Resistance lawyering and the ethics of injustice

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1. Introduction

When I arrived in Darwin in 1997 as a recently admitted lawyer from Sydney, I must have had enough promise as an advocate that I was able to convince Suzan Cox to give me a job, despite my conspicuous lack of experience in criminal law. But I had breached Trevor Riley's First Law of Advocacy: 'Preparation, preparation, preparation'.

When someone mentioned to me that the Northern Territory had recently introduced mandatory sentencing for property offences, I thought it must have been one of the those 'three strikes' laws that had been a feature of US criminal law.

But when I looked it up, I discovered - as many here will remember – that it was a regime as unique as the Territory itself: 14 days for your first offence – say a broken window; 3 months for your second – perhaps stealing; a year for your third – maybe an unlawful entry. No exceptions.

For children aged 15 and 16, you got one ride in a stolen car for free. For second and subsequent offences, it was to cost you 28 days in prison. No exceptions.

Mandatory sentencing in different forms continues to this day and has become commonplace across Australia, but at the time it was felt by many – quite rightly – as an affront to justice. As Dean Mildren famously observed, mandatory sentences are 'the very antithesis of just sentences'.[1]

I didn't know it, but along with many others working in criminal defence in the NT in those days, I was about to become engaged in what Daniel Farbman has described as a 'resistance lawyering': working within a hostile system to frustrate, delay and dismantle it.

For those who were at this conference in 1999 and heard me and Russell Goldflam deliver a paper on 'Mandatory Sentencing and the Concentration of Powers',[2] I promise I'm not going to bang on about it again. At least not much.

But it's history that has come back to me as I've had conversations over the past 18 months with lawyers in the NT facing down the latest wave of pernicious punitive populism from a government determined to restore the Territory Lifestyle - and kickstart the economy - by investing heavily in police and prisons and locking away ever more Aboriginal people.

Daniel Farbman coined the term 'resistance lawyering' to describe the work of American antislavery lawyers in the 1850s. His article of the same name – and from which I've borrowed

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[1] *Trenerry v Bradley* (1997) 6 NTLR 175, 187.

[2] https://clant.org.au/wp-content/uploads/the-bali-conference/1999/Goldflam-Russell-amp-Hunyor-Jonathon-Mandatory-Sentencing-amp-the-concentration-of-powers-Bamp-W.pdf

heavily – asks how lawyers can work within hostile, if not outright unjust, systems in ways that avoid complicity, maintain humanity and, ultimately play a role in dismantling those systems.

And I want to look at what this might mean for lawyers working in the NT particularly, but also in other jurisdictions today.

I will consider what limits our professional ethical obligations may place on our ability to work in ways that are explicitly politically engaged, as well as barriers to these approaches and the ways in which such work is de-legitimised.

I hope this might achieve a few things, beyond earning us all a CPD point and giving you something to argue with me about over dinner tonight.

I want to provoke and/or inspire us to consider how lawyers working at the coalface might more intentionally employ techniques of resistance lawyering in their work – including how we might more explicitly link our work with political goals and movements of people working for social justice.

And I want to recognise and validate the role of 'resistance lawyering' in the work of criminal lawyers in the NT and other jurisdictions and the role that organisations like CLANT play in supporting this.

2. Justice in the NT, 2026

I scarcely need to tell this audience that since the re-election of the CLP in September 2024, there has been a wave of changes to the law with profound impacts. We've heard descriptions throughout this conference of a system in crisis, delivering what CLANT President Beth Wild, has said are 'demonstrably unjust outcomes'.

Changes to the criminal law include:

- Lowering the age of criminal responsibility from 12 to 10 – contrary to the recommendation of the Don Dale Royal Commission.[3]
- Making it much harder to get bail, particularly for people charged with serious and serious violent offences.[4]
- Reintroducing the offence of breach of bail for children,[5] again contrary to the recommendations of the Don Dale Royal Commission.
- Amending the *Youth Justice Act* to remove the principle that imprisonment should be a measure of last resort.[6]
- Reintroducing the use of spithoods and allowing for dogs to be used by prison officers against children to manage emergencies.[7]

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[3] *Criminal Code Amendment Act 2024* (NT).

[4] *Bail Legislation Amendment Act 2024* (NT); *Bail Legislation Amendment Act 2025* (NT), s 4.

[5] *Bail and Youth Justice Legislation Amendment Act 2025* (NT).

