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## Building the Access to Justice Movement

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# BUILDING THE ACCESS TO JUSTICE MOVEMENT

*David Udell\**

## INTRODUCTION

There are innumerable individual problems of access to civil justice. Civil justice, or its absence, will often determine whether people can keep their homes, their family relationships, their health and well-being, their actual safety, their jobs, and their opportunity for a fair resolution of so many more of the challenges that life presents. There are presently many important efforts that enable people to obtain justice, both through the direct provision of legal services and through the broader pursuit of systemic reforms, such as securing and expanding civil rights to counsel, expanding roles for non-lawyers to empower individuals and communities, making the civil justice system work better for people without legal assistance, and ending excessive court-imposed fines and fees. Is it possible to identify common themes and threads running through the access to justice problems, the direct efforts to help individuals, and the pursuit of a broader reform agenda? Can there be an access to justice “movement” capable of galvanizing public outrage and energy, as the racial justice, criminal justice, immigrants’ rights, Me Too, and other modern movements are doing in their attacks on inequality, poverty, and other manifestations of injustice?

### I. THE A2J SUMMIT AT FORDHAM LAW

On October 2, 2018, approximately eighty-five reformers and thought leaders came to New York City from across the country to consider these questions. The National Center for Access to Justice and Fordham University School of Law’s A2J Initiative jointly hosted an “A2J Summit” to envision the future of the movement to increase access to justice (a2j). Participants were drawn from across fields, and included, among others, members of the legal aid bar, legal academics, social scientists, private attorneys, corporate counsel, criminal justice reformers, community empowerment activists, and communications experts.

The principal organizers—Dean Matthew Diller, Judge Jonathan Lippman, and I—are grateful not only to all the participants but also to Karen Gresia, Shanelle Holley, and many others whose contributions behind the scenes made the A2J Summit and this Collection of essays possible. We are

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especially thankful to the Chan Zuckerberg Initiative and the Pew Charitable Trusts for their generous financial support; to Fordham Law School's Assistant Dean Vera Bullock, and Professor Bruce Green, who directs the law school's Stein Center, for helping conceptualize and organize the Summit; and to the *Fordham Law Review* editors for their editorial contributions to this Collection.

In the interest of fostering a broad and open discussion, the Summit did not define "movement" or "access to justice." Rather, participants searched for and deliberated about goals that would have the power to unify people in the work of reform. The A2J Summit produced a comprehensive discussion, built new relationships, and generated new thinking, including the ideas offered in the essays in this Collection. In this Foreword, I describe the A2J Summit and then offer my own reflections on one question discussed there: Should we consider civil justice reform the next front in the criminal justice reform movement?

The A2J Summit began with Jonathan Lippman, senior counsel at Latham & Watkins and formerly the Chief Judge of the New York Court of Appeals, describing the challenges that people confront in our civil justice system and the progress being made in New York and across the country.<sup>1</sup> Matthew Diller, Dean of Fordham University School of Law and formerly an attorney with the Legal Aid Society of New York, then offered his own perspective, observing that in the more than thirty years that he has been involved in a2j issues, he had never seen so many actors focused on it from so many vantage points. He urged participants to appreciate that the moment is filled with promise and to make the most of the day.<sup>2</sup>

National leaders in the access to justice movement then stepped forward to offer a series of "landscape snapshots" outlining the specific goals they are pursuing in their respective roles, loosely categorized as providers,<sup>3</sup> reformers,<sup>4</sup> and experts.<sup>5</sup> Their remarks illuminated the leading edge of the access to justice movement, not only bringing to life their own work, but also describing activities involving many others in the room and many additional people in the a2j field across the country.

In a moderated conversation, Robert Rooks, Vice President of Alliance for Safety and Justice, Co-director of Californians for Safety and Justice, and Frank Sharry, Founder and Executive Director, America's Voice and

1. Jonathan Lippman, Senior Counsel, Latham & Watkins LLP, Address at the Access to Justice Summit: Vision of the Access to Justice Movement (Oct. 2, 2018).

2. Matthew Diller, Dean, Fordham Univ. Sch. of Law, Welcoming Address at the Access to Justice Summit (Oct. 2, 2018), <https://vimeo.com/315293958>.

3. Jim Sandman, Legal Services Corporation; Jo-Ann Wallace, National Legal Aid & Defender Association; and Blake Strode, ArchCity Defenders.

4. John Pollock, National Coalition for a Civil Right to Counsel; Katherine Alteneeder, Self-Represented Litigation Network.

