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## Through a Crow-Tit and a Stork: Humanizing Poverty in Japan

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## I OVERVIEW

The shooting spree sent shock waves throughout Japan in 1968.<sup>1</sup> When Norio Nagayama first emerged in public on April 7, 1969, his arms held by police officers, a mass of reporters rushed to surround him, all too eager to catch a glimpse of the teen gunman.<sup>2</sup> In fact, the entire nation's eyes were on the killer who had fatally shot four people between October 11 and November 5, 1968.

In 1971, the publication of his ardent autobiographical novel, *Muchi-no Namida (Tears of Ignorance)*,<sup>3</sup> thrust the convicted killer into the limelight again.<sup>4</sup> Garnering critical acclaim, the work can be construed as the culmination of the inner turmoil he suffered. Once an impoverished youth, the self-educated killer had endured physical and emotional pain in a broken home.<sup>5</sup> An award-winning author behind bars, Nagayama was an unorthodox death row convict. He earnestly pursued his passion for socioeconomic injustice through his literary works.<sup>6</sup> He was sentenced to death by the Tokyo District Court in 1979.<sup>7</sup> After nearly three decades of incarceration, on August 1, 1997,

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<sup>1</sup> Saikō Saibansho [Sup. Ct.] July 8, 1983, 1981 (A) 1505, 37 KEISHU 609 (Japan). *See generally, e.g.*, NAGAYAMA NORIO, *MUCHI-NO NAMIDA [TEARS OF IGNORANCE]* (1971); HORIKAWA KEIKO, NAGAYAMA NORIO (2013).

<sup>2</sup> *See* HORIKAWA, *supra* note 1, at 14–15; Cherry Casey, *The Death-Row Killer Who Inspires the Children of Peru*, INDEP. (July 29, 2021, 1:24 PM), <https://www.independent.co.uk/independentpremium/long-reads/norio-nagayama-japan-murderer-peru-b1888702.html> [<https://perma.cc/9MZV-VY9V>].

<sup>3</sup> *See generally* W, *MUCHI-NO NAMIDA [TEARS OF IGNORANCE]* (1971).

<sup>4</sup> *See* HORIKAWA, *supra* note 1, at 51 (explaining that more than 60,000 copies were sold during the first three weeks alone).

<sup>5</sup> *See id.* at 478–79.

<sup>6</sup> *See, e.g., id.* at 414.

<sup>7</sup> *See* Mark Kuramitsu, *Prison Author's Death Sentence Upheld*, UPI (Apr. 17, 1990), <https://www.upi.com/Archives/1990/04/17/Prison-authors-death-sentence-upheld/6523640324800/> [<https://perma.cc/2H7K-T6RB>]. Regarding the judicial proceedings of the Nagayama case, see an overview contained in Part IV (“Rhetoric of Individual Effort”) of this Article. *See infra* Part IV.

Nagayama was executed by hanging at the Tokyo Detention Center at the age of forty-eight.<sup>8</sup>

Nagayama's story illuminates the human toll of economic inequality. Japan has observed an increase in heart-wrenching crimes inextricably tied to poverty.<sup>9</sup> For instance, in 2010, two toddlers were starved to death, having been abandoned by their mother, a twenty-three-year-old adult entertainment shop worker.<sup>10</sup> Left to fend for themselves, a three-year-old girl and a one-year-old boy scavenged for food all over their apartment.<sup>11</sup> Similar tragedies of child neglect/abandonment have occurred throughout the nation. Moreover, in December 2021, a fatal arson attack triggered headlines: a sixty-one-year-old man deliberately set fire to a psychiatric clinic, leaving twenty-six people dead.<sup>12</sup> Having been denied welfare benefits, he had lived a solitary existence.<sup>13</sup> More recently, the assassination of former Japanese Prime Minister Shinzo Abe shook the nation.<sup>14</sup> A forty-one-year-old jobless recluse shot and killed Abe during a campaign event in July 2022.<sup>15</sup> Hailing from an affluent family, the gunman had been thrown into poverty after his mother reportedly donated 100 million yen (roughly US\$754,880) to

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<sup>8</sup> HORIKAWA, *supra* note 1, at 446.

<sup>9</sup> See generally, e.g., ARAI NAOYUKI, CHAIRUDO PUA 2: HINKON-NO RENSA-KARA NOGARENARENAI KODOMOTACHI [CHILD POVERTY SECOND EDITION: CHILDREN WHO CANNOT ESCAPE POVERTY] (2015); NHK SHUZAIHAN, JYOSEI-TACHI-NO HINKON [WOMEN'S POVERTY] (2014); KUROKAWA SHOKO, KODOMO-WA OYA-O ERABANAI [CHILDREN CANNOT CHOOSE THEIR OWN PARENTS] (2018); Junichiro Nakajima, *Nihon-jin-wa "Wakamono-no Hinkon" Kitsu-na Jittai-o Wakatteinai* [Japanese Do Not Fully Understand the Realities of Poverty Facing Younger People], TOYO KEIZAI ONLINE (Dec. 31, 2021, 6:30 AM), <https://toyokeizai.net/articles/-/479877> [https://perma.cc/ZG53-UPDY].

<sup>10</sup> See, e.g., *Mom Held After Children Found 'Starved to Death' in Osaka Flat*, JAPAN TIMES (July 31, 2010), <https://www.japantimes.co.jp/news/2010/07/31/national/mom-held-after-children-found-starved-to-death-in-osaka-flat/> [https://perma.cc/4DL5-9QXX]. The article notes that the mother, Sanae Shimomura, was quoted as telling investigators that she had grown "sick of feeding them and giving them baths." *Id.* Starvation itself has slowly emerged as an alarming issue among the poor in Japan. In 2020, for instance, a poverty-stricken fifty-seven-year-old mother and her twenty-four-year-old son were found dead from starvation in a housing complex. *Poverty-Stricken Mother and Son Found Dead in Osaka from Suspected Starvation*, THE MAINICHI (Feb. 29, 2020), <https://mainichi.jp/english/articles/20200228/p2a/00m/0na/039000c> [https://perma.cc/ECL9-FU3M].

<sup>11</sup> See *Mom Held After Children Found 'Starved to Death' in Osaka Flat*, *supra* note 10.

<sup>12</sup> *Last Victim in Deadly Osaka Clinic Arson Dies Early on March 7*, ASAHI SHIMBUN (Mar. 7, 2022, 5:23 PM), <https://www.asahi.com/ajw/articles/14566079> [https://perma.cc/4875-QD74].

<sup>13</sup> *Id.*

<sup>14</sup> See *Satsui-no Shinso* [Truth Behind the Intent to Kill], SHUKAN ASAHI, 14–16 (July 22, 2022).

<sup>15</sup> *Id.*

the Unification Church.<sup>16</sup> The poignant human dramas behind these infamous crimes, to name a few, should collectively turn into a keen reminder: poverty *is* among us, and it is profoundly affecting our society.

The legacy of the Nagayama case endures and resonates<sup>17</sup> amid and beyond the coronavirus pandemic that has swept across the globe.<sup>18</sup> COVID-19–induced poverty has created challenges worldwide, disproportionately affecting the unprivileged. Economic turmoil triggered by the health crisis has widened the class gap in Japan as well.<sup>19</sup> Nevertheless, the persistence of socioeconomic barriers tends to escape public attention. To many Japanese, life in poverty feels a world away, something far too removed from their own lives. Especially here in Tokyo, a triumphant embodiment of Japan’s global economic power, many are under the illusion that poverty remains virtually nonexistent.<sup>20</sup> Deeper exploration, however, will unearth poignant realities often overlooked. Most notably, one in seven Japanese

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<sup>16</sup> *Id.*

<sup>17</sup> See, e.g., *Lingering Pandemic Fuels a Rise in Poverty in Japan*, NHK WORLD-JAPAN (May 25, 2022), <https://www3.nhk.or.jp/nhkworld/en/news/ataglance/2105/> [<https://perma.cc/DK9T-2HV2>]. NHK World-Japan reports how the pandemic has forced the middle class to suffer economically. *Id.* One report includes a video showcasing a line of needy residents patiently waiting to receive food and other daily necessities at a church. See also Kenji Hirano, *Hanged Spree Killer Still Provoking Human Rights Debate*, KYODO NEWS (Aug. 13, 2019, 3:35 PM), <https://english.kyodonews.net/news/2019/08/bdeed9c16192-feature-hanged-spree-killer-still-provoking-human-rights-debate.html> [<https://perma.cc/34D8-QYRH>].

<sup>18</sup> See generally, e.g., Carolina Sánchez-Páramo, *Covid-19 Will Hit the Poor Hardest. Here’s What We Can Do About It*, WORLD BANK BLOGS: VOICES (Apr. 23, 2020), <https://blogs.worldbank.org/voices/covid-19-will-hit-poor-hardest-heres-what-we-can-do-about-it> [<https://perma.cc/QUN8-TLDC>]. See also Nicolette Schneiderman, *Five Facts About Child Poverty in Japan*, THE BORGENT PROJECT (Sept. 9, 2020), <https://borgenproject.org/child-poverty-in-japan/> [<https://perma.cc/5YZY-G6FK>] (noting that “[c]hild poverty in Japan has been an issue for decades,” but the Japanese government failed to confront the issue until 2009).

<sup>19</sup> Alex K.T. Martin, *Japan’s Growing ‘Underclass’ Creeps Under Weight of Pandemic*, JAPAN TIMES (Sept. 30, 2021), <https://www.japantimes.co.jp/news/2021/09/30/national/pandemic-wealth-gap/> [<https://perma.cc/T2J2-2XZP>].

<sup>20</sup> YUMIKO WATANABE, KODOMO-NO HINKON [CHILD POVERTY] 12 (2018).

children lives in a state of poverty.<sup>21</sup> Japan has one of the highest child poverty rates in the developed world.<sup>22</sup>

Too often, the concept of equality exists only on a piece of paper, devoid of practical application to our day-to-day realities. Considering inequality, many of us find it easy to explore it from a distance, from the vantage point of our living room sofa, with a smartphone in hand. Likewise, some socialist elites may craft a cliché-ridden argument filled with lofty ideals. On the other hand, some critics may view poverty as a self-inflicted wound, calling on the poor to climb out of their own circumstances. Human rights issues are diverse and complex. Poverty remains one of the many injustices we face as well as one of the many imperfections we live with. If we cannot do justice to them all, how should we prioritize the areas of focus? Where does poverty stand on that spectrum? If perfection can never be achieved, where should we strike a balance among the competing values? This art of drawing lines has posed persistent challenges, transcending borders and cultures.

As a Japan-born, U.S.-qualified lawyer, I have explored inequality in a broader context surrounding comparative perspectives. *Equality before the law*, proclaims the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.<sup>23</sup> The Equal Protection Clause has become a vital source of individual legal rights in the United States.<sup>24</sup> It commands that no state shall “deny to any person within its jurisdiction the equal protection of the laws.”<sup>25</sup> The pages of American history are filled with the hard-fought struggles of litigants who sought to prove themselves worthy of inclusion in the nation’s

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<sup>21</sup> See, e.g., *Japan Gov't to Create Database Aimed at Preventing Child Poverty*, KYODO NEWS (Nov. 23, 2021, 9:14 PM), <https://english.kyodonews.net/news/2021/11/edbd617e2eae-japan-govt-to-create-database-aimed-at-preventing-child-poverty.html> [https://perma.cc/PVF9-3QNM]. From a comparative perspective, the article shares the following information: “The child poverty rate in [2018] was 12.4 percent in Britain, 11.8 percent in Canada and 11.7 percent in France. In the United States, it stood at 21.2 percent as of 2017.” *Id.* In 2014, the Japanese ministry reported that one in six children lived in poverty. ASAHI SHIMBUN SHUZAIHAN, KODOMO-TO HINKON [CHILDREN AND POVERTY] 27 (2016).