[6] Ibid.

[7] *Youth Justice Legislation Amendment Act 2025* (NT), ss 34, 14.

- More mandatory sentencing: this time for assaults on workers and in circumstances of family violence.
- Increased police powers for 'wanding' and to deal with 'nuisance drinkers'.
- Also before Parliament is a Bill permitting police to hold children in police cells for up to 48 hours.[8]

The combined impact of these changes is an explosion of the prison population, caused in large part by people being held on remand, under increasingly draconian conditions. More than half the people in Territory prisons are on remand and innocent at law. Watch houses are dangerously overcrowded and, predictably, Aboriginal people are most impacted.

This has been accompanied by a reduction in funding for NT Legal Aid, cuts to diversionary and rehabilitation programs, attacks on the judiciary and personal attacks of critics including the Northern Territory Children's Commissioner (and CLANT alumnus) Shahleena Musk, with whom the government refuses to meet.

The changes to the Bail Act are subject to a High Court challenge by NAAJA, which is an important collateral challenge. And a number of organisations, including NAAJA, NATSILS and the Justice and Equity Centre for whom I work, have called for the Commonwealth to consider legislating minimum standards for the treatment of children, to mitigate against the worst of State and Territory regimes of brutalisation and abuse.

But what might lawyers working in the system each day do to make change?

3. 'Resistance lawyering'

Daniel Farbman's article 'Resistance Lawyering'[9] centres on the work of lawyers representing clients under the US federal Fugitive Slave Law of 1850. This infamous law 'had been explicitly designed to create a summary process that would help Southern slave owners repossess human beings that they claimed as their slaves.'[10] It was 'written expressly to ensure that those people who had risked their lives to come north would be arrested and sent back south to slavery with as little process and public outcry as possible.'[11]

Some key features were that

- The process was summary with no jury.
- A claiming owner needed only bring a certificate from their home state and offer 'satisfactory' proof that the person was their slave.
- Alleged fugitives were not allowed to testify on their own behalf, nor were they guaranteed counsel or any procedural protections.
- Commissioners were paid $10 per case if they remanded a person to slavery and only $5 if they ruled the person free.

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[8] *Youth Justice and Criminal Code Amendment Bill 2026.*

[9] Daniel Farbman, 'Resistance Lawyering' (2019) 107 *California Law Review* 1877.

[10] Ibid 1878.

[11] Ibid 1878–9.

The classical version of the story of the Fugitive Slave Law was that nearly every alleged slave caught in its web was doomed to be returned to slavery: only 11% were exonerated.

But what Farbman's research uncovered is that nearly four out of every ten people who were caught in the law's process ultimately ended up free. That's because 20% escaped or were rescued and 8% had their freedom purchased by members of the community who banded together to prevent their return to slavery.

And while Farbman rightly credits first and foremost the fugitives themselves and the movement activists – mostly Black people – who fought tirelessly for their freedom, the work of lawyers was instrumental in this outcome.

How so?

Because lawyers used 'every scrap of procedure they could grasp to slow down and frustrate' the process.[12]

Some of this was the sort of rigorous advocacy we might expect, particularly when the chips are down:

- They sought frequent adjournments to take proper instructions and gather evidence.
- They cross-examined witnesses at great length and sought to have witnesses recalled.
- They also brought procedural motions and made applications to higher courts for stays and writs of habeas corpus.
- They asked for documents to be read aloud in full.
- They mounted novel and highly ambitious legal arguments.

And all of this bought time, which served a number of purposes.

Slowing down the process allowed for greater scrutiny of evidence and for teams of lawyers to prepare other parts of the case which might lead to a successful – if unlikely - legal outcome.

It also gave supporters the opportunity to raise funds to purchase freedom and to get other supporters – like those from vigilance committees - to court, building public pressure and bringing greater scrutiny to proceedings which might cause a judge or commissioner to decide in favour of freedom.

Most controversially, these legal tactics created more opportunity for an enslaved person to escape and indeed for militant abolitionists to plot and execute escape plans.

Lawyers also used the 'bully pulpit' of the courtroom to expose and the injustice of the proceedings: creating a record, increasing the moral pressure on judges and commissioners and building community support both for their client and the abolitionist cause.

Fear not, I'll come to the murky ethical waters into which some of this takes us, but first let me share with you one of Farbman's case studies.[13]

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[12] Ibid 1903.

