

Book Review

Scott L. Cummings, *An Equal Place: Lawyers in the Struggle for Los Angeles*, New York, N.Y.: Oxford University Press, 2021, pp. 688, \$49.95 (hardbound)

Reviewed by César F. Rosado Marzán

I. Introduction

Are law and lawyers fundamental for social change? Or do they smother vibrant social movements with bureaucracy, procedures, and the fine print? These questions remain of great concern to social movement activists, lawyers, and legal scholars who view with skepticism the post-Civil Rights era, which has yet to substantially deliver on Martin Luther King's dream (447-48). They are also important questions for law students who, inspired by pursuits of justice, enroll in law school. They motivate much of Scott L. Cummings's extraordinary new book, *An Equal Place: Lawyers in the Struggle for Los Angeles* (5).

I assigned much of this book to my Low-Wage Workers seminar students in the fall of 2021 with the intent of discussing two basic issues: one empirical, one normative.

On the empirical end, I wanted to discuss the facts of low-wage workers: Who are they? In which industries do they typically work? What are the main challenges they face in their workplace? How do they confront those challenges? Which advocacy organizations are being formed by and for low-wage workers? Who leads and joins these groups? What kind of campaigns do these groups lead? How successful are these groups?

On the normative end, I wanted the students to discuss the contributions of law and lawyers in these processes of economic equality and fairness, including how my students envisioned their own roles once they finished law school. The book did not disappoint in providing rich materials to discuss these questions. Hence, in addition to being a resource for socio-legal scholars and researchers, the book can be an effective pedagogical tool if adopted for the classroom.

This review of *An Equal Place* proceeds in the following way: Part II summarizes the book's main concerns. Part III discusses what law students and others can

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learn about low-wage workers based on both my reading of the book and my students' reactions to the book. With their permission, I cited from their response memos. Part IV discusses the role of movement actors, including lawyers, to improve low-wage workers' conditions in Los Angeles. I also cite to my student memos in Part IV. Part V concludes.

II. The Book's Main Concerns

Much in line with my dual purpose for assigning *An Equal Place* to my students, the book's main goal is to describe how lawyers have been centrally important in shaping recent movements for economic equality in Los Angeles. Professor Cummings mentions that, out of this main concern, two themes emerge: One relates to the substantive movement for greater equality in Los Angeles, a city known for extreme economic and racial inequality (1). The other deals with the dynamics between equality movements and lawyers, where lawyers and other advocates attempt to collaborate as equal partners, or in a way in which lawyers neither dominate the movements nor remain as "conventional client agents" (1, 447-48). On this latter concern, Cummings argues the Los Angeles case offers evidence that can shed light on a skeptical, post-civil rights view of law and lawyers as unaccountable to the movements or as inefficacious (5, 447-48).

An Equal Place makes the campaign for economic justice its unit of analysis (7). Its argument builds on five significant low-wage workers' campaigns experienced in Los Angeles since the 1992 race riots, which also correlate with the city's rise as a "global city."¹ These are the campaigns against working conditions in garment sweatshops (32), in favor of day labor solicitation (Chapter 2), on improving the conditions of retail workers (Chapter 3), protecting union wages in grocery shops (Chapter 4), and improving job quality and pay for truckers (Chapter 5). Salient issues related to these campaigns include the development and use of "joint employer" standards to extend employer liability in the garment industry, where contracting remains an employer strategy to evade employer liabilities. Day laborer campaigns focused on protecting the rights of day laborers to solicit work when municipal governments attempted to ban such solicitation. Retail campaigns focused on ratcheting up the conditions of retail workers via land use and zoning rules, and using so-called Community Based Agreements, provided a voice to organized communities. Grocery campaigns focused on using local law to prohibit "big box" establishments, particularly Walmart, from opening in Los Angeles and undermining union supermarkets. The trucking campaign fused environmental and labor concerns through a "blue-green" alliance that aimed to limit truck emissions in Los Angeles, particularly in the neighborhoods in or near the Port of Los Angeles, and on improving the job quality of truck drivers by classifying them as employees and not independent contractors.