<sup>22</sup> Grace Lee, *Coping with Child Poverty in Japan*, CGTN (Oct. 22, 2020, 10:00 PM), <https://news.cgtn.com/news/2020-10-22/Coping-with-child-poverty-in-Japan-UNORoSPeuY/index.html> [https://perma.cc/SXT7-CUKP].

<sup>23</sup> U.S. CONST. amend. XIV, § 1.

<sup>24</sup> JOHN E. NOWAK & RONALD D. ROTUNDA, CONSTITUTIONAL LAW 568 (1991).

<sup>25</sup> U.S. CONST. amend. XIV, § 1.

legal community.<sup>26</sup> However, the stark reality persists: only certain underrepresented groups receive constitutional protection. In *San Antonio Independent School District v. Rodriguez*,<sup>27</sup> a hotly contested five-to-four ruling, the Supreme Court acknowledged poverty as a non-suspect classification for equal protection purposes.<sup>28</sup> Difficult questions of value arise as to precisely what traits fall within the sphere of immutability under the Equal Protection Clause.

Considering Nagayama's story made me reexamine my role as a lawyer-turned-educator. Although diversity itself has emerged as a keenly felt issue in today's Japan, socioeconomic diversity tends to escape attention. My task is to help laypersons navigate their way through the unfamiliar world of poverty without dealing with the intricacies of legal analysis. I asked myself: How can I put human faces on the gnashing metal sounds of a factory town in the landscape of contemporary Japan? How can I engage and inspire my students to contribute their insights, observations, and experiences so we can explore the issues from multiple angles?

I have chosen to integrate the art of storytelling into teaching, aiming to demystify law and spark an active interest in poverty. Narratives help us leave our own world temporarily and place ourselves in the larger society. Following the pandemic-driven cancellation of face-to-face instruction, I have also embraced the challenge of presenting interactive and engaging online courses aimed at a broader, international audience. From college students to orchestra musicians, participants from overseas have been invited to engage in dialogues in my transnational classroom. This helped us foster a more inclusive learning environment deriving from multiple, cross-cultural perspectives.

Being a dynamic communicator remains a universal challenge among lawyers, especially as advocates of civil liberties and

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<sup>26</sup> Kenneth L. Karst, a recognized expert on constitutional equality, stated, "Constitutional litigation serves as a process in which the ideal can be brought to life at least in the behavior of litigants." KENNETH L. KARST, *BELONGING TO AMERICA: EQUAL CITIZENSHIP AND THE CONSTITUTION* 42 (1989).

<sup>27</sup> *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973).

<sup>28</sup> In scrutinizing legislation, the Supreme Court employs a three-tiered analysis, including minimal scrutiny (or the national relationship test), heightened or intermediate scrutiny, and strict scrutiny. Minimal scrutiny, at issue here, requires the state to prove a mere rational or reasonable relation to a legitimate state interest. *See, e.g., Dandridge v. Williams*, 397 U.S. 471, 486 (1970). As will be discussed, the impoverished, as compared to racial minorities, have been afforded diminished constitutional protection in the name of rational basis review. *Id.* at 485–87.

community leaders. Socially subordinated groups may seek redress for their grievances through legal professionals. In the words of one scholar, “No occupational group in American history has a more distinguished tradition of leadership in the struggle for social justice [than lawyers].”<sup>29</sup> Attorneys should equip themselves with an ability to cultivate engaging and memorable learning opportunities regardless of their specific job duties. We need to fulfill our duty to teach laypersons unprepared to delve into the intricacies of legal analysis. We may also need to craft and articulate messages that engage human emotions and make a behavioral impact.

This Article describes my endeavor as a legal educator to humanize poverty, making it more relevant to a nonlegal audience both on and beyond the university campus. While teaching inequality, I find it vital to create a platform for inspiring dialogue, building understanding and empathy, identifying challenges, and exploring solutions. Even the seemingly long journey of poverty reduction must begin where we stand. To embark on that journey, legal professionals, academics or otherwise, should consider employing the art of storytelling as a powerful tool for enhancing awareness and inspiring action. By making the best use of this tool, we can create educational opportunities to examine an invisible culture of social inequality in Japan as well as our rhetoric of individual effort. Part II summarizes the Nagayama case and explains how it further made me reflect on socioeconomic inequality from a Japan-U.S. comparative perspective. Part III explores “invisible” poverty in Japan and some challenges we face in our supposedly prosperous nation. Part IV critically examines the sweet-sounding rhetoric of individual effort. Parts V and VI describe my effort to integrate the art of storytelling into teaching, creating a transnational classroom across borders. Part VII introduces excerpts from *Bohemians*, my own culturally unique “textbook” interweaving scholarship and storytelling. Finally, Part VIII discusses how we can start educating and inspiring future leaders who help nurture a less polarized society.

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<sup>29</sup> Deborah L. Rhode, *Institutionalizing Ethics*, 44 CASE W. RESRV. L. REV. 665, 736 (1994).

## II POVERTY IN JAPAN AND BEYOND

Skyscrapers soar into the sky. Night falls. The city lights up and comes to life again. I stand still, enveloped in the urban symphony of the Shibuya District, in the heart of Tokyo. Ugly and beautiful symphony from arcades, from sidewalk cafés, from night clubs. I look away and into the sky, lit up for the night. Standing alone in the heart of a sprawling metropolis, I stare at a sea of urbanites from a distance.

A woman clutching a Gucci bag inspects her immaculately polished nails while waiting for the walk signals to turn green at Shibuya Scramble Crossing, the world's busiest pedestrian crosswalk. A blue-haired man sips coffee at a sidewalk café, immersed in his own Spotify/Apple Music world, earbuds plugged into his ears. A group of twenty-something women, on their way to their shopping destination, pause to take selfies, conversations punctuated with girlish giggles. An Uber Eats delivery worker bicycles past the crowd in the middle of a busy traffic cycle. In this lively community, I pause to savor the symphony of youthful energy.

My gaze shifts from this dazzling world of posh boulevards and upscale boutiques to Nishimura Fruit Parlor across the street, where a death row killer worked. I envision a newly arrived young man, a *kin-no tamago* (golden egg).<sup>30</sup> Fresh out of middle school on a northern island, he worked as a clerk at the fruit shop within an easy walking distance from right here, where I stand.

I ask myself: How can I help my students develop empathy toward the experience of the unprivileged? How can I help illuminate the darkened streets in the shadow of sprawling buildings and luxury apartments, within the neon-drenched landscape filled with hip, young Tokyoites? How can I put human faces on factories, taverns, construction sites, nursing homes—the world concealed from plain view?

Before me soar the vast expanses of skyscrapers.

### *A. Nagayama's Story*

The teen killer shocked the nation in the 1960s. That was when the nineteen-year-old Nagayama stole a handgun at a U.S. military base and randomly killed four people: two taxi drivers and two security

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<sup>30</sup> HORIKAWA, *supra* note 1, at 14.



guards.<sup>31</sup> A man born into extreme poverty, Nagayama viewed ignorance as the legacy of poverty ultimately triggering his crime.<sup>32</sup> His father, an addicted gambler, had disappeared in his early childhood.<sup>33</sup> His mother had abandoned him and his siblings for an extended period.<sup>34</sup> Nearly starved, the children rummaged for food in a garbage bin in a public park.<sup>35</sup> Nagayama later became a recluse, a target of bullying at school.<sup>36</sup> Leaving home fresh out of junior high school, he began to assemble a new life in the heart of Tokyo.<sup>37</sup> Largely illiterate, he began working as a fruit shop clerk in the Shibuya District.<sup>38</sup>

Following incarceration, the spree killer devoured books: Kant. Goethe. Freud. Socrates. Dostoevsky.<sup>39</sup> He poured himself into the pursuit of a literary career within the confines of his prison cell.<sup>40</sup> Sometimes he himself sounded like a scholar, poet, philosopher.<sup>41</sup> But more importantly, he called himself an advocate for social justice.<sup>42</sup> While incarcerated, Nagayama aspired to employ the power of the written word. His writing reflects the unspoken anguish he had been unable to pour out to anyone. In his first book, he chose to translate a synthesis of thoughts and experiences into a message to convey as if to transcend his turbulent childhood memories.<sup>43</sup> Titled *Muchi-no Namida (Tears of Ignorance)*, this autobiographical novel and collection of poetry and prose turned into a national bestseller. Running deep in his literary works is the emotional pain he had suffered as a child from a broken home crippled by poverty.<sup>44</sup> “When I awake every morning,” writes Nagayama, “I would recite the following passage in English: ‘Poverty kills the social sentiments in man, destroys in faith

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<sup>31</sup> See generally NAGAYAMA, *supra* note 1; HORIKAWA, *supra* note 1.

<sup>32</sup> NAGAYAMA, *supra* note 1, at 241–42. See generally HORIKAWA, *supra* note 1 (Horikawa, an award-winning journalist, authored this book based on Nagayama’s extensive interviews with a psychiatrist.).

<sup>33</sup> HORIKAWA, *supra* note 1, at 478–79 (summarizing Nagayama’s family background).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 112–13.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> See, e.g., NAGAYAMA, *supra* note 1, at 337, 374.

<sup>40</sup> *Id.* at 415.

<sup>41</sup> See, e.g., *id.* at 223 (Nagayama calling philosophy his “solace” as well as “friend”).

<sup>42</sup> HORIKAWA, *supra* note 1, at 53.

<sup>43</sup> *Id.*

<sup>44</sup> NAGAYAMA, *supra* note 1, at 410.

all relations between man. He who is abandoned by all can no longer have any feeling for those who have left him to his fate.”<sup>45</sup>

The author’s unspoken anguish comes alive in the reader’s mind, evoking the sights, smells, and sounds of his childhood landscape. The pain inflicted by his own mother’s abandonment never remained far from his thoughts.<sup>46</sup> His second book, *Kibashi (Wooden Bridge)*, won the Japan Literature Award in 1983. The former gunman pursued a literary career with unprecedented zeal. Evidently, his prolific writing career grew out of his fierce determination to seek socioeconomic justice. Nagayama dedicated this book to the youth hailed as *kin-no tamago* (golden eggs) during Japan’s postwar reconstruction period.<sup>47</sup> He used the phrase referring to fifteen-year-olds fresh out of junior high school who, like himself, embarked for the metropolis from their rural hometowns to land low-wage jobs.<sup>48</sup> Forced to sustain an independent existence at the tender age of fifteen, they began working at stores, factories, etc. as soon as they finished their compulsory education at ninth grade.<sup>49</sup> Called cheap labor during the reconstruction period, these adolescents were hailed as “golden eggs.”<sup>50</sup> Nagayama himself departed as one of those “golden eggs” from Abashiri, a town with harsh winters on Japan’s northern island.

The egalitarian views explicitly expressed in the book imply that he had used “golden eggs” as a more expansive, all-encompassing term, not necessarily limited to those who fit squarely into the preceding definition.<sup>51</sup> It would be fair to interpret, from the context of the novel, that Nagayama had sought to convey his messages to the impoverished in general.<sup>52</sup> A self-described socialist, Nagayama loathed capitalism.<sup>53</sup> Imagining the future beyond the closed door of his prison cell, he articulated a desire to launch a community outreach program aiming to assist impoverished children and youths by offering free tutorial sessions and matching participants with mentors.<sup>54</sup> He articulated a

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<sup>45</sup> *Id.*

<sup>46</sup> See HORIKAWA, *supra* note 1, at 33, 44.

<sup>47</sup> *Id.* at 14.

<sup>48</sup> See generally SAWAMIYA YU, SHUDAN SHUSHOKU [GROUP EMPLOYMENT] (2017).

<sup>49</sup> See, e.g., HORIKAWA, *supra* note 1, at 14–15.

<sup>50</sup> *Id.*

<sup>51</sup> See generally NAGAYAMA, *supra* note 1.