[13] Ibid 1909. I have edited this extract for delivery and omitted footnotes

In 1850, a man named Lewis escaped from the service of Alexander Marshall in Fleming County, Kentucky. Lewis crossed the Ohio River into Cincinnati and continued onward to settle outside Columbus.

In 1853, Marshall tracked Lewis to where he was living and managed to get a warrant for his arrest. [He was duly arrested and brought to Cincinnati by train].

Even before Lewis arrived in Cincinnati, his lawyers were on the case. Activists in Columbus had spotted the arrest and telegraphed their allies in Cincinnati to warn them that Lewis was on his way. By the time Lewis's train arrived, [his lawyer, John Joliffe] had managed to convince the sheriff in Cincinnati to arrest Marshall [the slaveholder] for kidnapping.

The slaveholder was quickly freed, but the first salvo of resistance lawyering had been fired.

Jolliffe surely never thought he could succeed in keeping Marshall in prison on a state charge of kidnapping, but because he was able to convince a friendly local sheriff to arrest him, he managed to achieve a first measure of delay before the case even began.

At the hearing, Jolliffe partnered with young antislavery lawyer and future president Rutherford B. Hayes. They were lucky that Commissioner Carpenter appeared less eager to execute the law quickly than some of his colleagues in other cities. Jolliffe and Hayes asked that the case be given a full hearing and Carpenter agreed to give Lewis substantially more than the summary process contemplated by the1850 Law.

Jolliffe and Hayes made use of this extra time, making an elaborate argument that Lewis was free under Ohio law because his master had given him permission to enter the state before he escaped—and thus (because he had not technically escaped) he was not a fugitive under the meaning of the 1850 Law. This had not proven to be a winning argument in past cases, but Carpenter allowed Lewis's lawyers to make it fully over several days.

Over the course of the hearing, the case gathered more and more public attention. When the day came for Carpenter to announce his decision, a large crowd had gathered both inside and outside the courtroom. Even before Carpenter decided the case, Lewis's lawyers tried one more gambit to delay the proceedings, announcing that they had just [become aware of] further exculpatory evidence in the case and [seeking an adjournment].

While Carpenter was considering this request and beginning to deliver his conclusions on the case more broadly, the entire courtroom's attention was focused on him. [Reports from the time say he] was "slow and tedious in reviewing the evidence, and… he spoke in a low tone." As a result, [those in court] "were anxious to hear [and] they leaned forward much absorbed, trying to catch every word."

While the room (including the lawyers on both sides) was thus distracted, Lewis slipped his chair back a little bit to make space for himself. [Nobody seemed to notice], so he did it again until he was behind the marshal and almost in among the crowd. Still no one noticed, so he quietly stood up and stepped backwards.

An ally in the crowd gave him a nudge of encouragement and someone put a hat on his head. Then, while Carpenter droned on, Lewis quietly walked right out of the courtroom and mingled among the crowd of free black activists who had gathered to observe the hearing.

> From there, Lewis found his way to the street and then to a safe house, where he was effectively hidden by abolitionist allies for a few weeks before making his way to Canada and freedom.
>
> Jolliffe and Hayes were adamant that they had no part in planning Lewis's escape, and there is no evidence to contradict their claims. Lewis's escape appeared to be opportunistic rather than premeditated. Even so… it was the lawyers who were instrumental in creating the conditions under which escape was possible. Lewis was, like so many other fugitives, on a fast track to being sent back to slavery.

Farbman's piece contains a number of other remarkable examples of cases in which slaves were busted out of court by abolitionists; communities were able to raise funds to buy a slave's freedom; and in which exhaustive legal argument amidst exhausting procedural shenanigans resulted in exoneration.

Drawing on these cases, Farbman observes that the work of lawyers helped build and sustain the infrastructure for political change and victory.[14] Their work helped build a political narrative that was necessary to challenge the system itself: it transformed proceedings from a summary rendition into a community referendum on slavery.

