it in blog pieces, reports, fact sheets, online comments, and other short writings.

Of course, the foundational writing may also attract invitations to participate in traditional academic activities, such as faculty lunch talks and academic conferences. It may also provide direction and material for blogs and newsletters published primarily for academic audiences. Such opportunities allow us to share our work with our peers and may help to mainstream our ideas within our areas of academic specialization.

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<sup>8</sup> For a thoughtful commentary on the pros and cons of the student-edited law review model, ultimately siding on the positive side, *see generally* Cameron Stracher, *Reading, Writing, and Citing: In Praise of Law Reviews*, 52 N.Y.L. SCH. L. REV. 349 (2007/2008).

<sup>9</sup> The Social Science Research Network enables scholars to post abstracts and articles, for open access downloading by researchers and readers. *See* SOC. SCI. RES. NETWORK, <http://www.ssrn.com/en/> (last visited Feb. 2016).

### B. SOCIAL ACTION

Now the scholar becomes a change agent, going beyond the security blanket of a controlled academic or professional work setting. This juncture distinguishes a traditional legal scholar from one operating in a more activist environment, as well as a conventional practitioner from a lawyer practicing in an evidence-based, reform-minded mode. It can be an exciting, scary, and impactful place to be.

Here, the fruits of the foundational writing enter more public surroundings. In terms of substantive legal and policy initiatives, the next steps may take one or more of several forms:

- (1) Drafting model legislation or administrative rules;
- (2) Developing litigation strategies;
- (3) Supporting impact or class-action litigation through brief writing and other tasks; and,
- (4) Designing bureaucratic or structural reforms.

Precise expression takes on an even greater importance in this action mode. In the case of legislative or administrative drafting especially, attention to detail matters greatly, where each word or phrase carries potential legal significance.

Additionally, intellectual activism involves public education directed toward advancing one's legal and policy objectives, ranging from partnering and affiliating with other individuals and organizations, to engaging in various outreach initiatives. These activities may include the following in no particular order:

- (1) Affiliating with organizations to work collaboratively toward desired legal and policy outcomes;
- (2) Breaking down, adapting, simplifying, and excerpting the foundational writing for blog posts, website material, op-eds, newsletters, non-academic publications, and position papers;
- (3) Providing written and oral testimony in support of proposed legislation or regulations;
- (4) Presenting talks and remarks at non-academic and community events;
- (5) Participating in social media exchanges; and,
- (6) Engaging in interviews with the media.

The public education component of intellectual activism requires analytical and communications skills that translate technical legal language and research into understandable prose, which is especially

helpful to those not trained in the law. “Knowledge translation,” as those in healthcare fields call it, can be a challenging task, especially when dealing with complicated, multi-level substantive and procedural issues.<sup>10</sup> Knowledge translation often requires balancing detail, breadth, and depth, while also thinking through how to synthesize complex ideas and information for public consumption.

Whereas the standard model of law review scholarship treats publication as the primary endgame, the practice of intellectual activism extends well beyond the journal page. This may pose a challenge in terms of both time and expected work output for both professors and lawyers. It will require a certain amount of in-house education and negotiation with one’s home institution in order to receive “credit” for this additional work. For some, it may also require the development of new skill sets, discussed in Part IV.

### C. EVALUATION

Intellectual activism is a cyclical process that includes evaluation and, when appropriate, revision. This may involve soliciting stakeholder feedback on drafts of proposed statutes, administrative rules, and legal briefs and then engaging in any necessary revisions. Ultimately, when one’s proposals or changes are adopted and implemented, then the evaluative process has only just begun.

This evaluative stage may be the most challenging of all. After engaging in thorough research and writing and participating in steps to see one’s recommendations come to fruition, one may have a heavy emotional investment in that work. Evaluation, however, must be dispassionate and focused on the merits. At times, after processing feedback and criticism, the original product may appear superior in your honest opinion. On other occasions, some minor tweaking may be in order. Hopefully an evaluation will not lead to a conclusion that one has failed, but it is always a possibility. In such instances, one must revise and move forward.

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<sup>10</sup> See, e.g., Jeremy M. Grimshaw et al., *Knowledge Translation of Research Findings*, 7 IMPLEMENTATION SCI. 50, 50 (2012) (noting that “[o]ne of the most consistent findings from clinical and health services research is the failure to translate research into practice and policy”); Sharon E. Straus et al., *Knowledge Translation is the Use of Knowledge in Healthcare Decision Making*, 64 J. CLINICAL EPIDEMIOLOGY 6 (2011) (examining the challenges of knowledge translation to apply clinical research findings to health care decision making); Ian D. Graham et al., *Lost in Knowledge Translation: Time for a Map?*, 26 J. CONTINUING EDUC. HEALTH PROF. 13, 13 (2006) (observing that “the transfer of research findings into practice is often a slow and haphazard process”). Thank you to Professor Michael Perlin for these references.



The evaluative process may include scholarly updates and reflections that build upon one's initial work. Typically, those subsequent writings will not be as voluminous as the foundational article or book. Rather, they will serve as opportunities to reflect upon new developments and share them with an interested audience.

#### D. THE PUBLIC AND LAW REFORM ROLES OF LAWYERS

Intellectual activism is an excellent match for an inherently public profession grounded in the philosophies, values, rules, and procedures that shape society. Leaders of the bar have long exhorted attorneys to engage in law reform efforts and civic leadership as part of a well-rounded, professional practice. For example, in the early 1950s, Arthur T. Vanderbilt, the chief justice of the New Jersey Supreme Court and former New York University Law School dean and American Bar Association president, described the five essential functions of a lawyer<sup>11</sup>:

First of all, a truly great lawyer is a wise counselor to all manner of men in the varied crises of their lives when they most need disinterested advice.

. . . Next the great lawyer is a skilled advocate, trained in the art of prosecuting and defending the legal rights of men both in the trial courts and on appeal.

. . . The third task of the great lawyer is to do his part individually and as a member of the organized Bar to improve his profession, the courts, and the law.

. . . In a free society every lawyer has a fourth responsibility, that of acting as an intelligent, unselfish leader of public opinion[—]I accent the qualities 'intelligent' and 'unselfish'[—]within his own particular sphere of influence.

. . . Finally, every great lawyer must be prepared, not necessarily to seek public office, but to answer the call for public service when it comes.<sup>12</sup>

At least three of the foregoing functions—skilled advocacy, improving the law, courts, and legal profession, and serving as a leader of public opinion—fit comfortably within the framework of intellectual activism.

Similarly, the Task Force on Law Schools and the Profession issued a

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<sup>11</sup> Arthur T. Vanderbilt, *The Five Functions of the Lawyer: Service to Clients and the Public*, 40 A.B.A. J. 31, 31–32 (1954).

<sup>12</sup> *Id.*

report in 1992 commonly referred to as the “MacCrate Report,” on the education and training of lawyers.<sup>13</sup> A core portion of the MacCrate Report identified clusters of fundamental skills and values for lawyers.<sup>14</sup> “Striving to promote justice, fairness, and morality” and “striving to improve the profession” were listed among the legal profession’s fundamental values.<sup>15</sup> Both values are entirely congruent with the practice of intellectual activism, which embraces constructive development and reform of the law, and improvement of the legal profession.

This discussion is wholly relevant to the public interest realm. Legal educators, law students, and lawyers are increasingly examining the links between theory, research, and public interest practice.<sup>16</sup> Furthermore, within the legal academy, we hear calls for “engaged scholarship” that can vastly expand the audience for legal scholarship in ways that address public interest priorities.<sup>17</sup> In sum, intellectual activism is hardly a radical reconceptualization of the lawyer’s role. Rather, it attempts to frame a methodology of research, action, and evaluation that blends legal scholarship and practice to advance the public interest.

### III. INTELLECTUAL ACTIVISM APPLIED: WORKPLACE BULLYING, UNPAID INTERNSHIPS, AND MORE

The concept of intellectual activism as presented in this article draws largely from personal experience. The main part of this section explains my work, as done in an intellectual activist mode, focused on workplace

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<sup>13</sup> TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992), [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/2013\\_legal\\_education\\_and\\_professional\\_development\\_maccrate\\_report\).authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_legal_education_and_professional_development_maccrate_report).authcheckdam.pdf).

<sup>14</sup> *See id.* at 138.

<sup>15</sup> *Id.* at 140–41.

<sup>16</sup> *See* Nicholas Melvoin & Andrew Neidhardt, *How Law Reviews Can Get It Right*, RLSC BLOG (Oct. 23, 2013), <http://socialchangenyu.com/2013/10/23/how-law-reviews-can-get-it-right/> (noting how social change law journal editors seek articles that will be useful “to lawyers who are out in the field, particularly lawyers who are under-resourced and working in underserved communities”); Nisha Agarwal & Jocelyn Simonson, *Thinking Like a Public Interest Lawyer: Theory, Practice, and Pedagogy*, 34 N.Y.U. REV. L. & SOC. CHANGE 455 (2010) (citing theorists Pierre Bourdieu, Michel Foucault, Friedrich Hayek, and David Couzens Hoy to link theoretical reflections to public interest lawyering); Jocelyn Simonson, *Foreword, Breaking the Silence: Legal Scholarship as Social Change*, 41 HARV. C.R.-C.L. L. REV. 289 (2006) (describing how law students worked with a jailhouse lawyer to examine experiences of those sentenced to life imprisonment).

<sup>17</sup> *See* Sonya K. Katyal, *Encouraging Engaged Scholarship: Perspectives from an Associate Dean for Research*, 31 TOURO L. REV. 53, 55 (2015).

bullying and unpaid internships. I also examine the use of social media, three multidisciplinary entities that have provided theoretical frameworks and practice connections for my work, and ways to encourage law students to develop intellectual activist perspectives in their budding legal careers. I close the section with a discussion of ideas and activities that have further inspired my conceptualization of this role.

#### A. WORKPLACE BULLYING

##### 1. Early Work

In 1998, I stumbled upon an online interview with social psychologist Gary Namie about a destructive behavior that he referred to as “workplace bullying.”<sup>18</sup> Workplace bullying, he explained, is “[t]argeted, repeated, health-harming mistreatment” of an employee by a supervisor or co-worker.<sup>19</sup> It may come in the form of direct behaviors such as constant yelling, screaming, and unfair criticism, or in the form of indirect behaviors such as deliberate, ongoing attempts to undermine someone’s reputation and performance.<sup>20</sup> Severe workplace bullying, he explained, can impair an individual’s health and hurt organizational morale and productivity.<sup>21</sup> Targets of workplace bullying may experience significant psychological impairments, such as clinical depression and anxiety disorders.<sup>22</sup> In severe instances, symptoms consistent with post-traumatic stress disorder (“PTSD”) may be present.<sup>23</sup>

At the time, Gary Namie and his wife Ruth, also a Ph.D. in psychology, were in the process of launching a North American initiative named, “The Campaign Against Workplace Bullying” (now called the “Workplace Bullying Institute”).<sup>24</sup> In choosing this moniker, they drew upon the work of British journalist Andrea Adams, who had popularized the term “workplace bullying” in the early 1990s through a BBC series

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<sup>18</sup> This interview is no longer available online. However, a general explanation of workplace bullying may be drawn, generally, from GARY NAMIE & RUTH NAMIE, *THE BULLY AT WORK* (2d ed. 2009).

<sup>19</sup> *See id.* at 3 (providing general definition of workplace bullying).

<sup>20</sup> *See id.* at 27–28 (describing common bullying behaviors).

<sup>21</sup> *See id.* at 18–19 (describing impact of workplace bullying).

<sup>22</sup> *See id.* at 135 (listing health impacts associated with workplace bullying).

<sup>23</sup> *See id.* at 142–45 (discussing workplace bullying and PTSD).

<sup>24</sup> For more about the Workplace Bullying Institute, visit their website at <http://www.workplacebullying.org/>.

and one of the first books on the topic.<sup>25</sup> Her work, in turn, built upon the pioneering research of Swedish psychiatrist Heinz Leymann, who invoked the term “mobbing” to describe when groups of workers descend upon an unpopular co-worker.<sup>26</sup>

The workplace bullying described in the Namie interview triggered an instant epiphany. Even if, at that time, the term “workplace bullying” was not frequently invoked in discussions of American employee relations, I knew instinctively that this was a common form of job-related mistreatment. I wanted to investigate the relevant legal issues. I contacted the Namies to find out whether they had ever looked at the legal aspects of workplace bullying in terms of possible employee protections. When they told me their work to date had concentrated on the individual and organizational impacts of bullying, I expressed my intention to research the topic and write an article analyzing potential legal protections for targets of workplace bullying.<sup>27</sup>

Research revealed that the topic was largely unexplored in American legal scholarship. However, I hypothesized that the tort claim of Intentional Infliction of Emotional Distress (“IIED”) would be the primary legal protection against workplace bullying.<sup>28</sup> I reviewed hundreds of state court decisions on IIED claims brought against employers and co-workers for bullying-type behaviors. To my surprise and disappointment, I found that courts were routinely granting and affirming summary judgment for defendants, usually on the grounds that the complained-of behavior was not sufficiently severe and outrageous to meet the requirements of IIED, even when the plaintiffs had been emotionally pummeled by the abuse.<sup>29</sup>

After considering other potential legal protections, such as employment discrimination statutes and collective bargaining laws,<sup>30</sup> I concluded that many targets of severe workplace bullying were without

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<sup>25</sup> See ANDREA ADAMS & NEIL CRAWFORD, *BULLYING AT WORK: HOW TO CONFRONT AND OVERCOME IT* (1992).

<sup>26</sup> See, e.g., Heinz Leymann, *The Content and Development of Mobbing at Work*, 5 EUR. J. WORK & ORGANIZATIONAL PSYCHOL. 165, 165 (1996); Heinz Leymann & Annelie Gustafsson, *Mobbing at Work and the Development of Post-Traumatic Stress Disorders*, 5 EUR. J. WORK & ORGANIZATIONAL PSYCHOL. 251 (1996).

<sup>27</sup> This article was published in 2000. See Yamada, *The Phenomenon of Workplace Bullying*, *supra* note 1.

<sup>28</sup> See *id.* at 493–94 (explaining potential applicability of IIED claims to workplace bullying).

<sup>29</sup> See *id.* at 494–505 (analyzing IIED claims brought against employers for bullying-type behaviors).

