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Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative

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Essay

Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative

Anthony V. Alfieri†

IMPORTANT NOTICE TO FOSTER FAMILIES

A proposed settlement has been reached in a class action lawsuit concerning the effect of foster care payments on a household's food stamp benefits.

This lawsuit challenged the federal government's requirement that foster children be counted as members of their foster care households, and that foster care payments be counted as income for food stamp purposes. The plaintiffs claimed that this requirement often resulted in foster families' being denied food stamps or receiving lower benefits. The federal government has changed its policy so that a foster family

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I wish to thank Jane Bock, Patricia Bradford, Naomi Cahn, Clark Cunningham, John Elson, Ellen Barker Grant, Joel Handler, Arlene Kanter, Madeleine Kurtz, Gerald López, Alan Madry, Peter Margulies, Richard Marsico, Laura Miller, Michael Perlin, Dean Rivkin, Richard Sherwin, William Simon, Louise Trubek, Lucie White, Phoebe Williams, the Marquette Law School Faculty Reading Group, and the Midwest Clinical Work Group for their support in the writing of this Essay and in the collective project of reconstructing the theoretics of practice. I also thank Jennifer R. Woods and the Marquette University Law School Library staff for their research assistance, and Christopher Gilkerson and *The Yale Law Journal* Essays Committee for encouraging this project. I dedicate this Essay to the commitment of poverty lawyers, the community of clinical teachers, and the work of Stephen Ellmann.

now may choose whether or not to include a foster child as part of its food stamp household.

As a result of the change in policy, you may be entitled to higher food stamp benefits. Also, households providing foster care that previously were found ineligible for food stamp benefits may now be eligible.

• • • •

Remember, this proposed settlement may affect you or your family. While this proposed settlement gives you important rights, you may also be losing other rights. If you or anyone in your household has applied for or received food stamps while receiving foster care payments, you should read the proposed settlement.

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Objections must be received by October 16, 1989.¹

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1. Pursuant to a settlement reached by the parties to the lawsuit, *see infra* note 14, the New York City Human Resources Administration posted this notice at local income maintenance centers and mailed it to affected food stamp applicants and recipients. Express party and court references have been omitted.

I. CLIENT STORY²

They shut off my lights in November, when my kids' food stamps were first reduced. It was around Thanksgiving. I was twenty-four hours without gas and electric. They shut it off because I couldn't pay the gas and electric bill. I had taken the money from my public assistance check to buy food for that month for me and my kids. I used some of the money for food because I have no food for myself and my kids.³

I figured I had to buy food for me and my kids or pay the gas and electric bill. It was \$121 which I didn't have. I went and took the welfare money and put it together with mine. I even paid the rent. Sometimes I take the money to pay the rent. The rent is too high. Except I couldn't pay my gas and electric.⁴

I went right up to the Department of Social Services and I told them. I had to pay the rent and to buy food. I was there all day long, and finally my case worker gave me the check for Con Edison. To put it back on. And I took it to Con Edison.⁵

The other shut off I know was my son's graduation, Victor's graduation. I didn't have the money to buy him a suit. So I took the money from the gas and electricity and buy him a decent suit for the graduation. Of course he had a cap and gown over it, but still he needed something to wear. I can't be positive about it, but I remember these two times because my services were shut off. It's a very bad experience when they shut off the electricity.⁶

I remember two times I had to go to them. I go to the Department of Social Services and I show them the disconnection notice. And they tell me they give me the money, to sign some papers. And I sign the papers. Every time they

2. At my client's request, I refer to her in the Essay as "Mrs. Celeste." For three years I served as the neighborhood legal aid office representative of a litigation team that ultimately brought a class action lawsuit on behalf of Mrs. Celeste and other food stamp recipients. See *infra* note 14. Accordingly, I was responsible for virtually all lawyer-client communications.

With Mrs. Celeste's permission, the narratives recollected in this Essay are drawn directly from the administrative hearing transcript and pretrial deposition compiled in the above-mentioned lawsuit. In scrutinizing these materials, I discovered a bundle of narratives which together compose Mrs. Celeste's story. At first glance, the narratives appeared disjointed both spatially and substantively, due in part to the haphazard interrogatory style used by questioners at the hearing and deposition. However, after close and repeated readings supplemented by reflections on our lawyer-client relation, I was able to discern recurring patterns and a logical order. Adopting this order, I assembled four different interlocking narrative strands, gathering pieces from both the hearing and deposition. See *infra* text accompanying notes 14-35.

Reconstructing the narratives required judgments of both form and substance. As to form, I sought to preserve the original text, except where redundant or ungrammatical due to its original oral expression. For reasons of privacy, names have been changed and specific institutional references have been omitted. As to substance, I erred toward textual inclusion. My method of reconstructing Mrs. Celeste's narratives from the hearing transcript and deposition demonstrates both the availability of client narratives in daily advocacy, as well as the limits of reconstruction when not grounded in concrete contexts of the lawyer-client relation.

3. Hearing Transcript at 42-43 [hereinafter T.].

4. T. at 43-44; Deposition at 85 [hereinafter Dep.]; T. at 43-44.

5. T. at 43-44.

6. Dep. at 117, 86.

send me a notice is when I go there and I sign the papers, and they send me a notice that they are going to reduce my check so much because they had to take it out. I never know what the papers say. To my knowledge, if I don't sign them I don't get the money for the gas and electricity. So I sign them. That's why I have the money taken out of public assistance every month.⁷

I received a notice when my food stamps were first reduced. I don't know why the food stamps go down. I don't know why they go up either. They sent me my public assistance check. But my food stamps were discontinued. I was without food stamps in November and then December. I made sacrifices. It's very hard. Public assistance money is not enough, let's put it that way.⁸

II. LAWYER STANCE

The above story was told to me by a woman named Mrs. Celeste. I met Mrs. Celeste in the neighborhood legal aid office where I used to work. She told me this story over the five years I helped represent her in a food stamp case. In the years since, I often have revisited the story to gather lessons of lawyering for my teaching and to settle doubts which arose later when those lessons were tested by clients, colleagues, students, and my own research. What I have discovered is that the story Mrs. Celeste told is not the story I originally heard nor the one I told in advocacy.⁹

Mrs. Celeste, a divorced Hispanic foster parent, was a long time food stamp recipient dependent on public assistance for survival. As a consequence of a state food stamp reduction and economic need, she was forced to reallocate her public assistance income to pay rent and purchase food and clothing. The reallocation caused her twice to forego payment of gas and electricity until the local utility discontinued her service, at which time she sought emergency assistance. In short, Mrs. Celeste's story is about state-sanctioned impoverishment.

The reduction of a client's public welfare benefits and the resulting shortage or loss of basic necessities is a common crisis in impoverished communities. For poverty lawyers devoted to serving those communities, the crisis character of a client's situation dictates specific legal tactics and strategies.

This Essay will not review the wisdom of poverty lawyer tactics and strategies in Mrs. Celeste's case. For my purpose, it is sufficient to observe that the tactics and strategies applied satisfied the twin objectives of safeguarding Mrs. Celeste's entitlement to food stamps and invalidating federal regulations abrogating that entitlement. The Essay focuses instead on the discursive and

7. Dep. at 89, 93.

8. T. at 42; Dep. at 84; T. at 42, 46, 48, 38.

9. This discovery is not uncommon for the poverty lawyer. The daily turbulence of practice compels a discomfiting method of storytelling. Stories must be quickly heard, interpreted, and translated. Much of the client's story may be lost in the hurried acts of listening and retelling. Mrs. Celeste's story captured my sustained interest because the circumstances of protracted litigation afforded me numerous opportunities to listen to her tell it. Additionally, her story was sufficiently complex to hold my curiosity.

interpretive methods of lawyering, specifically the notion of poverty law advocacy as a medium of storytelling.

I began the Essay with Mrs. Celeste's telling of her story because of my abiding suspicion towards the poverty lawyer's, and therefore my own, method of storytelling. My suspicion is that a lawyer's telling of his¹⁰ client's story in advocacy falsifies the normative content of that story. The normative content of a client's story consists of substantive narratives which construct the meanings and images of the client's social world. Both the lawyer and the client speak in narratives. Lawyer storytelling falsifies client story when lawyer narratives silence and displace client narratives.

To elucidate the falsifications attending lawyer storytelling, in this section I turn to an account of my original interpretive stance, a stance predominant in poverty law practice. In the next section I present a distillation of Mrs. Celeste's *spoken* narratives.¹¹ The narratives deepen the resonance of Mrs. Celeste's story, sounding normative meanings and images unheard in my own storytelling. The metaphorical echoes of these narratives, "dignity," "caring," "community," and "rights," were silenced by the poverty lawyer's traditional interpretive practices of marginalization, subordination, and discipline.

After reviewing the poverty lawyer's interpretive practices, I put forward an alternative set of practices: suspicion, metaphor, collaboration, and redescription. These reconstructive practices combine to form an interpretive strategy of retrieving client narratives lost in the lawyer telling of client story. The integration of client narratives into lawyer storytelling is a fractional process, tentative in its movements and incomplete in its resolution. It is futile for the lawyer to attempt to revise his storytelling to attain the fullness of his client's narratives; such a goal is beyond the lawyer's epistemological and interpretive reach. Instead, the purpose of narrative integration is to yield a limited means of revising the client meanings and images constructed in lawyer storytelling. These meanings and images are manifested in everyday client struggle in the communities where poverty lawyers first encounter client stories.

* * *

Mrs. Celeste came to the legal aid office early Monday morning. By 8:00 a.m., a line, two and three across, had formed in front of a small wooden table in the center of the waiting room. A woman standing behind the table gave instructions in English and Spanish. The line grew throughout the morn-

10. For reasons of clarity and to underscore the interconnection between gender and the traditions of poverty law advocacy, I use the male pronoun when referring to the lawyer and the female pronoun when referring to the client. Naomi Cahn has recently suggested that even the feminist lawyer may objectify the client in practice. See Cahn, *Defining Feminist Litigation*, 14 HARV. WOMEN'S L.J. (forthcoming 1991). Whether the feminist lawyer *must* adopt the interpretive stance of the traditional male lawyer because of the gendered milieu of practice is an unresolved issue of feminist theory.

11. In undertaking this distillation, I do not speculate as to the existence or meaning of Mrs. Celeste's unspoken narratives. The interpretation of unspoken narratives requires joint investigation during the lawyer-client relation. See *infra* text accompanying notes 113-17 (describing reconstructive practice of lawyer-client collaboration).

ing, gradually extending beyond the outer door into the hallway of the third floor landing. As the line increased in number, the room became loud with repeated questions and unfinished answers. "What kind of problem do you have? What is your name? Where do you live? How many are in your family? What papers did you bring? Why are you here? Why have you come today? What is your problem?" Client voices told familiar stories: welfare reductions and hunger, welfare discontinuances and unpaid rent, welfare denials and homelessness.

By late morning, the line had dwindled. Of the many turned away, some appeared angry, their voices rising into shouts. Others seemed dispirited; they walked out slowly, whispering to each other, clutching papers. The twenty who remained were assigned numbers and seated in chairs along four walls of the L-shaped room. For two hours, the woman in charge called each one by number into the main office.

When the woman called out her number, Mrs. Celeste stood up and walked to the door of the main office. After a buzzer sounded releasing the lock, she entered a small room with doorways on three sides, plexiglass windows, and a large desk against the wall. In the adjacent space, a telephone switchboard rang. Mrs. Celeste sat down in a chair next to the desk. When she started to tell the woman about the food stamps, the woman interrupted: "Please just answer the questions. If you don't understand, you can see the lawyer for help."

"What is your full name?" the woman asked, looking down at a case card. "And your address? Telephone number? Age? Are you married? Hispanic? Do you need an interpreter? Are you here alone or with a group? Employed? Have you ever been here before? Whom were you referred by? Are you a citizen of the United States? What is your monthly rent? How many live in the apartment? Do you have any wages or income? What about welfare? SSI? Disability? Unemployment? Food stamps? Do you have any bank accounts, automobiles, assets or real property?"

Mrs. Celeste answered questions for five or ten minutes. When she tried to expand her answers, the woman interrupted. After several interruptions, Mrs. Celeste learned to keep her answers short. Once her case card was fully marked, the boxes checked, lines filled, and statistics compiled, Mrs. Celeste was told to return to the waiting room. Two hours later, she was called again.

"Good morning. My name is Tony Alfieri. I am a welfare lawyer here. Before we begin, let me explain how our office works. Every Monday morning we see about thirty or forty people with welfare problems. Although we would like to help everyone, we just don't have enough lawyers to go around. So in the afternoon, all the lawyers sit down and make hard choices about who we can and cannot help. That is an office decision. It is not my decision alone. *Do you understand?*

"At this moment, I cannot tell you whether our office will be able to help you. That decision will be made later. In the event we cannot help you, we will

make every effort to refer you to another legal aid office or give you enough advice so that you can help yourself. With legal advice from us, many people are able to help themselves. *Do you understand?*

"The first thing I'd like to do is check the information on your case card to make sure it is correct. That will save us time later. Let's begin with your name and address. Do you live in an apartment or a house? How long have you lived there? How many rooms are in the apartment? How much is your monthly rent? What is your average monthly telephone bill? And your monthly utility bill? Does that include gas and electricity? What about heat?¹²

"Do you have any income or resources? How much public assistance did you receive this month? What days do the checks arrive? Do you know who is on the budget? Did you bring your public assistance card? What is the number on the card? And the welfare center number? Do you have a medicaid card? Did you receive food stamps this month? When? How much did you receive? What about last month? Did the amount increase or decrease? Did you receive notice of the change? Did you bring the notice today? May I see it?¹³

"This is a *Notice of Intent to Reduce Food Stamp Benefits*. The *Notice* says that your food stamp benefits will be reduced because all foster care income will be budgeted for food stamp purposes. The reduction goes into effect on the twenty-ninth. *Do you understand* what the welfare department is trying to do? They want to count your foster children as members of your natural family's food stamp household. That way they can count your foster care payments as income to your food stamp household. If they count the foster care payments as income, then your monthly food stamps will decrease. *Do you understand?*

"Did you talk to your case worker about this reduction? Did you request a fair hearing to stop the reduction? Before we make a decision to represent you at the hearing, I am going to need as much information as possible about your foster children, foster care payments, and food stamp household. The more information I get from you, the better I'll be able to understand why the welfare department wants to reduce your food stamps and whether we can help stop that reduction. Remember, anything you tell me is confidential. It is between you and our office. *Do you understand?*"

12. I continued: "How many people live with you in the apartment? What are the names of your children? And their ages? And how old is your granddaughter? Are they in school? What are the names of your foster children? And their ages? Are they in school too? Do you receive monthly foster care payments for the foster children? How much? When? What is the name of your foster care agency? And the name of your social worker? Do you know her telephone number? Did you tell the welfare department about the foster children? When? What is the name of your case worker? And his telephone number?"

