

Life, Liberty and the Pursuit of Social Justice  
And independent study documentary film project

The making of this film was driven by a heretical notion: that formal legal education has the potential to create *less* effective advocates. Less effective because of the formulaic structure of learning, the emphasis on precedent and how precedent limits the practice of law, and the “professionalization” that subtly occurs in law school. This combination of influences can, and frequently does, diminish the passion to advocate for causes that have great meaning and for the people at the heart of those causes, because “the law” does not seem to provide a ready remedy. In referring to legal education as “learning by inadvertence,” Elizabeth Dvorkin has written that “the participants often fail to consider fundamental questions about the identity they are assuming, and its relation to their values.”

When I applied to law school in 2003, I had no idea that my impression of law school – as an incubator for young activists desiring social change – was such a far cry from the reality of law school. It wasn’t that I was disillusioned, but I was disappointed. My image had been created after years of associating the practice of law with public service, civil rights struggles, and a general goal of sticking up for the little guy and questioning authority. I wasn’t so naïve to ignore the reality of the thousands of corporate lawyers, but to me, lawyering was about social change, about activism, about fighting the good fight whenever a new cause needed an advocate. Didn’t Thomas Jefferson say a little rebellion now and then is a good thing? Though I was disappointed with much of what I found in my first year, I was also fortunate enough to find several incredibly dedicated, passionate professors who countered the overwhelmingly corporate-gearred influences.

One of those professors was John O. Calmore, whom I first met in my 1L Torts class. Through sidebar discussions and frank commentary, it became clear to me that Professor Calmore was not the average law school professor. His life experience and his emphasis on social and economic stratification came through in bits and pieces as we slogged through cases on proximate cause and contributory negligence. When I scheduled my classes for my 2L year, I signed up for both Civil Rights and Social Justice Lawyering with Calmore – possibly the best decision I made in my law school career.

Civil Rights gave me the necessary tools to understand Social Justice Lawyering. The course also familiarized me with both case law and a vocabulary that prepared me for the study of grass-roots, community-based advocacy. Social Justice Lawyering taught me that my distorted vision of law school was not so distorted in smaller circles, amongst like-minded idealists who were searching for a legal education that included advice on how to make real change. It was in Social Justice Lawyering that I first read an article by Julie Su, a social justice lawyer in Los Angeles, California.

Julie Su is an extraordinary example of bucking convention and embracing social justice lawyering in its truest sense. Su's article, *Making the Invisible Visible: The Garment Industry's Dirty Laundry*, recounted her extraordinary work with Thai workers who had been kept as virtual slaves in a sweatshop in El Monte, California. I was generally sensitive to the issue of sweatshops because in 1992, between my first and second year of college, I spent a summer volunteering at a shelter on the border of El Paso, Texas and Juarez, Mexico. Along the border there are dozens, if not hundreds, of *maquilladoras*, sweatshops that are often operated illegally. Workers from South and Central America labor over sewing machines and needlework tables from early in the

morning until six or seven in the evening, but they clock in only for an 8-hour day. Often the workers are told to work on the weekend, but they do not receive pay for the work, nor do they receive overtime. Many workers in the *maquilladoras* have been left empty-handed and stunned on payday when they show up to the factory for a check – only to find the factory no longer exists.

The sweatshop in El Monte represents an even more heinous example of worker exploitation than the *maquilladoras* along the U.S.-Mexico border. On August 2, 1995, the discovery of a literal “slaveshop” shocked those who learned of it. Seventy-two Thai garment workers were found in a two-story apartment complex containing only seven units where they were all forced to work, live, eat and sleep. Some of the workers had been enslaved for as long as seven years. Razor wire was wrapped around the pillars surrounding the house, and an iron inward-pointing spiked fence surrounded the apartment complex so that no one could scale over to the outside world. From 7 a.m. until past midnight, the Thai men and women sewed clothes.

They had been lured to the United States with the promise of work and a legal visa; when they arrived at Los Angeles’ LAX airport, they were met by people who confiscated their money, passports, and personal belongings. They were taken directly to the apartment complex in El Monte and told that they could not leave until they had paid back \$5,000 in travel and other expenses. They were paid less than two dollars a day and forced to buy food and other necessities like toothpaste at exorbitant prices from a “company store.”

When I read Su’s article, I remembered the news reports from El Monte in 1995, but I realized I knew nothing about what happened after the apartment complex had been

raided. I certainly had no idea about this social justice lawyering thing – but Su’s article illustrated her work, the workers’ involvement, the community’s outrage and the ultimate success of their collective fight in such a moving way that I felt I needed to share their story with a larger audience. I approached Professor Calmore about creating an independent study project based on the story, but in the form of a documentary rather than an academic paper. Professor Calmore agreed to supervise the project.