Every case became an opportunity to broadcast an anti-slavery message to the community and the nation. The political organising around a trial was as much about mobilisation for the cause of abolitionism as it was about the individual result. Indeed, Farbman suggests, 'the most galvanizing moments for antislavery lawyers were likely their losses, where the injustice of the law was enacted for all to see, dramatically supporting the rhetoric developed at trial.'[15]

Out of all of this, Farbman defines a 'resistance lawyer' as someone who:

> [e]ngages in regular, direct services practice within a procedural and substantive legal regime that [they consider] unjust and illegitimate. Through that practice, [they seek] both to mitigate the worst injustices of that system and to resist, obstruct and dismantle the system itself.[16]

The lawyering Farbman describes is very much 'in the trenches'. While test cases or strategic litigation may play a role, they aren't the main event: this is work 'rooted in direct service within a hostile system rather than collateral attack against it through other systems.'

The point is not that this form of lawyering is preferable to others. Obviously enough, if laws can be struck down as invalid or read down in line with constitutional limitations, for example: good and well. But this is more about what happens in the Magi's court than the High Court.

And, of course, there are countless other contexts in which lawyers have played important and courageous roles in struggles for liberation and against oppression: the South African struggle against apartheid is one obvious example.

But what is particularly prominent in Farbman's study is how the day-to-day practice of law might offer ways to advance political goals and promote justice beyond the courtroom; and how

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[14] Ibid 1897.

[15] Ibid 1899.

[16] Ibid 1880.

links to movements of people striving for social justice might allow lawyers working within systems of injustice to be more than cogs in the machine.

4. Ethics and other caveats

Now I promised I'd get to ethics, so let me do so.

Farbman recognises that antislavery lawyers struggled with their ethical obligations as legal practitioners in the face of a law that was morally indefensible.

It would have been clearly illegal to knowingly aid in the escape of a prisoner and it's hard to avoid the conclusion that some were at the very least prepared to turn a blind eye.

There is a line - if not always a clear one - between persuasive and passionate advocacy and seeking to place political pressure on a judge by fanning public outrage and filling the court with a rowdy crowd.

Similarly, excessive procedural shenanigans and meritless applications can push the limits of a practitioner's duty to the court, although we don't need to look far to see similar tactics taken on behalf of commercial, private and institutional clients.

A classical ethical critique of activist or 'cause' lawyers is that they improperly put the cause before the client. This is, indeed, a perennial tension – but it's also one I think can be overstated. Amongst other things, the critique tends to assume clients don't have an interest in the cause. An approach or outcome that doesn't directly and immediately benefit them *can* still be one they choose, provided they are properly advised. It is simply wrong to assume clients are just dupes to those pesky 'cause lawyers'.

Having said this, the question of power dynamics is real and not one we can gloss over. Lawyers enjoy positions power and privilege that our clients do not. In the Australian context, for non-Indigenous lawyers working with First Nations clients in particular, the dynamics of race and systemic racism should always be front-of-mind.

Beyond strict questions of professional ethics, I'd also note the traditional resistance to recognising a role for politics in our approach to legal practice. It's a topic I don't have time to do justice to, but let me make this observation: the status quo is political. A conservative approach to legal practice that purports to be above politics is as political as a progressive or even radical approach to legal practice which is explicit about politics and power in the law.

Any notion that we are apolitical servants of the law is a comforting fiction.

But if you are here, you are by definition not by the pool, so I suspect a level of discomfort is something you can tolerate.

Ultimately, Farbman observes that the work of abolitionist lawyers was necessarily grounded in a fundamental commitment to legal order more broadly. It wasn't nihilistic. 'Resistance lawyering' is still lawyers using the tools of law, albeit pushing against their inbuilt conservatism and to their limits.

5. Mandatory sentencing in the NT, 1996-2001

In asking how this might be relevant in Australia in 2026, let me take you on a brief stroll down a memory lane closer to home: back to the NT in the late 1990's.

As I flagged in my introduction, many of us were, to greater and lesser extents, engaged in forms of 'resistance lawyering', to challenge the injustice of mandatory sentencing for property offences.

We sought adjournments to slow down the process and listed almost everything for a hearing. Obviously this wasn't always a viable tactic if the client was remanded in custody, but an early plea was irrelevant if mandatory sentences were at play, so time was often enough our friend.

I can place my hand on my heart to say that the prospect of delays enabling our clients to abscond interstate wasn't something I considered, nor was it discussed amongst colleagues. But no doubt this happened – just as no doubt lengthy delays resulted in prosecution witnesses becoming unavailable, resulting in charges being withdrawn.

Our clients couldn't quite buy their freedom, but for offences like property damage they could try to raise money to pay restitution to a victim, following which their lawyer could invite the prosecutor to consider withdrawing the charges.