<sup>30</sup> See *id.* at 509–21 (analyzing applicability of employment discrimination and collective bargaining laws to workplace bullying).

legal protections against the abusive mistreatment.<sup>31</sup> My article concluded with a proposal outlining the parameters for a new statute that would create a civil claim for severe workplace bullying, which was published in the *Georgetown Law Journal* in the spring of 2000.<sup>32</sup>

It quickly became clear that my involvement with workplace bullying would not end with this article. Even before it was published, my association with the Namies and the Campaign Against Workplace Bullying was growing into a partnership. In January 2000, they sponsored the first North American conference on workplace bullying in Oakland, California, I was one of the presenters at the conference, which brought together researchers, practitioners, and advocates from the United States, Canada, and elsewhere.

Many of the Oakland conference participants have continued to engage in research, public education, advocacy, and labor relations activities pertaining to workplace bullying. This has certainly been the case for me; what began as a law review article over fifteen years ago has expanded into a career defining, personally formative, and immersive agenda of research, public education, media outreach, legislative drafting, and advocacy on workplace bullying, employee dignity, and related topics. Much of my work has been done in partnership with scholars and practitioners in various disciplines. These include lawyers, labor activists and employee advocates, and everyday workers in the United States and abroad. Helping to grow this web of individuals has been one of the most rewarding aspects of my career, and it has created welcomed opportunities to apply my work to a significant problem of employment relations. The cross-fertilization between the various areas of expertise and personal perspectives has been an invaluable learning experience, not to mention a source of genuine fellowship.

## 2. Healthy Workplace Legislation

My most significant contribution toward fostering legal reform concerning workplace bullying has been the drafting of a prototype statute consistent with the provisions suggested in my 2000 *Georgetown Law Journal* article.<sup>33</sup> The result has been dubbed the Healthy Workplace Bill (“HWB”), and it creates a civil claim for damages for workers who can prove that they were subjected to an abusive work environment that

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<sup>31</sup> See *id.* at 524 (summarizing shortcomings in existing potential legal protections).

<sup>32</sup> See *id.* at 524–31 (setting out parameters of proposed new workplace bullying protections).

<sup>33</sup> See Yamada, *Phenomenon of Workplace Bullying*, *supra* note 1.

caused them mental or physical harm. The official template version has undergone a number of changes over the years, in response to suggestions and feedback from lawyers, advocates, and legislative staff members.<sup>34</sup>

The full text of the current template of the HWB and an explanation of its major provisions is available in a previous article.<sup>35</sup> In essence, the HWB provides a private cause of action for potential damages and injunctive relief to targets of severe workplace bullying and in turn creates legal incentives for employers to act preventively and responsively toward these behaviors.<sup>36</sup> Its core provision makes the creation of an “abusive work environment” an unlawful employment practice.<sup>37</sup> Abusive work environments “exists when an employer or one or more of its employees, acting with intent to cause pain or distress to an employee, subjects that employee to abusive conduct that causes physical harm, psychological harm, or both.”<sup>38</sup> In turn, “abusive conduct” is defined as

[A]cts, omissions, or both, that a reasonable person would find abusive, based on the severity, nature, and frequency of the conduct. Abusive conduct may include, but is not limited to: repeated verbal abuse such as the use of derogatory remarks, insults, and epithets; verbal, non-verbal, or physical conduct of a threatening, intimidating, or humiliating nature; or the sabotage or undermining of an employee’s work performance. It shall be considered an aggravating factor that the conduct exploited an employee’s known psychological or physical illness or disability. A single act normally will not constitute abusive conduct, but an especially severe and egregious act may meet this standard.<sup>39</sup>

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<sup>34</sup> Although the essential pieces of the Healthy Workplace Bill (“HWB”) have remained intact since the original draft, it has been revised in response to suggestions and criticisms over the years. Its development, and the emergence of legal responses to workplace bullying, can be traced through four symposium contributions to law reviews: David C. Yamada, *Workplace Bullying and the Law: U.S. Legislative Developments 2013-15*, EMP. RTS. & EMP. POL’Y J. (2015), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2568894](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2568894) [hereinafter Yamada, *U.S. Legislative Developments*], ; David C. Yamada, *Emerging American Legal Responses to Workplace Bullying*, 22 TEMP. POL. & CIV. RTS. L. REV. 329 (2013) (including current version of the HWB) [hereinafter Yamada, *Emerging American Legal Responses*]; David C. Yamada, *Workplace Bullying and American Employment Law: A Ten-Year Progress Report and Assessment*, 32 COMP. LAB. L. & POL’Y J. 251 (2010) (including revised version of the HWB) [hereinafter Yamada, *Workplace Bullying Progress Report*]; David C. Yamada, *Crafting a Legislative Response to Workplace Bullying*, 8 EMP. RTS. & EMP. POL’Y J. 475 (2004) (including original version of the HWB) [hereinafter Yamada, *Crafting a Legislative Response*].

<sup>35</sup> See Yamada, *Emerging American Legal Responses*, *supra* note 34, at 333–38, 350–54.

<sup>36</sup> See *id.* at 333–38 (discussing primary HWB provisions).

<sup>37</sup> *Id.* at 352.

<sup>38</sup> *Id.* at 351.

<sup>39</sup> *Id.*

Other provisions include anti-retaliation protections, specified damages, and employer defenses, many of which draw upon Title VII of the Civil Rights Act of 1964 and leading Supreme Court decisions on sexual harassment.<sup>40</sup>

As of June 2015, the full HWB has not been enacted in any state. However, since 2003, workplace anti-bullying bills, largely variations of the HWB, have been introduced in some thirty states and two territories, including over a dozen active bills during the 2013–2014 sessions of state legislatures.<sup>41</sup> In 2014, California and Tennessee enacted workplace anti-bullying statutes that draw upon the language of the HWB.<sup>42</sup> In addition, the state senates of New York and Illinois passed versions of the HWB in 2010, and a handful of local governments have adopted workplace bullying ordinances covering public sector workers within their jurisdictions.<sup>43</sup>

Thanks in large part to grassroots activists brought together in a loose national network organized by the Workplace Bullying Institute, legislation once regarded as a pipe dream is now gaining momentum and becoming a reality. My role has centered on being a legislative drafter, resource person, educator, and advocate for the HWB. Here are some of the highlights:

- (1) Working with advocates, legislators, and legislative staff on drafts, revisions, and proposed amendments to the HWB;
- (2) Providing written and oral testimony in support of the HWB at legislative hearings;
- (3) Drafting fact sheets and other public education materials about workplace bullying and the HWB;
- (4) Hosting and appearing at public meetings about workplace bullying and the HWB;
- (5) Speaking at legal academic and professional conferences about bullying and the law, such as programs sponsored by the American Bar Association, Association of American Law Schools, and National Employment Lawyers Association; and

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<sup>40</sup> See *id.* at 352–53 (containing text of HWB provisions); Yamada, *Crafting a Legislative Response*, *supra* note 34, at 501–03 (explaining employer’s affirmative defense).

<sup>41</sup> See generally *Healthy Workplace Bill*, HEALTHY WORKPLACE CAMPAIGN, <http://www.healthyworkplacebill.org/states.php> (last visited Feb. 2016) (providing state-by-state histories of workplace bullying legislation).

<sup>42</sup> These developments are discussed in Yamada, *U.S. Legislative Developments*, *supra* note 34.

<sup>43</sup> Yamada, *Emerging American Legal Responses*, *supra* note 34, at 338–39 (discussing progress of HWB in state legislatures), 342–46 (describing other policy responses to workplace bullying).

- (6) Giving interviews to the print and electronic media, both general and specialized, on workplace bullying and the HWB.<sup>44</sup>

These interrelated activities have provided me with opportunities to bridge the gaps between the worlds of research and practice. In these varied settings, I have found myself happy and occasionally relieved that I have taken the time to thoroughly research and comprehend the legal and policy ramifications of workplace bullying before assuming a more public role on the subject. That base of knowledge and understanding serves me well when weighing questions, suggestions, and criticisms about proposed workplace bullying legislation.

### 3. Interdisciplinary Outreach and Collaborations

Through the process of researching and writing about workplace bullying, I have learned a lot about psychology, organizational behavior, occupational safety and health. In recent years, I have made an increasing number of contributions in these areas. This has occurred through ongoing interactions and collaborations with scholars, practitioners, journals, and conferences in these fields:

- (1) Regularly presenting on workplace bullying and related topics at the biennial “Work, Stress and Health” conferences co-sponsored by the American Psychological Association (“APA”), National Institute for Occupational Safety and Health, and Society for Occupational Health Psychology;<sup>45</sup>
- (2) Working with the APA’s Center for Organizational Excellence to develop a webpage and animated educational video on workplace

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<sup>44</sup> See, e.g., Yuki Noguchi, *States Consider Laws To Crack Down On Workplace Bullies*, NPR MORNING EDITION (May 27, 2014), <http://www.npr.org/2014/05/27/311889777/states-consider-bills-to-crack-down-on-workplace-bullies>; WGBH News, *The Fight Against Bullying Turns to the Workplace*, YOUTUBE (Jan. 14, 2014), <https://www.youtube.com/watch?v=YT8O8iExT2I>; Susan Kreimer, *This Workplace Offense Is More Common than Sexual Harassment*, MAINSTREET.COM (Aug. 7, 2013), <https://www.mainstreet.com/article/workplace-offense-more-common-sexual-harassment-0>; Vadim Liberman, *Mistreatment*, CONFERENCE BOARD REVIEW, <http://www.tcbreview.com/tcbr-human-capital/mistreatment.html> (last visited Apr. 3, 2016); Tina Susman, *State Bills Against Workplace Bullying Gain Traction*, L.A. TIMES (Mar. 18, 2011), <http://articles.latimes.com/2011/mar/18/nation/la-na-workplace-bullying-20110319>; Ed Fraunheim, *Recession Unleashes Boss Bullying*, WORKFORCE MGMT. (Apr. 4, 2010), <http://www.workforce.com/articles/recession-unleashes-boss-bullying>; Wendy N. Davis, *No Putting Up with Putdowns*, A.B.A. J., (Feb. 2008), [http://www.abajournal.com/magazine/article/no\\_putting\\_up\\_with\\_putdowns](http://www.abajournal.com/magazine/article/no_putting_up_with_putdowns).

<sup>45</sup> See *Work, Stress and Health 2015: Sustainable Work, Sustainable Health, Sustainable Organizations*, AM. PSYCHOL. ASS’N, <http://www.apa.org/wsh/> (last visited Feb. 2016).



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- bullying,<sup>46</sup> and presenting at the Center's regional seminars;
- (3) Hosting "Workplace Bullying Think Tanks" at Suffolk University Law School that invite lawyers, labor leaders, human resources consultants, and other professionals to consider complementary approaches to preventing and responding to bullying at work;
  - (4) Presenting keynote and plenary addresses at conferences and events hosted by the International Ombudsman Association, New York State Psychological Association, Human Dignity and Humiliation Studies network, and the National Conference for Workplace Violence Prevention & Management in Healthcare Settings; and
  - (5) Contributing articles on workplace bullying to journals in employee relations,<sup>47</sup> values-based leadership,<sup>48</sup> and health care management.<sup>49</sup>

This work has fueled an interest in learning more about helping modalities such as counseling, consulting, and coaching. For example, a chance conversation with a fellow attendee at the 2013 Work, Stress, and Health conference led to my enrollment in a coaching training program sponsored by the Institute for Professional Excellence in Coaching.<sup>50</sup> Participating in this training program strengthened my communications skills in all realms of my life, including my teaching and public education work.

#### 4. Evaluation

In many ways, it feels like my work in this realm has just started. However, I have been at it now for over fifteen years. Consistent with the model of intellectual activism outlined in Part I, I now engage in ongoing review, evaluation, and revision, including

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<sup>46</sup> See *Workplace Bullying*, AM. PSYCHOL. ASS'N, CENTER FOR ORGANIZATIONAL EXCELLENCE, <https://www.apaexcellence.org/resources/special-topics/workplace-bullying> (last accessed Mar. 6, 2016).

<sup>47</sup> David C. Yamada, *As Workplace Bullying Enters the Mainstream of American Employment Relations, Will Law and Public Policy Follow?*, 14 PERSPS. ON WORK 19 (2010/2011).

<sup>48</sup> David C. Yamada, *Workplace Bullying and Ethical Leadership*, 1 J. VALUES-BASED LEADERSHIP 49 (2008).

<sup>49</sup> David C. Yamada, *Understanding and Responding to Bullying and Related Behaviors in Healthcare Workplaces*, 25 FRONTIERS HEALTH SERV. MGMT. 33 (2009).

<sup>50</sup> See generally INST. FOR PROF. EXCELLENCE IN COACHING, <http://www.ipeccoaching.com> (last accessed Mar. 1, 2016).

- (1) Periodically revising the template version of the HWB, based on feedback from various stakeholders, mainly with relatively minor tweaks and streamlining of language;
- (2) Evaluating the effectiveness of legislative advocacy efforts;
- (3) Assessing the growth and development of the workplace anti-bullying movement in general; and
- (4) Engaging in self-assessments of my effectiveness as a communicator and advocate.

As part of the evaluative process, I published follow-up law review articles, typically shorter pieces in symposium editions of law journals, providing revisions to the template version of the HWB and accompanying explanations, updates on the progress made to enact workplace bullying legislation, and related legal and policy developments.<sup>51</sup>

## B. UNPAID INTERNSHIPS

### 1. Holiday Fruitcake

Over the past thirty years, unpaid internships have become a staple in the lives of students and recent graduates.<sup>52</sup> While this practice first became common in the non-profit and public sectors, it soon expanded into the private sector as well.<sup>53</sup> Accurate figures are difficult to come by, but rough estimates suggest that at least half of all internships are unpaid.<sup>54</sup>

As the intern economy continued to expand, I realized that unpaid internships were often exploitative and exclusionary.<sup>55</sup> Wealthy companies were getting free labor out of interns, in return for vague promises of “experience,” a positive reference, and perhaps some hope of a permanent job offer. Those who could not afford to work for free were left out of the picture entirely.<sup>56</sup> In fields such as journalism, entertainment, fashion, and politics—all of which have a profound influence in shaping our popular and civic cultures—the widespread practice of unpaid internships often

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<sup>51</sup> These articles are cited in footnote 37.

<sup>52</sup> See Yamada, *Student Interns*, *supra* note 2, at 217–18 (discussing the contemporary intern economy).

<sup>53</sup> See *id.*

<sup>54</sup> *Id.* at 218.

<sup>55</sup> See *id.* at 218–19.