5. Rebecca Sandefur, American Bar Foundation, social scientist expert; Martha Bergmark, Voices for Civil Justice, communications expert; Mark O'Brien, Pro Bono Net, technology expert; and David Udell, National Center for Access to Justice, speaking about the goals of the Justice Index. For additional information about the Justice Index, see *infra* note 21.

America's Voice Education Fund, spoke of lessons learned as leaders in the criminal justice reform movement and the immigrant rights movement.<sup>6</sup> Working through descriptions of past and present reform campaigns, each surfaced related ideas. They described how anger at the status quo is a critical pre-condition to people joining a movement, noting that the framing of the problem and of the solution are important factors. They explained that it is essential for movements to have leaders from the communities directly affected by the challenged policies. They each also spoke of the positive, but also mixed, results achieved to date, the substantial amount of work and time involved, and their deepening appreciation of the importance of the goals of their respective movements.

The participants then divided into ten working groups to discuss a set of hard questions that have long confronted civil justice reformers. Participants were encouraged to crystallize their respective working group insights into "manifestos" offering "vision statements for reform," and "specific reform goals."<sup>7</sup> The questions were:

1. **To what extent should the a2j movement pursue specific goals, and the reform of specific policies and practices?** Should the a2j movement pursue process reforms (emphasizing access), substantive reforms (emphasizing justice), or something different, and to what extent do these interrelate?

2. **To what extent should the a2j movement pursue incremental change, as distinct from deeper changes in the infrastructure of justice?** If improving the current system risks embracing its flaws, how would you pursue structural changes to assure access to justice and actual justice?

3. **To what extent should the a2j movement relate to other movements?** Is there more that the a2j movement should be doing to offer value to, or to draw value from, movements for racial justice, gender justice, poverty reduction, immigrant justice, and other social justice goals?

4. **To what extent should the a2j movement inform and relate to communities that pursue a2j in single practice areas?** What is gained and lost if we commit ourselves to expanding a2j in one (or more) specific area of law at a time, such as preserving homes, defending savings, or unifying families?

5. **To what extent should, or must, the a2j movement address the civil-criminal connections?** Does the a2j movement envision changing how civil legal problems push people into jails and prisons, and vice versa, or see links between the a2j and criminal justice reform movements?

In the afternoon, the working groups switched gears to discuss the means for accomplishing the reform goals identified in the morning. In this round,

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6. The conversation was recorded and viewable at *The Criminal Justice and Immigrant Rights Movements*, ACCESS TO JUST. INITIATIVE AT FORDHAM L. (Oct. 2, 2018), <https://drive.google.com/file/d/1WKVJNbvIXIa4Kbs6PB8jTITorv2jtUDK/view> [<https://perma.cc/J4N4-BC8U>].

7. See Diller, *supra* note 2.

participants discussed the degree to which the realization of goals through “action plans” would be contingent on potentially critical capacities that include: strategic thinking, essential tools of advocacy (such as litigation), potential allies, innovative technologies, the unique value of law schools, and philanthropic support. Participants considered the elements needed to advance a specific campaign for specific goals, and, also, those needed to sustain a broader movement.

In the late afternoon, participants had an opportunity to reflect on the day. Discussion in the working groups had been intense. To no one’s surprise, there was no consensus on any one goal, but participants had found the dialogue about foundational ideas worthwhile, and were intent on continuing the work to identify more policy goals and more unifying ideas.

Some of the working groups focused on current policy reform initiatives that have gained traction, including: (1) securing and increasing civil rights to counsel; (2) expanding roles for non-lawyers; (3) making the civil justice system work better for people without legal assistance; and (4) ending government-imposed court fees. Indeed, these four broadly-stated policy goals are the focus of reform efforts that, in significant respects, can be understood as currently dynamic movements. The civil right to counsel movement has gained significant traction and momentum: New York City, San Francisco, and other communities have committed to providing government-financed free counsel to tenants facing eviction proceedings.<sup>8</sup> The legal empowerment movement is attracting support for its work to grow the number of non-lawyers able to help people resolve disputes, and secure the rights of communities.<sup>9</sup> A self-representation movement is working in creative ways to simplify legal matters, introduce technology, and make courts more accessible to people without legal assistance.<sup>10</sup> The fines and fees movement is working to curb governmental reliance on municipal code and other quasi-criminal sanctions that are used selectively to extract revenue from the most vulnerable community residents.<sup>11</sup>

A number of participants voiced interest in examining how the civil justice and criminal justice systems are intertwined and determining whether the linkages would warrant treating civil justice system reform as a next front in the movement to end the era of mass incarceration. There was also a broad consensus on the importance of doing more work, including through convening additional meetings, to link the civil justice reform movement with the many modern social justice movements that, in a wide range of

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8. See *Status Map*, NAT’L COALITION FOR CIV. RIGHT TO COUNS., <http://civilrighttocounsel.org/map> [<https://perma.cc/AHG3-SQU5>] (last visited Apr. 1, 2019).