<sup>52</sup> See, e.g., *id.* at 193, 278.

<sup>53</sup> See, e.g., *id.* at 339.

<sup>54</sup> JAPAN INNOCENCE & DEATH PENALTY INFO. CTR., *Hundreds Commemorate Life of Late Death Row Inmate Nagayama* (Aug. 1, 2009), [https://www.jiadep.org/Nagayama\\_Norio.html#:~:text=Hundreds%20of%20people%20commemorated%20the,12th%20anni](https://www.jiadep.org/Nagayama_Norio.html#:~:text=Hundreds%20of%20people%20commemorated%20the,12th%20anni)

desire to donate the proceeds from his publications to the families of his victims and children in Peru.<sup>55</sup> His literary pursuits, as well as his self-education and self-empowerment, have been construed by some as embodying the resilience of human spirit. Following his execution, his former wife scattered his ashes over the Sea of Okhotsk.<sup>56</sup> Nagayama married the woman after his conviction.<sup>57</sup> Having endured her own grave family circumstances, she had reached out to Nagayama through correspondence, and the two eventually married.<sup>58</sup> Although they ultimately divorced, she remained one of his numerous supporters as a death penalty opponent and social activist.<sup>59</sup>

Twenty-five years have passed since his execution. Debates persist over the need to reevaluate the effects of poverty on Nagayama's crime. The teen killer's legacy lives on, provoking debate on poverty.<sup>60</sup> Pondering Norio Nagayama's journey provides valuable insights and observations as we explore socioeconomic injustice.

### ***B. A U.S. Example: Refusal to Acknowledge Poverty as a Suspect Class***

Delving deeply into the Nagayama case pulls me back into the memories of my law school days in the United States. That is where I

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versary%20of%20his%20execution [https://perma.cc/8UNV-SLT8] (quoting comments of Nagayama's former defense attorney, Kyoko Otani: "It was highly likely that he would have led a life of atonement (if he had not been executed on Aug 1, 1997), and would have appealed to society so as not to create children like him who turn into juvenile delinquents.").

<sup>55</sup> NAGAYAMA, *supra* note 1, at 330; Casey, *supra* note 2.

<sup>56</sup> See, e.g., HORIKAWA, *supra* note 1, at 14–15.

<sup>57</sup> *Id.*

<sup>58</sup> See, e.g., *id.* at 420. See also *In Secrecy, Japan Hangs a Best-Selling Author, a Killer of 4*, N.Y. TIMES (Aug. 7, 1997), <https://www.nytimes.com/1997/08/07/world/in-secrecy-japan-hangs-a-best-selling-author-a-killer-of-4.html> [https://perma.cc/EBK8-46GX].

<sup>59</sup> See, e.g., NAGAYAMA, *supra* note 1. One of Nagayama's supporters, his defense lawyer Kyoko Otani, declared that what Nagayama learned in prison had "enabled him to realize that he had committed the murders due to the ignorance, poverty and discrimination surrounding him[self]." *Id.* She further commented: "He thought about the death penalty deeply and concluded it is a cycle of violence." *Id.* As a family court investigator who authored a book on Nagayama, Koji Yakushiji, stated: "I wish he could have continued living so he could have related more about why he committed such crimes and how he atoned for them. It would have provided food for thought to juvenile delinquents." *Id.*

<sup>60</sup> Keiji Hirano, *Hanged Spree Killer Still Provoking Human Rights Debate*, KYODO NEWS (Aug. 13, 2019, 3:35 PM), <https://english.kyodonews.net/news/2019/08/bdeed9c16192-feature-hanged-spree-killer-still-provoking-human-rights-debate.html> [https://perma.cc/G8W5-GTXW] (noting that "Nagayama, as a neglected child himself, was inspired to request that his book royalties go to Peruvian children after reading a newspaper story shortly before his execution about child workers in the country.").

graduated from law school and built a career until nine years ago when a Tokyo corporation gave me a chance to relocate to my childhood landscape. Looking back, I see my younger self, sitting in a constitutional law seminar, nearly reduced to tears, expressing my dismay at a notorious Supreme Court case involving children from underfunded schools.<sup>61</sup> The ruling from *San Antonio Independent School District v. Rodriguez* (hereinafter “*San Antonio case*”)<sup>62</sup> remains vividly alive within the realm of my memories. Years later, as an educator in Japan, I find it meaningful to reexamine this landmark case and consider poverty from cross-cultural perspectives. This process also painfully reminds me of the fact that not all inequalities trigger legal protection.

In America, equality has remained “a rallying cry, a promise, an article of national faith.”<sup>63</sup> From the Declaration of Independence to the Pledge of Allegiance, the ideal of equality permeates the national symbols of the United States.<sup>64</sup> Despite its proclaimed belief in the ideal of equality, not all inequalities trigger legal implications in America. For example, in contrast to race, socioeconomic status has been interpreted as a “non-suspect” classification. In the *San Antonio case*, one can see the human toll of economic inequality in this class action suit filed on behalf of Mexican American children from low-income school districts.<sup>65</sup> At issue was dependence on property taxes to fund public schools.<sup>66</sup> Now called one of the worst Supreme Court decisions,<sup>67</sup> the sharply divided Supreme Court held in a five-to-four majority that poverty does *not* constitute a suspect classification

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<sup>61</sup> Kiyoko Kamio, *An Exclamation Point at Wembley: Exploring Poverty in Tokyo*, BAR BULL. (Mar. 1, 2021), <https://www.kcba.org/For-Lawyers/Bar-Bulletin/PostId/1380/an-exclamation-point-at-wembley-exploring-poverty-in-tokyo> [https://perma.cc/4AVZ-MGVM].

<sup>62</sup> *San Antonio Indep. Sch. Dist v. Rodriguez*, 411 U.S. 1 (1973).

<sup>63</sup> Kenneth L. Karst, *Why Equality Matters*, 17 GA. L. REV. 245 (1983).

<sup>64</sup> Kiyoko Kamio Knapp, *Disdain of Alien Lawyers: History of Exclusion*, 7 SETON HALL CONST. L.J. 103 (1996).

<sup>65</sup> See generally *San Antonio*, 411 U.S. at 1.

<sup>66</sup> *Id.*

<sup>67</sup> See, e.g., Andrea Sachs, *The Worst Supreme Court Decisions Since 1960*, TIME, Oct. 6, 2015 (quoting analysis by Steven Shiffrin at Cornell University: “By permitting funds for children in schools to be distributed on the basis of neighborhood wealth instead of educational needs, it has permitted millions of children to be imprisoned in a system of educational inequality.”). See also Geoffrey R. Stone, *How a 1973 Supreme Court Decision Has Contributed to Our Inequality*, DAILY BEAST (June 12, 2017, 3:35 PM), <https://www.thedailybeast.com/how-a-1973-supreme-court-decision-has-contributed-to-our-inequality> [https://perma.cc/UX7N-5MZ5].

evoking federal protection.<sup>68</sup> In other words, wealth-based discrimination triggers mere rational basis review, which is highly deferential to the legislative judgment.<sup>69</sup>

Justice Powell chose not to recognize education as a constitutional right requiring absolute equality.<sup>70</sup> Justice Marshall, on the other hand, condemned a “retreat from America’s commitment to equal opportunity that denigrated *Brown*.”<sup>71</sup> Marshall’s dissent suggests that the decision signified a departure from the landmark ruling in 1954.<sup>72</sup> Striking down racial segregation, the Court in *Brown v. Board of Education* unanimously declared the need to provide education to all on equal terms.<sup>73</sup> The courts have afforded racial discrimination greater protection than wage discrimination, though the intersection of poverty and race remains a stark reality. In the words of Justice Marshall, the impoverished receive “no scrutiny whatsoever.”<sup>74</sup>

Refusing to acknowledge wealth, or lack thereof, as a suspect classification, the Court invoked the “immutability” rationale, which has withstood the test of time.<sup>75</sup> The Supreme Court even declared a “fact” that “race is an immutable characteristic.”<sup>76</sup> The immutability rationale partly embodies the American Dream: In the land of opportunity, effort and ability are considered the sole constraints on success.<sup>77</sup> Therefore, discrimination against a person due to his or her “highly visible and immutable characteristic[s]”<sup>78</sup> violates “the basic concept of [the United States] that legal burdens should bear some relationship to individual . . . responsibility.”<sup>79</sup>

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<sup>68</sup> See, e.g., HORIKAWA, *supra* note 1, at 14–15.

<sup>69</sup> FCC v. Beach Commc’ns, Inc., 508 U.S. 307 (1993).

<sup>70</sup> See, e.g., *San Antonio*, 411 U.S. at 23, 107.

<sup>71</sup> *Id.* at 107.

<sup>72</sup> *Id.*

<sup>73</sup> *Brown v. Bd. of Educ. of Topeka, Kan.*, 347 U.S. 483 (1954).

<sup>74</sup> *James v. Valtierra*, 402 U.S. 137, 145 (1971) (Marshall, J., dissenting).

<sup>75</sup> See, e.g., *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973). *But see, e.g., Saint Francis Coll. v. Al-Khazraji*, 481 U.S. 604, 610–12 (1987). In this case, the Supreme Court highlighted the vast amount of research available regarding race’s social origins, and the Court then appeared to agree that a biological construction of race was an untenable proposition. *Id.* See also generally Jessica A. Clarke, *Against Immutability*, 125 YALE L.J. 1 (2015).

<sup>76</sup> *Vieth v. Jubelirer*, 541 U.S. 267, 338 n.32 (2004) (Stevens, J., dissenting).

<sup>77</sup> Knapp, *supra* note 64, at 108.

<sup>78</sup> *Caban v. Mohammed*, 441 U.S. 380, 398 (1979) (Stewart, J., dissenting).

<sup>79</sup> *Fullilove v. Klutznick*, 448 U.S. 448, 519 (1980) (Marshall, J., concurring); *Korematsu v. United States*, 323 U.S. 214, 243 (1944) (Murphy, J., dissenting). For the “immutability”

The echo of individual effort persists: the responsibility falls on the individual to conquer poverty through resilience and diligence. One cannot change his or her racial origin no matter how hard he or she tries. In contrast, one could potentially overcome poverty through his or her resistance and diligence.<sup>80</sup> Forces needed to bring about change are considered to remain within one's own reach. Partly due to this long-cherished concept, socioeconomic inequality takes a back seat to racial inequality. Race has long remained the United States' intense drama. Firmly embedded in the American constitutional thinking is the recognition of African Americans as a discrete and insular minority. The Supreme Court declared that "the desire to protect" African Americans constituted "the chief interest of the people in giving permanence and security to citizenship in the Fourteenth Amendment."<sup>81</sup> In fact, the Court has vigorously enforced the equal protection guarantee to eradicate racial discrimination. "[T]he Constitution envisions a Nation where race is irrelevant," declared the Court.<sup>82</sup> Similarly, the Court condemned racial inequality, calling it "unattractive in any setting" and "utterly revolting among a free people who have embraced the principles set forth in the Constitution of the United States."<sup>83</sup>

Ironically, however, race and poverty often remain inextricably linked, even synonymous. The detrimental impact on the Latino community was undeniable in the *San Antonio* case as well. The case also reflects the ambiguity inherent in egalitarian goals. The outer limits of equality will perpetually remain blurred. Norio Nagayama's story, too, exemplifies such blurred limits. The hanged killer trumpeted his ardent advocacy for social justice. However, some readers may be left to wonder if his unrelenting cry for equality fell short of encompassing some other disempowered groups calling for advocacy. Despite his seemingly unwavering commitment to equality, he expressed his explicit and implicit bias against African Americans.<sup>84</sup> Critically examining the United States, which he called "the world's most arrogant capitalistic nation,"<sup>85</sup> he described how it would make

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discussions, *see also* *Fullilove*, 448 U.S. at 519; *Caban*, 441 U.S. at 398 (Stewart, J., dissenting).