<sup>56</sup> See *id.*

shut the door on those without independent sources of funding.<sup>57</sup>

There was very little legal scholarship addressing the rights of interns in the context of employment law when I became interested in this topic early in the 2000s. Nevertheless, as I researched and analyzed the relevant law, I concluded that most unpaid internships, at least in the private sector, violated federal minimum wage laws.<sup>58</sup> In addition, the unpaid status of many interns created a legal grey area as to their standing to sue for discrimination and sexual harassment under the Civil Rights Act of 1964.<sup>59</sup> I wrote up my findings in a law review article published in the *Connecticut Law Review* in 2002.<sup>60</sup>

When the article was published, I was not able to do additional work to publicize the general topic of intern rights. Other priorities simply intervened and took precedent. Meanwhile, like an unwanted holiday fruitcake relegated to the back of a kitchen cabinet, the article and the issues it raised remained largely obscured.

## 2. A Movement Emerges

Intern rights issues, however, began to emerge onto the public scene several years ago,<sup>61</sup> with two notable developments occurring in 2011. First was the publication of Ross Perlin's *Intern Nation*,<sup>62</sup> the first book-length examination of the social, economic, and legal implications of the intern economy. Second was the filing of a lawsuit in federal district court against Fox Searchlight Pictures by former unpaid interns.<sup>63</sup> The plaintiffs, Eric Glatt and Alex Footman, alleged that they were owed back wages under federal and state minimum wage laws for their production work on the movie *Black Swan*.<sup>64</sup>

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<sup>57</sup> *See id.*

<sup>58</sup> *See id.* at 224–234 (discussing the status of unpaid internships under federal Fair Labor Standards Act).

<sup>59</sup> *See generally id.* at 238–51 (discussing applicability of federal employment discrimination and civil rights laws to unpaid interns).

<sup>60</sup> *See id.* at 215.

<sup>61</sup> *See* David C. Yamada, *The Legal and Social Movement Against Unpaid Internships*, NORTHEASTERN U. L.J. (forthcoming), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2338646](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2338646).

<sup>62</sup> *See* ROSS PERLIN, *INTERN NATION: HOW TO EARN NOTHING AND LEARN LITTLE IN THE BRAVE NEW ECONOMY* (2011) [hereinafter PERLIN, *INTERN NATION*].

<sup>63</sup> Steven Greenhouse, *Interns, Unpaid by Studio, File Suit*, N.Y. TIMES (Sept. 29, 2011), <http://www.nytimes.com/2011/09/29/business/interns-file-suit-against-black-swan-producer.html>.

<sup>64</sup> *Id.*

In both instances, my 2002 law review article played a role. *Intern Nation* called it “the single best source of information for American internships and the law,”<sup>65</sup> and Eric Glatt later informed me that reading the article strongly influenced his decision to file the lawsuit. Soon after the lawsuit was filed, I met with Ross Perlin and Eric Glatt in New York City to discuss the future of intern rights and the emerging activist movement to address broader concerns about internships, the labor movement, and social justice.<sup>66</sup>

During 2011 and 2012, the intern rights movement began to coalesce through social media and face-to-face organizing. Out of the Occupy Wall Street movement arose Intern Labor Rights,<sup>67</sup> a group of younger activists who wanted to organize specifically around these issues. Facebook pages devoted to intern rights began to appear. More lawsuits brought by former unpaid interns were filed.<sup>68</sup> Throughout this period, the media began to take note, with coverage appearing in major print outlets.<sup>69</sup>

The movement’s true “coming out” party, however, came during the summer of 2013, triggered by a federal district court decision in the *Glatt v. Fox Searchlight Pictures Inc.* lawsuit. The district court held that the lead plaintiffs were entitled to back wages and certified a class action for other unpaid interns on the *Black Swan* production.<sup>70</sup> The decision unleashed an abundance of media attention and spurred the filing of more lawsuits.<sup>71</sup> At the same time, other initiatives began to take shape. For example, the public interest news organization ProPublica launched a

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<sup>65</sup> PERLIN, *INTERN NATION*, *supra* note 62, at 251.

<sup>66</sup> See David Yamada, A “Cozy” Meeting About Unpaid Internships, *MINDING THE WORKPLACE* (Dec. 15, 2011), <https://newworkplace.wordpress.com/2011/12/15/a-cozy-meeting-about-unpaid-internships/>.

<sup>67</sup> See INTERN LAB. RTS., <http://internlaborrights.com/> (last accessed Mar. 1, 2016).

<sup>68</sup> See Stephen Suen & Kara Brandeisky, *Tracking Intern Lawsuits*, PROPUBLICA, <http://projects.propublica.org/graphics/intern-suits> (last accessed Mar. 2, 2016). [hereinafter Suen & Brandeisky, *Tracking Intern Lawsuits*].

<sup>69</sup> See, e.g., *The Intern’s Burden*, N.Y. MAG. (Mar. 25, 2012), <http://nymag.com/news/intelligencer/topic/intern-poll-2012-4/> (containing a graphic feature about internships); Josh Sanburn, *The Beginning of the End of the Unpaid Internship*, TIME (May 2, 2012), <http://business.time.com/2012/05/02/the-beginning-of-the-end-of-the-unpaid-internship-as-we-know-it/> (observing that “[a]s college students make the annual rite of passage from college classroom to summer internship, those unpaid positions may have finally peaked”).

<sup>70</sup> *Glatt v. Fox Searchlight Pictures Inc.*, 293 F.R.D. 516, 521–522 (S.D.N.Y. 2013), *modified on other issues on reconsideration*, 2013 WL 4834428 (S.D.N.Y. Aug. 26, 2013), *appeal docketed*, No. 13-4478-CV (2d Cir.).

<sup>71</sup> See Suen & Brandeisky, *Tracking Intern Lawsuits*, *supra* note 68 (documenting uptick in filing of intern lawsuits in the aftermath of the 2013 *Glatt* decision).

national investigative project examining the intern economy.<sup>72</sup> On Facebook, Intern Labor Rights continued to serve as a virtual gathering spot for activists committed to advancing these issues.

My involvement in the emerging intern rights movement has taken on a number of roles, beyond the seed-planting functions of my scholarship, including

- (1) Supporting the cohort of mostly younger activists, primarily through social media outlets;
- (2) Providing interviews to the media, especially in the aftermath of the 2013 district court ruling in *Glatt v. Fox Searchlight Pictures Inc.*;<sup>73</sup>
- (3) Serving as an expert for ProPublica's intern investigative project;<sup>74</sup> and
- (4) Assuming an advocacy role as an invited party to *amicus* briefs filed by the National Employment Law Project<sup>75</sup> in the appeals of the *Glatt* case, *Wang vs. Hearst Corp.*,<sup>76</sup> and another intern rights lawsuit before the United States Court of Appeals for the Second Circuit.

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<sup>72</sup> *Internships*, PROPUBLICA, <http://www.propublica.org/series/internships> (last accessed Mar. 1, 2016).

<sup>73</sup> See, e.g., Michelle Chen, *For Disgruntled Young Workers, Lawsuits May Spark Intern Insurrection*, IN THESE TIMES (June 24, 2013), [http://inthesetimes.com/working/entry/15190/for\\_disgruntled\\_young\\_workers\\_lawsuits\\_may\\_portend\\_intern\\_insurrection/](http://inthesetimes.com/working/entry/15190/for_disgruntled_young_workers_lawsuits_may_portend_intern_insurrection/); Sam Hananel, *Unpaid Internships in Jeopardy After Court Ruling*, ASSOCIATED PRESS (June 13, 2013), <http://bigstory.ap.org/article/unpaid-internships-jeopardy-after-court-ruling> (containing a nationally syndicated Associated Press story); Taryn Luna, *Court Ruling Stirs Debate Over Intern Pay*, BOSTON GLOBE (June 26, 2013), <http://www.bostonglobe.com/business/2013/06/25/court-ruling-triggers-debate-fairness-unpaidinternships/wOshEPfGG9t8BP8Nict8ML/story.html>; Jim Snyder & Christie Smyth, *Sleeping-Giant Issue of Unpaid U.S. Interns Gets Scrutiny*, BLOOMBERG (June 27, 2013), <http://www.bloomberg.com/news/2013-06-27/sleeping-giant-issue-of-unpaid-interns-gets-scrutiny.html>.

<sup>74</sup> See Casey McDermott, *Q&A: David Yamada on Condé Nast and Intern Rights, Internships*, PROPUBLICA, <http://www.propublica.org/article/qa-david-yamada-on-conde-nast-and-intern-rights> (last accessed Mar. 2, 2016) (containing a nationally syndicated interview).

<sup>75</sup> See Brief for National Employment Law Project as Amici Curiae Supporting Appellants, *Wang v. Hearst Corp.*, No. 13-4480 (2d Cir. April 3, 2014), <http://www.nelp.org/content/uploads/2015/03/Wang-v-Hearst.pdf>; National Employment Law Project, Brief for Amici Curiae Supporting Appellees, *Glatt v. Fox Searchlight Pictures*, No. 13-4478 (July 3, 2014), <http://internlaborrights.s3.amazonaws.com/wp-content/uploads/2015/01/Glatt-v-Fox-NELP-Amicus.pdf>.

<sup>76</sup> *Xuedan Wang v. Hearst Corp.*, 293 F.R.D. 489 (S.D.N.Y. 2013).

### 3. Next Steps: Legal Reassessments, Evaluation, and Connecting with the Bigger Picture

At this stage, it may seem premature to evaluate the effectiveness of the intern rights movement and the individual initiatives to realize these concerns in law and policy. Suffice it to say that these efforts have emerged and coalesced in a remarkably short period of time. A major pending question is whether this movement will have staying power, especially in view of its dependence upon succeeding groups of students and recent graduates to assume active leadership roles.

However, external events sometimes impose the need for evaluation. This certainly was the case when, in January 2016, the U.S. Court of Appeals for the Second Circuit reversed and vacated the district court's decision in *Glatt v. Fox Searchlight Pictures, Inc.*<sup>77</sup> The Second Circuit held that the district court's use of a U.S. Department of Labor standard for determining when employers are exempt from paying the minimum wage to interns was improper and substituted its own, more employer-friendly standard in remanding the case for further proceedings.<sup>78</sup> It also held that the district court erred in its application of the standard for certifying class actions and ordered a lower court redetermination on that question as well.<sup>79</sup>

At this writing, advocates are revisiting the legal arguments for advancing intern rights claims. With only one district court and one appeals court decision in tow, this wave of litigation is in its early stages. However, especially given the significance of the Second Circuit Court of Appeals as a potentially trend-setting jurisdiction, it is important to make our points as effectively as possible.

Beyond the immediate legal issues of the status of interns under wage and hour laws, the intern rights movement must connect with broader social concerns about the funding of higher education, the future of work and the contingent workforce, and the challenges of creating a sustainable, entry-level job market for those entering new professions and occupations. The growth of the intern economy has coincided with the dramatic rise in student loans.<sup>80</sup> Furthermore, unpaid internships have spilled into post-graduate positions, repackaged as "fellowships."<sup>81</sup> More and more, it

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<sup>77</sup> *Glatt v. Fox Searchlight Pictures, Inc.*, 811 F.3d 528, 2016 WL 284811 (2d Cir. 2016).

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at \*1.

<sup>80</sup> See Yamada, *Student Interns*, *supra* note 2, at 223–24.

<sup>81</sup> See Katherine Bindley, *Fellowship or Internship? In Media, the Definition Has Become Fluid*,

appears that the costs of education, training, and early credentialing are being placed on the shoulders of those who are just getting their lives started. These dots need to be connected more clearly in order for us to understand the full brunt of circumstances that face new generations preparing to enter the workforce.<sup>82</sup>

### C. SOCIAL MEDIA

Blogging originally became popular as a medium for instantaneous reporting and analysis on breaking political news.<sup>83</sup> However, blogging now also serves as way to offer more reflective commentary intended to contribute to an extended discussion about pertinent issues of the day.<sup>84</sup> Recently, I discovered a term that captures this use of the medium, *slow blogging*; Todd Sieling has beautifully articulated the philosophy and practice of slow blogging in his “Slow Blog Manifesto.”<sup>85</sup> Here are a few snippets:

Slow Blogging is a rejection of immediacy. It is an affirmation that not all things worth reading are written quickly, and that many thoughts are

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N.Y. TIMES (Nov. 23, 2014), <http://www.nytimes.com/2014/11/24/business/media/fellowship-or-internship-in-media-the-definition-has-become-fluid.html> (discussing blurring lines between post-graduate internships versus fellowships in media professions); David Yamada, *Tired of Unpaid Internships? Go for a “Non-Stipendiary Fellowship” Next!*, MINDING THE WORKPLACE (Apr. 30, 2013), <https://newworkplace.wordpress.com/2013/04/30/tired-of-unpaid-internships-go-for-a-non-stipendiary-fellowship-next/> (discussing the growth of unpaid, post-graduate fellowships in the creative and artistic sectors).

<sup>82</sup> Fortunately, these attempts are underway, mostly in politically progressive media. See, e.g., Editorial Board, *The Free and the Anti-Free: On Payment for Writers*, N+1 (Fall 2014), <https://nplusonemag.com/issue-20/the-intellectual-situation/the-free-and-the-antifree/> (linking the decline in payment for writers with the growth of unpaid internships); Madeleine Schwartz, *Opportunity Costs: The True Price of Internships*, DISSENT (Winter 2013), <http://www.dissentmagazine.org/article/opportunity-costs-the-true-price-of-internships> (closing with the observation that “[i]f we are to fix the problems of contingent work, we need to find a new way to talk about work that encompasses all the work done today—unpaid, part-time, and insecure”).

<sup>83</sup> See SCOTT ROSENBERG, *SAY ANYTHING: HOW BLOGGING BEGAN, WHAT IT’S BECOMING, AND WHY IT MATTERS* 131–64 (2009) (describing the rise of political blogging).

<sup>84</sup> See Rick Garnett, “*The Blogger as Public Intellectual*”: *A Fun Conversation with Paul Horwitz*, PRAWFSBLAWG (April 23, 2013), <http://prawfsblawg.blogs.com/prawfsblawg/2013/04/the-blogger-as-public-intellectual-a-fun-conversation-with-paul-horwitz.html> (discussing more reflective uses of the blogging medium); Lawrence B. Solum, *Blogging and the Transformation of Legal Scholarship*, 84 WASH. U. L. REV. 1071 (2006) (providing an earlier exploration of the links between blogging and scholarship).

<sup>85</sup> David Yamada, *In Praise of the Mundane and Slow Blogging*, MUSINGS OF A GEN JONESER (2014), <http://generationjonesmusings.com/2014/06/03/in-praise-of-the-mundane-and-slow-blogging/>.

best served after being fully baked and worded in an even temperament.