9. See, e.g., *Our Mission*, NAMATI, <https://namati.org/about/ourmission/> [<https://perma.cc/L33A-VSMM>] (last visited Apr. 1, 2019); see also Peter Chapman, *The Legal Empowerment Movement and its Implications*, 87 FORDHAM L. REV. ONLINE 183, 183 (2019).

10. See *About*, SELF-REPRESENTED LITIG. NETWORK, <https://www.srln.org/node/21/about-srln> [<https://perma.cc/W58G-5JXP>] (last visited Apr. 1, 2019).

11. See *Fines & Fees Just. Ctr.*, <https://finesandfeesjusticecenter.org/> [<https://perma.cc/Q25Z-GBVZ>] (last visited Apr. 1, 2019); see also Lisa Foster, *Building a Movement: The Lessons of Fines and Fees*, 87 FORDHAM L. REV. ONLINE 176 (2019).

contexts, are tackling problems of racial injustice, inequality, and poverty. Some of the essays in this Collection expressly discuss the place of the a2j movement in this context.<sup>12</sup> In closing, Dean Diller offered reflections on the working groups' insights, and emphasized the importance of taking the ideas forward in collaborative projects.<sup>13</sup>

## II. NEXT STEPS: TAKING THE CRIMINAL JUSTICE REFORM MOVEMENT FORWARD

As we consider the next steps, there are important opportunities for civil justice reformers to build on lessons from the criminal justice reform movement and the immigrant rights movement. Taking into account that the progress in each of these great movements has been incomplete—vast numbers of people are still unjustly incarcerated, and immigrants are still unjustly treated in numerous settings and contexts—each has still accomplished so much, and there is much to learn from them. I outline below the importance of pursuing civil justice reform as a next front in a unified justice reform movement.

### A. Racial Justice

The criminal justice reform movement has built a comprehensive theory of racial justice. The carceral state is now understood by many to be a system that depends on and perpetuates racial bias at every stage of law enforcement, prosecution, and incarceration. This is not just a strategy that was instrumentally devised, but rather a genuine insight that has played a major role in linking criminal justice reform to a broader agenda and a deeper conversation about the importance of fairness throughout our society. The civil justice system, too, depends on and perpetuates racial injustice, entangling people in its complexity, converting life problems into legal disputes, and influencing life outcomes as the legal issues play out. Important answers are needed about the degree to which racially driven civil injustice pushes people into entanglement with the criminal justice system.<sup>14</sup> Initial writing and theorizing describe some of the racially discriminatory dimensions of the civil justice system,<sup>15</sup> but there is a pressing need for more to be done, including more empirical work.

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12. Jennifer Ching, Thomas B. Harvey, Meena Jagannath, Purvi Shah & Blake Strode, *A Few Interventions and Offerings from Five Movement Lawyers to the Access to Justice Movement*, 87 FORDHAM L. REV. ONLINE 186 (2019).

13. Matthew Diller, Dean, Fordham Univ. Sch. of Law, Access to Justice Summit Reflections (Oct. 2, 2018), <https://vimeo.com/315307650>.

14. Pieces in this Collection by Jonathan Lippman, Justine Olderman and Runa Rajagopal, Lauren Sudeall, and Jo-Ann Wallace raise related themes concerning the relationship between the civil and criminal justice systems.

15. See generally Erin Cloud, Rebecca Oyama & Lauren Teichner, *Family Defense in the Age of Black Lives Matter*, 20 CUNY L. REV. F. 68 (2017).

### B. Accuracy

The success of the innocence movement has shown that the criminal justice system errs in ways that are profound in part because they are so routine. Of course, not every criminal outcome is a product of fraud or error. But it is accepted today that criminal system injustice is far too common and that the reasons go beyond good faith mistakes. There are many proven instances in which prosecutors have engaged in misconduct, police have lied, evidence has been destroyed, defense lawyers have been negligent in defending their clients, and judges have failed to protect defendants' constitutional rights. In the civil justice system, it has been difficult to point to error in a way as politically salient as proof of actual criminal innocence. Without the simple binary of "innocent or guilty," without the requirement of representation for every defendant, without an equivalent number of appeals, without an accountable government party in every case, error and malfeasance are much harder to see and prove.