<sup>80</sup> *See, e.g.*, *Obergefell v. Hodges*, 576 U.S. 644, 600 (2015).

<sup>81</sup> *Afroyim v. Rusk*, 387 U.S. 253, 262 (1967).

<sup>82</sup> *Fullilove*, 448 U.S. at 516.

<sup>83</sup> *Korematsu*, 323 U.S. at 243.

<sup>84</sup> *See* NAGAYAMA, *supra* note 1, at 350–52.

<sup>85</sup> *Id.*

one “feel sick” to “watch Black people long enough.”<sup>86</sup> Yet at the same time, he wrote that one could be overfilled with joy when “looking at photos of Black jazz musicians performing.”<sup>87</sup> In a cynical tone, he further imagined what it would be like to live each day with a “[B]lack-skinned” child born to his Black wife.<sup>88</sup> Nagayama might be attempting to express, in his own way, his sympathy toward the oppressed. Some may also argue that he expressed a common perspective in Japan in those days, when citizens had far less personal contact with the United States and held stereotypical images of Americans—Black, White, or otherwise. Regardless of his true intent, however, the overly sarcastic way Nagayama depicted African Americans could lead to the conclusion that he harbored a discriminatory attitude against them.<sup>89</sup>

### *C. Equality and Its Idiosyncrasy*

Virtually every social system has embraced the ideal of equality since the eighteenth century.<sup>90</sup> No reasonable mind would contest that equality is a laudable goal. When exploring equality, however, we tend to assess it within our own lens—within the context of our personal experiences. Imagine a working mother who previously faced difficulty advancing in her career due to gender constraints: Her male superior held the long-cherished belief that family responsibilities should remain married women’s top priority. She ultimately left her career, disappointed at her boss for showing favoritism toward men. Drawing on this experience, she may express empathy toward other victims of gender discrimination. At the same time, however, different forms of discrimination may escape her attention. One of her male colleagues, a foreign national, may have found it hard to climb the career ladder on an equal footing with his Japanese colleagues due to his ethnic origin and heavily accented Japanese. Another colleague, who is in his late forties, may have viewed his age as a discriminatory

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<sup>86</sup> *Id.* at 351.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> See, e.g., Simon Denyer, *Being Black in Japan: Biracial Japanese Talk About Discrimination and Identity*, THE WASH. POST (Dec. 24, 2020), <https://www.washingtonpost.com/world/2020/12/24/japan-black-race-identity-naomi-osaka/> [https://perma.cc/T298-7LF7]; Adeel Hassan, *What It’s like to Be a Black Man in Japan*, N.Y. TIMES (Mar. 9, 2019), <https://www.nytimes.com/2019/03/09/us/what-its-like-to-be-a-black-man-in-japan.html> [https://perma.cc/Y5LZ-APMQ].

<sup>90</sup> MICHAEL ROSENFELD, AFFIRMATIVE ACTION AND JUSTICE: A PHILOSOPHICAL AND CONSTITUTIONAL INQUIRY 11–12 (1991).

barrier he could not overcome. And what about a person in a wheelchair who would be delighted to join this company but chooses not to apply, painfully aware that applicants with physical impairments will be rejected? It is one thing to articulate egalitarian views; it is quite another to breathe life into the lofty ideal.

Unfair treatment itself is a universal experience. One would readily agree that discrimination is wrong, whether it is based on race, gender, or sexual orientation. People from divergent backgrounds demand respect for individual dignity. Some have chosen to articulate their problems, while others have internalized their grievances. They may view themselves as victims of certain forms of discrimination (including so-called reverse discrimination against historically dominant groups) without recognizing there are other forms of discrimination crying for attention. The concept of equality remains abstract, asymmetrical, even idiosyncratic. No unified voice exists. We embrace equality, but we also carve out exceptions in an arbitrary manner. Predictably, our interpretations of equality will never be completely uniform and balanced. That may be precisely why the law needs to intervene and demand unity within idiosyncrasies.

The sharpened focus on breaking down socioeconomic barriers could potentially divert our gaze away from other injustices. This creates line drawing problems. Questions arise:

If we acknowledge that eradicating inequality will remain a hard-fought battle, how do we begin to tackle it? If the law is unable to right every wrong, how should we perform the art of drawing a line? Where do we initially focus our effort? If “absolute equality” remains an illusion while inequality remains a perpetual reality, what should we pursue most earnestly, and what should we leave behind, at least tentatively?

### III “INVISIBLE” POVERTY IN JAPAN

A class gap remains alien to the minds of many Japanese, with their cherished belief that they live in an egalitarian society where everyone is middle class. Every morning, an endless stream of crisp-suited *sarariman* (“salarymen” in Japanized English, which refers to white-collar workers) will pour into the same train, traveling to the same destination called *Japan, Inc.* One sees and feels the nation’s economic triumph, especially in metropolitan Tokyo. Nonetheless, one in seven



Japanese children lives in poverty, reports the welfare ministry.<sup>91</sup> In single-parent households, the figure increases to one in two children.<sup>92</sup> According to the Organization for Economic Cooperation and Development (OECD), the nation's poverty rate stands at 15.7%.<sup>93</sup>

In a seemingly prosperous nation, poverty, though hidden from plain view, is undeniably afflicting society. Examples abound. *Yomiuri Shimbun*, a major newspaper, published a collection of real-life stories derived from interviews titled *Hinkon: Kodomo-no SOS (Poverty: SOS from Children)*. A twelve-year-old girl suffered heat stroke in her home without air-conditioning while enduring an unbearably hot and humid summer in Japan.<sup>94</sup> Her mother, a single parent, had fallen behind on the utility bills.<sup>95</sup> The mother and daughter kept returning to a nearby public park to fill their bottles of drinking water.<sup>96</sup> For her Christmas dinner, the girl devoured a single rice ball.<sup>97</sup> Another story revolves around a fourteen-year-old who could afford to bathe only every other day, even during the summer.<sup>98</sup> “You smell!” “Go away!” Bullied by her classmates, she stopped going to school.<sup>99</sup> The book further introduces a story of a seventeen-year-old homeless boy who literally lived under a bridge for ten months.<sup>100</sup>

*Asahi Shimbun*, another respected daily newspaper, similarly published a book documenting child poverty cases: siblings who became infested with lice, having been unable to bathe for weeks;<sup>101</sup> a three-year-old preschooler who shoplifted at a grocery store, starving

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<sup>91</sup> See generally, e.g., Eustance Huang, *Japan's Middle Class Is 'Disappearing' as Poverty Rises, Warns Economist*, CNBC (Sept. 28, 2020, 11:21 PM), <https://www.cnbc.com/2020/07/03/japans-middle-class-is-disappearing-as-poverty-rises-warns-economist.html> [<https://perma.cc/Y4AR-2JXT>]; *Kodomo-no Hinkon Taisaku (Dealing with Child Poverty)*, NIPPON FOUND., [https://www.nippon-foundation.or.jp/en/what/projects/ending\\_child\\_poverty](https://www.nippon-foundation.or.jp/en/what/projects/ending_child_poverty) [<https://perma.cc/36N3-K33Q>].

<sup>92</sup> *Id.*

<sup>93</sup> See *id.* (introducing a recent report by Oxford Economics' Shigeto Nagai: “That metric refers to people whose household income is less than half of the median of the entire population.”) Moreover, Nagai warned that “[t]he middles class is disappearing in Japan, albeit gradually.” *Id.*

<sup>94</sup> YOMIURI SHIMBUN SHAKAI-BU, *HINKON: KODOMO-NO SOS [POVERTY: SOS FROM CHILDREN]* 15–17 (2016).

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.* at 31–33.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.* at 111–15.

<sup>101</sup> ASAHI SHIMBUN SHUZAIHAN, *supra* note 21, at 21–22.

for food;<sup>102</sup> a high school freshman whose scholarship money was stolen and spent on gambling by her mother; and so on.<sup>103</sup> These are not extraordinary examples.<sup>104</sup>

Beneath the smooth surface of contemporary Japan, an emotional void looms, filled with silenced voices of the marginalized.<sup>105</sup> Depression. Bullying. Abuse. Neglect. Chronic absenteeism. Family disintegration. Socioeconomic inequality is interwoven with these issues, more often than it seems.<sup>106</sup> An unarticulated sense of fear has crept into the minds of many.<sup>107</sup> In recent Japan, poverty no longer remains exclusively an economic issue; on a deeper level, it is an issue that makes us ponder a spreading sense of uncertainty that has gripped the nation.<sup>108</sup>

The most miserable thing about poverty is the lack of identification, not the lack of bread—Dr. Jose Antonio Abreu, the founder of El Sistema, said in his 2009 TED prize acceptance speech, partly quoting Mother Teresa.<sup>109</sup> El Sistema, a youth orchestra, aims to nurture world-famous artists from impoverished streets of Venezuela.<sup>110</sup> The emotional void, as described by Dr. Abreu, is present in Japan as well.

The impact of COVID-19 has exacerbated social inequalities around the globe. Over the course of the pandemic, the gap dividing the rich and the poor has widened in Japan as well.<sup>111</sup> Amid a time of uncertainty, the brunt of the crisis has been borne by the unskilled labor

<sup>102</sup> *Id.* at 146.

<sup>103</sup> *Id.* at 96.

<sup>104</sup> *See generally, e.g.,* ARAI, *supra* note 9.

<sup>105</sup> *See, e.g.,* NAKAMURA ATSUSHIKO, TOKYO HINKON JYOSHI [TOKYO: WOMEN IN POVERTY] 112–15.

<sup>106</sup> *See, e.g.,* Shakaiteki Koritsu Chokushi Shitai, *Hoping to Confront Social Isolation*, TOKYO SHIMBUN, Jan. 11, 2022, at 21 (discussing the infamous arson attack in Osaka and emphasizing the importance of societal responsibility to reach out to the marginalized). Regarding the crime, *see generally supra* note 10.

<sup>107</sup> *See, e.g.,* MICHAEL ZIELENZIGER, SHUTTING OUT THE SUN: HOW JAPAN CREATED ITS OWN LOST GENERATION (2006).

<sup>108</sup> *See* HORIKAWA, *supra* note 1. Norio Nagayama himself suffered neglect and abandonment. *Id.* He was also a recluse, a target of bullying at school. *Id.* His writing reflects the unspoken anguish he had been unable to pour out to anyone. *Id.*

<sup>109</sup> Matthew Trost, *Jose Antonio Abreu's TED Prize Wish – Transcribed*, TED BLOG (Feb. 18, 2019, 12:40 PM), [https://blog.ted.com/\\_weve\\_transcrib/](https://blog.ted.com/_weve_transcrib/) [<https://perma.cc/7SKC-VVU9>].

<sup>110</sup> *Id.*

<sup>111</sup> *See, e.g.,* Abe Aya, *Shokuji-mo Matomo-ni Torenai, Nihon-gata Kodomono-no Hinkon-ga Mienikui Riyuu* [Nearly Starving: Why Child Poverty Remains Invisible], PRESIDENT WOMAN (Sept. 11, 2020).

force.<sup>112</sup> Furloughs and layoffs have stretched into months. Downsizing has emerged as an alarming issue. As the pandemic persisted, the corporate world effortlessly transitioned to remote work. In contrast, there are people who continue to toil wordlessly in the shadow of sprawling buildings: Janitors. Salesclerks. Truck drivers. Construction workers. Nursing home aides. They lack the luxury of gazing at the laptop screen in the comfort of their living room, on their sofa, with coffee in hand. Nevertheless, the English word “telework” has entered the Japanese vocabulary.

Corporate workers hasten to suggest *tere-waku* (how “telework” is pronounced in Japanese) without even recognizing the existence of the wider community beyond their corporate offices. The pandemic aside, the mention of Japan’s enthusiastic labor force evokes a familiar image of dark-suited men toiling endlessly in well-lit offices late at night. But these legendary corporate warriors are far from the sole driving force behind Japan’s economic triumph. Too often forgotten are blue-collar workers, who remain faceless and anonymous.