1. The term "global city" is mostly associated with the work of urbanist Saskia Sassen, who has defined it as "the epicentre of the international market where fiscal dealings, upper-level management, and industrial coordination are highly concentrated." Mary Pennisi, *The Global City: Globalizing Local Institutions*, 11 J. INT'L BUS. & L. 111, 113-14 (2012) (citing SASKIA SASSEN, *THE GLOBAL CITY*: NEW YORK, LONDON, TOKYO 65 (2001)).

In all these campaigns, Cummings details the importance of specific and formalized coalitions of activists and the key roles played by labor, community groups, immigrant rights advocacy groups, and others, including, very importantly, attorneys (448). The book thus speaks to three overlapping scholarly literatures: lawyers and social movements, labor law and labor studies, and local government law and urban planning (4). It is an expertly combined interdisciplinary account of the fight for social justice in Los Angeles. Below I will discuss its main unit of analysis, coalitions, in more detail, after summarizing other parts of the book.

III. Learning About Contemporary Low-Wage Workers

Professor Cummings's book provides a "thick description"² of low-wage work and its context. The reader gets a copious understanding of the dialectic between economic growth in cities, the rise of low-wage work, and how movement actors, including lawyers, rise against such working conditions and inequality. Issues my students also picked from the empirically rich materials include problems of racism and human rights violations that plague low-wage workers. Below I describe these issues.

A. Low-Wage Work and the City

An Equal Place takes a deep dive into an examination of cities, through the case of Los Angeles, as engines of growth *and* inequality and of the resulting movements that fight to remedy inequality (11-20).³ My students quickly picked up on this point. As one of them wrote in his response memo to the book:

Cummings described the issue in Los Angeles as a "city-sponsored proliferation of low-wage jobs," which really highlights a fundamental problem with the way that our economy works. Shopping malls, which employ a large amount of retail workers, are often given large tax credits by city governments in order to promote economic growth. While shopping malls undoubtedly stimulate the economy and create jobs, the government is ultimately giving tax breaks to companies to create jobs that barely pay minimum wage.

The student then extended the book's perspective to contemporary debates on urban development. He reflected on Amazon's 2019 New York City debacle, when grassroots movements, labor unions, and lawmakers rebelled against Governor Andrew Cuomo and Mayor Bill De Blasio's plan to lure Amazon with a \$3 billion subsidy.⁴ The student commented that New York politicians "were essentially given the choice to pay Amazon to create a bunch of low-pay jobs or stand up for what is right and tell them to kick rocks." The student recognized that many times dollars and cents place difficult questions on city leaders and

2. CLIFFORD GEERTZ, *THE INTERPRETATION OF CULTURE* (1973).
3. Professor Richard Schragger has also been discussing similar issues, albeit much more generally. RICHARD SCHRAGGER, *CITY POWER: URBAN GOVERNANCE IN A GLOBAL AGE* (2016).
4. J. David Goodman, *Amazon Pulls out of Planned New York City Headquarters*, N.Y. TIMES (Feb. 14, 2019), <https://www.nytimes.com/2019/02/14/nyregion/amazon-hq2-queens.html>.

residents who may be desperate for capital investment. Hence, the student also noted, “With the political calculus at play here, it is no wonder why governments continue to, as Cummings would put it, sponsor the proliferation of low-wage jobs.” But one can similarly understand the grassroots pressure against such publicly funded strategies promoting low-wage jobs. Public agendas favoring investment over job quality create conflicts.

B. Anti-Immigrant Racism

One important ideology of exclusion, subordination, and inequality described throughout the book, as in the low-wage worker literature more generally, is racism against immigrants. As one student reflected:

Anti-immigrant sentiments are founded on the idea that one’s community is being overtaken by outsiders, that there are “people not of our kind” trying to make a space within the community. The ludicrousness of that sentiment as applied to [low-wage workers] is that [low-wage workers] are literally making the space from which they are trying to get excluded from. It blows my mind.