To make the strongest arguments for civil a2j, we need to be able to highlight the pervasiveness of error as well as the damage done. One of the most important ways in which the civil justice reform movement is emulating and extending the criminal justice reform movement is by expanding rights to counsel in civil matters affecting basic human needs.<sup>16</sup> Yet at a fundamental level, even the presence of counsel, as we have learned in the criminal justice system, will not always be able to correct the error and malfeasance introduced upstream. That some civil justice system proceedings will lack integrity and produce wrong results is undeniable. Just as in criminal matters, civil outcomes can turn on whether legal remedies are pursued, and whether evidence is fabricated or suppressed, created or destroyed. More work needs to be done to understand the course and resolution of civil matters that never make their way to a court,<sup>17</sup> and to figure out the ways in which error happens in the system, how often it happens, and how to prevent it from happening.

### C. Cost

The criminal justice reform movement has shown that incarceration is expensive. The revelations of high cost have clarified thinking on all sides of the political spectrum, as it is plain that money spent on prisons could be usefully spent on other societal needs, and that the promise and potential of so many people's lives should not be squandered behind bars. While costs of the civil system are not fully understood, they are not insubstantial. Some

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16. The civil counsel movement is vibrant and active. See *A Right to Civil Counsel: What We're Fighting For*, NAT'L COALITION FOR CIV. RIGHT TO COUNS., <http://civilrighttocounsel.org/about> [<https://perma.cc/5962-VAPX>] (last visited Apr. 1, 2019); see also *Status Map*, *supra* note 8.

17. Rebecca Sandefur, *Stripping the False Premises from Civil Justice Problems*, LAW360 (Jan 6. 2019, 8:02 PM), <https://www.law360.com/access-to-justice/articles/1113941/stripping-the-false-premises-from-civil-justice-problems> [<https://perma.cc/V4PM-RVAA>].

cost-benefit analyses indicate that provision of a right to legal representation in housing eviction cases saves money for communities.<sup>18</sup> The costs of entanglement with the civil justice system—the direct costs, and also the collateral costs—are not well-understood, but need to be. Work is needed to reveal the individual and societal burdens, including work days lost, lives disrupted, destabilizing effects on neighborhoods, redundant entanglements in courts, and the costs when civil proceedings push people toward and into the criminal justice system.

#### *D. Bad Actors*

The criminal justice reform movement has cast a spotlight on how bad actors in law enforcement, the judiciary, prosecutors' offices, and the public at large can cause the criminal justice system to harm vulnerable individuals and whole communities. In the civil system, we can see that the powerful are likewise able to engage in bad acts that punish the vulnerable in analogous ways. Some landlords, including some with massive holdings, refuse to make repairs, fail to assure delivery of heat and hot water, lock tenants out, and blacklist evicted tenants from renting next homes. Some creditors demand payment from alleged debtors, seeking judgment without ever proving they own the debt. Some creditors threaten criminal prosecution (on letterhead obtained from prosecutors) even though criminal proceedings are not justified.<sup>19</sup> Some governmental officials conspire to impose excessive fines and fees and to pursue recovery of judgments in discriminatory patterns. A movement for a2j should not only champion the rights of people to advance their claims and defenses, it should insist on deploying all the tools and institutions of law to prevent the powerful and corrupt from misusing the civil justice system as a weapon against the poor.

#### *E. Prevention*

The criminal justice reform movement is pursuing diverse approaches to help people charged with or convicted of crimes reduce their entanglement with the criminal justice system. The approaches include relying on holistic defense models to resolve destabilizing civil legal problems, guiding first-time offenders out of the criminal justice system, addressing a range of problems through community-based treatment courts, and supporting re-entry into society after incarceration. Serious work is needed to focus these same strategies further upstream: to resolve civil legal problems that may be antecedents to and causes of incarceration, even before there has been any

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18. See, e.g., STOUT RISIUS ROSS, INC., THE FINANCIAL COST AND BENEFITS OF ESTABLISHING A RIGHT TO COUNSEL IN EVICTION PROCEEDINGS UNDER INTRO 214, at 25 (2016), [https://www2.nycbar.org/pdf/report/uploads/SRR\\_Report\\_Financial\\_Cost\\_and\\_Benefits\\_of\\_Establishing\\_a\\_Right\\_to\\_Counsel\\_in\\_Eviction\\_Proceedings.pdf](https://www2.nycbar.org/pdf/report/uploads/SRR_Report_Financial_Cost_and_Benefits_of_Establishing_a_Right_to_Counsel_in_Eviction_Proceedings.pdf) [https://perma.cc/N62G-YCDY].