13. At this point during the interview, Mrs. Celeste pulled from her bag three bundles of documents tightly bound by rubber bands. She stacked the bundles on the corner of my desk. Then she carefully untied each bundle, unfolded the documents from their soiled envelopes, and offered them to me, one by one. We reviewed scores of documents in this way.

III. CLIENT NARRATIVES¹⁴

I have been a public assistance recipient since 1970. Be seventeen years. I was employed way back in 1970 before Daniel was born, in Rochester, New York. I was working 1965, 1966, 1967, when my children all were small. Their names are Rosa, Victor, and Daniel. Rosa is twenty-two, Victor is eighteen, and Daniel is seventeen. I also have a granddaughter, Azalia. She is just two years old.¹⁵

I receive a public assistance grant, food stamps, and Medicaid for Daniel and myself and Rosa. Not the foster children. Victor does not receive public assistance. I don't know how they work it, but I took him out, because he's away at school. So I don't know about that. Azalia does not receive any public assistance either. The public assistance is in a check. Everything is included in that, public assistance and electricity come together. I don't understand how it's computed. The food stamps are in coupons.¹⁶

A. *Dignity*

My food stamps were decreased from November to approximately February. Five months. Of course it caused me hardship. First of all, there were a lot of things that my kids, I couldn't afford to buy them. I couldn't buy them fresh vegetables, fresh fruits. Everything had to come from cans. Sometimes I run out of rice for my kids and they don't eat no rice. They eat anything; maybe they eat Cheerios or something like that. No-frills food, you know, things that had no frills. I paid less money for them.¹⁷

But not all the time I have the money. When I don't have the money they have to go without it. There were a lot of things that I had to make cut-downs. I remember what they were. The foods was there, and both my boys always go into the baseball league. They couldn't go because I couldn't afford it. Christmas, they didn't have nothing. You know, there are a lot of things that

14. The setting of Mrs. Celeste's story is a mixed food stamp/foster care household comprised of a three generational natural family, as well as foster children from three unrelated families. The regulatory conduct at issue is the legality of counting foster children as members of their foster care households, and the counting of foster care payments as household income for food stamp purposes. The issue raised novel subject matter questions under the Food Stamp Act and conflicting federal regulations. *See* 7 U.S.C.A. 2011-2030 (West 1988 & Supp. 1990); 7 C.F.R. §§ 273.3(ii), 273.9(b)(2)(ii) (1986).

At Mrs. Celeste's administrative hearing, the New York State Department of Social Services upheld the New York City Human Resources Administration's decision to reduce her monthly food stamp allotment, citing federal regulatory requirements. After legal aid lawyers filed a federal class action lawsuit challenging the federal regulations on behalf of Mrs. Celeste and others, the United States Courts of Appeals for the Second and Eighth Circuits invalidated the regulations. *See Foster v. Celani*, 849 F.2d 91 (2d Cir. 1988), *aff'g per curiam*, 683 F. Supp. 84 (D. Vt. 1987); *Murray v. Lyng*, 854 F.2d 303 (8th Cir. 1988), *aff'g* 667 F. Supp. 668 (D. Minn. 1987).

15. Dep. at 85, 104-05.

16. Dep. at 19, 20-21.

17. Dep. at 81, 43, 81.

they didn't do. They couldn't go to the movies, they couldn't go to the Skate Key, where they skate. Sometimes I had to buy in the thrift shop, you know, Salvation Army to buy some things that wasn't even fit to use, so I could use the money for food.¹⁸

B. *Caring*

I first became a foster parent way back about 1983 some time, March 25, 1983. In that same day I got four kids, that night. When the lady came to my house, she put me down for two; I got four. Right now I have six foster children. You can never say. It could change tomorrow. I received the prior four. All of a sudden I had two, then three, then four. That's the way it goes.¹⁹

Now it's six. They age from eleven years to seven months. Starting with the oldest one, Nilsa, she is eleven years old; she's been with me since June of 1986. Salas is eight, Vilma is six, and Sarmiento is five; they have been with me three and a half years. Pablo is two, he has been with me since he was fifteen days old. Tyrice is seven months; she has been with me on and off, six months.²⁰

I didn't know about the foster care money. I found out when I went to the interview. It wasn't much, but you'd get something to provide for the kids. I would take them in because I love kids. I always loved kids. And to have six kids in your house you have to love kids, because money is not everything, you know. The money they give you is not even enough to go around. If you think you are going to get rich on that money, forget it. Don't take care of no kids, then, because it's not going to work out. You really have to have some love, consideration, and know what these kids need.²¹

When they first came to recertify me, they explained everything. They told me the monies you get for the kids you're supposed to use it for the kids, and when, if a child gets sick, or falls down, you know, you have to have money ready to take him to the hospital. If something happens to that child, and you say I haven't got the money, they're going to ask you what you did with the money.²²

I don't mingle their money, the foster payment of the kids, with my money. I keep it in a separate place in the top drawer in an envelope. When the check comes I just go and cash it. Then I go out and buy all their food. And, whatever is left, then you're going to have to go out and buy clothes and Pampers. Maybe at the end of the month I will have like, twenty or thirty dollars left,

18. Dep. at 82.

19. Dep. at 70, 108; T. at 34, 44-45.

20. Dep. at 12.

21. Dep. at 74-75.

22. T. at 41.

and still that's, you know, that's their money. You have to have that money with you at all times to keep the kids. I mean, I want to keep them.²³

I don't use the money for rent or utilities. I buy sheets for the children's beds. For their towels. You have to get everything separate for those children. You have to have separations in the rooms for everything, dressers, clothes, bedclothes, pillows, everything. They don't give you no bedclothes or anything like that. Sometimes I have to put from my own pocket because the money for the foster kids is not enough. I got reimbursed for some of it, not for everything.²⁴

They come to the house and they check the way I keep the kids, how they, you know, the progress. They come visiting from one to three months. It all depends on the time you have the child. They come to find out how much food, the clothing, the sleeping area, how I keep the kids, you know, what are the privacy, what are the things they do. I mean if they are skinny or heavy or they look good, healthy. Many times they asked me how the kids eat, what do they eat, do they like what I make for them, how many times a day do I feed them, do I give them snacks, things like that.²⁵

They go with me to the school to visit with the teachers of every child. They do that like in the school year, they do that three times. And court visit. When I go to court for one of the kids or any of the kids. This is about extension of placement, to ask for more time to be left in foster care, or if the child should be returned with the natural parents or with somebody that could take care of them, like related to them. And the natural parents will be there and the foster parents will be there.²⁶

The girls have gone back to their home and they have come back even worse than when I first had them. From their mother's house. They came back dirty and everything. I even had to buy special shampoo for lice because these children, when they came back to me, they came back with lice, bugs. I had to buy special shampoo, and I had to buy Tylenol. They were sick with a cold. They come out worse, they got bad habits, swearing and everything. They come to my house and they stop all this. The judge orders the child to go back to the mother and nine months later the child has to be ordered to my house again.²⁷

C. Community

You have to go once a month for a meeting and they tell you the rule what you can do and what you cannot do with a child. How to discipline the children. What you could do with them, what you can't do with them. When the

23. Dep. at 22; T. at 38; Dep. at 22; T. at 38-39, 38, 42.

24. Dep. at 31, 32-34, 69.

25. Dep. at 60-61, 62, 60, 115.

26. Dep. at 63-64.

27. Dep. at 111-13.

child is taken out of your house, how to prepare you to be disattached from that child. And when a child comes into the house, how you should behave with them, what to expect. If you get a child that is in need, like a special-need child, maybe he has muscular dystrophy, how to deal with him. If he has a mental or physical problem, how to deal with that. And we have to go to these meetings every month.²⁸

There is a psychologist in the agency. And there are other people that come from the outside, talk to you about it. People that go there, you know, the experts, whatever they call them. It's a lot of people that go there. The psychologist talks to us about how to behave with the kids, how to discipline the kids. This meeting has been going on for three and a half years that you have every month, starting in October and ending in June.²⁹

D. *Rights*

In order for me to become a foster mother, I have to have earned income for me and my kids. And, the welfare and the food stamps, and the Medicaid, that's my only income. And, that's what makes me, you know, a foster mother. If I had no kind of income, I couldn't be a foster mother. They will take them out of the home, you know, they would figure that I wouldn't have enough income to really take care of them. To become a foster parent you have to have some kind of income. And the only income that I had was public assistance. To be certified as a foster parent, I needed to be either working or on public assistance, food stamps, and Medicaid. That was the certification for me. I was approved by that.³⁰

I don't care if they don't pay me. I consider Sarmiento and Pablo my kids even though I have no authority over them. I consider them my kids, and unless the judge orders them to go back to the mother, it is going to be hard on me, but I want to adopt. If they take Pablo and Sarmiento out of my house, I lose the priority of adopting them, and that is my main concern.³¹

I don't want to lose Pablo because supposing you are a mother, how would you feel if they take a child away from you two and a half years old when he comes to you fifteen days old? What trauma is that baby going to feel? It is like putting a child through so many things. The child needs a head start and Pablo has it. He has a head start with me, and if they put him out, I lose the priority of adopting the child. That is the one I want.³²

I have a baby in the hospital, Tyrice. I don't care if you pay me the money, I want Tyrice. I went to the hospital every day and I don't get paid for that,

28. Dep. at 34-35.

29. Dep. at 35-37.

30. T. at 40, 41; Dep. at 33.

31. Dep. at 111.

32. Dep. at 110.

but I am there every day, not the mother. She will be put in the hospital, and nobody is going to adopt a child who has problems, problems with her nerves, muscular problems. I look at Tyrice and how sick she is. I say she is a baby and she needs love, and that is what I am here for, to give her love. A lot of people don't want this work because it is too much trouble, but if you love kids like I do, it is not too much trouble.³³

At the time Rosa was with me, I didn't have Azalia. Rosa kept on living with me for a while and then she broke out. I don't know where she went. She used to hang out. Then when she came back to the household, she told me that she was pregnant. She is my daughter; I was not going to tell her, "You can't come into my house." I am her mother. So I left her in the house, I put her back on the budget.³⁴

Then I tried to get the baby's father. I spoke to him and told him he was the child's father, he had to come and provide for the child, I couldn't afford to do it, and he said, "Okay." He wanted to give Azalia only ten dollars. I said, "No, that is not going to be the way. You have to go by the court." The court made it thirty-five dollars.³⁵

IV. TRADITIONAL PRACTICES

This Essay is a study of interpretive practices in the context of the lawyer-client relation in an impoverished urban community. Within that social text, lawyer and client wage an interpretive struggle. The struggle is violent.³⁶ Voices are silenced and stories are forgotten. The voices silenced are the voices of clients. The stories forgotten are the stories of client self-empowerment.

Story forms the core of the lawyer-client relation in the practice of poverty law. Located within this core are competing lawyer and client narratives containing opposing meanings and images of the client's world. Sometimes lawyer narratives speak of the client in terms of independence and power. More often, the narratives describe the client in the language of dependency and powerlessness.

The dominance of the narrative meanings and images of client dependency in lawyer storytelling brings rational order to poverty law practice. The order is expressed in well-defined lawyer-client roles, tactics, and strategies. Such order is crucial given the extraordinary number of clients served by the practice.

33. Dep. at 111-12.

34. Dep. at 109.

35. *Id.*

36. The term violence is not intended to denote acts of physical violence. Here, violence summarizes interpretive practices destructive of client narrative meaning. Denoting violence in this sense evokes Robert Cover's notion of constitutional interpretation. See Cover, *The Bonds of Constitutional Interpretation: Of the Word, the Deed, and the Role*, 20 GA. L. REV. 815, 816-21 (1986); see also Cover, *Violence and the Word*, 95 YALE L.J. 1601, 1610 (1986) (exploring the "unseverable connection between legal interpretation and violence").

What is communicated, both publicly and privately, is a vision of the world constructed by lawyer-spoken narratives. Omitted from this vision is an alternative set of meanings and images articulated by client narratives. In this respect, the order of poverty law practice depends on interpretive omission.

My thesis is that situated outside lawyer-told client story is an alternative client story composed of multiple narratives, each speaking in a different voice of the client. The different voices of client narratives imbue client story with normative meanings associated with values such as selfhood, family, community, love, and work. In this view, client story presents a rich text of interwoven voices and narratives. In poverty law advocacy, the integrity of client story stems from the revelation and integration of client voices and narratives in lawyer storytelling. When the client's voices are silenced and her narratives are displaced by the lawyer's narratives, client integrity is tarnished and client story is lost. The intent of this Essay is to understand and rectify the loss of client narratives in lawyer storytelling.

In a prior work, I set forth a preliminary framework for the analysis of lawyer discourse, knowledge, and method in the context of poverty law.³⁷ Erected in theory, the analysis sought to uncover the ideological content of poverty law traditions, particularly the myths of legal efficacy,³⁸ and client isolation and passivity.³⁹ Because the myths sustain and reinforce client powerlessness, I called for their repudiation. In their place, I propounded a theory of client and community empowerment rooted in dialogue⁴⁰ and counter-hegemony.⁴¹ The complexity of integrating theory and practice has since persuaded me both to amplify my original analysis and to elaborate upon my reconstructive paradigm. This Essay is an attempt to join theory and practice in a reconstructive critique.