In other words, it appears that cities characterized by racial and economic inequality, such as Los Angeles, want to “have their cake and eat it too” when it comes to low-wage workers (32).⁵

Intricately tied to the issue of racism are the matters of hypervisibility and invisibility that also plague low-wage workers more generally.⁶ While Professor Cummings does not analyze these issues expressly, they are very much present throughout the book. For example, the book discusses how Los Angeles needs restaurant workers, retail workers, transportation workers, construction workers, and whole slews of other workers that make it work. But in other ways, some sectors of Los Angeles do not want the workers—perhaps because it must provide these workers with city services, such as public transport, education, and affordable housing, or because they have ethnic, racial, class, and other characteristics that differ from those of more affluent and influential city residents. This dynamic of inclusion and exclusion can be appreciated throughout *An Equal Place*, especially in its chapter detailing day labor. As another student reflected:

[Low-wage workers] literally build the communities trying to keep them out. They’re people that, as predominantly ethnic minority immigrants, do not “fit” within the communities they are building. And yet their existence, presence, and labor . . . are necessary to the existence of the communities trying to keep them out.

5. Cummings begins his empirical chapter by reminding us that sometimes exclusion from the city can be total, as the case of the garment workers imprisoned by their bosses in 1995.
6. See, e.g., ADELLE BLACKETT, *EVERYDAY TRANSGRESSIONS: DOMESTIC WORKERS’ TRANSNATIONAL CHALLENGE TO INTERNATIONAL LABOR LAW* (2019) (discussing invisibility of domestic workers); JEREMIAS PRASSL, *HUMANS AS A SERVICE: THE PROMISE AND PERILS OF WORK IN THE GIG ECONOMY* 6 (2018) (discussing how the realities of “gig” workers are hidden by “apps”); SARU JARAMAYAN, *BEHIND THE KITCHEN DOOR* (2013) (discussing restaurant workers).

Racism thus appears to be highly embedded in the fabric of inequality in Los Angeles, creating contradictory urban dynamics.

C. A Problem of Human Rights

Moreover, the city is so inhospitable for some low-wage workers that their human dignity appears to be in constant peril. As one student reflected on the conditions of day laborers, who have been fighting local ordinances that forbid them to seek work in streets and other public venues:

[The] implications of the ordinances did not just threaten [low-wage workers'] wages, work conditions or other direct consequences of their employment status. Instead, the stakes of the long litigation battle that Cummings describes⁷ attaches directly to their human rights and dignity as individuals: not only their ability to pursue work opportunities through the concept of protected speech but also their mere right to simply exist in neighborhoods where people have decided that they do not belong.

In this sense, the book provides a picture of low-wage work produced, hidden and discriminated against by the city, denying, in the process, basic human rights to people who make the city possible.

IV. What Is to Be Done? The Specific Role of Law and Lawyers

While at times portraying a daunting reality, the book does offer inspiration to law students seeking to build a more just society. There were at least four issues my students picked up from the book. First, how some movement lawyers come from communities of low-wage workers and, in this sense, are “part” of those communities, ultimately returning to their communities after law school to give back. A second issue is how lawyers can be fundamental for coalition building. Here, Cummings’s use of legal mobilization theory helped him craft a description of lawyers’ role that makes justice central to their responsibilities as movement actors (4-5). Third, students noted the limits of law, which can be understood through the institutional and comparative perspective offered by the book (4-8). Finally, my students had some things to say about legal education and the overall argument of *An Equal Place*. The last point is not discussed expressly in the book but extends from student reflections.

A. Some Movement Lawyers Come from Low-Wage Communities

Lawyers, students recognized, including those lawyers who come from working-class communities of color (where some of my students come from) can be part of that larger movement to shape cities into spaces that are more inclusive. It might also be a mistake to conceptualize lawyers as wholly distinct

7. The “long litigation” refers to the protracted campaign against municipal bans on work solicitation, which culminated in a leading First Amendment case. *Comite de Jornaleros v. Redondo Beach*, 657 F.3d 936 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 1566 (2012). In *Redondo Beach*, the Ninth Circuit held that day laborers had a constitutional First Amendment right to solicit for work in public streets, declaring municipal bans unconstitutional.