19. Bruce A. Green, *Prosecutors for Sale; The District Attorneys Selling Their Letterhead to Debt-Collection Agencies Have Committed a Gross Abuse of Power*, 35 NAT'L L.J., no. 5, Oct. 2012, at 43; see also Bruce A. Green, *Prosecutorial Discretion: The Difficulty and Necessity of Public Inquiry*, DICK. L. REV. (forthcoming 2019).



contact between a person and the criminal justice system. In addition to resolving civil legal problems, it should be possible to pursue similar strategies to reduce entanglement with the civil justice system, for example, by improving access to banking services and financial guidance that can increase people's capacity to pay the rent or repay creditors, by expanding social services to address mental health and other needs, by fighting discrimination in employment, by lending, and other contexts. A comprehensive effort is needed to enable people to resolve life problems before they become civil or criminal justice problems.

#### F. Policy Goals

The criminal justice reform movement is pursuing numerous policy goals, each inspiring dedicated advocacy initiatives: community based courts (as noted above), police reform (for example, stop and frisk reform and the expansion of civilian review), prosecutorial reform (for example, re-considering prosecutorial discretion), school-to-prison pipeline reform (for example, representing students suspended from school), innocence advocacy, sentencing reform, bail reform, and prison reform. Working groups at the A2J Summit focused on specific goals in the context of campaigns: (1) increasing civil rights to counsel; (2) expanding roles for non-lawyers to help individuals and communities; (3) making the civil justice system work better for people without legal assistance; and (4) ending government-imposed court fees. Two active reform initiatives, Justice for All<sup>20</sup> and the Justice Index<sup>21</sup>, each recommend an array of selected goals for state civil justice systems. Justice for All offers grant support to civil justice systems that plan and pursue progress that meets a set of criteria. The Justice Index uses rankings to create new incentives for improvement by comparing the states to one another with respect to their relative degree of adoption of the best policies and practices. Ideally, reformers will continue to identify additional goals to pursue, such as laws that would establish warranties of habitability in all states, laws that would end non-judicial foreclosure in all states (by prohibiting mortgage holders from ejecting homeowners before first obtaining a court order), laws that would penalize "sewer service," and laws that would require creditors in all states to prove ownership of alleged debt before proceeding in civil collection matters.

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20. *Justice for All*, NAT'L CTR. FOR ST. CTS., <https://www.ncsc.org/microsites/access-to-justice/home/justice-for-all-project.aspx> [<https://perma.cc/TZ6T-XV3B>] (last visited Apr. 1, 2019); see also *Justice for All Guidance Materials*, JUST. FOR ALL (Aug. 3, 2016), <https://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.ashx> [<https://perma.cc/JDZ2-E7E6>].

21. *The Justice Index 2016*, NAT'L CTR. FOR ACCESS TO JUST. AT FORDHAM L. SCH., <https://justiceindex.org/> [<https://perma.cc/Z5P4-BBG3>] (last visited Apr. 1, 2019); see also David Udell, *Overview of the Justice Index*, NAT'L CTR. FOR ACCESS TO JUST. AT FORDHAM L. SCH. (Nov. 9, 2017), <http://ncforaj.org/wp-content/uploads/2017/11/Introduction-to-the-Justice-Index-11-9-17.pdf> [<https://perma.cc/XU8D-DDGC>].

*G. Research*

The criminal justice reform movement has an established field, criminology, which examines the criminal justice system using the tools of research and data. By comparison, there is not presently as robust a field of research focused on civil justice. Traditionally, the civil courts and the civil legal aid community have also had only a thin infrastructure for tracking data. Moreover, there has not been consensus as to which data points should be tracked.

However, much of this is changing. The Court Statistic Project of the National Center for State Courts collects and reports civil case filing data.<sup>22</sup> The Legal Services Corporation now pursues a robust data analytics effort.<sup>23</sup> The American Academy of Arts and Sciences is pursuing an initiative to “identify the essential facts . . . about civil justice activity and the entities who are best placed to collect that information.”<sup>24</sup> The National Science Foundation is supporting a workshop aimed at, among related goals, “coordinating collaboration across academic disciplines, and producing a research agenda and original scholarship to give access to justice research the vigor and definition of a field.”<sup>25</sup> As noted above, the National Center for Access to Justice operates the Justice Index, using data to promote state-level adoption of selected best policies and practices for access to justice.<sup>26</sup> The A2J Lab at Harvard Law School has introduced randomized controlled trial methodology to the field.<sup>27</sup> The Self-Represented Litigation Network has introduced geospatial mapping to the field.<sup>28</sup> Much of this new work with data is also aligned with efforts occurring at the international level to support justice system reform through indexing,<sup>29</sup> and to evaluate the empirical support for the value of access to justice.<sup>30</sup>

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22. CT. STATISTICS PROJECT, <http://www.courtstatistics.org/> [https://perma.cc/BH76-J2M8] (last visited Apr. 1, 2019). The author of this Foreword is an advisor to this project.