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Slow Blogging is a reversal of the disintegration into the one-liners and cutting turns of phrase that are often the early lives of our best ideas.

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Slow Blogging is a willingness to remain silent amid the daily outrages and ecstasies that fill nothing more than single moments in time, switching between banality, crushing heartbreak and end-of-the-world psychotic glee in the mere space between headlines.<sup>86</sup>

In December 2008, I started a blog, *Minding the Workplace*,<sup>87</sup> as a platform to share information, analysis, and opinions on work, workers, and workplaces with a more general readership. Every week I write and post several short articles about topics such as workplace bullying, worker dignity, labor and employment relations, the intern economy, and related issues of psychology, politics, economics, and education. I have written some 1385 articles since its launch. It has attracted over 766,000 page views as of March 2016, and some 1300 subscribers, with about one third of visitors being international readers. It also invites comments from readers, posted to the blog itself and to Facebook where I often link my latest articles.

Here is a representative sampling of recent titles:

- (1) “Myths and realities about working in the non-profit sector”;<sup>88</sup>
- (2) “Why targets of workplace bullying need our help: A rallying cry from the heart”;<sup>89</sup>
- (3) “Unpaid interns win lawsuit against Fox Searchlight Pictures”;<sup>90</sup>
- (4) “Do ‘almost psychopaths’ help to explain the prevalence of workplace bullying and abuse?”;<sup>91</sup> and

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<sup>86</sup> *Id.*

<sup>87</sup> See generally David Yamada, *MINDING THE WORKPLACE*, <http://newworkplace.wordpress.com> (last accessed Mar. 2, 2016).

<sup>88</sup> David Yamada, *Myths and Realities About Working in the Non-Profit Sector*, *MINDING THE WORKPLACE* (April 21, 2014), <https://newworkplace.wordpress.com/2014/04/21/myths-and-realities-about-working-in-the-non-profit-sector/>.

<sup>89</sup> David Yamada, *Why Targets of Workplace Bullying Need Our Help: A Rallying Cry from the Heart*, *MINDING THE WORKPLACE* (Sept. 9, 2013), <https://newworkplace.wordpress.com/2013/09/09/why-targets-of-workplace-bullying-need-our-help-a-rallying-cry-from-the-heart/>.

<sup>90</sup> David Yamada, *Unpaid Interns Win Lawsuit Against Fox Searchlight Pictures*, *MINDING THE WORKPLACE* (June 11, 2013), <https://newworkplace.wordpress.com/2013/06/11/unpaid-interns-win-lawsuit-against-fox-searchlight-pictures/>.

<sup>91</sup> David Yamada, *Do “Almost Psychopaths” Help to Explain the Prevalence of Workplace*



(5) “Positive qualities of my best bosses.”<sup>92</sup>

The blog has also been featured in several news outlets. For example, in April 2013, I posted about a McDonald’s subway advertisement that I believed was insensitive to mental health concerns.<sup>93</sup> The post went viral and led to a public apology from the McDonald’s corporation and the responsible advertising agency.<sup>94</sup> In February 2010, a post on tragic multiple homicides at the University of Alabama-Huntsville, committed by a professor who had been denied tenure, attracted coverage by the *Chronicle of Higher Education* and the *Boston Globe*.<sup>95</sup>

For the most part, however, I have attempted to use blogging in a manner consistent with the Slow Blog Manifesto. This includes commenting more reflectively on topics related to employee relations and attempting to bridge the gaps between specialist and non-specialist audiences. I am gratified that blog posts written several years ago continue to attract readers through search engine inquiries, indicating that a core group of articles have maintained a longer shelf life.

As mentioned above, I also have used Facebook as a way of sharing and exchanging information and opinions about workplace bullying and unpaid internships. Facebook has been an especially useful organizing tool for activist initiatives related to these subjects. Often, I link my blog posts to my page and to relevant Facebook pages; on many occasions those links attract more comments than on the blog itself. This kind of exchange is an important feedback component of intellectual activism.

#### D. LINKING MULTIDISCIPLINARY THEORY AND PRACTICE TO INTELLECTUAL ACTIVISM

For many years, my scholarship reflected liberal-leaning, reform-minded values that were more implicit than explicit in my writings. Though on the political scale I am decidedly more left than right, I have

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*Bullying and Abuse?*, MINDING THE WORKPLACE (July 26, 2012), <https://newworkplace.wordpress.com/2012/07/26/do-almost-psychopaths-help-to-explain-the-prevalence-of-workplace-bullying-and-abuse/>.

<sup>92</sup> David Yamada, *Positive Qualities of My Best Bosses*, MINDING THE WORKPLACE (Aug. 8, 2012), <https://newworkplace.wordpress.com/2012/08/08/positive-qualities-of-my-best-bosses/>.

<sup>93</sup> David Yamada, *McDonald’s Big Mac Ad Hits New Low*, MINDING THE WORKPLACE (April 8, 2013), <http://newworkplace.wordpress.com/2013/04/08/mcdonalds-big-mac-ad-hits-a-new-low/>.

<sup>94</sup> *Id.*

<sup>95</sup> See David Yamada, *The University of Alabama-Huntsville Shootings and the Academic Workplace*, MINDING THE WORKPLACE (Feb. 13, 2010), <http://newworkplace.wordpress.com/2010/02/13/the-university-of-alabama-huntsville-shootings-and-the-academic-workplace/>.

tended to resist rigid theories or ideologies, believing that they often serve to constrict our views rather than enlighten them. However, three entities—Therapeutic Jurisprudence, Human Dignity and Humiliation Studies, and the Western Institute for Social Research—have overcome that resistance by their very flexibility and insightfulness. Together they are providing theoretical frames for examining law and public policy and helping to advance a societal perspective that embraces and advances human dignity through informed, respectful, and spirited inquiry and thoughtful action. They also have given me valued outlets and networks for engaging in intellectual activism beyond the parameters of specific issues.

### 1. Therapeutic Jurisprudence

Therapeutic jurisprudence (“TJ”) is a school of legal thought that, in the words of TJ co-founder and law professor David Wexler, involves the “study of the role of the law as a therapeutic agent” by focusing “on the law’s impact on emotional life and on psychological well-being.”<sup>96</sup> According to leading TJ and mental health law scholar Michael Perlin, TJ “recognizes that substantive rules, legal procedures and lawyers’ roles may have either therapeutic or anti-therapeutic consequences and questions whether such rules, procedures and roles can or should be reshaped so as to enhance their therapeutic potential, while preserving due process principles.”<sup>97</sup>

Some eight years ago, I discovered the TJ community as a result of my work on workplace bullying and employment law generally, and I have found it to be a welcoming home for my legal scholarship. I would characterize my TJ worldview this way: *How can our laws and legal systems yield psychologically healthy outcomes and best advance individual dignity and societal well being?* Toward that end, I have expressly incorporated TJ perspectives in recent law review articles on employee dignity, employment law and practice, and the culture of legal scholarship.<sup>98</sup> I also have attended, organized, and presented at TJ

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<sup>96</sup> David Wexler, *Therapeutic Jurisprudence: An Overview*, 17 T.M. COOLEY L. REV. 125 (2000).

<sup>97</sup> Michael L. Perlin, *A Law of Healing*, 68 U. CIN. L. REV. 407, 408 (2000).

<sup>98</sup> See David C. Yamada, *Therapeutic Jurisprudence and the Practice of Legal Scholarship*, 41 U. MEM. L. REV. 121, 122–35 (2010) [hereinafter Yamada, *The Practice of Legal Scholarship*]; David C. Yamada, *Employment Law as if People Mattered: Bringing Therapeutic Jurisprudence into the Workplace*, 11 FLA. COASTAL L. REV. 257 (2010) (symposium contribution); David C. Yamada, *Human Dignity and American Employment Law*, 43 U. RICH. L. REV. 523 (2009).

conferences and workshops.<sup>99</sup>

TJ is very relevant to the practice of intellectual activism. Its adherents include professors, practitioners, judges, and students from around the world, and many are bridging the gaps between research and practice by applying TJ scholarship to concrete law projects. In fact, TJ co-founder David Wexler, Australian magistrate judge Pauline Spencer, and law professor and retired judge Michael Jones have launched the International Therapeutic Jurisprudence in the Mainstream Project, designed to support the incorporation of TJ principles into legal institutions and practice settings.<sup>100</sup>

At the 2015 International Congress of Law and Mental Health,<sup>101</sup> two TJ-affiliated American attorneys, both presenting on topics related to mental disabilities and sexuality, illustrated how practitioners can operate in an intellectual activist mode, blending scholarship and practice. Mental health lawyer Heather Ellis Cucolo presented her paper on representing civilly committed sexual predators:

During my representation of this population, my clients continuously voiced frustration and a complete lack of hope in ever being considered anything other than a sexual deviant. I will detail the failures of treatment as it currently exists and propose a new approach that incorporates intimacy training and in certain cases, seeks to encourage and support the development of healthy intimate relationships during civil commitment confinement.<sup>102</sup>

Similarly, disability rights lawyer Alison Lynch presented her paper on the rights of the mentally disabled to engage in voluntary sexual activity:

An inquiry into the rights of persons with mental disabilities to voluntary sexual interaction forces us to review the sexual mores of previous

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<sup>99</sup> For a short essay about organizing and participating in a TJ symposium at Suffolk University Law School, see David C. Yamada, *Academic Conferences: When Small Is Beautiful*, 3 SUFFOLK U. L. REV. ONLINE 29 (2015) (essay and introduction to symposium).

<sup>100</sup> See THERAPEUTIC JURISPRUDENCE IN THE MAINSTREAM, <https://mainstreamtj.wordpress.com> (last accessed Mar. 2, 2016). I have joined the project's advisory group.

<sup>101</sup> See INT'L ACAD. OF LAW & MENTAL HEALTH, XXXIV INT'L CONGRESS ON LAW & MENTAL HEALTH (2015), <http://ialmh.org/wp-content/uploads/2016/03/Vienna-2015-Program-Book-Draft-KD-2015-06-19.pdf>.

<sup>102</sup> Heather Ellis Cucolo, *Treating the Human Being to Eliminate the Monster: Intimacy Training and the Right to Sexual Interaction for Civilly Committed Sexual Predators*, in ABSTRACTS OF THE XXXIVTH INTERNATIONAL CONGRESS ON LAW AND MENTAL HEALTH 539-40 (David N. Weisstub with Jo Kim, eds., 2015), <http://ialmh.org/wp-content/uploads/2016/03/Vienna-2015-Abstract-Booklet-2015-07-16.pdf>.

centuries, mores that still dominate the public, judicial and legislative debates on *this* question in the context of *this* population. I will discuss the historical trends of what was considered “appropriate” sexual behavior for persons with disabilities in three specific contexts: international human rights law and domestic civil rights law, the impact of the “civil rights revolution” on persons with mental disabilities, and “therapeutic jurisprudence.”<sup>103</sup>

As their conference paper topics attest, Cucolo and Lynch are tackling difficult, uncomfortable legal subjects in their scholarship and practices. Both are both graduates of the New York Law School (“NYLS”), having worked under the tutelage of professor and TJ authority Michael Perlin.<sup>104</sup> Cucolo, a 2003 graduate, has six years of experience as a deputy public defender in New Jersey, representing those accused of sexually violent offenses. She also has worked as an administrator and adjunct professor for NYLS’s Online Mental Disability Law Program. She has produced a significant body of scholarship reflecting these interests.<sup>105</sup>

Lynch, a 2013 graduate, currently practices as a disability rights attorney in New York after doing similar work in New Jersey. In a 2014 talk presented at a conference sponsored by the Society of American Law Teachers, she discussed how the relationship between therapeutic jurisprudence and public interest practice has infused her work:

My choice to advocate on behalf of people with mental illness, and my desire to contribute to the academic literature on the subject, has been guided by my realization that the values of TJ can not only improve my clients’ interactions with the legal system, but can improve my perception of my work and skill. I am a more successful, and a more fulfilled, attorney in part because I take the time to recognize and plan how my clients can gain therapeutic benefit from our interactions. This isn’t social work. This is lawyering. You learn more in interviews, you more clearly articulate your position, and you gain more trust when you take the time to consider TJ in practice.

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<sup>103</sup> Alison Lynch, *A Brief History of Sex: Cultural and Legal Trends of Acceptable Sexuality*, in ABSTRACTS OF THE XXXIVTH INTERNATIONAL CONGRESS ON LAW AND MENTAL HEALTH 537 (David N. Weisstub with Jo Kim, eds., 2015), <http://ialmh.org/wp-content/uploads/2016/03/Vienna-2015-Abstract-Booklet-2015-07-16.pdf>.

<sup>104</sup> These descriptions of Cucolo’s and Lynch’s backgrounds are drawn largely from their resumes, on file with the author.

<sup>105</sup> See, e.g., Heather Ellis Cucolo, “*Far From the Turbulent Space*”: *Considering the Adequacy of Counsel in the Representation of Individuals Accused of Being Sexually Violent* 18 U. PA. J. L. & SOC’L CHANGE 125 (2015); Heather Ellis Cucolo & Michael L. Perlin, “*They’re Planting Stories In the Press*”: *The Impact of Media Distortions on Sex Offender Law and Policy*, 3 U. DEN. CRIM. L. REV. 186 (2013). This is but a sampling of a long list of books and articles.

However, for those students who come into law school with no idea about what they want to practice, lawyers in general and law professors in particular can use TJ to encourage students to think about public interest work.<sup>106</sup>

I cite Cucolo and Lynch because they exemplify how intellectual activism, here filtered through the philosophical lens of therapeutic jurisprudence, nurtures the practice of public interest law. Given the sensitivity of their respective legal subjects, their work simply must be buttressed by multidisciplinary research and analysis, drawing on insights from psychology, psychiatry, and popular culture. Furthermore, the mentoring role of Perlin, whose own TJ-related work embraces the intellectual activist model, shows how law professors can support the development of future lawyers and educators in a “scholar-practitioner” mode.<sup>107</sup>

## 2. Human Dignity and Humiliation Studies

Human Dignity and Humiliation Studies (“HumanDHS”) is a wide-ranging, multidisciplinary, global assemblage of scholars, practitioners, and activists who share a commitment to advancing human dignity and reducing the experience of humiliation. HumanDHS describes its mission as the following:

We are a global transdisciplinary network and fellowship of concerned academics and practitioners. We wish to stimulate systemic change, globally and locally, to open space for dignity and mutual respect and esteem to take root and grow, thus ending humiliating practices and breaking cycles of humiliation throughout the world.