and alien from those communities. As one student stated: “I appreciated the sentence ‘The immigrant rights campaigns were □ powered by a new generation of lawyers of color, who sought to mobilize their professional capital to challenge racialized systems of labor subordination, while maintaining more horizontal relations with the communities they served—and of which they viewed themselves a part (458).’” Another student similarly remarked:

In his book, Cummings talks about several people belonging to minority groups who went to law school and then played a role in the community labor campaigns. To me, this is one of the most important parts that lawyers can play in this battle for low-wage workers. Lawyers who grew up with immigrant parents and go to law school can then bring that power back to their communities to better conditions and protections for the people in it. They understand the issues and know what the struggles of their own community look like Social ascension of young generations has been a way to advance rights of immigrant communities. In French there is an expression that I believe all sons and daughters of immigration grew up [with, translated] roughly as “once you get at the top of the elevator you are supposed to send it back down for others.” I think that is one of the reasons I initially went to law school

Students thus recognized that lawyers need not be seen as completely alien to the communities that they represent. They also saw themselves in the stories told in *An Equal Place*, both specific to lawyers, but also more generally related to the communities discussed, which resembled some of their origins.

B. Law and Coalitions

Inspired by legal mobilization theory, Professor Cummings makes an argument that my students and I found novel: Lawyers have something “special” they can contribute *politically*, via their legal expertise, that can, in turn, qualitatively transform power dynamics in a given space. They can build coalitions through law;⁸ in other words, lawyers can offer law as a resource to build campaign coalitions (5). Whether those tools will prove useful or not depends on the larger legal and institutional context (4–8).

For example, one of the dozen or so formal coalitions described in *An Equal Place* is the Coalition for Safe Ports (Chapter 6). That coalition brought together environmentalists and labor organizations, groups that many times do not see eye to eye, to limit the emissions of trucks loading and unloading cargo in the

8. In my own work, I discuss this special capacity that some movement actors possess to create coalitions as that of “bridging” “structural holes,” terms borrowed from organizational sociologist Ron Burt. Bridging helps bring together those actors who are otherwise unconnected to one another, and who might not otherwise make common cause. Powerful, transformative coalitions are thus not merely those that add more people and numbers but are those that, more on point, bring together otherwise unconnected groups. César F. Rosado Marzán, *Worker Centers and the Moral Economy: Disrupting through Brokerage, Prestige, and Moral Framing*, 2017 UNIVERSITY OF CHICAGO LEGAL FORUM, art. 16 (2017), <https://legal-forum.uchicago.edu/publication/worker-centers-and-moral-economy-disrupting-through-brokerage-prestige-and-moral-framing>; see also RONALD S. BURT, *BROKERAGE AND CLOSURE: AN INTRODUCTION TO SOCIAL CAPITAL* (2000).

Port of Los Angeles and to classify the truck drivers as employees (363). The thrust of the campaign was to demand that all trucks loading and unloading cargo in the Port of Los Angeles be converted to low-emission vehicles because their exhausts were detrimentally affecting air quality. To do so, the campaign pressured the Port of Los Angeles, a municipal instrumentality, to use its legitimate power as a consumer, through concession agreements, to demand that trucks loading and unloading cargo at the port reduce their emissions (352). Moreover, to better guarantee that the deep-pocketed trucking companies, and not the more impecunious truck drivers, absorb the cost of the new emissions rules, the campaign also pressured the port to demand the companies hire the truckers as employees and not as independent contractors (352).

Given the novel tactic that banked not on the municipality's regulatory power—a power that activists recognized was likely preempted by federal law—but on its right as a consumer, legal challenges to the coalition's strategy were certain. Outcomes were not. Therefore, Professor Cummings reports that lawyers from the law firm of David, Cowell & Bowe (today McCracken, Stemer-*man & Holsberry*) and the Natural Resources Defense Council, a prestigious national environmental advocacy group, were fundamental for the coalition to move forward (353). Once these lawyers provided assurances of a legal defense with some level of fighting chance, the coalition gained the momentum needed to persist in its campaign.