23. *Grantee Data*, LEGAL SERVICES CORP., <https://www.lsc.gov/grants-grantee-resources/grantee-data> [https://perma.cc/J84V-SJ2L] (last visited Apr. 1, 2019).

24. *Data Collection and Legal Services for Low-Income Americans*, AM. ACAD. ARTS & SCI., <https://www.amacad.org/project/data-collection-and-legal-services-low-income-americans> [https://perma.cc/3D3Z-ZQV3] (last visited Apr. 1, 2019).

25. *Access to Civil Justice*, NAT'L SCI. FOUND., [https://nsf.gov/awardsearch/showAward?AWD\\_ID=1823791&HistoricalAwards=false](https://nsf.gov/awardsearch/showAward?AWD_ID=1823791&HistoricalAwards=false) [https://perma.cc/2FPB-XPLA]. The author of this Foreword is a co-principal investigator on this project.

26. *See supra* note 21.

27. ACCESS TO JUST. LAB AT HARV. L. SCH., <https://a2jlab.org/> [https://perma.cc/D2C9-RTGJ] (last visited Apr. 1, 2019).

28. *Map Gallery*, SELF-REPRESENTED LITIG. NETWORK, <https://www.srln.org/taxonomy/term/598> [https://perma.cc/XU6E-U8MG] (last visited Apr. 1, 2019).

29. *See, e.g., WJP Rule of Law Index 2019*, WORLD JUST. PROJECT, <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2019> [https://perma.cc/W6D4-C42V] (last visited Mar. 28, 2019).

30. *See, e.g., Access to Justice*, OECD, <http://www.oecd.org/gov/access-to-justice.htm> [https://perma.cc/5JZV-SU9A] (last visited Apr. 1, 2019).

### H. Popular Culture

The criminal justice reform movement has benefited from the fact that the public has watched decades of television shows, films, and documentaries about the criminal justice system. The public increasingly listens to podcasts, reads dedicated online sites, follows focused journalism in mainstream media, and has access to novels and nonfiction materials that are intensely focused on the need for criminal justice reform, that routinely highlight broken policies, and urge adoption of specific reform goals. All of these media sources, for better or worse, have helped to make the public literate about individual rights and angry about the burdens the criminal justice system imposes on those who pass through it and on our larger society. No equivalent culture yet exists around the civil justice system.<sup>31</sup>

Voices for Civil Justice is working to change this picture by introducing stories about people and their civil legal problems into the mainstream media.<sup>32</sup> A new Voices website, All Rise for Civil Justice, will accelerate this work going forward.<sup>33</sup> Reaching a broad audience across all the layers of society with a full picture of civil justice stories, data, problems, and solutions is a top priority for the access to justice movement.<sup>34</sup>

#### I. Additional Considerations

The criminal justice reform movement has made great progress, and points to the need for fairness in the civil justice system and across the entire justice system. There are some areas, however, in which civil justice reform initiatives may be leading the way. As Katherine Altoneder explains in her essay,<sup>35</sup> the increase in self-represented litigants is reshaping the courts. The necessity of simplifying access for a constituency without lawyers is forcing changes across the civil justice system, some of which will be useful even for people in the criminal justice system who have lawyers representing them.

Likewise, technological innovation is being pursued in both the civil justice system and the criminal justice system. New developments, such as updated e-filing systems, templates to help people draft pleadings, online portals that use artificial intelligence to answer questions, and the expansion of online dispute resolution are intended to help individuals assert their

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31. See Gillian Hadfield, *Striking a Match, Not a Pose, For Access to Justice*, 87 FORDHAM L. REV. ONLINE 160 (2019).

32. See *For Journalists*, VOICES FOR CIV. JUST., <https://voicesforciviljustice.org/for-journalists/> [https://perma.cc/WMH6-PEL6] (last visited Apr. 1, 2019).

33. *Voices at NLADA—Unveiling an Exciting New Project and Crisis Communications*, VOICES FOR CIV. JUST. (Oct. 26, 2018), <https://voicesforciviljustice.org/voices-blog/2018/10/voices-at-nlada-unveiling-an-exciting-new-project-and-crisis-communications/> [https://perma.cc/DG7L-MWQY].