We suggest that a frame of cooperation and shared humility is necessary [—]not a mindset of humiliation[—]if we wish to build a better world, a world of equal dignity for all.<sup>108</sup>

The founding president of HumanDHS is Evelin Lindner, a psychologist, physician, author, and self-styled global citizen.<sup>109</sup> The

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<sup>106</sup> Text of unpublished talk presented at the Society of American Law Teachers conference, Las Vegas, Nevada, on file with author.

<sup>107</sup> See discussion on Intellectual Activism and Law Students, *infra* Part III.E.

<sup>108</sup> HUM. DIGNITY & HUMILIATION STUD., <http://www.humiliationstudies.org/>. For a trenchant introduction to HumanDHS, see my blog writeup, David Yamada, *Creating an Intellectual Framework for Human Dignity*, MINDING THE WORKPLACE (Oct. 23, 2014), <https://newworkplace.wordpress.com/2014/10/23/creating-an-intellectual-framework-for-human-dignity/>.

<sup>109</sup> For biographical information about Evelin Lindner, see *Evelin Lindner*, HUM. DIGNITY &

director of HumanDHS is Linda Hartling, a psychologist and leading authority on relational-cultural theory.<sup>110</sup> Through their efforts and those of others, HumanDHS organizes programs around the world. This includes a workshop, hosted by Columbia University's Teachers College, in which participants share their work toward the advancement of human dignity.<sup>111</sup>

In addition to planning and hosting programs, HumanDHS is developing other initiatives to help create an intellectual infrastructure for human dignity. Its Dignity Press offers an array of titles relating to human dignity and the experience of humiliation,<sup>112</sup> and it will soon revive the network's *Journal of Human Dignity and Humiliation Studies*.<sup>113</sup> Its new World Dignity University project is partnering with individuals and institutions globally to offer learning programs on topics related to HumanDHS's work.<sup>114</sup>

It is no coincidence that around the time I discovered therapeutic jurisprudence, I also became part of HumanDHS. Like the therapeutic jurisprudence network, it has provided a framing perspective for my work, grounded in the centrality of human dignity. I now serve on the HumanDHS board of directors, and I have been an enthusiastic participant in the annual New York City workshops.<sup>115</sup>

### 3. Western Institute for Social Research

The Western Institute for Social Research ("WISR") is an alternative university offering individually tailored degree programs emphasizing

HUMILIATION STUD., <http://www.humiliationstudies.org/whoware/evelin.php> (last accessed Mar. 2, 2016).

<sup>110</sup> For biographical information about Linda Hartling, see *Linda Hartling, Ph.D., Director, HUM. DIGNITY & HUMILIATION STUD.*, <http://www.humiliationstudies.org/whoware/linda.php> (last accessed Mar. 2, 2016).

<sup>111</sup> *Home Is Where Her Heart Is: Evelin Lindner Has Fashioned a Life in the Global Village in Order to Promote Human Dignity*, TEACHERS C. (Dec. 24, 2015), <http://www.tc.columbia.edu/articles/2015/december/home-is-where-her-heart-is/>.

<sup>112</sup> DIGNITY PRESS, <http://www.dignitypress.org> (last visited Feb. 2016).

<sup>113</sup> J. HUM. DIGNITY & HUMILIATION STUD., <http://www.dignitypress.org/journal> (last accessed Mar. 2, 2016).

<sup>114</sup> WORLD DIGNITY UNIV., <http://www.worlddignityuniversity.org/joo/> (last accessed Mar. 2, 2016).

<sup>115</sup> For a sampling of my blog posts about these workshops, see David Yamada, *Workshopping Human Dignity*, MINDING THE WORKPLACE (Dec. 12, 2014), <https://newworkplace.wordpress.com/2014/12/12/workshopping-human-dignity/>; David Yamada, *Dialogues About Dignity, Part I: Meeting in Manhattan*, MINDING THE WORKPLACE (Dec. 7, 2013), <https://newworkplace.wordpress.com/2013/12/07/dialogues-about-dignity-part-i-meeting-in-manhattan/>.

social change and action research.<sup>116</sup> In 2000, I enrolled in WISR's doctoral program in Higher Education and Social Change. After earning tenure at Suffolk that year, I found myself wanting to forge a different kind of scholarly agenda, one that was not completely vested in the continuous writing of doctrinal law review articles. This included widening the breadth of my writing to expand its reach outside of legal academia, linking it to my more activist inclinations.<sup>117</sup> My work in the WISR doctoral program was a freeing experience. I created and completed learning projects on a wide variety of topics related to adult learning, community activism, and social change.<sup>118</sup> My final project examined the need to develop multidisciplinary responses to workplace bullying.<sup>119</sup>

It should come as no surprise that my use of the term intellectual activism has its roots in discussions with, and presentations to, members of the WISR community. The WISR approach to learning embraces both traditional research and reflections upon personal experience, all of which are interrelated with social action. During the course of my program, I enjoyed many long conversations with my primary advisor, Dr. John Bilorusky, a WISR co-founder. We talked often about the challenges of straddling lines between traditional and non-traditional institutions, the relationships between individual and social change, and linkages between research and action.

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<sup>116</sup> For a description of WISR by co-authored by one of its president and a long-time faculty member, see JOHN A. BILORUSKY & CYNTHIA LAWRENCE, MULTICULTURAL, COMMUNITY-BASED KNOWLEDGE-BUILDING: LESSONS FROM A TINY INSTITUTION WHERE STUDENTS AND FACULTY SOMETIMES FIND MAGIC IN THE CHALLENGE AND SUPPORT OF COLLABORATIVE INQUIRY, IN COMMUNITY AND THE WORLD: PARTICIPATING IN SOCIAL CHANGE 64–68 (Torry D. Dickinson, ed., 2003) [hereinafter BILORUSKY & LAWRENCE, LESSONS] (describing the history and mission of the Western Institute for Social Research).

<sup>117</sup> I know that I am not alone in having experienced this post-tenure reckoning. More recently, professor Shari Motro shared a similar exercise, introducing her assessment by questioning an ethos that “prizes detachment over empathy, economics over humanities, practice over theory, and external success over the love of good work for its own sake.” See Shari Motro, *Scholarship Against Desire*, 27 YALE J. L. & HUM. 115 (2015). In the professional game of hoop jumping, perhaps certain junctures call for reflecting upon the hoops behind us and potentially ahead of us.

<sup>118</sup> Some examples include a practicum project on race and ethnicity in Boston, incorporating my experiences with non-profit initiatives addressing those challenges; a broader conceptual paper on capitalism in the age of globalization; and long-form essays reflecting upon formal adult learning experiences such as a weekly singing class taken at a local adult education center and a term spent at the University of Cambridge (U.K.) International Summer School.

<sup>119</sup> Someday, hopefully sooner than later, I will incorporate parts of that project into a book on workplace bullying that I look forward to writing during the next few years.

## E. INTELLECTUAL ACTIVISM AND LAW STUDENTS

Law students can make tremendous contributions as intellectual activists, including creating and editing socially relevant law journals, writing articles for publication, participating in law reform efforts, and organizing programs that encourage the melding of scholarship and social action. In a 2010 law review article on therapeutic jurisprudence and legal scholarship, I suggested that law schools should imbue students with a “scholar-practitioner” orientation that integrates research, ideas, practice, and positive social change.<sup>120</sup> During my years at Suffolk University Law School, I have encouraged students to take this integrated approach in several ways:

- (1) Advising students on the creation of a student-edited, magazine-style law journal, *Bearing Witness: A Journal on Law and Social Responsibility*, containing “short scholarly essays, opinion pieces, personal reflections, narrative fiction, poetry and art;”<sup>121</sup>
- (2) Teaching a Public Interest Law Seminar that invites students to research and write final papers based on their legal and policy interests, with an emphasis on identifying relevant stakeholders and developing proposed solutions;
- (3) Serving as the founding director (2000–2004) of a grant-funded summer fellowship program for Boston-area law students interested in law and public policy, which included a funded internship placement and weekly seminar sessions, some of which were co-hosted with a sister program for public policy graduate students hosted by Harvard University’s John F. Kennedy School of Government, and;
- (4) Working with students to host an annual national scholarship convocation on law and social change, whereby law students from across the country presented papers that they wrote for credit at their respective law schools.<sup>122</sup>

These activities have reinforced for me the importance of providing

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<sup>120</sup> Yamada, *The Practice of Legal Scholarship*, *supra* note 98, at 147–48 (discussing scholar-practitioner model).

<sup>121</sup> *Bearing Witness*, SUFFOLK UNIV., <https://www.suffolk.edu/law/student-life/26582.php> (last accessed Mar. 2, 2016).

<sup>122</sup> For a more extensive explanation of this conference, see Yamada, *The Practice of Legal Scholarship*, *supra* note 98, at 151. Professor and ACLU President Nadine Strossen, whose work is discussed below, was the first keynote speaker, talking about the importance of interactive and applied legal scholarship that supports law reform initiatives. *Id.*



students with opportunities to develop their own interests and to engage in research, writing, and social action projects stirred by those explorations. For all students, these experiences nurture their values, analytical skills, and qualities of emotional intelligence that will support them throughout their careers. For some, these experiences will directly and maybe even profoundly shape their work as lawyers.

#### F. ADDITIONAL INSPIRATION AND GUIDANCE

As the foregoing commentary suggests, in conceptualizing and practicing in an intellectual activist mode, I have increasingly drawn inspiration and guidance from an eclectic array of sources, both inside and outside of formal academic or professional networks. Here are several more worth sharing:

##### 1. Public Intellectuals and Public Scholars

Since the publication of Russell Jacoby's *The Last Intellectuals* in 1987,<sup>123</sup> the concept of the "public intellectual" has been a hot topic of discussion among many scholars, writers, and pundits who have found themselves drawn to the label. Public intellectuals, in Jacoby's words, are "writers and thinkers who address a general and educated audience."<sup>124</sup> According to Jacoby, public intellectuals have been on the decline, replaced by academicians whose writings are tailored to a narrow, specialized audience.<sup>125</sup> In the wake of *The Last Intellectuals*, a wellspring of discussion has emerged about Jacoby's thesis, not to mention debates over how to define a public intellectual and who may claim that status.<sup>126</sup>

Rather than rehashing those debates, perhaps we should simply engage in socially relevant research and action and leave the labeling to others. As I see it, difficult and challenging times underscore the importance of a public scholar's role. During heart of the Great Depression, George Soule, editor of *The New Republic*, pondered the question of "The Scholar in Practical Affairs" at a New York University

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<sup>123</sup> See generally RUSSELL JACOBY, *THE LAST INTELLECTUALS: AMERICAN CULTURE IN THE AGE OF ACADEME* (1987).

<sup>124</sup> *Id.* at 5.

<sup>125</sup> See *id.* at 6–8.

<sup>126</sup> See, e.g., PUBLIC INTELLECTUALS: AN ENDANGERED SPECIES? (Amitai Etzioni & Alyssa Bowditch, eds., 2006) (containing essays contemplating the future of the public intellectual); RICHARD A. POSNER, *PUBLIC INTELLECTUALS: A STUDY IN DECLINE* (rev. ed. 2003) (arguing that the role of public intellectual is in decline).

conference examining the broader societal obligations of universities.<sup>127</sup> Soule came down squarely on the side of urging scholars toward responsible, public engagement, while readily acknowledging that doing so requires taking sides that cannot “be resolved to the mutual advantage of every class and every status.”<sup>128</sup> In his view, “political and economic science” that fails to shed light on the human dynamics of the economy “is living in a world of meaningless abstractions.”<sup>129</sup>

Writing in 2003, humanities and African American studies professor Michael Eric Dyson opined that “[i]ntellectuals have an obligation to be as smart as we can possibly be, but we have an even greater obligation to be good with the smarts we possess.”<sup>130</sup> For Dyson, that means bringing his writing into a public sphere, with the belief that “[w]ork that can be widely understood or that is relevant to current affairs shouldn’t be automatically suspect or seen as second rate.”<sup>131</sup> He notes that regardless of which intellectual hat he may be wearing—“American,” “black,” “engaged,” or “public”—the tasks of “[r]elieving suffering, reinforcing struggle, and rendering service are not bad ways to live the life of the mind.”<sup>132</sup>

More recently, journalism professor Robert Jensen, in a thought provoking little book titled *We Are All Apocalyptic Now: On the Responsibilities of Teaching, Preaching, Reporting, Writing, and Speaking Out*, urges intellectuals to be responsibly apocalyptic.<sup>133</sup> Jensen defines apocalypse not in dramatic Biblical terms, but rather in reference to “crises that concentrated wealth and power create.”<sup>134</sup> Like George Soule’s writing in the 1930s, Jensen understands that the world today is a precarious place, positing, “It is not crazy to look at the state of the world—economically, politically, culturally, and ecologically—and conclude that there are rocky times ahead.”<sup>135</sup> However, rather than invoking “a reactionary theology” that predicts “the rapture to come,” the concept of “apocalyptic vision can help us understand social and

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<sup>127</sup> See George Soule, *The Scholar in Practical Affairs*, in *THE OBLIGATION OF UNIVERSITIES TO THE SOCIAL ORDER* 288 (Henry Pratt Fairchild, ed., 1933).

<sup>128</sup> *Id.* at 294.

<sup>129</sup> *Id.* at 295.

<sup>130</sup> Michael Eric Dyson, *The Public Obligations of Intellectuals*, *CHRON. HIGHER EDUC.* B11 (Dec. 5, 2003).

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> ROBERT JENSEN, *WE ARE ALL APOCALYPTIC NOW: ON THE RESPONSIBILITIES OF TEACHING, PREACHING, REPORTING, WRITING, AND SPEAKING OUT* 5 (2013).

<sup>134</sup> *Id.* at 9.