To many Japanese, a class gap remains something exotic, belonging to a far-off land across the sea.<sup>113</sup> The smooth surface of the contemporary Japanese landscape conceals the darkened world of the working poor. To many, working-class Japan feels far too removed from the community they comfortably inhabit, even a world away. The Japan they know is an egalitarian society where everyone belongs, happily and safely, to a group called the middle class.<sup>114</sup> Belonging to the middle class creates a sense of relief and comfort: *Oh yeah, we’re all in the same boat*. In this culture, the word “poverty” could conjure up an image of a bone thin orphan crying out of hunger in a far-off land across the sea. How many passersby recognize that the poor walk among them?

Even within my own academic community, poverty remains hidden because people have honed, even perfected, the art of concealing their economic struggles.<sup>115</sup> Teaching at college, I found that a starting point

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<sup>112</sup> See, e.g., Kaiken Giron-no Kage, *Tonoku Seizonken (In the Shadow of Constitutional Reform)*, ASAHI SHIMBUN, May 3, 2020, at 1.

<sup>113</sup> See, e.g., NHK SHUZAIHAN, *supra* note 9, at 58 (discussing the concept of “invisible poverty” in Japan).

<sup>114</sup> See generally NHK SPECIAL SHUZAIHAN, KOUKUSEI: WORKING POOR [SENIOR HIGH SCHOOL STUDENTS: WORKING POOR] 30 (2018).

<sup>115</sup> Robert D. Putnam, a Harvard social scientist, summarizes what “invisible” poverty looks like among Americans:

is to challenge the stereotype that no poverty exists among us. “Discussing poverty?” skeptics might ask. The all-women’s college where I teach is acclaimed as an *ojyosama-gakko* (a province of well-bred misses). To the outside world, I am a teacher surrounded by those hailing from families of culture and refinement. The plurality of the privileged is presumed, while the working class seems virtually nonexistent within this realm. The skeptics would wonder: *Will the gnashing metal sounds of a factory town ever resonate with these youngsters with immaculately polished nails and Chanel lipstick?*

My answer is simple. Poverty *is* among us.

#### IV RHETORIC OF INDIVIDUAL EFFORT

When discussing poverty, many people employ lofty and idealistic language: Poverty can be conquered through tenacity and resilience.<sup>116</sup> Instead of seeing the impoverished as victims of structural problems, some insist that change is in the hands of the individual. In other words, they point to the importance of searching for the way out of poverty. “You are an architect of your own future,” they say, as if to justify why socioeconomic disparities should take a back seat to other, supposedly more pressing social issues.

Japan’s celebratory figure, DaiGo, professed an aversion to the impoverished, calling on them to sustain an independent existence.<sup>117</sup> On August 7, 2021, DaiGo, a successful YouTuber, made inflammatory comments involving moral judgments about the homeless and welfare recipients.<sup>118</sup> He expressed a desire to pay taxes to support cats instead of the impoverished: “I don’t pay taxes for it to go to paying for people on welfare. If we have money to feed people on welfare, I want them to use it to save cats.”<sup>119</sup> He went on to say, “The lives of humans and

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Many people have a stereotype of what it means to be poor. And it may be somebody they see on the street corner with a sign: “Will work for food.” And what they don’t think about is that person who’s struggling every day. It could be the person who waited on us, took our bank deposit, works in retail, but who is barely above the poverty line.

ROBERT D. PUTNAM, *OUR KIDS: THE AMERICAN DREAM IN CRISIS* 49 (2015).

<sup>116</sup> See, e.g., ASAHI SHIMBUN SHUZAIHAN, *supra* note 21, at 262.

<sup>117</sup> See, e.g., Harumi Kimoto, *Experts Criticize YouTuber’s Anti-Homeless Comments as Corrosive of Japanese Society*, DAILY MAINICHI (Aug. 14, 2021), <https://mainichi.jp/english/articles/20210814/p2a/00m/0na/025000c> [<https://perma.cc/BF6U-TQRH>].

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* See, e.g., Patrick St. Michel, *Could a Japanese Influencer’s Comments About the Homeless Lead to Hate Crimes?* JAPAN TIMES (Aug. 21, 2021), <https://www.japantimes.co>

the lives of cats, I don't think human lives are more valuable at all.<sup>120</sup> For me, unnecessary lives aren't worth much.<sup>121</sup> So I think the lives of homeless people are just, whatever."<sup>122</sup> Poor people lack the motivation to climb out of poverty, he suggested.<sup>123</sup> DaiGo's words from a live stream ignited a heated national debate.

The concept behind this debate itself is far from new. Socioeconomic inequality carries stigma: Poverty equals self-inflicted pain.

The following exemplify some of the rhetorical questions often thrown at the poor:

Why did you have a kid so young? Why did you have so many kids?  
Why did you quit school? Why did you quit work? Why did you get  
a divorce? Why did you marry such a terrible person? Why did you  
choose a self-destructive lifestyle?

Then comes the familiar rhetoric that has silenced the voices of the underprivileged: *Climb out of the cave of your own making. Pull yourself up by your bootstraps.* Agreeing with DaiGo, some vocally expressed deep frustration at the "laziness" of the homeless. They advocated individual effort, calling on the homeless to achieve independence on their own without relying on systemic support. On the other hand, his remark provoked strong criticism from many.<sup>124</sup> They thought DaiGo had failed to recognize the existence of institutional barriers preventing one from rising above poverty.<sup>125</sup>

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[.jp/news/2021/08/21/national/media-national/daigo-homeless-comments/ \[https://perma.cc/2H7X-ZXGX\]](https://perma.cc/2H7X-ZXGX).

<sup>120</sup> See Kimoto, *supra* note 117.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> Harumi Kimoto, *Experts Criticize YouTuber's Anti-homeless Comments as Corrosive for Japanese Society*, MAINICHI SHIMBUN (Aug. 14, 2021), <https://mainichi.jp/english/articles/20210814/p2a/00m/0na/025000c> [<https://perma.cc/6UN2-CW8X>]. Tsuyoshi Inaba, representative director of the Tsukuroi Tokyo Fund (a support organization for the needy in search of jobs and housing), argued as follows: "If these kinds of statements are tolerated, society will crumble." *Id.* He also discusses "deep-seated prejudices against people receiving aid, enough that supporters who recommend people with only a few hundred yen (less than \$10) in their pockets to apply are often told, 'I'll do anything but to go on welfare.'" *Id.* He then concludes: "[I]f we then have remarks like these from influencers whose words hold a lot of sway, we'll see more people distance themselves from using these services. The statements have the potential to kill indirectly." *Id.*

<sup>125</sup> *Id.*

Admittedly, the ethos of self-making sounds appealing. It is liberating, empowering, and morally fulfilling to conclude that success derives from hard work “because it suggests the economy can answer to the ancient notion of justice as giving people their due.”<sup>126</sup> Sure, we should all aim to be “self-made human agents”<sup>127</sup>—or shouldn’t we?

*Jiko sekinin* (personal responsibility) remains the fundamental rule in this country, declared Toru Hashimoto, the former governor of Osaka (Japan’s second largest prefecture).<sup>128</sup> In their face-to-face meeting with Hashimoto, a group of underprivileged high school students articulated a greater need for governmental support.<sup>129</sup> Casting critical eyes at their argument, however, Hashimoto urged the students to tackle the problem independently.<sup>130</sup> They owe it to themselves to improve their situations, insisted Hashimoto.<sup>131</sup> He then reached the conclusion: “If you do not abide by the rule [of personal responsibility], all you can do is to flee Japan.”<sup>132</sup> This spirited debate from 2008 garnered national attention, eliciting heated responses from both sides of the political spectrum. Many observers applauded Hashimoto’s stance.

This “theory” may take on a more profound meaning in the United States, where people trumpet their belief in meritocracy: *One should be judged on his or her own merit*. Succinctly titled “Self-Reliance,” an essay by Ralph Waldo Emerson contains the following explicit statement:

[D]o not tell me, as a good man did today, of my obligation to put all poor men in good situations. Are they my poor? I tell thee, thou foolish philanthropist, that I grudge the dollar, the dime, the cent, I give to such men as do not belong to me and to whom I do not belong.<sup>133</sup>

The relentless emphasis on individual effort has something in common with the long-cherished principle manifested in the American Dream: “We are not victims of circumstances but masters of our fate,

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<sup>126</sup> SANDEL, *infra* note 197, at 123.

<sup>127</sup> *Id.*

<sup>128</sup> See Hashimoto-Chiji, *Koukousei-to Atsuku Giron* [*Heated Debate with High School Students*], ASAHI SHIMBUN DIGIT. (Oct. 24, 2008, 12:18 AM), <https://www.asahi.com/special/08002/OSK200810230101.html> [<https://perma.cc/24SV-ZFC4>].

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> Ralph Waldo Emerson, *Self-Reliance*, in *ESSAYS: FIRST SERIES* (1841), cited in PUTNAM, *supra* note 115.

free to rise as far as our effort and talents and dreams will take us.”<sup>134</sup> This meritocratic sentiment reaches across the political spectrum.<sup>135</sup> Indeed, numerous U.S. politicians, both Republicans and Democrats, have endlessly reiterated this “rhetoric of rising.”<sup>136</sup> Barack Obama, for instance, used the following line in his speeches and public statements more than 140 times in his presidential career: “You can make it if you try.”<sup>137</sup>

We can see a parallel between the chorus of personal responsibility and a Supreme Court decision. Striking down gender-based employment discrimination, the Court in *Frontiero v. Richardson*<sup>138</sup> set forth the criterion for immutability:

[S]ince sex, like race and national origin, is an immutable characteristic determined solely by the accident of birth, the imposition of special disabilities upon the members of a particular sex because of their sex would seem to violate “the basic concept of our system that legal burdens should bear some relationship to individual responsibility.”<sup>139</sup>

As the echo of personal responsibility persists, we may avert our eyes from structural problems and collective responsibility. In Norio Nagayama’s case, the Tokyo High Court initially considered the teen killer’s socioeconomic circumstances.<sup>140</sup> Choosing not to lay all responsibilities on the defendant, the High Court suggested that governmental assistance would have been necessary for him to rise above the circumstances surrounding his birth.<sup>141</sup> The court then sentenced him to life imprisonment, ruling against the death penalty.<sup>142</sup> However, the Supreme Court of Japan ordered a retrial, and the High Court ultimately sentenced him to death.<sup>143</sup> In so doing, the court reasoned that others in similarly grave circumstances had successfully proven their tenacity and diligence to overcome their economic

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<sup>134</sup> SANDEL, *infra* note 197, at 34, 46.

<sup>135</sup> *Id.* at 60.

<sup>136</sup> *Id.* at 23.

<sup>137</sup> *Id.* (adding the names of other politicians, such as Ronald Reagan, George W. Bush, Bill Clinton, Hillary Clinton, etc., who invoked the same theme).

<sup>138</sup> *Frontiero v. Richardson*, 411 U.S. 677 (1973).

<sup>139</sup> *Id.* at 686 (citation omitted).

<sup>140</sup> *See, e.g.*, HORIKAWA, *supra* note 1, at 476.

<sup>141</sup> *See* Saiko Saibansho, *supra* note 1.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

hardship.<sup>144</sup> To this day, some critics view this ruling as the court's choice to advocate individual effort as opposed to systematic support.<sup>145</sup> The familiar refrain of effort and striving can torment the unprivileged. That partly explains why Nagayama's execution has continued to ignite debate.