The structures of the poverty lawyer's discourse and knowledge have attracted renewed academic interest in recent years. This interest has sparked a resurgent theoretical and practical literature dedicated to the critical analysis of poverty law practice.⁴² Appropriately, the analysis is multifaceted, ranging

37. See Alfieri, *The Antinomies of Poverty Law and a Theory of Dialogic Empowerment*, 16 N.Y.U. REV. L. & SOC. CHANGE 659 (1987-88) [hereinafter Alfieri, *Antinomies*].

38. *Id.* at 671-73.

39. *Id.* at 673-75.

40. *Id.* at 695-711.

41. *Id.* at 678-82.

42. For different strands of this critical literature, see Abel, *Law Without Politics: Legal Aid Under Advanced Capitalism*, 32 UCLA L. REV. 474 (1987); Alfieri, *Antinomies*, *supra* note 37; Alfieri, *Speaking Out of Turn: The Story of Josephine V.*, 4 GEO. J. LEGAL ETHICS (forthcoming 1991) [hereinafter Alfieri, *Speaking Out of Turn*]; Bachmann, *Lawyers, Law, and Social Change*, 13 N.Y.U. REV. L. & SOC. CHANGE 1 (1984-85); Gabel & Harris, *Building Power and Breaking Images: Critical Legal Theory and the Practice of Law*, 11 N.Y.U. REV. L. & SOC. CHANGE 369 (1982-83); Handler, *Dependent People, the State, and the Modern/Postmodern Search for the Dialogic Community*, 35 UCLA L. REV. 999 (1988); López, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603 (1989); Sarat, ". . . The Law Is All Over": *Power, Resistance, and the Legal Consciousness of the Welfare Poor*, 2 YALE J.L. & HUMANITIES 343 (1990); Simon, *The Invention and Reinvention of Welfare Rights*, 44 MD. L. REV. 1 (1985); White, *Goldberg v. Kelly on the Paradox of Lawyering for the Poor*, 56 BROOKLYN L.

across disciplines and methods of practice. Although divergent, the literature advances a common project of constructing an alternative vision of the client as a self-empowering subject.

The joining of theory and practice may disenchant some in the poverty law community. They may fairly object that theory is too remote from the upheaval of daily practice to be of use. I concede that the risk of mishandling theory is immensely high in this very practical context. Yet, theoretical analysis of practice is commanded by the historical failure of poverty law traditions to countenance the values and to design effective methods of client and community empowerment, and moreover, by the import of critical theory in the domains of power,⁴³ gender,⁴⁴ and race.⁴⁵ Distilled here by the writings of continental,⁴⁶ feminist,⁴⁷ and critical race⁴⁸ scholars, critical theory assails

REV. 861 (1990) [hereinafter White, *Paradox of Lawyering*]; White, *Mobilization on the Margins of the Lawsuit: Making Space for Clients to Speak*, 16 N.Y.U. REV. L. & SOC. CHANGE 535 (1987-88); White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFFALO L. REV. 1 (1990); White, *To Learn and Teach: Lessons of Driefontein on Lawyering and Power*, 1988 WIS. L. REV. 699; Ellmann, *Lawyering for Justice in a Flawed Democracy* (Book Review), 90 COLUM. L. REV. 116 (1990).

43. I attribute my analysis of power to Michel Foucault. See, e.g., M. FOUCAULT, FOUCAULT LIVE (INTERVIEWS, 1966-84) 179-92 (1989); M. FOUCAULT, POLITICS, PHILOSOPHY, CULTURE: INTERVIEWS AND OTHER WRITINGS 1977-1984, at 96-109 (1988); M. FOUCAULT, POWER/KNOWLEDGE: SELECTED INTERVIEWS AND OTHER WRITINGS 1972-1977, at 55-165 (1980). For retrospective summations of Foucault's concept of power, see Balbus, *Disciplining Women: Michel Foucault and the Power of Feminist Discourse*, in AFTER FOUCAULT: HUMANISTIC KNOWLEDGE, POSTMODERN CHALLENGES 138 (J. Arac ed. 1988); Sawicki, *Feminism and the Power of Foucauldian Discourse*, in *id.* at 161; Wolin, *On the Theory and Practice of Power*, in *id.* at 179.

44. For recent studies of gender and law, see Z. EISENSTEIN, THE FEMALE BODY AND THE LAW (1988); C. MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE (1989); D. RHODE, JUSTICE AND GENDER (1989); E. SPELMAN, INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT (1988).

45. For recent considerations of race and exclusion, see ALL THE WOMEN ARE WHITE, ALL THE BLACKS ARE MEN, BUT SOME OF US ARE BRAVE: BLACK WOMEN'S STUDIES (G. Hull, P. Scott & B. Smith eds. 1982); H.L. GATES, FIGURES IN BLACK: WORDS, SIGNS, AND THE "RACIAL" SELF (1987); H.L. GATES, THE SIGNIFYING MONKEY: A THEORY OF AFRO-AMERICAN LITERARY CRITICISM (1988); B. HOOKS, AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM (1981); B. HOOKS, TALKING BACK: THINKING FEMINIST, THINKING BLACK (1989); "RACE," WRITING, AND DIFFERENCE (H.L. Gates ed. 1986); READING BLACK, READING FEMINIST: A CRITICAL ANTHOLOGY (H.L. Gates ed. 1990).

46. Continental theory is represented here by Michel Foucault, Hans-Georg Gadamer, Jurgen Habermas, Paul Ricoeur, and Roberto Unger. I also count Clifford Geertz and Wayne Booth to be among this group.

47. For recent examples and discussion of feminist legal scholarship, see Bartlett, *Feminist Legal Methods*, 103 HARV. L. REV. 829 (1990); Cornell, *The Doubly-Prized World: Myth, Allegory and the Feminine*, 75 CORNELL L. REV. 644 (1990); Heilbrun & Resnik, *Convergences: Law, Literature, and Feminism*, 99 YALE L.J. 1913 (1990); MacKinnon, *Reflections on Sex Equality Under Law*, 100 YALE L.J. 1281 (1991); Rhode, *Feminist Critical Theories*, 42 STAN. L. REV. 617 (1990); Schultz, *Room to Maneuver (for a Room of One's Own? Practice Theory and Feminist Practice)*, LAW & SOC. INQUIRY 123 (1989); West, *Feminism, Critical Social Theory and Law*, 1989 U. CHI. LEGAL F. 59; West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1 (1988); Williams, *Feminism's Search for the Feminine: Essentialism, Utopianism, and Community*, 75 CORNELL L. REV. 700 (1990); Ashe, *Inventing Choreographies: Feminism and Deconstruction* (Book Review), 90 COLUM. L. REV. 1123 (1990).

48. For recent examples and discussion of critical race scholarship, see P. WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS (1991); R. WILLIAMS, THE AMERICAN INDIAN IN WESTERN LEGAL THOUGHT: THE DISCOURSES OF CONQUEST (1990); Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139; Davis, *Law as Microaggression*, 98 YALE L.J. 1559 (1989); Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1989); Delgado, *When a Story*

the interpretive paradigm central to the practice of poverty law, a paradigm that conjures the image of the client as a dependent and inferior object.

By drawing from a cluster of theoretical movements, I hope to bring together a plurality of perspectives on the problem of interpretation in the lawyer-client relation of poverty law. The purpose of weaving this plurality is not only to formulate a foundation critique of lawyer, knowledge, discourses, and method, but also to outline a reconstructive interpretive practice as an alternative to traditional poverty lawyering.⁴⁹

The traditions of poverty law assemble lawyers in an interpretive community forging a practical knowledge and a discourse to construct the meanings and images of the client world. Knowledge and discourse combine to direct and justify the lawyer's actions. Those actions mold the interpretive stance and the closed ritual of lawyer practice. Because the stance suffers from ideological closure, it is uncritical of the client story composed during the act of interpretation.

The poverty lawyer may deny that his telling of client story constitutes an act of interpretation. Bound to an interpretive stance deemed neutral in his community, the stance that is no stance,⁵⁰ he decries the turn to ideology. It is folly, however, for the poverty lawyer to mount claims of neutral practice⁵¹ in the midst of postmodern criticism. The idea of an epistemological break from ideology assumes the naive possibility of perspectivelessness. The absence of a non-ideological stance from which to investigate the social world of the impoverished client does not portend nihilism. Instead, the lack of a neutral posture offers an opening, an invitation to revise the poverty lawyer's traditional interpretive practices, and an opportunity to test alternative practices in local lawyer-client contexts.

Is Just a Story: Does Voice Really Matter?, 76 VA. L. REV. 95 (1990); Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Kennedy, *Racial Critiques of Legal Academia*, 102 HARV. L. REV. 1745 (1989); Matsuda, *Affirmative Action and Legal Knowledge: Planting Seeds in Plowed-Up Ground*, 11 HARV. WOMEN'S L.J. 1 (1988); Matsuda, *Voices of America: Accent, Antidiscrimination Law, and a Jurisprudence for the Last Reconstruction*, 100 YALE L.J. 1329 (1991); Resnik, *Dependent Sovereigns: Indian Tribes, States, and the Federal Courts*, 56 U. CHI. L. REV. 671 (1989).

49. Both critique and reconstruction proceed from the premise of "interested and unconscious" interpretive distortion in matters of knowledge and method. This premise is not incompatible with the purpose at hand. Indeed, I set forth the premise explicitly to highlight the necessity of ideologically positioning an interpretive stance from which to critique knowledge and method under well-settled traditions of practice. See P. RICOEUR, *HERMENEUTICS AND THE HUMAN SCIENCES* 222-24 (1981) (discussing the relationship of ideology and interpretation).

50. See C. MACKINNON, *FEMINISM UNMODIFIED* 55 (1987).

51. To avoid confusion in assessing the neutrality claim of poverty lawyers, it is important to distinguish between interpretive bias and partisan advocacy. By definition, the poverty lawyer is a partisan advocate seeking to protect and advance the interests of impoverished clients. While he may adopt the rhetoric of neutrality to prevail in legal argument, his partisanship is well accepted. What I point out is merely that the poverty lawyer's pursuit of his partisan commitments necessarily involves interpretive practices which also entail commitments. Here, the claim of neutrality ascribed to the poverty lawyer is the product of interpretive, rather than client, commitments.

The story of Mrs. Celeste and the voices of her narratives furnish a social text for studying the poverty lawyer's interpretive practices.⁵² The lessons of this text are singular to Mrs. Celeste and should not be extrapolated to construct an essentialist⁵³ vision of the voices and narratives of impoverished clients. The starting point is Mrs. Celeste's initial interview with me at a legal aid office on the morning of welfare intake. Upset by the interrogation of the intake interview, Mrs. Celeste told her story hesitantly, often speeding up, halting suddenly, alternating subjects, then doubling back. This oblique style of telling intertwined the constitutive narratives of her story.⁵⁴

The frenetic routine of daily poverty law practice did not permit my careful parsing of these narratives. Indeed, the morning intake tally showed that of the thirty to forty prospective clients screened, most were routinely dismissed. Among these, some were rejected for reasons of ineligibility; others were referred to federal, state, or local agencies; still others were advised to return in the weeks ahead. No records were kept of those who departed without referral.

At the afternoon intake review conference, the legal aid staff convened to winnow out ten, perhaps twelve, of the final twenty clients considered worthy⁵⁵ of representation. Each lawyer and paralegal enumerated a battery of cases ranging in subject matter from the disabled to the homeless. All understood that representation was to be declined for the great majority due to the burdens of outstanding case commitments. To choose clients, the staff adopted a method of case selection analogous to triage.⁵⁶

52. In telling, or more precisely, retelling the story of Mrs. Celeste, I make no claim to full or exact coverage and reporting. The interpretive boundaries of class, ethnicity, gender, race, and power dividing the lawyer and client in poverty law render such claims untenable.

53. As Elizabeth Spelman notes in the context of feminist theory, the tendency to establish categories of analysis which reduce people to a universal characteristic—even when counterposed against more offensive generalized categories—risks excluding alternative categories of difference, thus undermining the credibility of the theoretical project itself. E. SPELMAN, *supra* note 44.

54. *See supra* note 2.

55. The notion of the "worthy" poor is deeply rooted in American culture, entangling issues of gender and race, *see, e.g.,* Mink, *The Lady and the Tramp: Gender, Race, and the Origins of the American Welfare State*, in *WOMEN, THE STATE, AND WELFARE* 92 (L. Gordon ed. 1990), as well as dependence. In her poem, *The Lovers of the Poor*, Gwendolyn Brooks explores the link between worthiness and dependence. She writes:

The worthy poor. The very very worthy
 And beautiful poor. Perhaps just not too swarthy?
 Perhaps just not too dirty nor too dim
 Nor—passionate. In truth, what they could wish
 Is—something less than derelict or dull.
 Not staunch enough to stab, though, gaze for gaze!
 God shield them sharply from the beggar-bold!
 The noxious needy ones whose battle's bald
 Nonetheless for being voiceless, hits one down.
 But it's all so bad! and entirely too much for them.

G. BROOKS, *The Lovers of the Poor*, in *SELECTED POEMS* 90, 91 (1963).

56. For a sensitive analysis of the institutional constraints of triage case selection in legal services, see Tremblay, *Toward a Community-Based Ethic for Legal Services Practice*, 37 *UCLA L. REV.* 1101, 1101-10, 1134-44 (1990).

Adoption of this crude method had been covert. There had been no internal debate within the office regarding its appropriateness or efficacy. Nor had there been external, public debate within the client community concerning its necessity. There had been only weary assent, spurred by an implicit acknowledgement of limits. Brokered under desperate circumstances, triage was seized as a permanent stopgap method of allocating scarce institutional resources. Despite the harsh consequences of triage, the legal staff was too constrained by tradition and the press of advocacy to be diverted by the possibility of alternative interpretations of client daily struggle.