<sup>135</sup> *Id.*

ecological *ruptures* in the here and now.”<sup>136</sup>

Fortunately, we have notable exemplars of intellectual activism in the legal academy, and two of my favorites are professors Julius Getman and Nadine Strossen. The career of Julius Getman serves as a model of teaching, scholarship, and service in a public intellectual mode, including an influential body of labor law scholarship and service as President of the American Association of University Professors.<sup>137</sup> His 1992 book, *In the Company of Scholars*,<sup>138</sup> is an insightful, compelling exploration and critique of academic culture and practice, and many his observations remain wholly relevant today. Getman is a forthright critic of penchants toward trendiness in scholarship, taking aim at processes “confined to a small circle familiar with the same academically fashionable ideas” and “self-centered displays of learning without daring or originality.”<sup>139</sup> Too much academic writing, he suggests, fails to go “through the painful process of investigating reality,” bringing “no news despite the trappings of erudition.”<sup>140</sup>

Nadine Strossen has written widely on civil liberties law, while engaging in public education and advocacy work for many years as President of the American Civil Liberties Union.<sup>141</sup> At a 2005 *Tulsa Law Review* symposium devoted to examining her work,<sup>142</sup> Strossen discussed her dual roles as a scholar and an activist, firmly concluding that the two can go hand in hand:

By temperament, I have always considered myself more of an activist than a scholar. However, by the time I decided to go into teaching, in 1984, I realized that this was a false dichotomy, or at least an exaggerated one. I now strongly believe that there is no bright-line between these two important undertakings, and that scholarship and activism are at least mutually reinforcing if not, indeed, interdependent. Nevertheless, I arrived at this understanding only relatively late in my life and career, when my commitment to scholarship developed as an

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<sup>136</sup> *Id.* (emphasis added).

<sup>137</sup> *Julius Getman Biography*, UNIV. TEX. SCH. L., <http://www.utexas.edu/law/faculty/getmanjg/> (last accessed Mar. 6, 2016).

<sup>138</sup> JULIUS GETMAN, *IN THE COMPANY OF SCHOLARS: THE STRUGGLE FOR THE SOUL OF HIGHER EDUCATION* (1992).

<sup>139</sup> *Id.* at 49.

<sup>140</sup> *Id.* at 57.

<sup>141</sup> *Nadine Strossen Biography*, N.Y. L. SCH., [http://www.nyls.edu/faculty/facultyprofiles/faculty\\_profiles/nadine\\_strossen/](http://www.nyls.edu/faculty/facultyprofiles/faculty_profiles/nadine_strossen/) (last accessed Mar. 6, 2016).

<sup>142</sup> Symposium, *The Scholarship of Nadine Strossen: Wearing Two Hats: Life as a Scholar and Activist*, 41 *TULSA L. REV.* 611 (2005).

off-shoot of my lifelong commitment to activism.<sup>143</sup>

During my career, I have had the pleasure of learning about other law professors who are melding scholarship and action. For example, a 2007 panel discussion at the Annual Meeting of the Association of American Law Schools examined the role of the employment and labor law professor as public intellectual, featuring the work of four colleagues.<sup>144</sup> The panelists described projects and initiatives including documentary filmmaking about labor rights and globalization (Professor Frances Ansley), collaborations with a labor group on worker-owned businesses (Professor Miriam Cherry), public education on employee benefits law (Professor Jonathan Forman), and support of the union democracy movement (Professor Michael Goldberg).<sup>145</sup>

Finally, as I discussed above, law professors, judges, and practitioners associated with the therapeutic jurisprudence movement apply their scholarship to real-world legal and policy challenges. Their work has infused my own with a stronger theoretical base, grounded in the conviction that the law should advance human dignity and psychological well-being.

## 2. Writers and Thinkers Beyond Academe

For fresh, inspiring outlooks on the uses of writing and scholarship to make a difference, we should listen to voices outside of the legal academy, nay, outside of mainstream academe in general. Here I would like to introduce three writers and thinkers, Mary Pipher, Ronald Gross, and John Ohliger. In the introduction to her instructive and heartfelt book, *Writing to Change the World*, author and therapist Mary Pipher reflects upon the uses of writing, observing that “[W]hen you take pen to paper with the goal of making a difference, you join a community of people for whom words and issues matter. . . . As a writer, your life goal may involve a worthy cause I cannot even imagine. Whatever it is, you are fortunate.”<sup>146</sup>

Pipher describes writing for change in therapeutic terms. In a chapter

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<sup>143</sup> Nadine Strossen, *The Scholarship of Nadine Strossen: Wearing Two Hats: Life as a Scholar and Activist*, 41 TULSA L. REV. 611, 612 (2005).

<sup>144</sup> I organized this panel in my role as chair of the Association of American Law Schools Section on Labor Relations and Employment Law. It culminated in a symposium collection of essays, Symposium, *The Employment and Labor Law Professor as Public Intellectual: Sharing Our Work with the World*, 41 SUFFOLK U. L. REV. 711 (2008) (featuring essays by professors Frances Ansley, Miriam A. Cherry, Jonathan Barry Forman, and Michael J. Goldberg).

<sup>145</sup> See *id.* at 712–13 (introducing panelists’ public intellectual work).

<sup>146</sup> MARY PIPHER, *WRITING TO CHANGE THE WORLD* 10 (2006).

on “The Psychology of Change,” she sets out her “Rules of Engagement for Change Agents.”<sup>147</sup> These include respect, accurate empathy, connection, clarity, perspective, tone, and timing.<sup>148</sup> In “Dealing with Darkness,” writers must understand their readers’ resistance and need for hope, while looking out for “orchestrating situations that allow for aha experiences.”<sup>149</sup>

In other words, Pipher urges us to comprehend the ties between therapy for individual change and writing for social change. Good writing for this purpose, she suggests, must connect with the reader intellectually and emotionally. It understands and respects the prospective audience. These are vital reminders for intellectual activists, who oftentimes will be dealing with different stakeholders, ranging from legislators, judges, and business people, to individuals who have suffered loss, injury, and trauma.

Whereas Mary Pipher blends the roles of therapist and writer, Ronald Gross wears the hats of inspirational coach, intellectual cheerleader, and brainstormer, and I use these comparatively lighter terms with respect and affection. Ron Gross is a leading adult educator who helped to popularize the term “lifelong learning” during the 1970s.<sup>150</sup> *The Independent Scholar’s Handbook*, authored in 1982,<sup>151</sup> is the most inspirational and instructive work about scholarship that I have ever read. If this book cannot inspire or restore a sense of *joie de vivre* towards scholarship, then nothing will—“this is a book about taking risks of an unusual kind: risks in the realm of the mind. It invites you to indulge your impulse (without which you would not have picked up this book) to make the joys of the intellect a significant part of your life.”<sup>152</sup>

Gross wrote the book for those who are pursuing scholarly work outside of traditional academic settings, but it is equally invigorating for those within academe as well. It is infused with stories of individuals who have engaged in independent scholarship and found ways to share that work with the world, often becoming change agents in the process. Feminist writer and activist Betty Friedan,<sup>153</sup> historian Barbara

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<sup>147</sup> *Id.* at 87.

<sup>148</sup> *See id.* at 87–94.

<sup>149</sup> *See id.* at 94–101.

<sup>150</sup> See RONALD GROSS, *THE LIFELONG LEARNER* (1977). Forgive my informalities. Ron Gross and I became friends over a decade ago, in part due to our common friendship with John Ohliger, discussed below.

<sup>151</sup> RONALD GROSS, *THE INDEPENDENT SCHOLAR’S HANDBOOK* (1982).

<sup>152</sup> *Id.* at 3.

<sup>153</sup> *Id.* at 94–99.

Tuchman,<sup>154</sup> and futurist Alvin Toffler<sup>155</sup> are among the independent scholars profiled in it.

Finally, I bow to the work of a late dear friend, John Ohliger (1926–2004), an iconoclastic adult educator, writer, and activist who enjoyed a rich life as a non-conforming public intellectual.<sup>156</sup> John engaged in many activities related to adult learning.<sup>157</sup> This included co-founding, in 1976, Basic Choices, a small, self-styled, non-profit center based in Madison, Wisconsin devoted to “Clarifying Political and Social Options.”<sup>158</sup> He also co-founded a community radio station and hosted his own program, “The Madison Review of Books,” inviting neighbors to join him as guest reviewers on the air.<sup>159</sup> During the pre-Internet era that covered most of his years, he maintained a voluminous correspondence with people from all walks of life.<sup>160</sup>

Through Basic Choices, John produced a large collection of unique bibliographic essays, diverse in subject matter and often linked to adult learning themes.<sup>161</sup> He did not hesitate to address hard social and political issues, such as critiquing the adult education industry for supporting visions of a more affluent, technocratic society.<sup>162</sup> However, he also had a fanciful side, as exemplified by bibliographic essays on singer Billy Joel’s “We Didn’t Start the Fire” and on adult education themes in mystery and crime fiction.<sup>163</sup> Several years ago, in a chapter I contributed to a multi-author book examining John’s work and influence, I characterized his body of work this way:

For much of his life, he was an independent scholar and intellectual activist, working through various media to encourage public dialogue and raise important questions about society, learning, and current events. His approach was personal, interactive, and engaging, not hierarchical, directive, and detached. By his example, he taught us that adult

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<sup>154</sup> *Id.* at 58–62.

<sup>155</sup> *Id.* at 129–33.

<sup>156</sup> I examine John Ohliger’s unique public intellectual role in David Yamada, *The Adult Educator as Public Intellectual*, in ANDRE P. GRACE & TONETTE S. ROCCO, ET AL., *CHALLENGING THE PROFESSIONALIZATION OF ADULT EDUCATION: JOHN OHLIGER AND CONTRADICTIONS IN MODERN PRACTICE* 143 (2009).

<sup>157</sup> *See id.* at 248–49.

<sup>158</sup> *Id.* at 150.

<sup>159</sup> *Id.* at 153–54.

<sup>160</sup> *See id.* at 154–55.

<sup>161</sup> *Id.* at 152.

<sup>162</sup> *See id.* at 150.

<sup>163</sup> *Id.* at 153.

education should be voluntary, life affirming, and even fun.<sup>164</sup>

It may seem odd that I am touting a reference to having fun. However, I often find myself searching beyond mainstream academe for qualities of authenticity, empathy, and humor that, all too often, are absent within it. Mary Pipher's therapeutic perspectives on writing, Ron Gross's unabashed enthusiasm for independent scholarship, and John Ohliger's creative explorations of adult learning stoke these good energies.

### 3. The Lawyering Program at New York University School of Law

The Lawyering Program at NYU School of Law is a required six credit, full year core course for first-year students that combines traditional instruction in legal writing and research with a variety of interactive, clinical simulation exercises.<sup>165</sup> It is the brainchild of Anthony Amsterdam, a pioneering legal educator and one of the most significant civil rights and capital defense lawyers of his generation.<sup>166</sup> For three years (1991–1994), I taught as an instructor in the Lawyering Program, serving as a program co-coordinator during my final year.

This was my first academic appointment, and it marked a return to my legal *alma mater* after six years in public interest practice. If I am starting to sound nostalgic, then I plead guilty.<sup>167</sup> The opportunity to work with, and be supported by, gifted legal educators such as Tony Amsterdam, Andrea McArdle, and Claudia Angelos constituted my apprenticeship in law teaching, a formative experience that continues to shape my ideas about pedagogy over twenty years later.

When I taught in the program, it basically operated this way<sup>168</sup>: The fall semester was devoted mainly to legal writing and research assignments, taught by full-time program instructors. During the spring semester, this work continued. In addition, we were joined by clinical and doctrinal faculty who co-taught clinical simulation exercises in client

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<sup>164</sup> *Id.* at 157.

<sup>165</sup> *The Lawyering Program*, N.Y. UNIV. SCH. L., <http://www.law.nyu.edu/academics/lawyeringprogram> (last accessed Mar. 2, 2016).

<sup>166</sup> A feature-length profile of Professor Amsterdam appears in the NYU law alumni magazine. See Nadya Labi, *A Man Against the Machine*, L. SCH. 11 (Autumn 2007).

<sup>167</sup> I am not alone in harboring this sentiment. Professor Philip Meyer, another program alumnus, wrote that the Lawyering Program “rekindled a sense of the purposes and possibilities of legal education” and recognized its “importance in our professional development and growth.” Philip N. Meyer, “*Fingers Pointing at the Moon*”: *New Perspectives on Teaching Legal Writing and Analysis*, 25 CONN. L. REV. 777, 796 (1993).

<sup>168</sup> This description largely tracks Philip Meyer's summary. See *id.* at 793–94.

interviewing and counseling, negotiation, informal advocacy, and formal advocacy. Several spring components were interwoven, with writing assignments linked to simulation exercises. Some matches were more conventional, such as a trial court brief followed by an oral argument. Others were less so, such as a planning memorandum followed by a simulated meeting with a government official. Most of the simulation exercises were videotaped and reviewed with the students, either individually or in small groups.

Throughout the myriad assignments and activities that were part of the course, a basic mantra prevailed, one more modeled than stated: *Plan, do, review*. This reflected the influence of Tony Amsterdam, who wanted to imbue first-year law students with a sound, practice-oriented view of their chosen profession. It connected to a larger vision of legal education that would include further clinical work in the subsequent years of law school.

Sometimes parts of our lives come full circle. It struck me only recently that this simple, cyclical framework for intellectual activism—starting with a foundational writing, moving on to action steps, followed by evaluation—bears strong similarities to the underlying practice and philosophy of the Lawyering Program (*plan, do, review*). Good lawyering, it would seem, can be boiled down to a cluster of core skills and habits, and that includes work done in an intellectual activist mode.

#### IV. LESSONS AND ADVICE

I had not yet envisioned this role of intellectual activist when I began my legal career three decades ago. However, I now have been working in this mode long enough to share some lessons and insights, drawn largely from the experiences discussed above. Here are the most significant ones:

##### A. GROW YOUR SKILL SET

Some who are attracted to the role of intellectual activist may believe they lack the rarified affiliations and credentials that they presume are necessary to make it happen. Certainly powerful connections and an elite resume can be helpful. However, I am among those lawyers and law professors who prove that one need not be a widely recognized “star” in order to have a significant impact within given spheres of law and policy. After six years of public interest legal practice, I returned to the academy as a legal skills instructor, not as a highly touted scholar in the making. I have spent the bulk of my career affiliated with a regional law school,



rather than an elite national one, in an era of higher education positively obsessed with traditional markers of prestige.<sup>169</sup> Nevertheless, my work, now grounded in this intellectual activist approach, has been influential in several areas.

The question of credentials notwithstanding, intellectual activism requires the sharpening of a diverse skill set that enables one to operate as both a scholar and an activist. Both roles require analytical acumen and good judgment in order to be successful, but they build on different types of training and experiences. Preparation for this role is largely a task of learning by doing. One can find and read good sources on how to write law review articles,<sup>170</sup> but ultimately it comes down to putting down words and ideas. Similarly, excellent instructional resources on social activist skills, tools, and techniques are readily available,<sup>171</sup> but this work is best learned by real-world trial and error.

Again, I speak from experience. I was hardly a ready-made legal scholar when I entered academe. Although I had served on a scholarly journal during law school and done graduate work before becoming a law professor, I was inexperienced as a legal scholar and skeptical of the value of legal scholarship in contributing to social change efforts. It took me well into my pre-tenure years to find my scholarly voice and to hone an academic writing style that supported the ways in which I wished to be heard.