In addition to the rhetoric of individual effort, Japanese society perpetuates the idea that there is virtue in poverty itself.<sup>146</sup> Even those who acknowledge poverty's existence share a quiet belief that the poor should aspire to live a simple life. This belief results in certain standards of conduct, confining the poor into a box: *Refrain from materialism. Refrain from immoral act. Embrace simplicity.* People echo the rhetoric of “*seihin*” (honorable poverty). Alternatively, harsh criticism surrounds the impoverished who fail to fulfill those expectations. The ideal of honorable poverty confines the poor into a box, oversimplifying the complex and challenging issues they face. The marginalized tend to draw public scrutiny. The well-known rhetoric of honorable poverty endures:

If you're poor, why drink beer? Why play computer games? Why put on mascara? Why spend 1,000 yen (US\$7.50) for a meal at an Italian restaurant? Why afford the luxury of “impurity”?

## V

### MY ROLE AS A LEGAL EDUCATOR

#### *A. Experience as a Teacher/Practitioner*

As a university lecturer, I teach introductory law at the undergraduate level in Japan. Near perfect strangers to the law, virtually all my students are about to explore a new realm. Majoring in English, Japanese literature, international studies, music, etc., hardly anyone expresses an active interest in pursuing further legal studies, not to mention the legal profession. My introductory course could be the sole law-related course they take in their lifetime. Facing an audience consisting of laypersons with little to no exposure to law, I view my task as helping them navigate their way through this unfamiliar and exotic world by incorporating a real-life approach to the study of the law.

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<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> See generally KOJI NAKANO, HINKON-NO SHISOU [THE CONCEPT OF PURE POVERTY] (1996).



Another constant challenge is helping the students move beyond the realm of rote memorization and multiple-choice questions, fueling a lively exchange of views, even encouraging creative disagreement. Japanese students are considerably shy and timid compared to their U.S. counterparts. A few volunteers tend to voice their views while the rest of the class passively listens.

Not a scholar behind a lectern, I strive to create a more dynamic and inclusive learning environment. Sometimes I accompany my class to the Tokyo District Court, where we observe a trial in progress. Sometimes I help students shoot scenes for our own mock trial movie. These hands-on activities are intended to illuminate poignant human dramas embodied in contemporary issues of controversy.

At the same time, on a more regular basis, I have actively integrated the art of storytelling into the study of law, conveying the experiences of the poor. For this purpose, I have, for instance, used vivid life stories, such as those contained in some U.S. Supreme Court cases,<sup>147</sup> sometimes by merging them with music, films, literature, etc., as a starting point for a lively discussion. That is what I call the art of putting human faces on seemingly lofty ideals one admires from a distance, from equality to freedom of expression. Narratives hold the power to transform the black letter law into a powerful, universal appeal. We can weave personal experiences and anecdotes into our presentations and convey powerful messages, taking the audience on a journey.

My corporate experience, too, led me to integrate storytelling into my teaching. I was formerly a compliance specialist in the life science industry, working closely with colleagues worldwide. My areas of expertise included global policy formulation. Having launched various policies, ranging from a code of conduct to an anti-corruption policy, I keenly recognized this: Any company's written policies and procedures are brought to life only when they move the audience to action. During my business trips to two corporate headquarters on the West Coast, Starbucks Coffee and Apple, I had the privilege of discussing in-company training with their ethics and compliance directors. Both companies emphasized the importance of articulating powerful messages that engage human emotions and make a behavioral impact on the audience. At Apple, for instance, I learned how the company integrated stories of compliance, or noncompliance, through seemingly

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<sup>147</sup> For example, I have utilized *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978) (arising over "reverse" discrimination in the university's race-conscious affirmative action).

mundane real-life examples, such as copies of unlawfully submitted receipts for reimbursing expenses. I was also intrigued to discover that Apple had even created some unique teaching materials containing lessons learned from the scandal that had earlier hit Japan's sumo wrestling. Stories can work wonders. Stories can engage, captivate, and inspire an audience. Vivid story details also help bring big ideas to life, making the content more relevant and memorable.

### ***B. Lessons from Wisconsin v. Yoder***

My law school education in the United States also taught me the role of narratives, especially within Supreme Court cases arising over civil liberties. One encounters nine justices, each grappling with the art of drawing a line dividing freedom and regulations. Take *Wisconsin v. Yoder* (hereinafter “the *Yoder* case” or “*Yoder*”),<sup>148</sup> for example. Initiated by Amish litigants, this well-known case arose over the First Amendment's free exercise of religious rights.<sup>149</sup> Though not directly related to poverty, the *Yoder* case helps illustrate the eloquence of a human drama behind a legal battle over civil rights.

It could be dull and daunting to study religious freedom if the exclusive focus is on interpreting the constitutional text itself. However, an intriguing story unfolds in *Yoder*, one of the commonly used cases to teach religious freedom at law school. Refusing to send their fourteen- or fifteen-year-old children to public schools, three Amish parents were prosecuted under the state's compulsory education law.<sup>150</sup> It required all children to attend public schools until age sixteen.<sup>151</sup> The parents sought constitutional affirmation of their ability to make this choice for their children.<sup>152</sup>

We catch glimpses of the Amish way of life through *Yoder*. Within their community, children's education is considered complete at the eighth grade.<sup>153</sup> A drama emerges from a group of Amish farmers wearing their wide-brimmed black hats and driving horse buggies. Facing them is another group—state officials in sharp suits, solemnly declaring the Wisconsin law's requirement. And we should not forget the last group, though they seem to be standing out of the spotlight: the

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<sup>148</sup> *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

<sup>149</sup> *Id.*

<sup>150</sup> Respondents included members of the Old Order Amish religion as well as the Conservative Amish Mennonite Church. *See id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

Amish children at their one-room community school in a rural area. They are “in” our world but not “of” it.

Freedom versus regulations. Idiosyncrasy versus unity. Balancing these competing values, the Supreme Court unanimously upheld the former.<sup>154</sup> Should the Supreme Court be justified in reaching this decision? The question lingers within legal and nonlegal communities. Even today, when I hear the seemingly worn-out phrase “religious freedom,” the intense drama from this case immediately comes to mind. Recalling the Amish way of life from *Yoder*, I feel as if I could see myself surrounded by Amish children, clad in their traditional clothes, replete with bonnets, aprons, and suspenders. Through case law analysis, especially in civil liberties cases, vivid life stories contained in the cases give voice to the litigants.

My American law school education has inspired me to breathe life into the law through such stories. Drawing inspiration from the human dimensions of the Amish case, I crafted my own *Yoder*-based mock trial program (replete with a script as well as a short movie incorporating a hymn sung in an Amish school) in Japan, where many students remain perfect strangers to the world of the Amish. Through this experience, I observed firsthand how humanizing the unknown can spark an active interest in exploring even a seemingly distant issue. This observation has further inspired me to integrate stories into exploring poverty.

## VI

### INTERWEAVING THE ART OF STORYTELLING

In this section, I discuss a variety of practical strategies I have used to employ the power of storytelling. It is also an attempt to convey a message through that power. It may be worth reconsidering the all-too-familiar language of self-making and equipping the less fortunate with a second chance, as well as a safety net, by helping them start walking toward new goals.

#### *A. Creating a Platform*

Instead of merely imparting knowledge through lectures in the conventional classroom setting, I kickstart the learning process by creating a platform for helping students visualize abstract concepts and forming their own opinions. To fuel student engagement, I may start

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<sup>154</sup> *Id.*

out with basic questions as follows: What images come to your mind when hearing the word “poverty”? Living on food stamps? Living in shelters? How do people view poverty in general? Does a caricature of poverty exist?

Then I proceed to ask students to take a long, hard look at their own lives and share their thoughts, sometimes on specific questions, through writing. For this hands-on activity, I have students summarize any inequalities they have experienced or observed, directly or indirectly. Admittedly, a few seem perplexed. To them, “inequalities” sounds distant, philosophical, and even cold. Anticipating this, I discuss some of the more down-to-earth examples, such as discrimination based on physical attractiveness.

My observations confirm that students can be more candid and honest, even eloquent, when they share their experiences and insights through the written word. A few even write as if to pour out their innermost feelings. The inequalities they share in writing come in divergent forms. This activity has given me glimpses into some grim realities—even internalized grievances—helping me grasp the larger world beyond everyday life on campus.

One student described her financial circumstances, using Starbucks Coffee as a concrete example. “I love Starbucks,” she wrote, “but because their drinks are too expensive for our family, we order just one drink and split it among my mother, sister and myself.” Her tone sounded non-sentimental, which took me by surprise. Another student from a low-income household wrote how her economic hardship deprived her of the option of becoming a *ronin* (literally meaning “wandering samurai”)—meaning to take a gap year after failing college entrance exams and study to retake the exams.<sup>155</sup> “Socioeconomic constraints limit our life choices,” she concluded.

Contrastingly, one student from a wealthy family shared how fortunate she finds herself because she has been “showered with money.” She went on to describe the unfairness imposed on her less affluent peers. “Yes, our society *is* unfair,” she wrote. “A friend of mine puts in work and saves money while attending school, all because she wants to buy something I could effortlessly own, right now, simply by asking my parents.” She then arrived at a candid conclusion: “I happen to have been born on the ‘right’ side of the tracks.”

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<sup>155</sup> Traditionally, this has been a widely accepted alternative among prospective college applicants in Japan, where entry to some colleges remains fiercely competitive.

Their writings made it clear that not every student blends seamlessly into the private all-women's college. It has also become evident that some students feel alienated due to the wealth gap they have experienced. These students from more modest backgrounds are acutely aware of their own failure to fit into the stereotype of a young woman clutching a Gucci bag. They, too, seem to have perfected the art of acting with grace and charm.

Many comments come from students who have experienced other forms of unfair treatment. As a former exchange student in a rural area of the United States, one wrote how she had been treated as inferior as one of the few Asians in her community, feeling a keen sense of alienation. Another comment came from a student who had endured gender role stereotypes within her own home, solely responsible for household chores as the only daughter of the family.<sup>156</sup> Moreover, a few shared the pain they endured through what they considered discrimination based on beauty. For instance, one reflected on her own personal experience of undergoing plastic surgery, which ultimately "transformed" her life (in her own words).

Arguably, some critics might consider these personal experiences of unfairness insignificant and lacking urgency, especially in comparison to the poverty-induced tragedies discussed earlier, such as toddlers starving to death.<sup>157</sup> In fact, most of the inequalities we endure on a day-to-day basis do not necessarily rise to a level requiring legal intervention. Despite that, or because of that, I consider these insights meaningful. By collecting these real-life stories, I am also collecting divergent experiences and insights, a vital element of an inclusive learning environment. I am also creating an opportunity to make the content more relevant to each student before proceeding to ponder deeper questions about poverty. Inequality, regardless of its basis, strikes a chord with them once they reflect on their own individual experiences of unfairness. Ultimately, the collection becomes a reminder of a simple but universal longing: We all share a desire to be

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<sup>156</sup> The student wrote:

I thought it was unfair because my brothers were free from those chores. I can't tell how often I felt tempted to let my parents know about this unfairness, especially in my last year of high school, when I needed to focus on preparing for college entrance exams. But there are some things you would hesitate to bring up even within your own family. It took a long time for me to muster the courage to tell my parents.

<sup>157</sup> See HORIKAWA, *supra* note 1, at 446.

valued for who we are—our intrinsic worth. Our gender, our physical appearance, our economic status—they are peripheral to who we are.

Once I have succeeded in creating this initial platform, I may pose additional, more open-ended questions focusing on income inequality. The following exemplify some of the discussion topics:

Have you ever encountered a person who bears the burden of family disintegration? If so, do you consider it related, directly or indirectly, to socioeconomic challenges?

Have you ever participated in any activity contributing, directly or indirectly, to the disadvantaged, from the impoverished to the physically challenged? What have you learned, and how do you make use of the experiences and insights you gained?

If you were to design a community outreach program aiming to assist impoverished children and youths, what would it be like? More specifically, if you were to launch a program or organization with an eye toward helping nurture untapped potential within the unprivileged, what would it be?