A. *Pre-understanding*⁵⁷

Encased by tradition, poverty lawyers do not see the relevance of client struggle and do not encourage its production and reenactment. Nor do they search the conditions of its uprising. They, in fact, presuppose that narratives of client struggle are unusable in advocacy. This presupposition silences the empowering voices of client struggle, a silencing tied to the denigration of client difference delineated by class, ethnicity, gender, race, sexual preference, and disability. The subject of difference⁵⁸ has roiled the legal academy for more than a decade. For a time, teachers and practitioners of poverty law escaped this conflict by denying the significance of difference.⁵⁹ To the poverty lawyer, difference has had no voice. The resulting silence explains the continuing reluctance to explore alternative interpretations and different meanings of client story.

The poverty lawyer's interpretive practices are predicated on his *pre-understanding* of the client's world. Pre-understanding is a method of social construction⁶⁰ that operates by applying a standard narrative⁶¹ reading to a client's

57. I borrow from Paul Ricoeur the notion of pre-understanding as an ontological structure mediating interpretive knowledge and method. See P. RICOEUR, *supra* note 49, at 81, 89-90, 110, 178, 243 (1981).

58. Stephen Carter nicely captures the import of difference when he declares:

[T]he idea of difference is more than a rallying cry. It is also a critique of accepted understandings, a demand for a share in the interpretation of the world. It says, "We matter. Our oppression makes our world different from yours and our world matters. That difference matters. Our oppression makes our voice different from yours. That voice matters."

Carter, *Loving the Messenger*, 1 YALE J.L. & HUMANITIES 317, 324 (1989). For an overview of the subject of difference, see M. MINOW, *MAKING ALL THE DIFFERENCE* (1990).

59. Embattled by prolonged academic siege and insulated by tradition, poverty lawyers and teachers attended to their shared devotions. These devotions constitute an identifiable system of discourse, knowledge, and method. See P. RICOEUR, *THE CONFLICT OF INTERPRETATIONS* 79-96 (1974) (noting interconnection of structure, word, and event).

60. On methods of social construction and their phenomenological antecedents, see P. BERGER & T. LUCKMANN, *THE SOCIAL CONSTRUCTION OF REALITY: A TREATISE IN THE SOCIOLOGY OF KNOWLEDGE* (1966); A. SCHUTZ, *ON PHENOMENOLOGY AND SOCIAL RELATIONS: SELECTED WRITINGS* (1970); Berger, *The Problem of Multiple Realities: Alfred Schutz and Robert Musil*, in *PHENOMENOLOGY AND SOCIAL REALITY: ESSAYS IN MEMORY OF ALFRED SCHUTZ* 213 (M. Natanson ed. 1970); Luckmann, *On the Boundaries of the Social World*, in *id.* at 73.

61. For discussions of narrative meaning and structure, see P. RICOEUR, *supra* note 49, at 274-96; J.B. WHITE, *JUSTICE AS TRANSLATION* 3-21, 229-56 (1990); J.B. WHITE, *WHEN WORDS LOSE THEIR MEANING*

story.⁶² The reading imposes the lawyer's narrative meaning onto the story, thereby displacing the narrative meaning of the client.⁶³

This parallel construction and destruction of client story demonstrates the power of lawyer narrative. Moreover, it demonstrates the independence of lawyer narrative from the context of client narrative. The dissociation of lawyer narrative from client context results both in the silencing of client narrative and in the naming⁶⁴ of client story; the name given is dependency.

The poverty lawyer's act of naming, of portraying the client as dependent, commences at triage.⁶⁵ Naming protects the lawyer's interpretive authority to arrogate the client's inherent power to define and speak for herself.⁶⁶ In the first movement of triage, the lawyer translates the client's oblique narratives into the lawyer's own narrative. This translation is not an act of incorporation, but an act of silencing. In the second movement of triage, the lawyer assigns categories of value to the translated client story.⁶⁷ These categories objectify the client in a dependent role. In the third movement of triage, the lawyer calculates what client role performance (for example, "victim," "incompetent," or "enfeebled") will be most efficacious for his telling of the client's story. The result is the divesting of client story from empowering narratives.⁶⁸ For the lawyer, naming during triage accomplishes the necessary objective of legal services rationing.⁶⁹ The price of rationing is client dependency: assaulted by

265-85 (1984); Cover, *The Supreme Court, 1982 Term—Foreword: Nomos and Narrative*, 97 HARV. L. REV. 4 (1983); Ross, *The Richmond Narratives*, 68 TEX. L. REV. 381, 381-89 (1989).

62. The relation of narrative and story suggests a mutual dependence and differentiation of meaning. See Balkin, *Nested Oppositions* (Book Review), 99 YALE L.J. 1669, 1704 (1990).

63. On the creation and exclusion of client narrative meaning in lawyer translation, see Cunningham, *A Tale of Two Clients: Thinking About Law as Language*, 87 MICH. L. REV. 2459 (1989); C. Cunningham, *A New Way of Practicing Law: The Lawyer as Translator* (1990) (unpublished manuscript).

64. Compare D. WHITE, *AR'N'T I A WOMAN?* 27-61, 161-67 (1985) (powerlessness and exploitation of Black women grounded in defining myths of "Jezebel" and "Mammy") with Scales-Trent, *Black Women and the Constitution: Finding Our Place, Asserting Our Rights*, 24 HARV. C.R.-C.L. L. REV. 9, 43 (1989) (empowerment of Black women grounded in self-defining acts of naming).

65. See *supra* text accompanying notes 55-56.

66. Lucie White refers to the client's power to name her world as "the power to bring [the client's] subjective experience, intuition, and judgment into a collective process of describing, and thereby shaping, a social and political landscape in which the perspectives of all persons will be taken with equal seriousness." White, *Paradox of Lawyering*, *supra* note 42, at 862, n.6.

67. The classification or categorization of stories is a framing of bias. Cf. Feinman, *The Jurisprudence of Classification*, 41 STAN. L. REV. 661, 691-92 (1989) ("Framing bias occurs because the classification shapes the analysis of the objects classified as it is applied.").

68. The dislocation of client narrative from story detaches normative meaning from the events of the client's daily struggle. Deprived of normative meaning, events become disconnected, floating in and out of the story. What remains is determined by lawyer narrative.

69. Triage rationing produces a false market equilibrium in the supply of, and demand for, legal services. Holding funding variables constant, the supply of legal services is a function of triage case selection. Variations in triage classifications cause upward or downward adjustments in that supply. To a lesser extent, triage also affects the demand for legal services. Classifying clients in terms of perceived dependence shuns clients who decline to participate in the approved lawyer-client ritual of manufacturing dependency.

the interpretive movements of triage, the client manufactures dependence as a mask to secure legal services.⁷⁰

The poverty lawyer lacks the critical distance⁷¹ from pre-understanding to grasp the machinations of client-manufactured dependence. Situated in a position of power and interpretive privilege, he cannot see the illusion of dependence projected by his own pre-understanding and reflected back by the client. The cogency of this illusion is exhibited by my original telling of Mrs. Celeste's story as a narrative of dependence in spite of the empowering substance of her narratives.

The dependent casting of Mrs. Celeste's story at intake and throughout her representation did not immediately arouse my suspicion. Under the circumstances, there was no basis for suspicion. Projecting Mrs. Celeste in the guise of dependence conformed perfectly to lawyer interpretive pre-understanding.⁷² Only after Mrs. Celeste's story survived a lengthy fact-finding investigation, a state administrative hearing, and federal pretrial discovery did I comprehend the deception of pre-understanding.

Mrs. Celeste's story offers no reason for this deception. Although jumbled by oblique interlocking descriptions of multigenerational family composition, dual natural and foster households, conflicting program eligibility criteria, and competing statutory policies, the intricacy of her story alone cannot account for the lawyer pre-understanding of dependence. A rereading of Mrs. Celeste's story compiled from case notes, administrative hearing transcripts, litigation documents, discovery materials, and court records shows a client untrammelled by dependence. Nevertheless, the interpretive impulse of lawyer pre-understanding prevailed, hence the violence of interpretive practices converged to silence the empowering narratives of her story.

B. *Interpretive Violence*

Interpretive violence is driven by three lawyer practices: marginalization, subordination, and discipline. Marginalization establishes client inferiority. Subordination entrenches inferiority in a lawyer-client hierarchy of subject-object relations. Discipline enforces hierarchy by excluding the expression of the voices of client narratives.

70. On the social function of legal masks, see J. NOONAN, *PERSONS AND MASKS OF THE LAW: CARDOZO, HOLMES, JEFFERSON, AND WYTHE AS MAKERS OF THE MASKS* 19-28 (1976).

71. Paul Ricoeur argues that "distanciation"—the condition of positive self-distancing from cultural assumptions—is a prerequisite for the critique of ideology. P. RICOEUR, *supra* note 49, at 243-44; cf. H.-G. GADAMER, *PHILOSOPHICAL APPRENTICESHIPS* 178, 180-84 (1985) (identifying critical reflection and awareness as "horizon experience" of self-understanding); H.-G. GADAMER, *PHILOSOPHICAL HERMENEUTICS* 21, 38 (1976) (denoting reflection as "bringing of something to a conscious awareness").

72. Cf. Winter, *Bull Durham and the Uses of Theory*, 42 *STAN. L. REV.* 639, 681-93 (1990) (describing situated self-consciousness).

The regularity of movement from marginality to subordination to discipline operates as a structural characteristic of interpretive violence. At each step, the violence is organized into a system of dominant-dependent meanings embodied in lawyer narratives. Client narratives are tolerated only to the extent they do not rupture the ordered system of meanings and relationships defined by lawyer narratives. When rupture is threatened by client resistance,⁷³ the lawyer engages in a series of interpretive moves to restore hierarchy by characterizing⁷⁴ client story in the vocabulary of dependence.⁷⁵

The lawyer's dependent characterization of client story is reinforced by the client's withholding of her narratives from storytelling.⁷⁶ This withholding is engendered by the lawyer but executed by the client in a strategic capitulation to the normative world projected by the lawyer's pre-understanding. While capitulation does not confirm the lawyer's narrative reading of the client's story, it does create the illusion of the rightness of his interpretation.

Maintenance of this illusion upholds the results of interpretive violence as true readings of the client's story. These presumptive claims of truth inscribe client story with the narratives of lawyer dominance and client dependence. The truths are symbolized by stock descriptions of the lawyer subject and the client object.⁷⁷ Descriptions of the subject are typified by superiority, the object by inferiority.

Interpretive violence is essential to the dominant-dependent order of the lawyer-client relation. Without violence, the order of discourse—who speaks and when—and the order of relations—who stands above and below in decisionmaking—fall subject to client contest and reorganization. Violence safeguards the prevailing order by endowing lawyer narrative with authoritative force. On this plane, violence is not an interpretive misstep: it is the interpretive method applied to construct and read client story.⁷⁸ Violence begins with the practice of marginalization.

73. On the ethics and interpretation of client resistance, Alfieri, *Speaking Out of Turn*, *supra* note 42.

74. On the ideological uses of factual characterization, see Balkin, *The Rhetoric of Responsibility*, 76 VA. L. REV. 197 (1990).

75. If restoration fails, the system of meanings becomes unstable causing lawyers to experience a kind of phenomenological distress. P. RICOEUR, *supra* note 59, at 101; cf. C. GEERTZ, *PEDDLERS AND PRINCES: SOCIAL CHANGE AND ECONOMIC MODERNIZATION IN TWO INDONESIAN TOWNS* 149 (1963) (observing insecurity in status engendered by shifts in social structure). That instability provides the opening for the meaning of difference to interpose itself in the empowering voice of client narrative. See *infra* text accompanying notes 97-105 (describing reconstructive practice of suspicion).

76. Lawyer suppression and client repression of empowering narratives show the lawyer-client interpretive dialectic at work. The product of that dialectic endures because it conforms to lawyer pre-understanding. See P. RICOEUR, *supra* note 49, at 268-70.

77. On the use of stock descriptions to construct the social world, see G. LAKOFF, *WOMEN, FIRE, AND DANGEROUS THINGS* (1987); G. LAKOFF & M. JOHNSON, *METAPHORS WE LIVE BY* (1980); López, *Lay Lawyering*, 32 UCLA L. REV. 1 (1984).

78. For a discussion of anthropological methods of interpreting social texts, see C. GEERTZ, *WORKS AND LIVES* 129-49 (1988).

1. *Marginalization*

Marginalization denominates inferiority as the principal meaning and image of the client's world. The poverty lawyer deduces client inferiority from his pre-understanding of client dependency. This inference devalues client narratives, relegating the client to an inferior public status.⁷⁹ The practice of marginalization takes place in the public engagement between lawyer and client. It is discernable in legal aid offices when client speech is restricted to a sequence of short answers, in administrative hearings when client testimony is narrowly prescribed, and in courthouses when the client is excluded from conferences, arguments, and negotiations.

In public narratives, the lawyer describes his client's inferiority as part of the natural order of things. Alert to the power of these narratives, the client may think it impossible to contest this designation. Unable to avail herself of the lawyer's privileged discourse, the client cannot question publicly her lawyer-designated status of inferiority notwithstanding any privately held objections. For this reason, client inferiority acquires an appearance of self-evidence in the public world of poverty law advocacy. The self-evident appearance of inferiority as a natural client trait hides the percussions of interpretive violence. The violence of marginalization is based on the alleged truth of the client's inferior status. That truth provides the rationale for the assessment of the client's incompetence to participate in the public discourse of advocacy. The poverty lawyer confirms this marginal status when he deprives the client of the opportunity to speak out in advocacy.⁸⁰ To justify that deprivation, he invokes the image of the unspeaking client.