By contrast, I brought to academe a solid background as a practicing lawyer and activist. These experiences included extensive appellate

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<sup>169</sup> I have written about some of these prestige obsessions in Yamada, *The Practice of Legal Scholarship*, *supra* note 98 (discussing legal education's "Valley of Tiers" and "rankism"). Many years ago, I wrote one of the first pieces examining the emergence of published law school rankings. See David C. Yamada, *Same Old, Same Old: Law School Rankings and the Affirmation of Hierarchy*, 31 SUFFOLK U. L. REV. 249 (1997).

<sup>170</sup> See, e.g., EUGENE VOLOKH, *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW* (3d ed. 2007); ELIZABETH FAJANS & MARY R. FALK, *SCHOLARLY WRITING FOR LAW STUDENTS: SEMINAR PAPERS, LAW REVIEW NOTES AND LAW REVIEW COMPETITION PAPERS*, (4th ed. 2011); Christian C. Day, *In Search of the Read Footnote: Techniques for Writing Legal Scholarship and Having It Published*, 6 J. OF LEGAL WRITING INST. 229 (2000); Richard Delgado, *How to Write a Law Review Article*, 20 UNIV. S. F. L. REV. 445 (1986).

<sup>171</sup> See, e.g., KIM BOBO, JACKIE KENDALL & STEVE MAX, *ORGANIZING FOR SOCIAL CHANGE: MIDWEST ACADEMY MANUAL FOR ACTIVISTS* (4th ed. 2010) (training and instruction for social activists); TOM HEAD, *IT'S YOUR WORLD, SO CHANGE IT: USING THE POWER OF THE INTERNET TO CREATE SOCIAL CHANGE* (2010) (tools and techniques for using the Internet to organized for social change); WILLIAM TYSON, *PITCH PERFECT: COMMUNICATING WITH TRADITIONAL AND SOCIAL MEDIA FOR SCHOLARS, RESEARCHERS, AND ACADEMIC LEADERS* (2010) (advice for academicians on how to use the media).

practice as a public interest attorney; serving on and chairing non-profit boards and committees addressing public policy issues; writing and editing news stories for publication; and serving in volunteer leadership positions for numerous political campaigns and political organizations. I have continued some of these activities as an academician, such as serving as board chair of Americans for Democratic Action, a progressive policy advocacy group based in Washington, D.C. In short, the world of action has sometimes been more familiar to me than the world of scholarship. Things started to coalesce when I brought the two worlds together in my work.

Through these various endeavors, I have come to understand that tensions may exist between scholarship and social action. Working as an intellectual activist may require adjustments of expectations. Professors used to breathing an understandable sigh of relief once an article has been accepted for publication may underestimate the time and attention to detail required by the action steps following publication of the foundational writing.

Conversely, some practitioners may regard the preparation of a law review article as a simple process of quickly revising and adding footnotes to a legal brief or a memorandum. They may be surprised to discover the required care and careful drafting necessary to write a quality piece of legal scholarship. They also may be disposed to write purely as advocates and be resistant toward acknowledging differing sides of legal and policy issues.

In addition, some may find that the respective pace, rhythm, and thought processes of scholarship and activism are very different. Scholarly work is contemplative, deliberate, and analytical. Activism is quicker to the point and more socially interactive. One of the biggest adjustments for me is switching between those modes when circumstances require, akin to going from introvert to extrovert and back again.

Finally, and I concede that this is more an attribute than a skill, it helps to have or to grow a thick skin. The more specific one's legal and policy prescriptions, the more they will invite disagreement. Hopefully that disagreement will be on the merits and within the range of fair and responsible commentary. In turn, if one has done the homework, then the likely criticisms have been anticipated and the responses should be relatively easy to prepare. However, some of the criticism may be unwarranted, distorted, or over the top. It may get personal, especially in this digital era of social media and anonymous online commentary. That thicker epidermal layer can make it easier to decide when to engage and

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when to walk away (or click away), not to mention minimize the type of ruminating over unfair criticism that can eat up time and emotional energy.

**B. BE RESPONSIBLY BOLD AND RESTLESSLY PATIENT**

If it matters, write about it, even if no one else is doing so. Take smart chances to be among the first to address a topic worthy of attention. Furthermore, instead of merely analyzing the problem and providing broad parameters for a legal or policy response, offer a proposed solution with enough detail to lead the discussion on what should be done. This may include outlining the specific strategy of a lawsuit or drafting a proposed statute or regulation.

Some legal scholars opt to not take their analysis and writing this far. They critique a set of judicial decisions or an existing statute thoroughly and relentlessly, leaving nothing to pick over but the bones. However, when it comes to proposing a solution, they lapse into safer generalities. Rather proposing, for example, specific language for a statutory amendment or a revised regulation, they morph into Impressionism and finish with a vague yet erudite conclusion.

Instead, when recommending new or reformed public policies, the potentially agenda setting approach is to write up the proposed statute or regulation. Greater specificity fuels the possibility of playing a more significant role in changing law and policy. Yes, it also opens one to criticism; hence, the importance of having a thick skin, as urged above.

Having done all this, there is no guarantee that legislators, commissioners, or advocacy groups will come banging on one's door. Once an individual has identified his or her niche and created the foundational writings, a sort of restless patience may be necessary. Especially if the subject matter makes the author something of a trailblazer, then author may be ahead of his or her time.

In such instances, we should use the tools and opportunities at our disposal to bring our work into the public realm, and keep plugging away. At the risk of sounding philosophical, we must accept the possibility that the progress we wish to see may not occur during our lifetimes, especially if we are hoping for significant shifts in public opinion, law, and policy. If we can plant the seeds and push the agenda in the right direction, then we will have made a contribution.

Finally, we must remember the fine line between boldness and recklessness. Proposing and advocating for changes in law and policy

carry an obligation to be responsible. The current climate of public policy discourse too often favors cheap slogans, easy fixes, and an intolerant mocking of nuance and complexity. Although intellectual activism often requires a boiling down of information and ideas for public consumption, it should never sacrifice core substance for simple expedience.

### C. SEEK OUT PARTNERSHIPS AND AFFILIATIONS

The intellectual activist should seek out partnerships and affiliations with organizations, associations, and agencies that can help to advance one's work. Connections with the right groups can lead to a sharing of access and resources. They can open doors that may appear to be closed when working solely as an individual.

Considerations of partnerships and associations overlap strongly with writer and entrepreneur Seth Godin's suggestion that in order to achieve desired change, those of like interests and commitments should gather together in "tribes."<sup>172</sup> Godin defines a tribe as "a group of people connected to one another, connected to a leader, and connected to an idea," adding that the two things a group needs to operate as tribe are "a shared interest and a way to communicate."<sup>173</sup> He has further identified three types of tribes and individuals: those who react, those who respond, and those who initiate.<sup>174</sup> He suggests that while many simply react or respond to external stimuli, genuine leaders initiate by recognizing needs that others miss, thereby causing events to which others must react and ultimately creating change.<sup>175</sup>

As a prime example of how these new working relationships can be created, in November 2007, I gave a talk on workplace bullying to an assembly of several hundred Massachusetts union activists affiliated with the Service Employees Union International ("SEIU") and the National Association of Government Employees ("NAGE").<sup>176</sup> I closed my remarks

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<sup>172</sup> See generally SETH GODIN, *TRIBES: WE NEED YOU TO LEAD US* 86 (2008). I thank Larry Loebig of the Western Institute for Social Research for leading me to this book.

<sup>173</sup> *Id.* at 1-2.

<sup>174</sup> See *id.* at 86.

<sup>175</sup> See *id.*

<sup>176</sup> I have recounted, on an ongoing basis, the work of SEIU/NAGE in addressing workplace bullying issues in Massachusetts on my blog, and this narrative is drawn largely from those posts. See, e.g., David Yamada, *Labor Day Role Model: SEIU/NAGE Tackles Workplace Bullying in Massachusetts*, MINDING THE WORKPLACE (Sept. 3, 2012), <https://newworkplace.wordpress.com/2012/09/03/labor-day-role-model-seiunage-tackles-workplace-bullying-in-massachusetts/>; David Yamada, *The Role of Unions and Collective*

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by urging the unions to raise issues of abusive supervision at the bargaining table and asking them to consider supporting the Healthy Workplace Bill, which had yet to find a Massachusetts legislative sponsor. Although I knew from the response that my talk had been very well received, I had no idea about the seeds that it would plant.

Later that year, Greg Sorozan, president of one of the union locals and a national NAGE vice president, informed me that all of the union locals affiliated with SEIU and NAGE were now raising concerns about workplace bullying in their contract negotiations. I was pleased to hear the news, but I still assumed that this was, at best, saber rattling at the bargaining table. However, in January 2009, Greg informed me that the Commonwealth of Massachusetts had agreed to include a “mutual respect” provision in the new contracts that included, among other things, bullying and abusive supervision, covering some 21,000 state workers.

Greg also joined our working group to lobby for introduction and passage of the Healthy Workplace Bill in Massachusetts. He pledged the resources of his union to support the bill, and he started to deliver on that promise right away. He asked the union’s lobbyists to shop the bill around the Massachusetts legislature, and the result was that the State Senate assistant majority leader agreed to sponsor the bill as a “late file” in the 2009–2010 session.<sup>177</sup> We have been steadily building support ever since, to the point where the HWB has fifty-eight Massachusetts legislators as sponsors and co-sponsors for the 2015–2016 session.<sup>178</sup>

## D. BE WILLING TO WRITE THE FIRST DRAFT

Many years ago, professor Anthony Amsterdam (discussed above) suggested to a group of new law instructors that if we are willing to be “the bottom name on the brief,” that is, the person who did the grunt-level research and drafting even though others with fancier titles are listed above you on the pleading, then we have potentially the greatest control over the shaping of the document.<sup>179</sup> At the time, I figured that if others are

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*Bargaining in Combating Workplace Bullying*, MINDING THE WORKPLACE (Nov. 17, 2009) <https://newworkplace.wordpress.com/2009/11/17/the-role-of-unions-and-collective-bargaining-in-combating-workplace-bullying/>.

<sup>177</sup> See Bill S.699, 186th Leg., Reg. Sess. (Mass. 2009) <https://malegislature.gov/Bills/186/Senate/S699> (listing one petitioner).

<sup>178</sup> See Bill H.1771, 189th Leg., Reg. Sess. (Mass. 2015) <https://malegislature.gov/Bills/189/House/H1771> (listing fifty-eight petitioners).

<sup>179</sup> Explained sometime around 1992 by Tony Amsterdam during a meeting of instructors in the NYU first-year Lawyering Program, which he founded. I cannot provide the exact date, but the

willing to do that spadework, then why not let them? Eventually, however, I came to understand: A thorough, intelligent job on the first draft of a legal brief, proposed statute or regulation, policy briefing, or other key document (even a long e-mail!) can lead to a significant role in shaping the final product, much more than those who simply suggest, outline, pontificate, or critique. In the long run, it may also save everyone a lot of time.

This maxim has been verified in virtually every legal, political, policy, and bureaucratic setting to which I have been privy: a quality brief or proposed statute becomes the template for others to borrow or tweak. A well-crafted set of talking points appears time and again in the remarks and speeches of others. A neatly worded resolution cuts through a lot of excess verbiage and half-baked thoughts in a meeting or conference.

This is not to suggest that one should try to take over every group-oriented writing project in an overbearing way. It would be seen as bad form and would not leave much time for sleep to boot. But if someone has a good idea of what needs to be said and how to say it, and is willing to put in the work to get it done, then volunteering to write the first draft is a valuable opportunity to craft what eventually goes out the door.

#### E. EMBRACE AND MANAGE THE HUMAN DIMENSION

As suggested here, operating in an intellectual activist mode often involves working closely with stakeholders who are affected by these proposed laws and policies. This very human dimension should be both embraced and managed. It is an emotional juggling act that may take time to balance, a lesson that I have learned over the years.

My involvement with the workplace anti-bullying movement has been especially instructive. Workplace bullying is a heavy topic, especially for those who have experienced these behaviors and for their friends, families, and close colleagues. These emotional realities have fostered a movement comprised of many people who have felt deep anxiety, stress, fear, bitterness, anger, and sorrow due to their work experiences. Testifying before a legislative committee at a public hearing can be an anxious experience for anyone, but for those who are sharing personal stories of severe work abuse that led to job losses and health impairments, it may be a genuine act of courage. Even calling a legislator's office, writing an e-mail, or posting a comment to a news

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advice obviously stuck.

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article to support workplace bullying legislation may trigger memories of traumatic experiences.

I have had many exchanges with people who have experienced workplace bullying, and frequently these communications are intense and laden with strong feelings. I do not want to close myself off from the experiences of bullying targets—they are a constant reminder of why the work is important—but I also have come to realize that I must manage these interactions for my own emotional health. Burnout is an occupational hazard in such circumstances, and self-care becomes absolutely necessary.

#### F. FOLLOW YOUR BLISS AND LET ONE THING LEAD TO ANOTHER

The late Joseph Campbell's writings and lectures on mythology, faith traditions, and the world's societies made him a singular authority on the human experience. He first appeared on the radar screens of many people via a PBS series of televised interviews with Bill Moyers—"The Power of Myth"—that premiered in 1988.<sup>180</sup> Campbell's most famous advice in one of those segments, now repeated on many occasions, was "follow your bliss."<sup>181</sup> He suggested that following our bliss can lead us to life paths in which opportunities and connections seem to materialize before us. In the PBS series, Campbell replied to a Moyers question about whether "hidden hands" guide and facilitate our work once we have found our path:

All the time. It is miraculous. I even have a superstition that has grown on me as the result of invisible hands coming all the time—namely, that if you do follow your bliss you put yourself on a kind of track that has been there all the while, waiting for you, and the life that you ought to be living is the one you are living. When you can see that, you begin to meet people who are in the field of your bliss, and they open doors to you . . . .<sup>182</sup>

I realize that "follow your bliss" can morph easily into the most banal forms of encouragement. Joseph Campbell was not a superficial person,

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<sup>180</sup> Edited transcripts of these interviews have been collected together in book form. See JOSEPH CAMPBELL & BILL MOYERS, *THE POWER OF MYTH* (rev. ed. 1991). Campbell's intellectual depth and breadth were remarkable. His work mixed academic disciplines, especially literature, theology, history, anthropology, and psychology, in examining the stories and myths that create surprising commonalities among our different cultures. Even though he was a professor for many years at Sarah Lawrence College in New York, he connected the dots in ways that few people residing in the narrower grooves of academe ever manage.