My students tend to feel less reluctant to voice their opinions regarding these issues precisely because there is no “right answer.” I may also give them hypothetical scenarios such as the following:

Imagine that you have unexpectedly inherited a large sum of money. You have chosen to donate it to a good cause, and the directors from two charity organizations give presentations, each asking for your contribution. One is an organization distributing food to the unprivileged, and the other is an organization providing free or low-cost art lessons to impoverished children. Which would you choose, and why?

In addition, I may use a real-life episode from a best-selling book on poverty in contemporary Tokyo, *Hinkon-Jyoshi* (Young Women in Poverty)<sup>158</sup>:

One female medical student works in an adult entertainment shop to eke out a living. She laments her economic struggles—which prevent her from engaging in extracurricular activities of her interest. As soon as a certain publication runs an article about her, negative—even angry—responses pour in from the readers who call extracurriculars a mere luxury: “If you are struggling financially, why not focus on academics, what matters most as a college student?” Do you agree with this view? What would you say to her if she were a friend soliciting your advice?

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<sup>158</sup> NAKAMURA, *supra* note 105, at 32–39.

I eventually give them more philosophical questions, inspiring them to consider the emotional toll of inequality within the context of their own personal lives regardless of socioeconomic status:

We all crave a sense of home. Loneliness is a universal emotion. Where do you find your “home”? In the family members you grew up with? In your friends? Or in a particular activity you love, such as reading books and immersing yourself in your favorite author’s world? Watching films? Playing a musical instrument?

### ***B. Transnational Classroom***

The outbreak of COVID-19 has brought a flurry of unique challenges in the academic community. The move to online teaching has posed new challenges: How could I even begin to spark lively discussions within the confines of our digital environment? Instead of bemoaning the pandemic’s impact on meaningful learning opportunities, or lack thereof, I have been empowered to pursue remote learning more creatively. Thankfully, technology has enabled me to create a transnational classroom, transcending geographical barriers and inviting guests from home and abroad. This digital learning environment has allowed us to share diverse perspectives and experiences, communicating and collaborating effortlessly and effectively.

Diversity has emerged as a pressing issue. Though known as an ethnically homogeneous nation, Japan today has become increasingly pluralistic. Accordingly, diversity has emerged as a keenly felt issue, even to the extent of turning into a buzzword within the corporate and academic settings. Integrating multiple voices and perspectives has garnered greater attention as a reflection of this trend.

I have created opportunities to interact and exchange views with participants from beyond our own university community. One day we welcomed a director of Streetwise Opera, a London-based arts organization working closely with people who have suffered homelessness.<sup>159</sup> We listened to her describe how their critically acclaimed opera productions empowered them. Similarly, we learned the vital role of arts in the lives of the underprivileged youth from a group of classical musicians we invited from Music Haven in Connecticut in the United States, where they provide music lessons to

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<sup>159</sup> STREETWISE OPERA, *Home*, <https://streetwiseopera.org> [<https://perma.cc/4PG5-A689>].

children from low-income households.<sup>160</sup> More recently, we had an opportunity to listen to the vice principal from a *yakan chugakko*—a “night junior high school,” where classes run from 6:00 p.m. to 9:00 p.m. It was one of Japan’s public schools that allow the less fortunate to complete their compulsory education and rebuild their lives. Students range from former recluses to the elderly, even those in their eighties, as well as foreign nationals with limited Japanese fluency. Other guest speakers represented organizations such as Sokerissa (a dance group consisting of current and former homeless men) and Kids Door (a tutoring and mentoring team for unprivileged students).

I ask my students to read about our guest participants and their organizations through their websites, blogs, and published materials to prepare specific questions in advance. Having gained a basic understanding of guest participants’ activities, goals, and challenges, students themselves participate in dialogue, interview them, share their thoughts, and write comments afterward.

Also importantly, we have, so far, conducted joint classes by inviting a group of students from other schools, such as the University of Tokyo, the University of Michigan, and the Massachusetts Institute of Technology. When we invited law students from the University of Tokyo, we discussed the concept of personal responsibility, partly by referring to the issues presented in the Nagayama case.<sup>161</sup> My students seem to have enjoyed learning from an exchange of multiple ideas, even within our digital realm.

### *C. Vehicle of Music*

I have also employed the transcending power of popular culture. Pop culture takes many forms. Though I sometimes use films and literature, I have most actively employed the transcendent power of music, even Queen and BTS alongside Bach and Puccini, as an emotional catalyst. Music can break the tension and evoke an emotional connection. Over the course of my teaching career, my interaction with the young generation has consistently reminded me of how deeply music influenced their lives. J-pop, K-pop, and western rock music seem especially popular among Japanese students. Knowing that I, too, love music, some students send me YouTube links to share their beloved songs. Our joys and inspiration often derive from music. Many of us

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<sup>160</sup> MUSIC HAVEN, *Home*, <https://www.musichavenct.org> [<https://perma.cc/MP2Y-HS7A>].

<sup>161</sup> See generally *supra* note 1.



have music in us—what we can call the “soundtrack” for our life that has accompanied us since childhood or early adolescence. We can recall encountering a situation where music filled a void or helped us navigate struggles.

I also use music as a teaching tool because I am aware of my role as an aspiring LRE (law-related education) specialist who enhances public awareness about poverty. Anticipating a broad audience consisting of laypersons from all walks of life, I hope to make the content accessible, relevant, and memorable, using a down-to-earth approach. So far, beyond my own academic community, I have had opportunities to teach many other students, from eighth graders to college seniors at other schools. Using an interdisciplinary approach, I intend to broaden my audience, reaching out to larger communities and diverse individuals. I have discovered that pop culture, especially music, often provides a pathway for connections. To teach poverty-related issues, I have carefully chosen the lyrics to the songs that allow us to experience the emotions of the unprivileged.

Containing human dramas revolving around social issues, some songs can be commentaries on the toll of inequality, making the students more willing to learn. This may derive, at least partly, from my own adolescent experience. Listening to *I Don't Like Mondays* by The Boomtown Rats, an Irish rock band, shocked me into contemplating teen gun violence in the United States. A number-one single on the UK Singles Chart for four weeks,<sup>162</sup> the song is a portrayal of Brenda Ann Spencer, a sixteen-year-old school shooter, in 1979.<sup>163</sup> I had never imagined that the piano ballad had been inspired by America's first high-profile mass school shooting.<sup>164</sup>

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<sup>162</sup> *Official Singles Chart Resulting Matching: I Don't Like Mondays*, OFF. CHARTS <https://www.officialcharts.com/search/singles/i-don't-like-mondays/> [<https://perma.cc/F7ZY-DGN9>].

<sup>163</sup> THE BOOMTOWN RATS, *I Don't Like Mondays*, on *THE FINE ART OF SURFACING* (Ensign 1979).

<sup>164</sup> See generally, e.g., *School Sniper Suspect Bragged of "Something Big to Get on TV,"* EVENING INDEP. (Jan. 30, 1979), <https://news.google.com/newspapers?id=r8EwAAAIBAJ&sjid=3VgDAAAIBAJ&pg=6676%2C3418018> [<https://perma.cc/G29B-LVYV>]; Pauline Repard, *40 Years Ago, Brenda Spencer Took Lives, Changed Lives in a Mass Shooting at a San Diego Elementary School*, SAN DIEGO UNION-TRIB. (Jan. 29, 2019, 5:00 AM), <https://www.sandiegouniontribune.com/news/public-safety/sd-me-brenda-spencer-school-shooting-20190129-story.html> [<https://perma.cc/2762-3883>]; Katie Serena, *Before the Columbine Massacre or Parkland Shooting, There Was Brenda Ann Spencer*, ATI (July 27, 2022), <https://allthatsinteresting.com/brenda-ann-spencer> [<https://perma.cc/4HTS-MCXF>]; Tom Gorman, *Woman Imprisoned for '79 School Slayings Withdraws Parole*

Armed with the rifle and scope her father had given her for Christmas, Spencer fired a total of thirty-six rounds at a San Diego elementary school, killing two people and wounding nine.<sup>165</sup> Brenda, a teen living in poverty with her abusive father, simply expressed her disdain for Mondays when asked why she had committed the shooting: “I don’t like Mondays. [That] livens up the day.”<sup>166</sup> Indeed, the incident happened on Monday, January 29, 1979.<sup>167</sup>

Years later, when hearing the news of school rampage shootings or gun violence, I find myself reliving the earlier days when I listened and relistened to *I Don’t Like Mondays*. I recall translating the song into Japanese by painstakingly going back and forth between the lyrics and my worn-out dictionary. If I had only read a newspaper article, the horrific incident by Brenda Spencer could have eventually slipped from my mind. However, the drama contained in the song brought life to the aftermath through the mind of the schoolgirl across the Pacific Ocean, even with her limited English. This is only one of the many examples that can illustrate how music helped expand my world, even within a nearly closet-sized room in a typical Japanese house. The shots and screams. The horror at Grover Cleveland Elementary School. The sixteen-year-old barricading herself inside her home for several hours after the shootings.<sup>168</sup> And yes, I do reflect on the fact that she was living in poverty, sharing a single mattress with her allegedly abusive, alcoholic father.<sup>169</sup>

Incidentally, at sixteen, I published a short essay titled “*Rokku-mo Kyokasho*” (“Rock Music, Too, is a Text”), describing the “educational” role that rock music played in my life. How else could I have had a chance to ponder a wide range of controversial issues in the West, ranging from gender inequality to class division? My schoolteachers rarely covered those subjects. Music sparked my interest in social issues, ultimately inspiring me to pursue the legal profession in the United States. My journey through music took me far beyond what I had ever imagined.

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*Request*, L.A. TIMES (Jan. 21, 1998, 12:00 AM), <https://www.latimes.com/archives/la-xpm-1998-jan-21-mn-10587-story.html> [<https://perma.cc/7HV3-EYWF>].

<sup>165</sup> See generally *id.*

<sup>166</sup> Serena, *supra* note 164. See, e.g., Michael Daly, *The First Modern School Shooter Feels Responsible for the Rest*, DAILY BEAST (Feb. 16, 2018, 10:42 AM), <https://www.thedailybeast.com/the-first-modern-school-shooter-feels-responsible-for-the-rest> [<https://perma.cc/6PD6-PKWN>].

<sup>167</sup> See THE BOOMTOWN RATS, *supra* note 163.

<sup>168</sup> Daly, *supra* note 166.

<sup>169</sup> See generally *supra* note 166.

*1. Is This The World We Created?*

As a tool for opening a window into the world of poverty, I have used the music of the legendary rock band, Queen. Through the successful film, *Bohemian Rhapsody*, the British foursome won over younger generations worldwide as well.<sup>170</sup> Through the Live Aid video, my students and I joined the worldwide audience on July 13, 1985, the day when “[music] changed the world.”<sup>171</sup> Raising \$127 million for relief of the Ethiopian famine, this event took place simultaneously and transnationally at Wembley Stadium in London and John F. Kenney Stadium in Philadelphia.<sup>172</sup> This star-studded worldwide concert garnered an estimated live TV audience of nearly two billion across 150 countries.<sup>173</sup> Critics called it “the most ambitious international satellite television venture that had ever been attempted.”<sup>174</sup>

At Live Aid, Queen took the stage again during the grand finale.<sup>175</sup> This time, there were only two members: Brian May and Freddie Mercury. They performed *Is This The World We Created?*<sup>176</sup> As Brian played the acoustic guitar, Freddie sang poignantly:

Just look at all those hungry mouths we have to feed  
Take a look at all the suffering we breed  
So many lonely faces scattered all around  
Searching for what they need  
.....  
Is this the world we created?

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<sup>170</sup> Dan Jackson, *How the Controversial Biopic ‘Bohemian Rhapsody’ Is Turning Teens into Queen Fans*, THRILLIST (Feb. 26, 2019, 10:49 AM) <https://www.thrillist.com/entertainment/nation/bohemian-rhapsody-biopic-teenagers-queen-fans> [https://perma.cc/U7TC-VUGX].