Deluded by this false imagery, the lawyer is unable to hear the testimony of empowering narratives disclosed in the client's telling of her story. Moreover, he is unable to see the events of empowerment animating the story: the image of inferiority is too consuming, the construction of the story is too settled. To refute that construction risks the lawyer's position of interpretive privilege. Fear of this loss explains why methods of investigating client narratives and revealing their power in advocacy are not counted among lawyer interpretive practices. Revelation of the client's empowering voices speaking within client story is irreconcilable with the lawyer's pre-understanding.

79. See, e.g., Dworkin, *Against the Male Flood: Censorship, Pornography and Equality*, 8 HARV. WOMEN'S L.J. 1, 15 (1985) ("For women, this hierarchy is experienced both socially and sexually, publicly and privately."); Minow, "Forming Underneath Everything that Grows": *Toward a History of Family Law*, 1985 WIS. L. REV. 819, 824 ("Individual women defined their [social] roles in part by reference to established meanings, and in part by constructing their own conceptions."); see also R. LAKOFF, *LANGUAGE AND WOMAN'S PLACE* (1975) (discussing relationship between language and hierarchy).

80. Robert Hayes implicitly endorses this practice. In outlining his groundbreaking homeless litigation strategy, he nowhere mentions whether homeless clients should be called to testify at trial regarding the state of their health, safety, and dignity, nor does he indicate whether such a decision is a tactical one. See Hayes, *Homelessness & the Legal Profession*, 35 LOY. L. REV. 1 (1989).

Pre-understanding marginalized Mrs. Celeste in a number of ways. In the planning of her administrative hearing, I presumed Mrs. Celeste incompetent to understand the legal theory and strategy of the regulatory challenge under preparation. Thus, I did not fully include her in discussions regarding the constitutional and statutory bases of her case or the strategy of litigation designed to attack the food stamp regulations. Nor did I provide her with legal materials (e.g., statutes, regulations, legislative history, case law) to explicate my case theory and strategy. When planning escalated to pretrial strategy, once again I declined to invite Mrs. Celeste to participate in meaningful discussion, limiting communications with her to discovery preparations and brief appraisals of litigation progress.

When discussion turned to Mrs. Celeste's awareness of other similarly aggrieved foster parents, I limited her participation to identification and referral of prospective plaintiffs-intervenors. Once prospective clients had been contacted and evaluated, I ended Mrs. Celeste's participation. I did not offer her an opportunity to meet and talk to the various plaintiffs-intervenors, nor did I make arrangements to allow her to visit additional foster care agencies in order to address groups of affected foster parents. Moreover, I did not invite Mrs. Celeste and the other plaintiffs collectively to attend litigation planning sessions, negotiation conferences, or federal court arguments.

2. *Subordination*

Subordination is the second practice of interpretive violence. Like marginalization, it holds firm to the image of client dependence and inferiority. By means of subordination, the lawyer objectifies that image, transmuting the client into an object, a thing to be handled, manipulated, and remolded.⁸¹ This practice silences client narratives of struggle by superimposing lawyer narratives. Manifested by hierarchy, subordination imposes subject-object relations between lawyer and client. Hierarchy institutionalizes the transformation of the private subject seeking help into the public object: "client."

In the instant story, lawyer narratives repeatedly pictured Mrs. Celeste as an object acted upon but incapable of acting. This picture appeared in litigation team planning conferences, negotiations with co-counsel and opposing counsel, administrative hearing arguments and lines of questioning, federal district court arguments, and litigation documents (such as complaints and memoranda of law). The narratives permeating these contexts reiterated a pre-understanding of client dependence and inferiority in describing Mrs. Celeste's overlapping roles of foster parent, food stamp recipient, and client. As a foster parent, she was trained, licensed, and inspected. As a food stamp recipient, she was

81. Cf. Dworkin, *supra* note 79, at 13-17 (social subordination contains four main parts: hierarchy, objectification, submission, and violence).

certified, budgeted, and issued benefits. As a client, she was interviewed, investigated, and counseled. In none of these roles was Mrs. Celeste seen as an independent subject with her own narratives to recite. My consignment of Mrs. Celeste to the public status of a dependent object overshadowed her experiences as an independently acting subject. Those experiences and their accompanying narratives of empowerment were discarded in the public act of subordination.

When the lawyer imprints the client's story with subordinate images of dependence and inferiority, the client is inhibited from enunciating the voices of her narratives. Convinced of the truth of his rendition of the client's story, the lawyer ignores the chilling effect of his traditional narratives. The lawyer's pretense of truth mixes claims of subjective autonomy and objectivity. The claim of subjective autonomy supposes the lawyer's empathic ability to enlarge his perspective to comprehend fully the client's story. The claim of objectivity avows the lawyer's ability to verify the truth content of that story. Both claims adhere to concepts of knowledge and truth derivative of the metaphorical revelations of client voice and narrative.⁸²

3. *Discipline*

Discipline is the third practice of interpretive violence.⁸³ Rooted in lawyer pre-understanding of client dependence and inferiority, discipline occurs when the lawyer consistently excludes from his account of client story the normative meanings embedded in client narratives. This exclusion compels client obedience to lawyer-decreed story and to lawyer-designed advocacy strategy. Alternatives in conflict with that constructed story and strategy are rejected as implausible.

The expectation of client acquiescence to lawyer storytelling is intrinsic to discipline. It is unremarkable that this expectation finds proof in the image of the unspeaking client; in the intimacy of lawyer-client discourse, lawyer narratives compel silent obedience. The lawyer construes submission to those narratives as natural and true, and as freely and properly chosen by the client. The social and economic tenets of liberalism contribute to this understanding. The conception of the client as an autonomous agent acting on her own volition to form relationships in an atomistic social world embodies the social tenet. The conception of the client as a rational decisionmaker willing and able to maximize her self-interest (enjoyment, profit, utility) in a market economy exempli-

82. See R. BERNSTEIN, *BEYOND OBJECTIVISM AND RELATIVISM: SCIENCE, HERMENEUTICS, AND PRAXIS* (1983) (dismantling the concept of objectivity); *infra* text accompanying notes 106-12 (describing reconstructive practice of metaphor).

83. The concept of discipline is Foucault's. See M. FOUCAULT, *THE ARCHEOLOGY OF KNOWLEDGE & THE DISCOURSE ON LANGUAGE* (1972); M. FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (1977); M. FOUCAULT, *THE ORDER OF THINGS: AN ARCHEOLOGY OF THE HUMAN SCIENCES* (1970).

fies the economic tenet. Based on these premises, the poverty lawyer views client obedience as a free and rational choice elected by the client to maximize her well-being.⁸⁴

Client obedience is also viewed as proper for instrumental reasons of efficiency. Obedience promotes efficiency by facilitating lawyer control of the temporal and emotional aspects of legal decisionmaking. Temporal efficiency measures the time devoted to decisionmaking (for example, the mapping of alternatives), while emotional efficiency gauges the psychological energy expended (for example, the weighing of alternatives). The latter is a therapeutic estimation designed to spare the client from suffering the turmoil of selecting, evaluating, and weighing advocacy strategies.⁸⁵

The expectation of client obedience precludes the lawyer from imagining alternative advocacy strategies, whether in the form of client-conducted interviewing, counseling, and investigation, or client-assisted negotiation and trial practice. Such alternatives strike the lawyer as both counterintuitive and contrary to temporal and emotional efficiency. The combination of intuition and efficiency ruptures the link between client story and empowering narratives. This rupture displaces client narratives, leaving the lawyer wholly reliant on the accepted canons of pre-understanding. By electing to rely exclusively on pre-understanding, the lawyer privileges his own false narratives, inferring proof of the correlation between lawyer narratives and client story.

In the case of Mrs. Celeste, I pursued an advocacy strategy grounded on historically approved lawyer narratives. As a result, Mrs. Celeste was excluded from meaningful participation in the construction of the very story she retained me to tell, namely, the story of her struggle to preserve her family's food stamp entitlement in order to feed, clothe, and shelter her natural children, and to maintain her foster care parent eligibility. Because of Mrs. Celeste's exclusion from lawyer storytelling, I moved from administrative to judicial forums refining a strategy based on lawyer narratives of client dependence. At no point did I pause seriously to reconsider my narratives or to speculate upon her narratives of struggle and their strategic implications. Nor was my march impeded, for the inferior and subordinate treatment impelled by lawyer narratives of client dependency had effectively silenced Mrs. Celeste's alternative narratives.

84. For critical assessments of liberalism, see C.B. MACPHERSON, *THE POLITICAL THEORY OF POSSESSIVE INDIVIDUALISM: HOBBS TO LOCKE* (1962); M. SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* (1982); R. UNGER, *KNOWLEDGE & POLITICS* (1975).

85. This paternalistic concern revisits the myth of client pathology: the belief that clients, as a group, furtively seek relief from legal decisionmaking responsibility. See *infra* note 96. In support of this self-serving proposition, the lawyer is quick to cite anecdotal evidence showing a generalized client predilection to escape the burden of decisionmaking.

V. RECONSTRUCTIVE PRACTICES

The task of reconstruction is to find room to maneuver within the traditional practices governing the poverty lawyer's pre-understanding and interpretation of client story. It is not an attempt to overturn interpretive practices. In my view, the traditions of poverty law are too settled to be completely dislodged. I aim instead to pose an alternative set of interpretive practices to counter the interpretive violence of tradition.

I will acknowledge my own presuppositions from the outset. First, I presuppose the poverty lawyer's ability to seize a limited autonomy from the pre-understanding and violence of interpretive practices.⁸⁶ Second, I presuppose the lawyer's ability to extract partial understanding of the client's world from the voices of client narratives.⁸⁷ Third, I presuppose the noncompleteness of the lawyer's knowledge, a knowledge fractional in its representations and ongoing in its development.⁸⁸ My presuppositions are intended to counter the prevailing interpretive stance of the poverty lawyer, to uncover and challenge interpretive practices which appear opaque and impenetrable.

Traditionally, the poverty lawyer has relied on the meanings and images of his own narratives to define the client's story. His reliance on traditional narratives lends coherence and continuity to the practice of poverty law. Because lawyer narratives silence and displace client narratives, the coherence and order of poverty law practice are in part illusory. This is not to say that the practice is irrational or inconstant, but rather that certain illusions are essential to preserving the perception of rationality and constancy. The illusions are divulged in the lawyer telling of client story dissociated from the voices and narratives of client context.

Client voices and narratives exist in both the public and the private spheres of the client's life. Spoken by Mrs. Celeste in welfare and utility company offices, foster parent meetings, and administrative hearings, the narratives emanate from the complex social relations of individuals and families subjugated by economic impoverishment and the miscarriages of the welfare state. The struggle to accommodate and overthrow subjugation is the story told by

86. On the possibility of autonomy under ideology, see E.P. THOMPSON, *WHIGS AND HUNTERS: THE ORIGIN OF THE BLACK ACT* 258-69 (1975).

87. This presupposition seeks to reconcile the tension between Hans-Georg Gadamer's concept of intersubjective understanding and Jurgen Habermas' concept of ideological interest. Compare H.-G. GADAMER, *TRUTH AND METHOD* (1975) and Gadamer, *Rhetoric, Hermeneutics, and the Critique of Ideology*, in *THE HERMENEUTICS READER* 274 (K. Mueller-Vollmer ed. 1989) with Habermas, *On Hermeneutics' Claim to Universality*, in *id.* at 294 and Habermas, *Questions and Counterquestions*, in *HABERMAS AND MODERNITY* 192 (R. Bernstein ed. 1985) and Habermas, *A Reply to My Critics*, in *HABERMAS: CRITICAL DEBATES* 219 (J. Thompson & D. Held eds. 1982).

88. To Ricoeur, the epistemological constraint of noncompleteness limits critique to a "partial, fragmentary, insular knowledge." P. RICOEUR, *supra* note 49, at 240-46; see also P. RICOEUR, *supra* note 59, at 4 (describing partial approaches to understanding).

client narratives. When distorted by the lawyer's interpretive practices, however, the client's narratives appear irrelevant to the lawyer's task of storytelling.

Unlike many who have initiated reconstructive projects to correct deformed accounts of the legal world,⁸⁹ the poverty lawyer is reluctant to undertake a critique of his long-standing interpretive practices. His reluctance comes from an epistemological resistance to the revelatory potential of client voice and narrative. Fundamentally, the poverty lawyer does not believe that the client can *teach* him anything. Client narratives, however, contain the power to illuminate the client's world. Thus it is the relocation and reorganization of narrative context⁹⁰ within lawyer storytelling that are critical to the reconstructive strategy of emancipating the poverty lawyer from traditional interpretive practices.

When his pre-understanding is challenged by contextually situated client voices and narratives, the poverty lawyer labors to reinvent the meanings and images of dependency. Such attempts may include efforts to override and manipulate assertions of client voice and narrative by implicitly or explicitly threatening the withdrawal of legal services, alleging the irrationality of client-stated goals and methods, or declaring the irrelevance of client narrative. These lawyer maneuvers exploit and reinforce client dependency on the lawyer's specialized knowledge and technical skill. Dependency, once reinforced, becomes the instrumentalist justification legitimizing⁹¹ the violent interpretive practices of marginalization, subordination, and discipline. Hence, the lawyer reasons that client voice and narrative must be silenced in order to secure

89. Prominent among the assumptions currently being assailed in the legal academy is the notion of gender and race neutrality proclaimed in textbooks, pedagogy, and practice. See, e.g., Coombs, *Crime in the Stacks, or a Tale of a Text: A Feminist Response to a Criminal Law Textbook*, 38 J. LEGAL EDUC. 117 (1988); Crenshaw, *Foreword: Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1 (1989); Erickson, *Sex Bias in Law School Courses: Some Common Issues*, 38 J. LEGAL EDUC. 101 (1988); Finley, *A Break in the Silence: Including Women's Issues in a Torts Course*, 1 YALE J.L. & FEMINISM 41 (1989); Freedman, *Feminist Legal Method in Action: Challenging Racism, Sexism and Homophobia in Law School*, 24 GA. L. REV. 849 (1990); Frug, *Re-Reading Contracts: A Feminist Analysis of a Contracts Casebook*, 34 AM. U.L. REV. 1065 (1985).