Once the academic approval was in place, I began my research. There were so many questions: What happened to the workers? What was Julie Su doing now? What was the outcome of the civil suit? What about the captors? And most importantly, would Julie agree to work on the project and could she put me in touch with some of the workers? Ultimately, I not only found answers to my research questions, but I also was overwhelmed by the positive response that I received from Julie and the incredible outpouring of assistance – some free – by so many others. Julie agreed to be interviewed, and she got me in touch with Buppha Chaemchoi and Nantha Jaknang, two of the formerly enslaved workers who were still living in Los Angeles. Julie also contacted Napa Utrapiromsuk, a young Thai woman who volunteered to interpret during both the interviews and during the subtitling process. Through Craigs’ List, I found an incredibly enthusiastic and talented young man, Ryan Bosscawen, who agreed to shoot and edit the documentary at a greatly reduced rate than what he usually charges. Everything just fell into place...and then it was time to really work.

Sometime before the August, 1995 raid on the El Monte apartment complex one of the workers escaped. He managed to contact law enforcement, and based on the worker’s reports of abuse, a raid involving state authorities was planned. It’s unclear

whether state and federal agencies were communicating with each other, but at some point federal agents also got involved in the apartment lockdown. Buppha and Nantha describe the day of the raid in vivid terms now, eleven years later. There were agents banging on windows and walls, they broke down doors with gun barrels and hollered throughout the apartment complex for everyone to stay where they were. The agents didn't know who the "bad guys" were, so they just rounded up everyone.

Once distinctions were made between the Thai workers and their Thai captors, the treatment of those in the home changed, though not in dramatically different ways. The captors were taken to jail and quickly indicted on charges ranging from kidnapping to slavery. The workers were taken to an Immigration and Naturalization Service detention facility. At the INS facility, the workers were handed orange jumpsuits, herded into a one-room detention cell, and held as prisoners until they could be used to help the government convict their captors. Buppha and Nantha remember that holding cell as a hot, cramped space where tempers among the workers often vacillated between outrage and exhausted resignation as they shared a single toilet, showered in the open, and received meals on plastic trays much the way convicted criminals are fed. They were also treated like criminals whenever they left the detention facility for interviews or processing matters – each worker was handcuffed and shackled before being allowed out of the holding cell.

The story of the raid on the apartment complex and the "freeing" of the workers was a huge local and national story. Because of the intense coverage, many people in the Los Angeles area who were attuned to immigration issues immediately began to wonder about the workers and what had become of them after the raid. Several immigrant

activist organizations got together to figure it out – some with legal training, many without it. Los Angeles is such an incredibly diverse community that the coalition of outraged activists involved people from the Asian Pacific American Labor Alliance, the Asian Pacific American Legal Center, the Coalition for Humane Immigrant Rights in Los Angeles, the Korean Immigrant Workers Advocates, and the Thai Community Development Center. Julie Su was working with many groups, including the Asian Pacific America Legal Center (ALPAC), while on a Skadden Fellowship. Su's project was to work with low-wage workers, including garment workers. She was one year out of law school.

About a dozen young activists, Julie Su included, headed to the INS detention facility in downtown Los Angeles to ask questions. When they learned the workers were being held as prisoners once again, but this time by the U.S. Government, the group refused to leave the INS facility. They demanded to see the workers, but the INS constantly rebuffed their requests. For nine days the group sat at the INS and waited, continuing to demand access, despite doors being slammed in their faces and phones being constantly hung up on them. Finally, the INS agreed to allow the activists into the holding cell, in large part because there were a few lawyers in the group who demanded to at least advise the workers of their legal rights.

This first meeting in the detention cell was transformative: the workers were told they were not at fault, they should not be prisoners, that they did have rights and could fight for those rights if they wanted to fight. The activists were overwhelmed by the inhumane conditions and were further emboldened to fight for these frightened, confused workers. After a lengthy discussion, the lawyers and other activists left phone numbers

and names with the workers and told them to call if they wanted help. There would be no charge, but the activists could do little for the workers if they weren't prepared to fight for themselves.

Shortly after this first face-to-face meeting, some of the workers called the lawyers and said they were prepared to fight for their freedom, their dignity, and their rights. The first order of business was getting the workers out of custody. This was the first in a series of creative legal maneuvers: by relying on the federal drug laws, Su and her fellow attorneys were able to earn legal immigrant status for the workers from the U.S. government. How? They successfully argued that statutes originally written to protect narcotics informants also applied to undocumented workers who expose the criminal behavior of their employers.

Once the workers were freed from detention, they needed a place to stay. The coalition cobbled together volunteers from across Los Angeles to temporarily house the workers, many of the workers found jobs, and they all began English language classes. At this point, the workers had the tools to participate actively in their legal representation.