We also used time to consider creative solutions to our problem, such as inviting the prosecution to lay alternative charges that didn't carry mandatory sentences: like the summary offence of interfere with a motor vehicle instead of property damage or unlawful use; or agreeing to plead guilty to an attempt, or to being an accessory after the fact.

As lawyers do, we worked up arguments on technical legal issues that mitigated against some of the worst impact of the regime and swapped notes between practitioners across legal practices. If three sets of offending were tried on the one day, was that a first strike or three strikes? Could mandatory minimum sentences be concurrent or did they have to be cumulative? And so on.

And while 'bully pulpit' doesn't fairly describe what I recall to be our highly skilful, powerful and compelling advocacy, we definitely didn't miss a chance to put on the record the injustice of each mandatory sentence. This provided an opportunity for the Bench to weigh in with comments indicating its concerns about the impact on justice and fairness, and gave the local ABC and even the NT News something to report on. In July 1998 the NT News was moved to ask:

> What exactly were the voters asked about mandatory sentencing? Were all the implications explained? Because 12 months down the track many of those who supported the concept might just be thinking they've created a monster.[17]

Outside court we joined with others in civil society in the Coalition Against Unfair Sentencing and the Central Australian Youth Justice Coalition. We organised events and rallies, made bumper stickers and put pamphlets in letter boxes. We wrote letters to the editor, briefed journalists and gave evidence to Commonwealth inquiries. Russell Goldflam even went as far as stealing a pencil from the parliamentary hearing room and breaking it, committing two

[17] NT News, Editorial, July 13, 1998.

property offences for which he then invited prosecution and a mandatory sentence.[18] The invitation was declined and our 'Free Rusty' placards were never called into service.

I'm not going to claim that we changed the minds of Territorians such that they threw the CLP out of office, but all of this work did play a role in slowing the law-and-order bandwagon. Critically, the campaign against mandatory sentencing *was* successful in getting Labor to commit to abolishing it. When Clare Martin took Labor to power - for the first time since self-government - in the Territory election of 2001, her government did so.

Of course, once in power Labor went on to introduce other forms of mandatory sentences, but that's another story. For present purposes, let's take the win.

6. So what does this all mean?

So what does this all mean for the criminal lawyer in 2026?

I'm mindful that I'm a CLANT feather-duster. Many of you will know better than me what options exist for this kind of work and doubtless are doing some of it already.

My aim is not to tell you how to suck eggs, but to invite further thinking and discussion about how criminal lawyers can work in coordinated and effective ways to promote a progressive vision of justice. There are questions of both how and why that I want to touch on.

But let me start by reasserting the legitimacy of resistance.

The 'activist lawyer' is often *de*legitimised by those whose power it threatens. We've seen this in the case of refugee lawyers – another fertile ground for resistance lawyering. We've also seen it for environmental lawyers accused of 'lawfare' and human rights lawyers accused of being do-gooders.

In the present context, who are we to say the system and its outcomes are unjust when the government - as they are wont to remind us - is just doing what they were voted in to do?

Again, time doesn't allow me to engage fully with this argument, so let me just say this: democracy isn't majoritarianism. The classical vision of democracy requires that a government governs for all and protects those most disadvantaged. That's a vision we can work towards unapologetically.

But if we are to resist, exactly what are we resisting?

Slavery and mandatory sentencing for property offences presented fairly clear 'systems' to resist and seek to dismantle. The many and various ways in which justice is being undermined in the NT and across Australia make for a slippery wrestle.

Part of the work, therefore, is articulating the change we want to see: the systems or parts of systems we want to reform.

This requires listening to, and working with, those most impacted – First Nations people, people with disability, advocates with lived experience of our carceral systems. One of the ways we can

[18] Kirsty O'Brien, 'Alice Springs protest calls for end to sentencing', ABC 21 February 2000, available at: www.abc.net.au/pm/archive/articles/2000/02/21/s102029.htm.

moderate the power and privilege of lawyers I mentioned earlier is by ensuring that we aren't the ones setting the agenda. We should obviously look to Aboriginal Legal Services and Aboriginal Community Controlled Organisations in particular, and see our work as allies or, if you prefer, accomplices.

One challenge is that we are very unlikely to find ourselves with a neat manifesto. It may be contested and messy. Lawyers – and professional associations like CLANT - may need to do some of the heavy lifting where people and community organisations lack capacity for doing and sustaining this sort of strategic work.