34. See Martha Bergmark, *All Rise for Civil Justice*, 87 FORDHAM L. REV. ONLINE 200, 201 (2019); James Gamble & Amy Widman, *The Role of Data in Organizing an Access to Justice Movement*, 87 FORDHAM L. REV. ONLINE 196, 196 (2019).

35. See Katherine Altoneder, *Self-Representation Is Becoming the Norm and Driving Reform*, 87 FORDHAM L. REV. ONLINE 170 (2019).

rights. The Legal Services Corporation,<sup>36</sup> the courts,<sup>37</sup> the organized bar,<sup>38</sup> the academy,<sup>39</sup> nonprofit organizations,<sup>40</sup> and private companies<sup>41</sup> are all performing roles in supporting innovation. At the same time, vigilance is needed to recognize and ensure that legal representation by humans—a civil right to counsel—is preserved where and when it is needed to protect the basic necessities of life. Additionally, the new technologies must be closely monitored so that systems intended to improve efficiency do not bake in prejudice or go awry in newfangled ways that cause more problems than they solve.

Still more categories of civil a2j initiatives are being actively pursued: (1) pro bono, taking a multiplicity of forms, in which lawyers in all settings, as well as law students, volunteer to help clients across the country;<sup>42</sup> (2) the Justice in Government initiative that expands opportunities for governmental agencies that want to support civil legal aid as a means of achieving goals important both to the agencies and to the programs' clients;<sup>43</sup> (3) medical-legal partnership initiatives that place lawyers in hospitals and clinics to catch and handle legal issues that need to be addressed for patients' well-being;<sup>44</sup>

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36. See *Legal Navigator*, LEGAL SERVICES CORP., <https://www.lsc.gov/simplifying-legal-help> [<https://perma.cc/S6SB-AVTW>] (last visited Apr. 1, 2019); *Technology Initiative Grant Program*, LEGAL SERVICES CORP., <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig> [<https://perma.cc/47M2-E2S3>] (last visited Apr. 1, 2019).

37. See, e.g., *Technology*, NAT'L CTR. FOR ST. CTS., <https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Technology.aspx> [<https://perma.cc/S5KH-WE9R>] (last visited Apr. 1, 2019).

38. See Marilyn Cavicchia, *What Role Can Technology Play in Access to Justice—and Should Bar Foundations Help?*, AM. BAR ASS'N (June 15, 2017), [https://www.americanbar.org/groups/bar\\_services/publications/bar\\_leader/2014-15/september-october/what-role-can-technology-play-access-justice-should-bar-foundations-help/](https://www.americanbar.org/groups/bar_services/publications/bar_leader/2014-15/september-october/what-role-can-technology-play-access-justice-should-bar-foundations-help/) [<https://perma.cc/N33D-2SZ5>] (discussing several technology initiatives organized or funded by bar organizations).

39. See, e.g., *Legal Design Lab*, STAN. L. SCH., <https://law.stanford.edu/organizations/pages/legal-design-lab/> [<https://perma.cc/8VQL-TLED>] (last visited Apr. 1, 2019); *Iron Tech Lawyer*, INST. FOR TECH, L. & POL'Y GEORGETOWN L., <https://www.georgetowntech.org/it/about> [<https://perma.cc/698H-JYUA>] (last visited Apr. 1, 2019).

40. See, e.g., JUST FIX, <https://www.justfix.nyc/> [<https://perma.cc/697D-CDZP>] (last visited Apr. 1, 2019); LEGAL SERVER, <https://www.legalserver.org> [<https://perma.cc/88V2-SFS6>] (last visited Apr. 1, 2019); PRO BONO NET, <https://www.probono.net/> [<https://perma.cc/R7LR-YXKL>] (last visited Apr. 1, 2019).

41. *You've Got an Ally*, LEGAL ZOOM, <https://www.legalzoom.com/why-us/> [<https://perma.cc/6G3J-M5F2>] (last visited Apr. 1, 2019); ROCKET LAWYER, <https://www.rocketlawyer.com/> [<https://perma.cc/QS6E-SSRS>] (last visited Apr. 1, 2019).

42. See, e.g., *A Guide and Explanation to Pro Bono Services*, AM. BAR ASS'N (July 26, 2018), [https://www.americanbar.org/groups/legal\\_education/resources/pro\\_bono/](https://www.americanbar.org/groups/legal_education/resources/pro_bono/) [<https://perma.cc/WQ9L-HM7M>]; ASS'N PRO BONO COUNS., <https://apbco.org/> [<https://perma.cc/BA56-D3FY>] (last visited Apr. 1, 2019); *Our Mission*, PRO BONO INST., <http://www.probonoinst.org/about-us/our-mission/> [<https://perma.cc/G7AA-7YAZ>] (last visited Apr. 1, 2019).