My students picked up on the more general point on law and coalitions and shared their own ideas of how lawyers can connect groups. As one student noted, "Coalitions are essential to influence local policy through lobbying of local politicians, mobilizing low wage workers' votes in elections, and supporting unionization. [Cummings] reveals the need for lawyers and legal strategies in supporting local coalitions for social change to better worker rights." And as another student mentioned: "[W]e have seen . . . that litigation, coupled with a strong social movement, can raise the requisite 'noise' that propels or compels a desired legal outcome and thus, a hybrid process helps reach the social objectives."

For another student, the role of law and lawyers for coalitions appeared particularly important in a context of U.S. hyperpoliticization and polarization. As she stated:

In such a divided country, where partisanship is hindering any productive debate about social issues, the law can serve two main purposes at the local level. First, it is a less politically fueled tool and can appear more neutral as it operates more subtly through local litigation where judges are less "political" than at the federal level. Second, it maintains a safeguard for people when they are made aware of their rights and what protections the law affords them while having a lawyer backing them in the social movement.

Similarly, another student noted how racism, an age-old ideology that divides people, might also find an antidote in the law. As she mentioned:

This week's reading reveals more about the role of lawyers in the labor movement and organizing for the rights of low-income communities more generally. One lawyer working on the day labor campaign put it frankly when he explained that when the political environment is very racist, organizing won't cut it [on its own]; you need lawyers. That is the reason I am in law school; I have less faith in the political system to work on its own to effectuate justice and progressive change.

In all, my students noted that the legal and the political are connected. However, the law-and-politics connection is not always apparent for low-wage workers; some just see it as an instrument for inequality and subordination. Lawyers can thus contribute to better connect these spheres—law and politics—in campaigns for economic equality. They mobilize law for political ends that serve the overall goals of social movements for economic equality.

C. The Limits of Law

Of course, just because law and lawyers can mobilize law and contribute to movements favoring low-wage workers does not guarantee that the campaigns they help lead will be successful, or that legal strategies will be free of problems. In the Clean Trucks Campaign, the coalition eventually was unsuccessful in its goal of classifying truck drivers as employees. The Ninth Circuit and the U.S. Supreme Court decided that the issue was ultimately preempted by federal law (402-05). The campaign would need to scale up to the federal level—in effect, seek federal legislative reform—to be more capable of providing legal protection to these workers as employees. But that scaling up required an institutional and political context not yet ripe for such ends (506-07).

Moreover, legal strategies might provide immediate success, but those triumphs could be reversed by employers and other political opponents through alternative means. For example, Cummings notes that despite a Ninth Circuit decision upholding, as a matter of protected free speech, that day laborers had rights to solicit work in public venues, some Los Angeles-area municipalities found ways around that opinion to reissue similar rules (155). Moreover, free speech protections could do little to diminish low wages or discrimination (155).

Students recognized the limits of law. As one student recounted:

I found it very interesting that the premise the [day laborers'] legal team utilized to construct their argument was Occam's Razor (141).⁹ Rather than focus on the obvious racial and national origin discrimination against the day laborers, the legal team based their argument on the first amendment right to free speech I realized framing the day laborers' plight as an infringement on their constitutionally protected rights was substantially more compelling and was more likely to ensure a successful, beneficial outcome for the day laborers.

9. "Occam's Razor" refers to the Mexican American Legal Defense and Educational Fund's (MALDEF) strategy to "focus on free speech, not identity-based discrimination, and present a single, powerful argument, rather than cluttering the complaint with multiple causes of action."

Additionally, the student observed that despite the day laborers' success in the courts, their overall conditions, low pay, discrimination, and other problems remained untouched. As the student noted:

[However] [i]t is frustrating to know that the decisions arising out of this litigation do not provide day laborers with protection of minimum work standards. Because the litigation was a constitutional challenge to the first amendment, and did not pursue the discrimination concern, the *Redondo Beach* case left open the possibility that cities could implement traffic interference bans without infringing on free speech protections, if appropriately written. [And] the decision does nothing to protect workers from harassment or threats of deportation.

Hence, one successful legal battle does not mean the triumph of the war.