90. On the relevance of contextual analysis in clinical education, see Goldfarb, *A Theory-Practice Spiral: The Ethics of Feminism*, 75 MINN. L. REV. (forthcoming 1991); A. Shalleck, *Clinical Supervision in Context: From a Case to a Vision* (1990) (unpublished manuscript).

91. See J. HABERMAS, *COMMUNICATION AND THE EVOLUTION OF SOCIETY* 182-88 (1979) (analyzing justification and legitimacy); Simon, *Visions of Practice in Legal Thought*, 36 STAN. L. REV. 469, 474-84 (1984) (offering critique of liberal justification of legal practice).

fruitful results in advocacy.⁹² On this logic, silencing appears instrumental to achieving the client's goals.⁹³

The trappings of neutrality⁹⁴ buttress the appeal of instrumentalism, fortifying the lawyer's contention of the practical necessity and legitimacy of silencing client narrative. Under reconstructive practice, the lawyer must view instrumental and neutral claims of silencing as an assault on the integrity of client story. Although reconstruction cannot wholly eradicate the violence of silencing traditions, it may allow the poverty lawyer to assign an empowering meaning to client narratives and to envision an alternative to the image of the unspeaking client.

This alternative vision affirms the client's ability to muster and assert power both in the lawyer-client relation and in associated legal settings, such as welfare offices, administrative hearings, and courts. Because each client is different, the assertion of power is distinctive in each case. For Mrs. Celeste, the twice-asserted demand for an emergency assistance grant is one form of power. Her insistence on the court-ordered increase of her granddaughter's child support payments is a second form. Her request for an administrative hearing to halt the reduction of her family's food stamps is a third form, and her sharing information with other foster parents about her effort to challenge the reduction in a lawsuit is a fourth.

Specific to each form is a substantive assertion of power tailored expressly to the context in which Mrs. Celeste found herself. When the context switched (for example, from welfare office to foster parent meeting), the substance of her assertion changed. Mrs. Celeste's ability to adjust her assertion to combat the fluctuating aggressions of impoverishment in public and private life is a mark of an empowering subject. That mark is available to the poverty lawyer in client voices and narratives. But as Mrs. Celeste's demands for emergency assistance grants demonstrate, the incidents of power recounted by the client may seem mundane and even redundant to the lawyer.

92. Careful exploration of client context may disclose alternative justifications for overriding client voice. See, e.g., Margulies, "Who Are You to Tell Me That?": *Attorney-Client Deliberation Regarding Nonlegal Issues and the Interests of Nonclients*, 68 N.C.L. REV. 213 (1990) (examining need for client counseling regarding moral, policy, and psychological consequences of legal action); Simon, *Ethical Discretion in Lawyering*, 101 HARV. L. REV. 1083 (1988) (proposing discretionary approach to lawyer judgment about client claims and goals based on principle of justice promotion); Tremblay, *On Persuasion and Paternalism: Lawyer Decisionmaking and the Questionably Competent Client*, 1987 UTAH L. REV. 515 (endorsing limited concept of lawyer intervention into decisionmaking of incompetent clients).

93. The instrumental logic of silencing is tied to the lawyer's traditional practice of client goal imputation. For examinations of various goal imputation rationales, see Luban, *Paternalism and the Legal Professional*, 1981 WIS. L. REV. 454; Simon, *The Ideology of Advocacy: Procedural Justice and Professional Ethics*, 1978 WIS. L. REV. 29.

94. Neutral claims fare no better in practice than in rule. Critical legal studies ("cls") scholars have mounted repeated attacks on the claim of rule neutrality. See Frug, *Why Neutrality?*, 92 YALE L.J. 1591 (1983); Peller, *Neutral Principles in the 1950's*, 21 U. MICH. J.L. REF. 561 (1988); Tushnet, *Following the Rules Laid Down: A Critique of Interpretivism and Neutral Principles*, 96 HARV. L. REV. 781, 804-24 (1983).

The client's daily struggle to assert power enables her to resist depictions of dependence and inferiority.⁹⁵ In the case of Mrs. Celeste, her struggle materialized in commonplace acts of dignity, caring, community, and rights. Unnoticed in the routine spaces of her public and private life, these acts symbolized alternative forms of knowledge, practices of discourse, and models of individual and collective social action. The experience of daily struggle is the bond connecting client knowledge, discourse, and action.⁹⁶

The ongoing project to expose the ideological underpinnings of poverty law practice does not require absolute renunciation of its traditions; reconstruction rather than disavowal is needed. Reconstruction of the lawyer's narrative meanings and images of the client's world conjoins four practices: suspicion, metaphor, collaboration, and redescription. Suspicion investigates the competing images of the client's world sketched in lawyer and client narratives. Metaphor connects those images to the meanings of withheld narratives. Collaboration integrates the revealed narratives into client story. Redescription announces the client story in advocacy.

A. *Suspicion*

Suspicion is the practice of investigating the primary contradiction of the poverty lawyer's interpretive tradition: the image of client dependency. This image and its attendant meaning are contradicted by the client's public and private assertions of power. These assertions interlace Mrs. Celeste's client narratives which emerge in her continuing struggle to procure emergency assistance grants, feed, clothe, and house her natural children, care for her foster children, assist other foster parents threatened by food stamp reductions, and obtain adequate child support payments for her granddaughter.

95. Roberto Unger points to the "enabling conditions of self-assertion" as evidence of "human possibility." R. UNGER, *PASSION: AN ESSAY ON PERSONALITY* 249 (1984).

96. Poverty lawyers fail to apprehend the meaning of their clients' struggles, preferring to search client character for evidence of pathology. Cf. D. BINDER, P. BERGMAN & S. PRICE, *LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH* 237-56 (1991) (examining techniques for interviewing reluctant, rambling, and hostile clients); D. BINDER & S. PRICE, *LEGAL INTERVIEWING AND COUNSELING: A CLIENT-CENTERED APPROACH* 104-23, 192-210 (1977) (discussing techniques for interviewing and counseling reluctant and difficult clients). Relying on intuition, the lawyer substitutes symptoms of dependent pathology for referential signs of struggle. Misled by the ambiguity of symptoms, the lawyer misreads the meaning of the client world. See S. GILMAN, *DIFFERENCE AND PATHOLOGY/STEREOTYPES OF SEXUALITY, RACE, AND MADNESS* 15-38 (1985); Alfieri, *The Politics of Clinical Knowledge*, 35 N.Y.L. SCH. L. REV. 7 (1990); Boswell, *Jews, Bicycle Riders, and Gay People: The Determination of Social Consensus and Its Impact on Minorities*, 1 YALE J.L. & HUMANITIES 205 (1989); Simon, *Homo Psychologicus: Notes on a New Legal Formalism*, 32 STAN. L. REV. 487 (1980); Specht, *Literary-Critical Interpretation—Psychoanalytic Interpretation*, in *HERMENEUTICS VERSUS SCIENCE?—THREE GERMAN VIEWS* 153 (J. Connolly & T. Keutner trans. 1988). The treatment of client struggle as a disorder to be cured garbles the normative references of the client's narrative text. See P. RICOEUR, *supra* note 49, at 197-221.

The falsification of Mrs. Celeste's struggle to assert power occurred in lawyer narratives.⁹⁷ The narratives failed to assign normative meaning to Mrs. Celeste's talk of emergency assistance applications and delays, food stamp budgets and reductions, and child support payments. Similarly, the narratives failed to grant normative significance to Mrs. Celeste's talk of troubled foster children, uncertain agency placements, unpredictable family court decisions, and monthly foster parent meetings. Bound by a traditional narrative stance, I presumed that talk of these experiences was immaterial, except as it might pertain to my legal aid-endorsed strategy of litigation.

In the absence of suspicion, the poverty lawyer pursues an advocacy strategy which overlooks his narrative falsification of the client's story. Yet at the same time, the lawyer is keenly aware of the falsifications inflicted by the courts⁹⁸ and welfare bureaucracies⁹⁹ constraining his advocacy. He daily witnesses such falsifications in the inconsistency of executive, legislative, and judicial decisionmaking, and in the contradictions of the welfare state.¹⁰⁰ Examples of state falsifications are illustrated by Mrs. Celeste's narratives of erratic family court placements, emergency assistance delays, and food stamp reductions.

Because he bears witness to the events of falsification, the poverty lawyer is able to cast suspicion on the formal procedures, substantive rules, and institutional structures of the "juridical field" within which he practices.¹⁰¹ In a moment of suspicion, the lawyer can transcend juridical falsification; that

97. Falsification is a cardinal theme of critical legal studies. Experiencing falsification at the level of liberal idealism, see Gabel & Kennedy, *Roll over Beethoven*, 36 STAN. L. REV. 1 (1984), has hindered the fashioning of cls reconstructive politics. For considerations of post-cls reconstruction, see Binder, *Beyond Criticism*, 55 U. CHI. L. REV. 888, 892-97 (1988); Cook, *Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr.*, 103 HARV. L. REV. 985, 1005-12 (1990); Coombe, *Room for Maneuver: Toward a Theory of Practice in Critical Legal Studies*, 14 LAW & SOC. INQUIRY 69 (1989).

98. See, e.g., Wilkens, *Legal Realism for Lawyers*, 104 HARV. L. REV. 468 (1990) (examining ramifications of falsification for lawyer practice).

99. See, e.g., Simon, *Legality, Bureaucracy, and Class in the Welfare System*, 92 YALE L.J. 1198, 1233-40 (1983). See generally WOMEN, THE STATE, AND WELFARE, *supra* note 55 (collection of essays analyzing welfare state from perspectives of gender and race).

100. Recent analyses of welfare programs document a variety of procedural and substantive contradictions. See, e.g., Brenner, *Towards a Feminist Perspective on Welfare Reform*, 2 YALE J.L. & FEMINISM 99 (1989) (underfunding of education, job training, and childcare programs contravenes goal of welfare recipient economic independence); Handler, *The Transformation of Aid to Families with Dependent Children: The Family Support Act in Historical Context*, 16 N.Y.U. REV. L. & SOC. CHANGE 457 (1987-88) (by focusing on work requirements and sanctions, welfare job programs fail to enhance recipient job skills to enable economic independence). In assessing the procedural protections mandated by *Goldberg v. Kelly*, 397 U.S. 254 (1970), William Simon observes that client beneficiaries may suffer an increase in unfair treatment at local administrative levels due to an overreliance on state hearing systems: "[T]he hearing system [often] seems to have the perverse effect of reducing pressure for general administrative reform and helping workers and administrators rationalize irresponsible behavior. Rather than correcting errors or trying to get their superiors to do so, the workers tell the beneficiaries to take their claims to hearing." Simon, *The Rule of Law and the Two Realms of Welfare Administration*, 56 BROOKLYN L. REV. 777, 787 (1990) (footnote omitted).

101. See Bourdieu, *The Force of Law: Toward a Sociology of the Juridical Field*, 38 HASTINGS L.J. 805, 817 (1987) ("The juridical field is the site of a competition for monopoly of the right to determine the law.").

moment of transcendence, though ephemeral and fragmentary, is the key to reconstructive practice. Reconstruction compels the lawyer to connect his experience of juridical contradiction with the client's experience of narrative contradiction. The connection may be discovered and vocalized in the lawyer-client contexts of interviewing, counseling, and investigation.

In poverty law contexts, the contradictions of the welfare state often supply the backdrop for interviewing. Mrs. Celeste's narratives of dignity and rights were framed by the contradictions of food stamp and foster care policies; the former attributed income to her household that was in fact unavailable for the purchase of household necessities, the latter encouraged the formation of parent-child bonds only to have them severed. The source of Mrs. Celeste's struggle to protect her family's food stamp entitlement and her certification as a foster parent lay in contradictory state policies which invite public welfare recipient participation in foster parent programs, yet endanger the continuation of the recipient's assistance. The meaning of this contradiction was articulated by Mrs. Celeste in narratives describing the tension between her roles both as a natural and foster parent, and her dual household/care-giver responsibilities. Reconstructive practice cannot resolve this tension. Rather, it seeks to exploit that tension as an opportunity for the client to speak out and tell of her experience in the context of advocacy.

The contradictory client images which surface in lawyer-told client stories offer further opportunities to discover and investigate client narratives. In the story of Mrs. Celeste, lawyer-client narrative images surfaced in oppositional pairings (for example, independence/dependence, competence/incompetence, superiority/inferiority). This clash was spurred by my negation of Mrs. Celeste's different narrative voice. Although lawyer-client difference reinforced the traditional bar limiting access to Mrs. Celeste's narratives, partial access¹⁰² was finally reached through an act of "play."¹⁰³

By play, I mean the deliberate act of shifting the dominant-dependent hierarchy of the lawyer-client relation. In acts of play, the lawyer must willingly share his interpretive power with clients in both the individual and community contexts where he encounters the power of client voices and narratives. It is in such contexts that play may arise and readjust lawyer-client

102. Cf. Geertz, *The Interpretive Revolution: Primordial Sentiments and Civil Politics in the New States*, in *OLD SOCIETIES AND NEW STATES* 105, 111 (C. Geertz ed. 1963) (full access to meaning is denied because of the partition of dependence).