43. *The Justice in Government Project*, AM. U., <https://www.american.edu/spa/jpo/jgp.cfm> [<https://perma.cc/8V7Z-RBXU>] (last visited Apr. 1, 2019).

44. NAT'L CTR. FOR MED.-LEGAL PARTNERSHIP, <https://medical-legalpartnership.org/> [<https://perma.cc/4DCW-RD6W>] (last visited Apr. 1, 2019).

and (4) and many more models, concepts, and initiatives at widely varying levels of development.

#### CONCLUSION

We hope readers will find the ideas developed and debated at the A2J Summit, including those discussed in this collection, interesting and inspiring. The thirteen essays included here are provocative and tackle the difficult question of whether there is an access to justice movement and, if so, what its unifying themes may be. The pieces are broad in range:

- Jonathan Lippman on how “justice cannot be about the color of your skin or the amount of money in your pocket”;<sup>45</sup>
- Rebecca Sandefur, on how “[b]reaking every yoke is an aspiration that has inspired people for millennia” and “[a]chieving it requires that we actually start somewhere, with real problems of our common life”;<sup>46</sup>
- Gillian Hadfield, on how people “should be marching in the streets to demand that it be as straightforward to figure out a legal problem as it is to book a hotel room or get directions in a new city”;<sup>47</sup>
- Jo-Ann Wallace, on how “access to counsel can help prevent further violence and establish long-term safety and stability”;<sup>48</sup>
- Ariel Simon and Sandra Ambrozy, on how “partnerships with other fields and social movements are breaking vital new ground in increasing access to justice”;<sup>49</sup>
- Katherine Alteneder, on how “[t]he people’s law ought to be clear and simple and allow people to get on with their lives, but it is not”;<sup>50</sup>
- Lauren Sudeall, on how “the line between criminal and civil is blurrier than we typically acknowledge and the experience of many—low-income people, in particular—exists at the overlap”;<sup>51</sup>
- Lisa Foster, on how “if we apply the lessons we have learned in fines and fees along with the lessons learned in access to justice, we could serve as a model for how to bake access to justice issues into more specific policy reforms”;<sup>52</sup>

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45. Jonathan Lippman, *A Perspective from the Judiciary on Access to Justice*, 87 FORDHAM L. REV. ONLINE 155, 155 (2019).

46. Rebecca L. Sandefur, “*What Do We Want!*”?, 87 FORDHAM L. REV. ONLINE 158, 159 (2019).

47. Hadfield, *supra* note 31, at 160.

48. Jo-Ann Wallace, *Access to Legal Help is a Humane Service*, 87 FORDHAM L. REV. ONLINE 162, 163 (2019).

49. Ariel Simon & Sandra Ambrozy, *Don’t Go It Alone*, 87 FORDHAM L. REV. ONLINE 165, 169 (2019).

50. Alteneder, *supra* note 35, at 171.

51. Lauren Sudeall, *Integrating the Access to Justice Movement*, 87 FORDHAM L. REV. ONLINE 172, 174 (2019).

52. Foster, *supra* note 11, at 178.

- Justine Olderman and Runa Rajagopal, on how “people need not enter the criminal legal system to become ensnared by this complex web of legal consequences”;<sup>53</sup>
- Peter Chapman on how the legal empowerment movement is enabling people everywhere to “understand, use, and shape the law”;<sup>54</sup>
- Jennifer Ching, Thomas Harvey, Meena Jagannath, Purvi Shah, and Blake Strode, on how “any mobilization around access to justice fails if it does not center the vision and strategies of larger social justice movements”;<sup>55</sup>
- James Gamble and Amy Widman on how “[t]o get from the personal story to the complete picture requires more data than we currently have”;<sup>56</sup> and
- Martha Bergmark, on how the new website, All Rise for Civil Justice, “casts a spotlight on America’s broken civil justice system, the people it hurts, the decisions that brought it to the brink, and the people working to make it better”;<sup>57</sup>

Of course, the A2J Summit is, itself, a snapshot. It is neither the beginning nor the end of the movement for access to justice. Rather, it marks our current progress. Most importantly, it sets the stage for all of us to do more.

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53. Justine Olderman & Runa Rajagopal, *A National Movement for Access to Justice Must Be Holistic*, 87 FORDHAM L. REV. ONLINE 179, 181 (2019).

54. Chapman, *supra* note 9, at 185.

55. Ching et al., *supra* note 12, at 186.

56. Gamble & Widman, *supra* note 34, at 196.

57. Bergmark, *supra* note 34, at 201.