

ABOLITION DEMOCRACY: THEORY AND PRAXIS

LESSON PLAN: SESSION 8

Session 8: Abolitionist Possibilities Within the Legal System

What is the role of law in progressive politics? To what extent can the legal system serve as a tool for liberation? From the Civil Rights Movement to the emergence of movement lawyering today, the question of the role of lawyers in progressive politics, as Cornel West asked, has been answered in many different ways. This session will attempt to answer this question for this moment.

Readings:

Greenberg, Jack. Chapter 32, NORI and Criminal Justice, *Crusaders in the Courts: How a dedicated band of lawyers fought for the Civil Rights Revolution* (Basic Books, 1994), 440-460

West, Cornel. "The Role of Law in Progressive Politics." *Vanderbilt Law Review* 43, no. 6 (1990): 1797-1806.

Akbar, Amna A., Sameer M. Ashar, and Jocelyn Simonson, *Movement Law*, 73 *Stan. L. Rev.* (2021).

Hoag, Alexis. "Black on Black Representation." *NYU Law Review* 96, no. 5 (November 2021): 1491-1548.
<https://www.nyulawreview.org/wp-content/uploads/2021/11/Hoag-ONLINE.pdf>.

Webb, Lindsey. "Slave Narratives and the Sentencing Court," 42 *N.Y.U. REV. L. & SOC. CHANGE* 125 (2018), pages 141-71.

Additional Readings:

Stevenson, Bryan. *Just Mercy*. New York: Simon and Schuster, 2014.

Futrell, Nicole Smith. "The Practice and Pedagogy of Carceral Abolition in a Criminal Defense Clinic, 45 *N.Y.U. REV. L. & SOC. CHANGE* 2 (2021), 159-196.

Rosen, Charlotte. "Fighting from Inside: Prison Litigation as a Conduit for Resistance." *n+1* 43 (Summer 2022).
<https://www.nplusonemag.com/issue-43/politics/fighting-from-inside/>.

Reading Notes

Greenberg, Jack. Chapter 32, NORI and Criminal Justice, *Crusaders in the Courts: How a dedicated band of lawyers fought for the Civil Rights Revolution* (Basic Books, 1994), 440-460

- This chapter is on the litigation strategy around criminal justice reform during the Civil Rights era.

West, Cornel. "The Role of Law in Progressive Politics." *Vanderbilt Law Review* 43, no. 6 (1990): 1797-1806.

- This critical essay by Cornel West highlights the importance of legal support in progressive movements, but argues that the role of lawyers should be defensive and ultimately, transformative change will be made through social movements.

Akbar, Amna A., Sameer M. Ashar, and Jocelyn Simonson, *Movement Law*, 73 *Stan. L. Rev.* (2021).

- This article pushes legal scholars to consider how the field of legal scholarship can engage with on-the-ground movements and organizers to produce scholarship that leads to long lasting and fundamental social change. The authors emphasize especially how this methodology will denaturalize the status quo and will work with movements in a way that are non-hierarchical, unlike more traditional forms of legal scholarship.

Hoag, Alexis. "Black on Black Representation." *NYU Law Review* 96, no. 5 (November 2021): 1491-1548.

- Written by a veteran capital defense attorney, this article argues for the importance of having Black attorneys represent Black clients. It draws on practices in other fields as well as interviews from current defense attorneys.

Webb, Lindsey. "Slave Narratives and the Sentencing Court," 42 *N.Y.U. REV. L. & SOC. CHANGE* 125 (2018), pages 141-71.

- This article argues for defense attorneys to include narratives of prison conditions during sentencing to support shorter sentences. The practice is not to influence the court's opinion on an individual defendant, but on the system as a whole. It draws upon the history of Civil War-era slave narratives and their humanizing effects to argue for how storytelling should play a role in litigation.

Questions:

West, Cornel. "The Role of Law in Progressive Politics." *Vanderbilt Law Review* 43, no. 6 (1990): 1797-1806.

Akbar, Amna A., Sameer M. Ashar, and Jocelyn Simonson, *Movement Law*, 73 *Stan. L. Rev.* (2021).

- Akbar argues for legal scholars to work and study in tandem with social movements. West argues that lawyers should play a more defensive role in social movements. Consider how their arguments complement each other and possibly contradict one another.

Hoag, Alexis. "Black on Black Representation." *NYU Law Review* 96, no. 5 (November 2021): 1491-1548.

- This article talks a lot of choice of counsel. Apart from the immediate moments surrounding the appointment/retention of counsel, when do you think might it be important for people to learn about how to engage legal services? What resources do people need in order to choose the right counsel for them? How is this especially important for Black communities, and what resources might Black communities need specifically to ensure their members are able to receive good representation? What barriers do you see exist to this type of representation and how might they be overcome?

Webb, Lindsey. "Slave Narratives and the Sentencing Court," 42 N.Y.U. REV. L. & SOC. CHANGE 125 (2018), pages 141-71.

- Think back on the readings by Saidiya Hartman earlier in this course. In what ways can lawyers help fill in some of the gaps in the archives that she mentions? Is this in part what Webb is suggesting? Can narrative preservation be an end as well as a means of litigation?