103. My discussion of play is strongly influenced by Clifford Geertz's conception of "deep play." See C. GEERTZ, *Deep Play: Notes on the Balinese Cockfight*, in *THE INTERPRETATION OF CULTURES* 412 (1973). Derived from Jeremy Bentham, Geertz uses this concept in studying the cultural ritual, and social organization of the Balinese cockfight. The term "deep" refers to the wagering, vigor, and unpredictability of the cock match. *Id.* at 431-32. The term "play" alludes to both the form of the match and the shifts in the status of the cock owners and wagers, shifts correlated to the outcome of the match. *Id.* at 435-41. Thus the cockfight is both a means of constructing and expressing the tiered hierarchy of status in Bali. *Id.* at 444-47; see also P. RICOEUR, *supra* note 49, at 186 ("Play is an experience which transforms those who participate in it.").

hierarchy. The playful shifting of hierarchy occurs when the poverty lawyer adopts an interpretive stance that affords the client room to speak. By playfully ascribing to the client properties of power such as independence, competence, and self-determination, the lawyer can open up space for the client to exercise her ascribed powers in public advocacy.¹⁰⁴

While deliberate acts of play are a prerequisite to reconstructive practice, they may surface inadvertently. In the investigative stage of Mrs. Celeste's case, I attended several foster parent group meetings to gather information about the foster care system, explain the developing litigation, and search for additional plaintiffs. Throughout these meetings, I became aware of the gradual subversion of my interpretive power and the shifting of power to the foster parents. This shift flowed out of the foster parents' control over both speech and silence, a power that made my own interpretations tentative and uncertain, and therefore more reliant on the foster parents for affirmation.

The shifting of lawyer-client power and status through acts of play may occur only during brief intervals in the relation. Although the shift in hierarchy may be transitory, play provokes the disquieting suspicion that the client world as described in lawyer narrative may be falsely constructed. In the outside context of Mrs. Celeste's foster parent community meetings, the power of lawyer interpretive practices was held in check by the unrestrained speaking of client voices and narratives. This moment of public speaking about daily struggles suggests the power of collective client voices bound together by trust and experience to disarm and, in fact, displace lawyer narratives.

By recontextualizing client narratives, play helps correct false images of client dependency and incompetence. With respect to interviewing and counseling, the "playful" reordering of discursive and decisionmaking arrangements (for example, who poses questions and recommends options) shifts the horizons of the lawyer's understanding back and forth, creating space for client disclosure of narrative.¹⁰⁵ To comprehend client narrative, the lawyer must call upon the practice of metaphor.

104. "Any expressive form works (when it works) by disarranging semantic contexts in such a way that properties conventionally ascribed to certain things are unconventionally ascribed to others, which are then seen actually to possess them." C. GEERTZ, *supra* note 103, at 447.

105. The movement of the poverty lawyer's interpretive horizons recalls Hans-Georg Gadamer's metaphor of the hermeneutical circle. The circle grants the lawyer an interpretive horizon situated in tradition but restrains the violent tendency to project interpretive pre-understanding onto the client social text. Moreover, the circle encourages the lawyer to reconsider his pre-understanding as he discovers client narratives. The movement of the hermeneutical circle in interviewing and counseling conveys alternative normative understanding of the client's world. Receptivity to the "to and fro" movement of interpretation captures the hermeneutical attitude characterized by the willingness to listen to and learn from the different narratives of client story. See H.-G. GADAMER, *TRUTH AND METHOD*, *supra* note 87, at 93. Gadamer summarizes this attitude in his assertion that: "[A] person trying to understand a text is prepared for it to tell him something." *Id.* at 238.

B. *Metaphor*

Metaphor¹⁰⁶ deciphers the “doubleness”¹⁰⁷ of client events described in lawyer narratives to reveal the meanings and images of client narratives. The promise of metaphor does not lie in the total unfastening of the poverty lawyer’s interpretive stance. Metaphor supplies a practical means of revealing a translatable glimpse of an alternative client normative world, a different reality.¹⁰⁸

Through the practice of metaphor, the lawyer imagines that events composing client story may signify a double meaning or constitute a double referent. The first meaning is prosaic, referring to the concreteness of specific events. This is the meaning inscribed by traditional lawyer practice. In describing these events, the poverty lawyer believes that he brackets his perspective, treating the events as objective phenomena. A prosaic description of the events surrounding Mrs. Celeste’s emergency assistance applications¹⁰⁹ concentrates on her utility “shut offs,” visits to the welfare center and utility company, case worker negotiations, benefit issuance delay, and recoupment procedures. While accurate, this description refers to only a portion of the meanings and images of Mrs. Celeste’s story. A more complete account requires the lawyer to search for a deeper, normative meaning within client events. A metaphorical search of Mrs. Celeste’s story reveals underlying narratives describing her struggle to survive while providing for nine natural and foster children. Mrs. Celeste tells of this struggle in powerful narratives in which the metaphors of dignity, caring, community, and rights signify normative references to an alternative meaning of the events in her story.

Metaphorical description and revelation seek to incorporate the empowering meaning of client narratives into the poverty lawyer’s hearing and telling of client story. The incorporation need not, indeed cannot, be total.¹¹⁰ Even if the result is incomplete, the practice of metaphor may enable the lawyer to tell a fuller story of the client than otherwise would be possible. This possibility hinges on the lawyer’s willingness to experiment with the practice of metaphor throughout the lawyer-client relation, especially in interviewing—the stage of

106. For a detailed study of metaphorical reference, see P. RICOEUR, *THE RULE OF METAPHOR* 216-56 (R. Czerny trans. 1977).

107. C. GEERTZ, *supra* note 103, at 424.

108. Compare Ross, *Metaphor and Paradox*, 23 GA. L. REV. 1053, 1073 (1989) (imagining reality of the other) with Vining, *Legal Affinities*, 23 GA. L. REV. 1035, 1045 (1989) (imagining reality of the self).

109. Numerous events interspersing Mrs. Celeste’s story offer metaphorical illumination, whether they concern emergency assistance, food stamps, foster care, or child support.

110. Wayne Booth argues that total incorporation is secondary to incorporation that is “nourishing” to understanding. W. BOOTH, *CRITICAL UNDERSTANDING: THE POWERS AND LIMITS OF PLURALISM* 267 (1979).

interpretive practice where the violence of silencing is most destructive to client narrative.¹¹¹

To establish the connection between client metaphor and narrative, the lawyer must look beyond prosaic descriptions of events to discern the metaphorical references within client narratives. Even when obliquely stated, the references speak of alternative client meanings and images. In the case of Mrs. Celeste, the metaphor of dignity represents the narrative of her family struggle to survive a state levied food stamp reduction. The metaphor of caring signifies her narrative of foster parenting, particularly her desire to adopt Pablo and Tyrice. The metaphor of community symbolizes her narrative of foster parent association, while the metaphor of rights represents her narrative of food stamp entitlement and parent-child connection. Each metaphor refers to narratives vital to Mrs. Celeste's story and therefore is essential to reconstructive practice.

Client narratives otherwise silenced by interpretive violence at the interviewing stage may emerge through dialogue in counseling. Counseling dialogue can sharpen the contradiction between prosaic description of events and metaphorical reference. By focusing dialogue on client metaphorical referents the lawyer can increase the likelihood of revealing that contradiction. Had I recognized the multilayered dimensions of Mrs. Celeste's narratives, our counseling dialogue may have been greatly enriched. For example, we might have discussed whether federal litigation best served her needs as a food stamp recipient and her aspirations as a foster parent. Based on that discussion, we might have established a more collaborative advocacy strategy in which we decided together what narratives to present in my telling of her story.

Of course, lawyer-client interpretive boundaries¹¹² tend to conceal the connections between metaphor and narrative. Narrative revelation is made possible only by the lawyer's ability to recontextualize his investigation outside of traditional boundaries. This recontextualization may involve a series of collaborative acts calculated to remove the hierarchical imprint of lawyer narrative in order to reconstitute the meaning of client story. The goal of lawyer-client collaboration is to permit the lawyer to eclipse momentarily his dominant-dependent relational vision in order to experience an alternative social arrangement. For the lawyer, recognition of this possibility is the threshold to integrating empowering client narratives into storytelling.

111. An effective method of overcoming the initial effects of silencing is to encourage the client to transcribe her story outside of the lawyer-client context. By writing down her story alone or with the aid of family and friends, the client may be better able to inscribe the story with her own meanings and images. The client's transcribed meanings and images can then be a source of metaphorical reference for the lawyer in future interviewing and counseling sessions.

112. For linguistic and historical analyses of narrative boundaries, see E. FOX-GENOVESE, *WITHIN THE PLANTATION HOUSEHOLD: BLACK AND WHITE WOMEN OF THE OLD SOUTH* (1988); R. LAKOFF, *TALKING POWER* (1990).

C. Collaboration

The practice of collaboration commands lawyer-client co-equal participation in the telling of client story. As a means of guiding all aspects of lawyer-client advocacy, collaboration overrides lawyer claims of neutral and universal narratives. Because client narratives may be unspoken at the outset of the advocacy relation, the lawyer must employ an interpretive paradigm¹¹³ which immediately affirms client voice and narrative. That affirmation must occur at the initial client interview.

The poverty lawyer's affirmation of the client's right to speak her narratives collides with the lawyer's pre-understanding of the client's incapacity to speak. Collaboration challenges the image of the unspeaking client, affirming the client's inherent capacity to speak out in her story, just as in everyday life. By way of collaboration, the lawyer may realize that the banishment of client speech from the public discourse of legal advocacy is due to interpretive practices, not the client's incompetence.

The integration of client-spoken narratives into the public storytelling of advocacy will not come easily. Lawyers are neither sorcerers nor wizards. Client voice and narrative cannot be magically summoned; silence cannot be exorcised.¹¹⁴ But speech can be nourished when it is prized as the touchstone of client integrity.

The materialization of client speech rests on the inclusion of client voice and narrative not only in interviewing, counseling, investigating, and negotiating, but also in litigation. Making room for client voice in the public telling of client story is a crucial element of collaboration. Because that room must be carved out of lawyer-dominated space, the loss may render him vulnerable as he loses his power to silence. With the fading of lawyer interpretive privilege, the client may experience a change in *public* status,¹¹⁵ relinquish her strategy of capitulation, and take up the role of collaborator.

The role of collaborator entitles the client to speak her narratives as a full participant in the storytelling of advocacy. Conversely, collaboration obliges the lawyer to center the voices of the client's narratives in the telling of the client's story. Although defined by reciprocity, the paradigm of collaboration does not offer lawyer-client unity; lawyer-client difference usually militates

113. Cf. H.-G. GADAMER, *PHILOSOPHICAL APPRENTICESHIPS*, *supra* note 71, at 179 ("The 'paradigm' is of decisive importance for both the employment and the interpretation of methodical research and is obviously not itself the simple result of such research.").

114. Collaboration can neither ensure the speaking out of client narratives nor prevent quarrels over their content. I can recommend no easy solution to the quandary of client narratives offensive in content. For a discussion of prescribing narrow limits on hate speech, see Borovoy, Mahoney, Brown, Cameron, Goldberger & Matsuda, *Language as Violence v. Freedom of Expression: Canadian and American Perspectives on Group Defamation*, 37 *BUFFALO L. REV.* 337, 359-64 (1988-89).

115. Cf. E. FONER, *RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION 1863-1877*, at 77-123 (1988) (analyzing status repercussions of emancipation in Reconstruction era); Gudridge, *Privileges and Permissions: The Civil Rights Act of 1875*, 8 *LAW & PHIL.* 83, 118 (1989) (same).

against such union. What collaboration does offer is the commitment to the negotiation of shared responsibilities:¹¹⁶ the responsibility of the lawyer to discern and integrate client narratives into the storytelling of advocacy, and the responsibility of the client to speak her narratives in public when she believes speech will not endanger her well-being. This last proviso is important due to possible retribution from case workers, landlords, or public officials angered by the client's public act of speaking out.¹¹⁷

The mutuality of collaboration permits the lawyer to appreciate the diversity of client narratives, forestalling reliance on a generalized lawyer narrative that is incomplete. To give practical effect to those narratives, the lawyer and client must redescribe the story told in advocacy. There should be no expectation that the advocacy story will comprise the fullness of the client's narratives. Likewise, there can be no guarantee that the narratives will be entirely reliable or reconcilable. Holding the client to a standard of wholly consistent narratives denies the contradictions of the client's world, one defined by the tension between dependent treatment and independent struggle.

While the possibility of multiple, internally inconsistent client narratives outside of the lawyer's view may shake the confidence of pre-understanding, it does not preclude the construction of client story. Construction may go forward with the understanding that the fullness of the story is contingent on the ongoing articulation of client narratives. The purpose of collaboration is to establish an interpretive standpoint common to lawyer and client from which to redescribe the telling of client stories.

D. *Redescription*

Redescription is the revisionist practice of retelling client story consonant with the voices of client narratives. In this retelling, the poverty lawyer discredits traditional images of client dependency by crediting client narratives of daily struggle. The practice of redescription honors client integrity by sifting out the narrative richness of client story omitted by traditional practices of interpretation.

The collaborative focus of redescription embodies a lawyer-client empathy that need not be fully mutual.¹¹⁸ A minimal reciprocity, however, is neces-

116. See B. COMPTON & B. GALAWAY, *SOCIAL WORK PROCESSES* 395-406 (3d ed. 1984) (discussing development of client-worker partnership contracts in social work practice); cf. W. BOOTH, *supra* note 110, at 215, 221-22 (submitting notion of negotiating communicants to describe textual relationships in literary criticism).

117. Lucie White points to retribution and other "direct forms of violence" as an "overwhelming barrier preventing people from speaking out in any but the most guarded, most constrained ways, if they are serious about their own survival." L. White, *Paradox, Piece-Work, and Patience: A Response to Professor Alfieri on Theorizing a New Approach to Poverty Advocacy* 9 (Feb. 15, 1991) (unpublished manuscript).

118. See W. BOOTH, *supra* note 110, at 262 ("[U]nderstanding need not be strictly mutual: you can understand me even when I am misunderstanding you.").

sary to allow the lawyer and client to exchange local knowledge about their opposing interpretive communities. The lawyer's knowledge of client interpretive communities and narratives is diffuse, splintered along lines of age, class, disability, ethnicity, gender, race, and sexual preference. But even when the lawyer-client exchange of knowledge is only partial, each may acquire a rudimentary understanding of community narratives.¹¹⁹

Lawyer understanding is gained by probing revelatory metaphors inscribed by words and images of the client's daily life. The story of Mrs. Celeste contains four revelatory metaphors backed by narrative: dignity, caring, community, and rights.¹²⁰ The narratives speak not only of the history of her individual struggle, but also of the potential for community struggle.¹²¹ That potential was left unfulfilled by my recitation of her story.