For months, the workers and activists met on a nearly daily, but at least weekly, basis. The government was busy preparing a criminal case against the Thai captors; Julie and the workers were busy preparing a civil suit. The criminal case was pretty straightforward, but the workers needed to understand what their role in that case might be. They took trips to the courthouse to see where they might have to testify, they had mini-classes on the law and conversations about prison time and plea deals. But the civil case could not be so easily understood. It appeared that the only people who could be held responsible for violating the civil rights of the workers were their captors – but that

wouldn't yield an adequate recovery, financially or emotionally. The real culprits were the retailers and manufacturers who were indirectly responsible for the conditions in El Monte because of the high demands they put on their subcontractors.

Legally, an employer is responsible for ensuring that workers get paid minimum wage, get paid for overtime, and work in decent conditions. But garment manufacturers and retailers got around the law for many years by using "independent contractors." The manufacturers and retailers essentially designed an industry in which they did not have to hire garment workers directly. Instead, they hired factories that in turn hired the workers. That allowed the bigger companies to push responsibility for wages and working conditions to the independent contractor factories, while claiming that they had no idea and no responsibility for the working conditions because the employees were not their own.

But the reality was that the big retailers and manufacturers exercised near-complete control over the "independent contractors" in the garment production process. They decided what the garment would look like, how much would be sewn, and when the garments would have to be finished. They also decided how much they would pay. But the retailers and manufacturers would pay a front factory, which was not always the same factory doing the work.

In the El Monte case, there was a front factory in downtown Los Angeles that employed about 20 Latino workers in a traditional sweatshop. Cloth was sent to the front factory, then it was taken to the El Monte apartment complex. At the El Monte complex, the workers slaved over their machines from early in the morning until well after midnight seven days a week in order to turnaround finished garments in the timeframe

demanded by the manufacturers. Yet the retailers and manufacturers only sent their representatives to the front factory to check on working conditions – and they never asked questions about how 20 employees could turnaround so much product in such a short amount of time.

This reality created the basis for the workers' civil suit. Both the Thai and Latino workers joined as plaintiffs, creating an even stronger coalition. The novel legal argument was that because of their actual control over the product, from cost to quality, the manufacturers and retailers were “employers in fact.” It did not matter what they called themselves, because in reality it was the big companies that were controlling working conditions. As a result, Su argued, the manufacturers and retailers were joint employers with the factories that produced their clothing. Coupled with a negligence theory – that the big companies knew or should have known that their garments were sewn in unlawful conditions – Su's creative case had common sense going for it, if not precedent.

What the case had going against it was its novelty, and also the big corporate law firms that represented the retailers and manufacturers. Clothes made at the El Monte factory could be traced to well-known brands and retailers: Tomato Inc., Clio, B.U.M., High Sierra, Axle, Cheetah, Anchor Blue, and Airtime. Many of these labels were privately owned and sold by well-known retailers like Mervyn's, Miller's Outpost, and Montgomery Ward. Others were sold on the racks of May department stores, Nordstrom, Sears, Target, and elsewhere. The law firms representing this array of corporate interests did not react well to the civil suit; in fact, they ridiculed the suit and quickly filed a motion to dismiss.

The big firms lost. In a compelling, admonishing opinion, District Court Judge Audrey B. Collins agreed with the workers and their advocates, that they had, in fact, stated a viable, understandable claim. Judge Collins' opinion noted with some humor that this creative lawsuit was filed in a bit of a rush, and not in the usual mode of bowing to precedent. Yet in referring to the plaintiff's claim as "not always a model of clarity," Collins still made it clear that the manufacturer and retailer defendants knew exactly what was alleged, and they needed to respond.<sup>1</sup>

One by one, the defendants settled. The grand total in recovery was more than four million dollars, with each worker receiving between ten and eighty-thousand dollars. The amount of individual recovery depended on how long the workers were enslaved at the El Monte factory or toiled in the downtown Los Angeles front shop. The workers, once marginalized and oppressed, now stood up during news conferences and spoke directly to reporters about their victory, beaming with pride and dignity.

As for the criminal case, seven Thai citizens, all family members, eventually pleaded guilty to charges of conspiracy, harboring illegal aliens and forcing workers into involuntary servitude. In 1996, the 66-year-old matriarch of the family who was considered the ringleader, was sentenced to seven years in prison. Five others received sentences of two to six years. All were ordered to be sent back to Thailand after serving their sentences. The seventh was deported to Thailand after cooperating with the prosecution.

In 2002, all of the Thai workers received green cards. Some of the workers returned to Thailand, yet many of them stayed, and some are now planning to take the

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<sup>1</sup> *Bureerong v. Uvawas*, 922 F. Supp. 1450 at 1462 (1996).