D. The City as Target and Tool of Struggle

Finally, perhaps the main point of the book is that campaigns' most important tool to ameliorate inequality is the city itself.¹⁰ As described above, cities inspire and provide conditions for equality movements to flourish.¹¹ Second, home rule authority (where available) to set labor standards above the state and federal levels, zoning regulations, and the city's capacity to impact working conditions through its consumer role (501-03) can be used by the city and equality movements for social justice. As one of my students noted:

As the author mentions, the city, rather than a state or federal authority, may be in better position to achieve the desired changes because cities are generally more friendly, and look more favorably, toward social movements and social campaigns. Furthermore, some cities have their own public assets (airports, coasts, mountains, etc.) which can be the center pieces for adopting more labor-inclusive regulations and policies.

Hence the interplay of social movements and city power could result in positive outcomes for workers where economic disparities may be reined in. However, as noted above, nothing is guaranteed as state and federal authorities can limit the power of cities and the movements that wield city power. Yet the city has still proved to be a vibrant arena of struggle where fairness sometimes prevails.

E. On Legal Education

The final point raised by my students, one that is fitting for this journal, is the role legal education could have for future lawyers trying to find "an equal place" in their professional lives. Law schools could also be institutions that contribute toward greater equality. As one student reflected:

10. See also SCHRAGGER, *supra* note 3 (making the case for "city power" to ameliorate inequality).
11. See also DAVID HARVEY, *SPACES OF HOPE* (2001) (arguing that cities are spaces where inhabitants can imagine and construct a geography that is more inclusive and democratic); Miriam Greenberg & Penny Lewis, *Introduction: From the Factory to the City, and Back Again*, in *THE CITY IS THE FACTORY: NEW SOLIDARITIES AND SPATIAL STRATEGIES IN AN URBAN AGE* (Miriam Greenberg & Penny Lewis eds., 2017).

[T]he actions lawyers should take aren't things [we] learn how to do in law school. In most law school settings, [we] are not taught how to take input from communities, use a wide array of tools outside of litigation, take "bottom-up" approaches, or many of the other things Cummings mentions. These responsibilities require lawyers to take a step back and think outside of the box. Cummings successfully highlighted what is necessary for lawyers to make meaningful contributions to social movements, and hopefully lawyers use his writing to assist social movements in Los Angeles and beyond.

And, we should add, law professors and law students could do the same in the years to come to develop a more holistic understanding of the law and role of lawyers for social change.

V. Conclusion

Are law and lawyers fundamental for social change? They certainly have been in Los Angeles, according to Cummings in *An Equal Place*. They have helped to create coalitions that have been instrumental to low-wage workers in Los Angeles. Their legal training has given them special skills and credentials to mobilize the law and open the door for low-wage workers to successfully make inroads in several important matters, such as having the basic right to seek work in public spaces or to be provided with wages that are closer to a living wage.

Cummings's account also inspires lawyers to continue to seek a more equal place in movements for equality, always remaining sensitive to the obligation they assumed, while not being relegated to a mere subordinate position that overlooks the full benefits of their skills, creativity, and passion for social justice. The case of Los Angeles thus supports the larger theoretical point that law and lawyers are not superior to nor underneath movement actors, but are, or can be, movement actors in their own right. We should thus strive to recognize law and lawyers' rightful place in larger processes for social change and economic justice.

To conclude, I must remind the reader that this review was built on what my twelve seminar students found particularly interesting after reading substantial parts of *An Equal Place*. The 688-page book contains vast empirical descriptions of the five campaigns described earlier, spanning almost thirty years of Los Angeles socio-legal history. It touches on other topics not discussed in this review and extends important scholarly work on lawyers and social movements, labor law and labor studies, and local government law and urban planning that deserve their own conference or symposium. I invite the reader to explore Professor Cummings's detailed, engaging, and eye-opening thick description of Los Angeles's contemporary struggles for equality and join this discussion. Those who teach law students should also find it to be a tremendous resource for self-reflection, professional development, and comprehension of the factual and normative role of lawyers in struggles for justice and fairness.