And while lawyers need to take care that they don't purport to speak for communities impacted by injustice, as allies there is a role to speak up, to take some of the heat, to share some of that burden. It's a tradition that CLANT proudly maintains.

Some of this may feel like it's out of the lane of a practising lawyer. But finding, making and sustaining connections into social and political movements offers a range of personal and professional benefits.

Being more consciously part of a movement offers a salve to the loneliness of individual and atomised legal practice and the dangers of burnout and 'compassion fatigue'.[19] We get some of that solidarity and connection at conferences like this, in organisations like Aboriginal Legal Services that have a broader mandate for justice, and through organisations like CLANT. We should be looking to build, widen and nurture those connections across the profession.

Farbman suggests that '[a] more clearly developed set of political commitments and goals could make a lawyer's daily practice feel less futile by construing even drab procedural process as part of a broader political context.'

Further, he suggests that having a clearer sense of political commitments 'makes it more likely that lawyers interested in social change will find common cause with activists and broader social and political movements, creating the kind of community support that leads to more fulfilling and sustaining work'.[20]

This matters personally and politically – social change is not a short-term game. If we are to be in it for the long haul, we need to work in ways that are sustainable. And if we recognise that the road ahead looks like it is going to be increasingly bumpy, we will do well to build these muscles.

None of this is to say that we should lose sight of our client's rights, their interests and their dignity. Affording dignity to clients in hostile processes can itself be an act of resistance. And for clients and lawyers alike, to fight even when the outcome seems predetermined – perhaps all the more so – and for such work to have a larger purpose and meaning, is an antidote to hopelessness.

For us to find ourselves going through the motions and being merely cogs in a machine of injustice is the real insult to the humanity of our clients.

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[19] Farbman (n 9) 1936.

[20] Ibid.

Let me also recognise that for overworked and underpaid lawyers in underfunded legal services, suggesting that you make time for working in these ways – indeed that you might consider tactics that would make *more* work for yourselves – may invite a raised eyebrow if not an eyeroll: it's easy for me to say from a safe distance. There's a challenge in this for leaders of, and within, organisations and professional institutions to find ways to make and hold space for creative and transformative ways of working.

7. Celebrating a 'modest heroism'

Writing a few years after his article on resistance lawyering, Farbman reflected on what lessons we should take from the work of abolitionist lawyers.

He said: 'It is tempting to lionize abolitionist resistance lawyers and to figure them as subversives and revolutionaries. I think this both overstates the case and understates the power of the lessons they have to teach us today.'[21]

The point of this is not individual heroism. Or, says Farbman, if it is heroic work it is 'heroism on a modest scale'. Because lawyers are, no matter how radical, ultimately institutional insiders. To be a lawyer is to be an institutionalist.

In case you haven't guessed by now, I don't have the answers to the justice crisis in the NT. And I'm going to go out on a limb and say that we *won't* find the answers in this room.

It's ultimately the work in the community and in movements of people that will deliver real justice. But lawyers can play an essential role and it's a role we can and should continue to develop and celebrate.

Part of our challenge is to find ways to bring the demands of communities for justice into the courtroom and back out again into public view. The tools, strategies and mindset of resistance lawyering offer us some ways to do this.

To paraphrase Purvi Shah, we are not saviours, but nor should we be bystanders.[22]

The cards may remain stacked against us and the magic 8-ball is saying 'Outlook not so good'. But as American Historian Howard Zinn has urged:

> If we remember those times and places–and there are so many–where people have behaved magnificently, this gives us the energy to act, and at least the possibility of sending this spinning top of a world in a different direction. And if we do act, in however small a way, we don't have to wait for some grand utopian future. The future is an infinite succession of presents, and to live now as we think human beings should live, in defiance of all that is bad around us, is itself a marvellous victory.[23]

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[21] Daniel Farbman, 'A Commons in the Master's House' (2022) 90 *Fordham Law Review* 2061, 2073.

[22] Purvi Shah, 'Rebuilding the Ethical Compass of Law' (2018) 47(11) *Hofstra Law Reivew* 11, 14.

[23] Howard Zinn, 'The Optimism of Uncertainty', *The Nation*, 30 September 2004, available at: https://www.howardzinn.org/collection/the-optimism-of-uncertainty/.