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Rebecca L. Sandefur

University of Illinois at Urbana-Champaign

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“WHAT DO WE WANT!”?

*Rebecca L. Sandefur**

If asked, most Americans would very likely say that they would rather have “justice” than something like “injustice.” And if asked what “justice” means, many would have an answer. Some responses would name abstract ideals from one religious or cultural tradition or another. One of this type that is particularly dear to me speaks of letting the oppressed go free and breaking every yoke.

But other answers about the meaning of justice would be more concrete: “my son wouldn’t be in jail”; “I could pay my hospital bills”; “somebody would help me with this problem.” These definitions of justice reflect the reality of our human lives. We don’t live in abstractions. Rather, we live through concrete relationships, in particular places, with specific other people. We encounter many problems in the course of those relationships, some with other human beings and some with big organizations made up of people and rules, like corporations, government agencies, or courts. Very many of those relationships and their challenges are (supposed to be) governed by the law. For most of us, most of the time, justice involves the right resolution of temporal problems that have some legal aspect.

That legal aspect is the entry point for the tools of law to achieve justice. “My employer doesn’t pay me overtime” becomes wage theft, which has specific remedies and defined routes to resolution. “I haven’t paid my rent in three months” becomes the risk of eviction, which also has specific remedies and defined processes for arriving at those remedies and determining which party is due what. Legal justice in these concrete relationships means all parties fulfilling their obligations under the law: the worker gets his wage, the landlord gets her rent, and the tenant gets a safe and healthy apartment. Right now, in these concrete problems of daily life, many and sometimes most people do not have access to the remedies that the law says it provides. It is those remedies that secure the goods people want: the agreed wage, a heated apartment with running water, the rent our contract says is owed.

Any access to justice movement will be more successful if, instead of leading with an abstract good, it demonstrates that access to justice is a concrete solution to problems that many can see and agree are worth solving, like: a brewing debt crisis, an aging population that includes many people

* Associate Professor of Sociology and Law, University of Illinois at Urbana-Champaign, and Faculty Fellow, American Bar Foundation.

who need some assistance in managing their affairs, and communities in which half a generation of children have parents who cannot care for them and other caring adults who want to help but may not know how. In the law, these matters go under names like debt collection lawsuits, bankruptcy, power of attorney, and guardianship.

This approach—working on a problem and using access to justice to help solve it—has a number of strengths: it seeks to improve people's lives directly; it permits a definition of success that is measurable; it allows the demonstration of the value of the solution. Breaking every yoke is an aspiration that has inspired people for millennia. Achieving it requires that we actually start somewhere, with real problems of our common life.