U.S. Citizenship exam. Nantha Jaknang is one of those planning to take the exam. In the meantime, she sews sample clothing in Los Angeles. With part of her settlement funds, Nantha brought her daughter to the United States from Thailand.

Buppha Chaemchoi now works as a seamstress and considers her employer and fellow workers family. Her employer is the Thai worker who escaped the El Monte complex before the August 2, 1995 raid and reported the abuses. Buppha helped purchase a home for her family in Thailand and put two of her brothers through school with the money she obtained from the settlement and has earned from her current work. Her youngest brother graduated from college in February 2007, and Buppha attended his graduation ceremony in Bangkok.

Many of the other workers have gone on to lead the kind of lives they had dreamed of when they first came to the United States: one is a licensed vocational nurse, two opened a Thai restaurant in Van Nuys and were awarded a Small Business of the Year Award in 2001; several live in the Los Angeles area sewing, cleaning homes and working in restaurants; one married a USC professor who adopted her children when she brought them to the U.S. from Thailand. Every year the Thai and Latino workers get together in early August to celebrate their meeting and their eventual victory; every year there are more marriages, babies, children and others brought from Thailand who attend the summer party.

Julie Su continues to do extraordinary social justice work. She is the litigation director at the Asian Pacific American Legal Center, and a co-founder of Sweatshop Watch, an organization formed in the wake of El Monte. Sweatshop Watch is a coalition of 24 organizations that focuses on anti-sweatshop work. The coalition illustrates the

truth that to effect change, a strong, committed group is more powerful than any one individual organization. Due to her passion and commitment, Julie has been recognized with an incredible array of awards: the Reebok International Human Rights Award in 1996, a Changing Images in America American Spirit Award in 1997, a National Asian Women's Health Organization Advocacy Award in 1998, and a YWCA Achievement Award for Public Service in 1998. In 2001 Julie won a “genius grant” from the MacArthur Foundation, and in 2006 she was awarded the Gruber Prize for Women’s Rights.

Because of the El Monte case and the continued advocacy of those involved, the California legislature passed legislation that is widely characterized as the strongest anti-sweatshop law in the country. It makes manufacturers and retailers “guarantors” of workers’ wages when the factory fails to pay. As a byproduct of the grassroots advocacy for S-visas for the Thai workers, Congress passed the Victims of Trafficking and Violence Protection Act of 2000, which created two new types of visas to protect victims of trafficking and of domestic abuse when they come forward and report on their captors. The case was, and continues to be, an incredible catalyst for change.

On a personal note, making this film was an inspirational experience. Julie, Buppha and Nantha are so full of life and happiness that to work with them did not feel like work at all. The bulk of this project was completed during spring break over a five-day period. I flew to Los Angeles on a Saturday and I met Ryan Bosscawen, my photographer and editor, for the first time that Saturday evening. It was a great relief to discover that this person I found on Craigs’ List was, indeed, a real human being. On the next day, Sunday, Ryan and I met at 9 a.m. at ALPAC and shot all of our interviews and

video in about nine hours. During the interviews, I was assisted by Napa Utrapiromsuk, who interpreted for me and the workers. Napa also agreed to help me later that evening as I transcribed the interviews; she volunteered her time and energy until 8 p.m. on Sunday.

Ryan graciously let me work at his apartment, pouring over tapes and time codes until 1 a.m., a lights-out time that became the norm for us that week. Every morning I would arrive around 7 or 8 a.m. and we'd work until we were both ready to collapse on the editing equipment. Ryan's girlfriend, Pia Pownall, allowed us to use music she had created, and she also sustained us with food, encouragement, and some excellent critiques as we went along. Both Ryan and Pia were unbelievably good-natured and were so excited about working on this documentary that the project became a labor of love for all of us. Ryan, who knew nothing about the El Monte case, and even less about the concept of Social Justice Lawyering, now tags out emails to me by writing "Go Social Justice!" Working with him was a sweet, supportive experience.

Professor Calmore was ultimately unable to supervise this project, as his health has deteriorated to such a point where he no longer can teach. But *Life, Liberty and the Pursuit of Social Justice* is a tribute to him – without his passion and dedication I never would have been inspired to tell this story. Professor Calmore re-awakened in me the desire to make a difference, and he reminded me that youthful optimism doesn't have to disappear as life's dust gathers. Through his teaching, Professor Calmore helped me to shake off the dust I had collected in the years before law school, years during which I allowed life to dull my passion. He reminded me that I do care about many, many things. He reminded me that I have a duty to fight for the things I care about, and a duty to not

Sonya Pfeiffer

give up in the face of difficulty or skepticism or disappointment. I owe Professor Calmore a tremendous debt of gratitude.