<sup>181</sup> See *id.* at 146–50 (containing dialogue between Campbell and Moyers).

<sup>182</sup> *Id.* at 150.

but his signature line is tailor made for every soon-to-be-forgotten commencement speech or career pep talk, of which there are many. Furthermore, not everyone has the opportunity to follow this advice. Especially for those who are struggling to put food on the table and to keep a roof over their heads, such beyond-survival aspirations may appear to be unrealistic and even unattainable. However, with a leap of faith, I will assume that most readers of this article are likely to be blessed with some degree of choice over how they pursue their life's work and are motivated to make a positive difference during their lives.

As Campbell suggests, following one's bliss is not a static state of being; rather, it leads to connections and people. On this point I appeal to Drs. John Bilorusky and Cynthia Lawrence of the aforementioned Western Institute for Social Research.<sup>183</sup> They are fond of invoking the phrase, "one thing leads to another," and they cite, as examples, WISR students whose learning projects, grounded in socially relevant topics of deep personal interest, have led them to connections and difference-making opportunities they may not have anticipated when they embarked on their work.<sup>184</sup>

Practicing in an intellectual activist mode, I have experienced a connectivity that echoes both Campbell ("you begin to meet people who are in the field of your bliss, and they open doors to you") and Bilorusky & Lawrence ("one thing leads to another"). It is a place where one's networks, circles, and tribes feel right in terms of shared or compatible goals, and where one's activities and values are largely congruent. Some may experience this coalescence earlier in life. For me, the pieces did not come together until my fifties. I am extraordinarily grateful that they eventually did.

## V. CONCLUSION

In brief, intellectual activism draws upon the following attributes, skills, and values:

- (1) A commitment to changing the law, legal profession, and legal systems on behalf of the public interest;
- (2) A commitment to being responsibly bold and to thinking and doing in intellectually creative ways, while avoiding qualities of recklessness or hubris;
- (3) A respect for the conventions of scholarship, with the ability to

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<sup>183</sup> See generally BILORUSKY & LAWRENCE, LESSONS, *supra* note 116.

<sup>184</sup> See *id.* at 75–76 (discussing examples of student projects).



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write, research, analyze, and assess in an intellectually honest mode;

- (4) An understanding of how scholarly analyses translate into prescriptions for change;
- (5) Comprehension of how legal systems, policy making bodies, and legal stakeholders operate and interact in a practical sense;
- (6) Appreciation for the central role of political and bureaucratic stakeholders in lawmaking, and;
- (7) A willingness, nay, eagerness, to work with scholars, practitioners, policy makers, the media, and the general public, rather than limiting one's circle of influence.

Intellectual activism embraces the old chestnut that ideas have power, but adds that one must act upon those ideas to fuel their impact. It also encompasses a cyclical process of research, analysis, practice, and evaluation, implicitly understanding that these elements can lead to the betterment of law, public policy, and legal institutions. I hope that this article has provided useful insights and inspiration to law professors, lawyers, and law students who wish to practice in this manner.

## APPENDIX

ANNOTATED BIBLIOGRAPHY OF BOOKS RELATED TO  
INTELLECTUAL ACTIVISM

This is an eclectic and very subjective selection of books broadly related to the theme of intellectual activism, most of which have a focus outside of law and legal education. It is an edited and revised version of a longer bibliography that I completed pursuant to a Dean's Faculty Fellowship at Suffolk University Law School during the fall of 2013. Some of these sources are not cited in the preceding article, but all are of potential value to those interested in intellectual activism.

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ANTHONY AMSTERDAM & JEROME BRUNER, *MINDING THE LAW* (2002). A leading civil rights lawyer and law professor and a renowned cognitive psychologist team up to analyze U.S. Supreme Court cases addressing civil rights from a cultural perspective, with an emphasis on the roles of storytelling and legal narratives.

DERRICK BELL, *CONFRONTING AUTHORITY: REFLECTIONS OF AN ARDENT PROTESTER* (1994). This is an autobiographical account of protest, primarily within academic circles, by the late African American law professor and civil rights advocate and author. It is an excellent work for those who are weighing the costs, benefits, and methods of speaking out about social justice issues within the traditional academy.

THOMAS BENDER, *THE UNFINISHED CITY: NEW YORK AND THE METROPOLITAN IDEA* (2002). A compelling exploration of how city cultures and intellectual life intersect, by a prominent urban historian.

SIDNEY BLUMENTHAL, *THE RISE OF THE COUNTER-ESTABLISHMENT: FROM CONSERVATIVE IDEOLOGY TO POLITICAL POWER* (1986). Vivid history of the launch of the conservative revival that came to fruition during the 1980s and has largely dominated the national political landscape since then.

KIM BOBO, JACKIE KENDALL, AND STEVE MAX, *ORGANIZING FOR SOCIAL CHANGE: MIDWEST ACADEMY MANUAL FOR ACTIVISTS* (4th ed. 2010). Manual for grassroots activists by leading trainers and educators

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associated with the Midwest Academy, which has trained thousands of activists since its creation in 1973.

DEREK BOK, *UNIVERSITIES AND THE FUTURE OF AMERICA* (1990). Then Harvard president Bok urges universities to adopt a public-spirited mission in their teaching, scholarship, and service activities.

COMMUNITY AND THE WORLD: PARTICIPATING IN SOCIAL CHANGE (Torry D. Dickinson, ed., 2003). This valuable and welcomed collection of articles covers many topics related to community-based learning, adult education, and scholarly activism, featuring a multicultural and global orientation. A diverse array of educators, learners, and social change agents contributed to it.

A COMMUNITY OF SCHOLARS: THE UNIVERSITY SEMINARS AT COLUMBIA (Frank Tannenbaum, ed., 1965). Description of the University Seminars at Columbia University, a series of ongoing seminars on many topics that bring together scholars and practitioners to share insights and experiences.

JOHN A. DALY, *ADVOCACY: CHAMPIONING IDEAS AND INFLUENCING OTHERS* (2011). Management professor examines effective advocacy from a leadership and communications perspective.

STANLEY FISH, *SAVE THE WORLD ON YOUR OWN TIME* (2008). As a counterpoint to the themes and practices raised here, Fish is very critical of academicians who go beyond pure teaching and scholarship, urging that they are stepping outside of their proper roles when engaging in social change work.

JOHN-PAUL FLINTOFF, *HOW TO CHANGE THE WORLD* (2012). Provides a trenchant historical and practical overview on the different ways to make an impact on society.

HOWARD GARDNER, *CHANGING MINDS: THE ART AND SCIENCE OF CHANGING OUR OWN AND OTHER PEOPLE'S MINDS* (2004). The renowned psychologist examines how people change their minds on matters ranging from everyday choices to major social and political issues.

JULIUS GETMAN, *IN THE COMPANY OF SCHOLARS* (1992). This is one of

the most thoughtful critiques of traditional academic values and university life, with insightful reflections on the role of scholarship. Getman is a noted labor law scholar who has served as general counsel and president of the American Association of University Professors (AAUP).

MARY ANN GLENDON, *THE FORUM AND THE TOWER: HOW SCHOLARS AND POLITICIANS HAVE IMAGINED THE WORLD, FROM PLATO TO ELEANOR ROOSEVELT* (2011). Glendon, a law professor, examines the ties between intellectuals and political actors, against a Western civilization backdrop.

SETH GODIN, *TRIBES: WE NEED YOU TO LEAD US* (2008). A leading writer on entrepreneurship explains how informal tribes can serve as entities that drive change initiatives.

ANDRE P. GRACE & TONETTE S. ROCCO, ET AL., *CHALLENGING THE PROFESSIONALIZATION OF ADULT EDUCATION: JOHN OHLIGER AND CONTRADICTIONS IN MODERN PRACTICE* (2009). John Ohliger was an iconoclastic and outspoken adult educator, activist, and public intellectual. This series of essays, which includes a chapter I wrote titled “The Adult Educator as Public Intellectual,” examines issues in adult education relevant to Ohliger’s extensive body of work.

ANTHONY GRAFTON, *WORLDS MADE BY WORDS: SCHOLARSHIP AND COMMUNITY IN THE MODERN WEST* (2009). Especially recommended is the chapter on “The Public Intellectual and the American University,” centering on the life and work of University of Chicago professor Robert Morss Lovett during the early 20<sup>th</sup> century.

RONALD GROSS, *THE INDEPENDENT SCHOLAR’S HANDBOOK* (rev. ed. 1993). In this instructive and inspirational book, Gross writes for individuals who are engaged, or who want to be engaged, in scholarly work, and who find themselves, by choice or circumstance, outside of traditional academic circles. However, the book will serve a similar purpose for academics who seek to engage the public with their work. Though dated as a pre-Web resource, Gross’s vivid accounts of successful independent scholars are well worth the time spent with this book.

DONALD E. HALL, *THE ACADEMIC SELF* (2002). Hall, an English

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professor at California State University, Northridge, recognizes that the traditional, full-time, tenure-track teaching appointment is a pretty good deal. Nevertheless, he also understands that academic life has its own stress points. Tenure decisions, time pressures, issues of academic prestige and hierarchy, and personality conflicts all can wreak havoc with one's peace of mind. In essence, he tells us to manage, but not to sweat, the small stuff.

TOM HEAD, *IT'S YOUR WORLD, SO CHANGE IT: USING THE POWER OF THE INTERNET TO CREATE SOCIAL CHANGE* (2010). Useful primer on online activism, public education, and grassroots organizing.

RUSSELL JACOBY, *THE LAST INTELLECTUALS* (1987). With this book, Jacoby generated an ongoing discussion about the role of public intellectuals in American society. He opined that highly specialized and credentialed academicians who write for a very narrow audience have usurped the role of the independent, bohemian public scholar and writer. Interestingly, and perhaps ironically, he helped to spur an avalanche of articles, panel discussions, and conferences within academe debating his thesis and examining how we define a public intellectual and who gets to claim the label.

ROBERT JENSEN, *WE ARE ALL APOCALYPTIC NOW: ON THE RESPONSIBILITIES OF TEACHING, PREACHING, REPORTING, WRITING, AND SPEAKING OUT* (2013). A journalism professor, Jensen urges intellectuals to be "responsibly apocalyptic" in helping us to understand and confront the economic and social challenges of our era.

KATHLEEN A. KENDALL-TACKETT, *HOW TO WRITE FOR A GENERAL AUDIENCE: A GUIDE FOR ACADEMICS WHO WANT TO SHARE THEIR KNOWLEDGE WITH THE WORLD AND HAVE FUN DOING IT* (2007). Helpful, encouraging guidebook for those who want to translate their research for more general audiences via articles, books, and social media.

DAVID L. KIRP, *SHAKESPEARE, EINSTEIN, AND THE BOTTOM LINE: THE MARKETING OF HIGHER EDUCATION* (2003). Kirp, a public policy professor, examines the internal and external marketing practices of an eclectic array of colleges and universities. This book delivers an engaging look at how hype, image, and substance interrelate in today's institutions of higher learning.

THOMAS S. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* (3rd ed. 1996). If you'd like to read the seminal work that inspired the term "paradigm shift" now adopted by many social scientists, this is it.

GEORGE LAKOFF, *THINKING POINTS: COMMUNICATING OUR AMERICAN VALUES AND VISION* (2006). Linguistics professor Lakoff applies his expertise to political communication, suggesting ways in which progressives can more effectively persuade the public.

MICHELLE E. MARTIN, *ADVOCACY FOR SOCIAL JUSTICE: A GLOBAL PERSPECTIVE* (2015). Interesting takes on social justice advocacy, framed by human services and social work perspectives.

PHILIP N. MEYER, *STORYTELLING FOR LAWYERS* (2014). A faculty alumnus of the NYU Lawyering Program discussed in this article, Meyer examines the role of narrative in litigation.

*THE OBLIGATION OF UNIVERSITIES TO THE SOCIAL ORDER* (Henry Pratt Fairchild, ed., 1933). This collection of addresses, essays, and discussions from a 1932 conference hosted by New York University includes George Soule's "The Scholar in Practical Affairs."

MARY PIPHER, *WRITING TO CHANGE THE WORLD* (2006). Inspiring and instructive advice on writing to effect social change, from a noted therapist and writer.

*THE PUBLIC INTELLECTUAL* (Helen Small, ed., 2002). Sampling of perspectives on the role of public intellectuals in society. The late Edward Said's essay, "The Public Role of Writers and Intellectuals," is particularly recommended.

*PUBLIC INTELLECTUALS: AN ENDANGERED SPECIES?* (Amitai Etzioni & Alyssa Bowditch, eds., 2006). Interesting collection of essays contemplating the future of the public intellectual.

JOHN LOUIS RECCHIUTI, *CIVIC ENGAGEMENT: SOCIAL SCIENCE AND PROGRESSIVE-ERA REFORM IN NEW YORK CITY* (2007). Examines the

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roles of public intellectuals, scholars, and activists in advancing social reform in New York during the Gilded Age and the Progressive Era.

DEBORAH L. RHODE, *IN PURSUIT OF KNOWLEDGE: SCHOLARS, STATUS, AND ACADEMIC CULTURE* (2006). A noted legal scholar profiles contemporary academic culture and discusses the gap between ideals and realities in modern academe. The book includes a chapter on public intellectuals.

SCOTT ROSENBERG, *SAY ANYTHING: HOW BLOGGING BEGAN, WHAT IT'S BECOMING, AND WHY IT MATTERS* (2009). Yes, blogging has been around long enough that someone could write an early history of the medium. For those who blog to advance causes near and dear to them, this book will provide a context for how their work fits into the picture.

CHARLES J. SYKES, *PROFSCAM: PROFESSORS AND THE DEMISE OF HIGHER EDUCATION* (1988). Excoriates faculty who allegedly engage in bad teaching, too little teaching, obscure research, and too much outside consulting. A somewhat dated mix of thoughtful critique and hyperbole, raising issues that remain relevant to the academy.

*TELLING STORIES TO CHANGE THE WORLD* (Rickie Sollinger, Madeline Fox & Kayhan Irani, eds. 2008). Stimulating collection of essays about storytelling as a strategy for social justice advocacy on a global scale.

WILLIAM TYSON, *PITCH PERFECT: COMMUNICATING WITH TRADITIONAL AND SOCIAL MEDIA FOR SCHOLARS, RESEARCHERS, AND ACADEMIC LEADERS* (2010). Helpful guidebook for academicians who want to share their work with the public, using both traditional and social media outlets.