Mrs. Celeste's first narrative concerns her struggle to maintain her individual dignity and the dignity of her natural and foster families in the context of poverty. She tells of this struggle when she describes her two utility "shut offs," explaining the exigent logic of balancing food, rent, and clothing against gas and electricity. She also talks of the "hardship" caused by her food stamp reduction, mentioning the "no frills" canned food, "cut downs," and Salvation Army clothing "that wasn't even fit to use."¹²²

Mrs. Celeste's narrative of dignity is not restricted to her struggle for subsistence. Her concept of dignity also encompasses the independence of self-sufficiency. When economic circumstances and the inadequacy of state public welfare benefits overwhelm her ability to sustain herself and her children, she confronts the state public welfare bureaucracy, testifying to the contradictions of her predicament. She remarks: "I went right up to the Department of Social Services and I told them. I had to pay the rent and to buy food."¹²³ Mrs. Celeste's narrative speaks forcefully of her struggle to endure impoverishing

119. For anthropological discussions of narrative interpretation in varied local contexts, see C. GEERTZ, LOCAL KNOWLEDGE 19-35, 147-63, 167-234 (1983); C. GEERTZ, *Thick Description: Toward an Interpretive Theory of Culture*, in THE INTERPRETATION OF CULTURES, *supra* note 103, at 3; Basso, "Stalking with Stories": Names, Places, and Moral Narratives among the Western Apache, in TEXT, PLAY, AND STORY: THE CONSTRUCTION AND RECONSTRUCTION OF SELF AND SOCIETY 19 (S. Plattner & E. Bruner eds. 1984); Bruner & Gorfain, *Dialogic Narration and the Paradoxes of Masada*, in *id.* at 56; Schwartzman, *Stories at Work: Play in an Organizational Context*, in *id.* at 80.

120. Mrs. Celeste's narratives are neither perfectly coherent nor totally stable. Like metaphor, narrative may dissemble meaning. Compare Sherwin, *Law, Violence, and Illiberal Belief*, 78 GEO. L.J. 1785, 1817-18 (1990) (asserting that metaphors may lie) with W. BOOTH, A RHETORIC OF IRONY 233-77 (1974) (suggesting that the lie of narrative may be covert irony floundering in unstable meaning).

Dissembling narrative is no doubt goaded by the tension between public and private visions of client dependence and struggle. For recent examinations of the false dichotomy between public and private worlds, see C. BURTON, SUBORDINATION: FEMINISM AND SOCIAL THEORY 33-56 (1985); Freeman & Mensch, *The Public-Private Distinction in American Law and Life*, 36 BUFFALO L. REV. 237 (1987).

121. For documentation of women's storytelling, see DIGNITY: LOWER INCOME WOMEN TELL OF THEIR LIVES AND STRUGGLES (F. Buss ed. 1985); C. HELBRUN, WRITING A WOMAN'S LIFE (1988); THE PRIVATE SELF: THEORY AND PRACTICE OF WOMEN'S AUTOBIOGRAPHICAL WRITINGS (S. Benstock ed. 1988).

122. See *supra* notes 17-18 and accompanying text.

123. See *supra* note 5 and accompanying text.

conditions in a manner consistent with the imperatives of dignity, independence, and self-reliance. Assertively told, the narrative is fundamental to her story.

A second narrative, sounded in a different voice, pertains to Mrs. Celeste's role as a foster parent. The voice heard in this context spoke a narrative of caring, describing a world of foster parenting both random and rule bound. Certified for the household care of two foster children, Mrs. Celeste immediately received four and subsequently two more. She observes: "You can never say. It could change tomorrow."¹²⁴ Supervision of the children is regulated: "They come to find out how much food, the clothing, the sleeping area, how I keep the kids, you know, what are the privacy, what are the things they do."¹²⁵ Reimbursement is minimal: "The money they give you is not even enough to go around."¹²⁶

The prominence of Mrs. Celeste's narrative of caring is shown by her dedication to an unwieldy group of foster children during the five year period I represented her.¹²⁷ That dedication endures the unpredictability of foster care placement: "The judge orders the child to go back to the mother and nine months later the child has to be ordered to my house again."¹²⁸ Similarly, her dedication withstands the likelihood of disruptive placement: "The girls have gone back to their home and they have come back even worse than when I first had them."¹²⁹

A third adjoining narrative also relates to Mrs. Celeste's role as a foster parent. This narrative carries the distinctive voice of community, a voice heard when she spoke of other foster parents. It is unclear whether she looked upon these parents as distant colleagues or as friends. It is plain, however, that Mrs. Celeste considered herself one among these parents and deemed them members of an extended community. At times, she would speak about this community, mentioning "good" and "bad" parents and frequently calling my attention to parents suffering under the same threat of food stamp reduction. On these occasions, she would stop and describe the parent, tell where and how they met, what they talked about, and whether the parent would call me for help.

From these talks, I learned that Mrs. Celeste participated in a regular meeting of foster parents sponsored by her private foster care agency. Organized ostensibly for the purpose of training, in time the meetings acquired the more profound purpose of providing foster parents a private forum for the sharing of experiences, for the telling of stories. It was here, I discovered, that

124. See *supra* note 19 and accompanying text.

125. See *supra* note 25 and accompanying text.

126. See *supra* note 21 and accompanying text.

127. Subsequent to the settlement of the lawsuit, Mrs. Celeste adopted Pablo; her adoption of Tyrice is now pending. The remainder of the foster children—Nilsa, Salas, Vilma, and Sarmiento—returned to their natural families.

128. See *supra* note 27 and accompanying text.

129. See *id.*

Mrs. Celeste shared a fuller story of her struggle to protect her natural family's food stamp entitlement. As the story evolved into a litigated defense of that entitlement, Mrs. Celeste's narrative gained power. Emboldened, several foster parents joined the lawsuit. Several more made inquiries. The narrative that inspired this larger participation is the fourth strand of Mrs. Celeste's story, the narrative of rights.

Mrs. Celeste's narrative of rights did not speak explicitly of legal rights and entitlements. While she put no great store in the abstract talk of rights, in the concreteness of her daily life she aggressively asserted rights on behalf of her family, i.e., child support, emergency assistance, and food stamps. Each assertion implied an instrumental usage: child support and food stamps to feed her natural family, emergency assistance to resupply gas and electricity.

Mrs. Celeste's commitment to rights survived the capriciousness of both bureaucratic and judicial enforcement. On emergency assistance, she points out, "To my knowledge, if I don't sign [recoupment papers] I don't get the money for the gas and electricity."¹³⁰ On food stamps, she complains, "I don't know why the food stamps go down. I don't know why they go up either."¹³¹ Even when court enforcement of her granddaughter's child support right proves wanting, Mrs. Celeste never abandons rights. She explains, "He [the father] wanted to give Azalia only ten dollars. I said, 'No, that is not going to be the way. You have to go by the court.' The court made it thirty-five dollars."¹³²

Equally significant is Mrs. Celeste's commitment to the interpersonal connections unsanctioned by rights. Mrs. Celeste's narrative confirms an extant connectedness¹³³ outside of traditional rights discourse. She notes, "I consider Sarmiento and Pablo my kids even though I have no authority over them."¹³⁴ At the same time, her narrative asserts the need for the minimal protection of rights, the rights of bare subsistence.¹³⁵

Despite her power to speak, the voices of Mrs. Celeste's narratives were largely unheard in my storytelling of advocacy. Silenced by the violence of interpretive practices, the voices withdrew to private domains of family and foster parent community. The withdrawal of client voices from the public domain of advocacy is a reaction to the encounter with interpretive violence,

130. See *supra* note 7 and accompanying text.

131. See *supra* note 8 and accompanying text.

132. See *supra* note 35 and accompanying text.

133. See J. CONLEY & W. O'BARR, RULES VERSUS RELATIONSHIPS 58-81 (1990) (comparing rule and relational litigant orientations to disputes).

134. See *supra* note 31 and accompanying text.

135. On the continuing vitality of rights, see Delgado, *Critical Legal Studies and the Realities of Race—Does the Fundamental Contradiction Have a Corollary?*, 23 HARV. C.R.-C.L. L. REV. 407 (1988); Freeman, *Racism, Rights and the Quest for Equality of Opportunity: A Critical Legal Essay*, 23 HARV. C.R.-C.L. L. REV. 295, 315-35 (1988); Horwitz, *Rights*, 23 HARV. C.R.-C.L. L. REV. 393 (1988); Hunt, *Rights and Social Movements: Counter-Hegemonic Strategies*, 17 J.L. & SOC'Y 309 (1990); Milner, *The Denigration of Rights and the Persistence of Rights Talk: A Cultural Portrait*, 14 LAW & SOC. INQUIRY 631 (1989).

a reaction not unique to Mrs. Celeste or the discrete circumstances of food stamp/foster care households. It is a tendency shaped by the dominant-dependent dialectic mediating the lawyer-client relation in poverty law.

The collaborative practice of redescription furnishes a means of reconfiguring that dialectic. Guided by suspicion and metaphor, the practice works to discern and invert the competing normative images—dominance/dependence, superiority/inferiority, subject/object, speech/silence—projected by competing lawyer and client narratives. This point is decisive to reconstruction. Lawyer-driven reconstruction is an errant and futile labor. While certain peripheral images may be redrawn, the central image of the client as a dependent and inferior object will be reproduced substantially intact. To decenter this image, the lawyer must recontextualize poverty law advocacy by embracing client community settings. My attendance at Mrs. Celeste's foster parent group meetings is one such example.

Another ingredient of redescription is "emplacement," a tactic focusing on client community integration in traditionally lawyer-dominated contexts. The contexts include poverty law offices, public welfare bureaucracies, administrative and legislative hearings, and courts. Emplacement re-describes these contexts by physically introducing the empowering images and voices of individual clients and client community groups.

In poverty law offices, emplacement of client community support groups facilitates collaboration in interviewing, investigation, counseling, negotiation, and litigation strategy. To be effective, emplacement must be implemented by institutional procedures to regulate and ensure lawyer-client collaborative practices. Consistent with their purpose, the procedures should be collaboratively formulated, rather than lawyer enacted. To form client community support groups, the lawyer must look to his client base and search out those willing to participate in the education and organization of potential group members. Client support groups may be organized based on activities such as negotiation or counseling, member status such as foster parent or food stamp recipient, or subject matter such as food stamp reductions.

In public welfare bureaucracies, emplacement may involve direct client-caseworker negotiation, rather than lawyer intervention. At administrative hearings, emplacement may entail client asserted legal argument and cross examination. In courts, emplacement may comprise client argument, testimony, and note taking. At legislative hearings, emplacement may call for client testimony. Whatever the setting, the emplacement of client voices and images recontextualizes the storytelling of poverty law advocacy, re-describing story in a way inclusive of client narratives.

VI. CONCLUSION

The repair of poverty law traditions, when it comes, must be grounded in the lawyer's commitment to client narratives. Only after poverty lawyers make such a commitment will they be able to judge the effects of integrating empowering client narratives into the storytelling of advocacy. I hope they will reach a favorable judgment of empowering narrative, and therefore pause before reproducing in story a false vision of client dependency.

My further hope is that the recasting of client story will enhance the client's power to act independently and collectively upon the laws and legal institutions regulating impoverished communities. Whether a particular client ultimately takes up such action is secondary; the primary task is to restore integrity to the voices and stories which may inspire change. In undertaking this task, I harbor no illusions of millennial transformation; meaningful progress is often imperceptible, occurring at the margins of knowledge and method.

To aid in fomenting change, the poverty lawyer must reconstruct his interpretive framework, especially the notion of winning. "Winning the case" is the yardstick by which success is measured in our adversarial system. The poverty lawyer shares this ethos with all lawyers. But "winning" may often hold a different meaning in the poverty law context. Here, outcome may extend beyond material benefits and compensation to encompass deeper ideals of political and socioeconomic progress, and affirmation of individual or group identity and dignity. Because lawyer and client are battered by the daily assaults of impoverishment, such ideals often succumb to more tangible measures of success.¹³⁶

On a traditional accounting, the story of Mrs. Celeste is a story of winning at advocacy both in terms of direct service and law reform. On direct service grounds, Mrs. Celeste and three similarly situated foster care parents each received retroactive food stamp payments in awards reaching up to five thousand dollars. On a law reform basis, settlement of the federal lawsuit invalidated the unfair provisions of two state-sanctioned federal regulations, thus sparing numerous foster parents the economic hardship of reduced food stamp allotments.

The strength of this winning should not foreclose meditation on the costs of poverty law advocacy. Even when the advocacy is vigorous and well-intentioned, as here, there is a cost. The cost is paid for by the lawyer's purchase of the client's story, and with it, her voice and narrative. This is the

136. See C. Gilkerson, *Poor Stories: Of Law, Lawyers, and the Disempowered* 62-74, 79-86 (May 24, 1991) (unpublished manuscript) (arguing that poverty lawyer's role as storyteller should be guided and constrained by client's narrative purpose and client's perspective of harm). Christopher Gilkerson writes: "The [poverty] lawyer needs to accept that litigation failure may result paradoxically in representational success." *Id.* at 81.

historical price of poverty law, the image of the unspeaking client. The legacy of winning is client powerlessness.

The reconstruction of poverty law advocacy and its inheritance of client powerlessness will not be accomplished with patchwork procedures. A new interpretive paradigm requires new methods of interviewing, counseling, investigation, negotiation, and litigation capable of integrating client empowering narratives in lawyer storytelling. These methods must be ploughed up from lawyering traditions.

The ploughing of these traditions is an ongoing project. At hand is the task of burrowing into, hollowing out, and reconstructing violent interpretive practices. For reconstruction to take place, it is necessary to unearth the silenced voices and forgotten narratives of clients. In the speaking of client narratives and in the telling of client stories, interpretive violence in poverty law practice may be overcome.