<sup>171</sup> See, e.g., Megan C. Hills & Sara Feigin, *How Bob Geldof’s 1985 Live Aid Concert Changed Celebrity Fundraising Forever*, EVENING STANDARD (Apr. 23, 2020), <https://www.standard.co.uk/insider/celebrity/live-aid-bob-geldof-biggest-musical-fundraiser-of-all-time-a4421436.html> [https://perma.cc/D65M-96R4].

<sup>172</sup> See Kiyoko Kamio, *An Exclamation Point at Wembley: Exploring Poverty in Tokyo*, BAR BULL. (Mar. 1, 2021), <https://www.kcba.org/For-Lawyers/Bar-Bulletin/PostId/1380/an-exclamation-point-at-wembley-exploring-poverty-in-tokyo> [https://perma.cc/NU8W-UW4T].

<sup>173</sup> David Morton, *When Newcastle Honoured Bob Geldof - the Rock Star Behind Band Aid and Live Aid*, CHRONICLE LIVE (Mar. 3, 2022, 4:43 PM), <https://www.chroniclelive.co.uk/news/history/newcastle-honoured-bob-geldof-rock-23277422> [https://perma.cc/5C2P-ZDT2].

<sup>174</sup> Katherine Purvis, *Live Aid: 25 Years Later*, SMITHSONIAN MAG. (July 13, 2010), <https://www.smithsonianmag.com/smithsonian-institution/live-aid-25-years-later-47113/> [https://perma.cc/E3RF-3EU5].

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*; QUEEN, *Is This The World We Created?*, on THE WORKS (EMI. 1984).

....  
 Is this the world we devastated  
 Right to the bone?

Introducing this song to my students, I analyze the lyrics presenting unanswerable questions many of us carry:

If there is a creator of the cosmos, how does he perform the act of drawing the line dividing the privileged and the underprivileged? What explains the deep shadow cast on certain people? What explains our eternal struggle with inequality? At this very moment, how many people are asking the same question, face toward the sky, about our culture of inequity and injustice—and about imperfections of humanity?

The song is an obscure piece that hardly ignites a lively discussion, even among longtime Queen fans. In contrast to *Bohemian Rhapsody*, one of the band's most wildly and enduringly popular hits, *Is This The World We Created?* is a tender and reflective ballad. Yet, its heartfelt lyrics convey an eloquent message depicting one of humanity's perennial and profound questions. The song transforms itself into a broader narrative about us—all of us—who inhabit an unjust society where we are mercilessly divided into haves and have-nots. We can even hear a quiet echo of the stark realities in the shadow of Japan's prosperity.

## 2. *Silver Spoon*

Exploring the refrain of personal responsibility, I have drawn inspiration from BTS, a South Korean band whose music has captivated the world.<sup>177</sup> BTS was invited in May 2022 to the White House to discuss a surge in anti-Asian hate crimes with President Joseph Biden.<sup>178</sup> Also addressing the United Nations General Assembly in 2018 and 2021, BTS delivered speeches empowering the younger generations worldwide.<sup>179</sup> From this award-winning group

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<sup>177</sup> It is known that numerous scholars around the globe have chosen to analyze the world of BTS, e.g., LEE JEEHENG, *BTS AND ARMY CULTURE* (Han Oul trans., Solbee Park trans.) 107 (2019).

<sup>178</sup> Jenny Regan & Hannah Dailey, *BTS Visit the White House & Meet with President Joe Biden*, *BILLBOARD* (June 1, 2022), <https://www.billboard.com/photos/bts-at-white-house-joe-biden-meeting-1235079570/> [<https://perma.cc/VN32-FJFS>].

<sup>179</sup> *BTS Heartfelt Message to Young People at UNGA*, UNICEF (2020), <https://www.unicef.org/lac/en/BTS-LoveMyself> [<https://perma.cc/D8LH-67AE>]; Eli Meixler, *'I Was Lucky I Didn't Give It All Up': K-Pop Band BTS Addresses the United Nations*, *TIME* (Sept. 25, 2018, 5:23 AM), <https://time.com/5405422/bts-k-pop-united-nations-address/> [<https://perma.cc/GNU7-FET9>].

comes *Silver Spoon*,<sup>180</sup> a song embodying the anguish of the underclass with unfulfilled dreams.<sup>181</sup> The song evokes the anger of a working-class youth powerless to escape class division. Though a culturally unique metaphor of the physical and emotional pain inflicted by overstretched legs, it questions the all-too-familiar refrain of individual effort: *Work harder. Sustain an independent existence*. Interestingly, the song was cited in a 2021 *Harvard Law Review* article, *Geofence Warrants and the Fourth Amendment*.<sup>182</sup>

Its lyrics depict the juxtaposition of two birds.<sup>183</sup> The Korean title, *Baepsae*, refers to a Korean crow-tit, a tiny fluffy bird. The word refers to a Korean saying: “If a crow-tit walks like a stork, it would tear its legs.” *Baepsae* is also a metaphor for the unprivileged, in contrast to a stork, a metaphor for the privileged.<sup>184</sup>

*Stop going on about effort, effort. I'm cringing. There's a slim chance of success*. The seemingly simple, repetitive lyrics can evolve into a drama. *Baepsae* inspires us to reconsider society's sugar-coated rhetoric of individual choice, autonomy, and self-reliance. In the song, the crow-tits are tirelessly reminded by the storks—namely schoolteachers and superiors at part-time work—to keep working harder to achieve upward mobility: *Success is about sheer effort. Walk like a stork, even if the pain rips your legs*, they insist.<sup>185</sup> *Effort? Hard work? You must be kidding!* These words linger achingly. Through the culturally unique expression, “walk like a stork (even by enduring pain),” the song further makes us reexamine the relentless pressure confronting the marginalized. If class division remains a reality, is individual effort the only way for those with humble backgrounds to transcend economic barriers? Could society as a whole do something to ease the pain of the crow-tit's overstretched legs?

<sup>180</sup> BTS, *Baepsae*, in THE MOST BEAUTIFUL MOMENT IN LIFE PT. 2 (Big Hit Ent. 2015).

<sup>181</sup> See generally, e.g., HONG SEOK-KYEONG, *BTS ON THE ROAD 135* (Yuka Kuwahata, trans., 2020); CHA MINJU, *PHILOSOPHIZING ABOUT BTS* (Emily Bettencourt trans., 2020).

<sup>182</sup> *Geofence Warrants and the Fourth Amendment*, 134 HARV. L. REV. 2508, 2528 n.177 (2021) (noting that “society often refuses to change—and even perpetuates—inherently unbalanced social structures and yet blames those disadvantaged for not being able to keep up.”).

<sup>183</sup> KIM YOUNGDAE, *BTS: THE REVIEW 122–23* (Yuka Kuwahata trans., Kashiwashobo Publishing 2000) (2019).

<sup>184</sup> *Id.*

<sup>185</sup> Cf. NAGAYAMA, *supra* note 1, at 223 (explaining the spree killer Norio Nagayama, too, expressed his anger toward schoolteachers, who kept reminding him: *yare-ba dekiru* (“you can do it if you try”)).

The song *Baepsae* has an English title: *Silver Spoon*. The expression “silver spoon” evokes an image of a person from a wealthy family—though the person may not fully appreciate the value of his or her inherited assets.<sup>186</sup> It derives from the Western saying about a person “born with a silver spoon in his or her mouth.” This “spoon class theory,” a system of classifying persons by spoons,<sup>187</sup> has gained recognition among South Korea’s younger generations. It assumes that the type of spoon one is born with will determine his or her future.<sup>188</sup> It categorizes individuals by their parents’ assets: diamond, gold, silver, bronze, wooden, plastic, and dirty. Each category comes with its own specific definition. These classes range from the “diamond spoon” at the top—which includes individuals within the top 0.1% of the population, with more than three billion won (roughly US\$2,315,118) in assets, and with 300 million won (roughly US\$231,511) in annual income—to the “dirty spoon,” those with less than fifty million won (roughly US\$38,585) in assets and less than twenty million won (roughly US\$15,434) in annual income.<sup>189</sup>

In a country where stellar academic performance is considered vital to upward mobility, socioeconomic inequalities have triggered debate among the younger generations.<sup>190</sup> In addition to the social divide, *Baepsae* implies that the generation gap is not necessarily unique to South Korea. Generally, older generations tend to advocate individual effort to overcome hardships; in contrast, younger generations respond cynically to the sweet-sounding rhetoric of their parents and teachers.

Embodying a similarly bleak concept about the inescapable generation gap, a newly coined phrase, “*oya-gacha*,” has emerged in Japan.<sup>191</sup> Soon afterward, it turned into a buzzword. “*Oya*” means a “parent,” and “*gacha*” refers to capsule toy vending machines.<sup>192</sup> Meaning “parent lottery,” the phrase aptly captures the role of luck in our lives: we can’t choose our own parents.<sup>193</sup> It is also a metaphor for accident of birth, which can inescapably shape our life trajectories—

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<sup>186</sup> See, e.g., HONG, *supra* note 181.

<sup>187</sup> See generally, e.g., Hyejin Kim, “Spoon Theory” and the Fall of a Populist Princess in Seoul, 76 J. ASIAN STUD. 839 (2017); CHA, *supra* note 181, at 25–30.

<sup>188</sup> Cf. BTS, *Fire*, in THE MOST BEAUTIFUL MOMENT IN LIFE: YOUNG FOREVER (Big Hit Ent. 2016) (singing “Don’t call me a spoon! I am just a human”).

<sup>189</sup> See Hyejin, *supra* note 187, at 845.

<sup>190</sup> See HONG, *supra* note 181, at 128–30.

<sup>191</sup> ‘Oya-gacha’ Is Far More Than Just a New Buzzword, ASAHI SHIMBUN (Nov. 30, 2021, 12:57), <https://www.asahi.com/ajw/articles/14491477> [<https://perma.cc/HZ6H-JEWA>].

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

inherited wealth or inherited poverty. Winner or Loser. At a “capsule station” in a Tokyo mall I recently visited, I saw rows of these colorful vending machines containing small toys inside: tops, key chains, and rubber dolls, all for roughly US\$1.50–4.50. Put money into the machine. Turn the crank. You pick up the capsule that comes out, whatever that may be. You smile. Or you frown.

The New Words/Buzzwords selected the phrase *oya-gacha* as one of the nominees in 2021.<sup>194</sup> Ultimately, the new buzzword has become more than just a buzzword.<sup>195</sup> “As a fad word, *oya-gacha* superbly captures the sense of near-resignation with life felt by young people today,” said Takayoshi Doi, a professor of sociology at the University of Tsukuba.<sup>196</sup> As in the preceding examples from Korea, some Japanese assert that success derives from resilience and determination, while others say life is like a lottery.

This “lottery” concept itself is nearly universal. Clearly, it exists among Americans, as exemplified by one prominent scholar’s comment. “Even the phrase ‘our lot in life’ draws on a moral vocabulary that suggests certain limits to unbridled responsibility. To speak of one’s ‘lot’ suggests the drawing of lots, a result determined by fate, fortune, or divine providence, not our own effort.”<sup>197</sup>

Combining the metaphors from *Baepsae* with the *oya-gacha* concept, I crafted my own narrative through a PowerPoint slideshow. I used this slideshow when facilitating class discussions exploring the triumphant rhetoric of self-making. A crow-tit or a stork. The juxtaposition of the two contrasting birds seems to resonate with my students, K-pop lovers or otherwise. I further solicited their views on the intersection of inequality, personal responsibility, and “parent lottery.” During my summer intensive course in August 2022, I digitally invited a group of international students from Spain, Slovakia, and Indonesia to join our discussions. By coincidence, some students turned out to be current or former BTS fans, already familiar with *Silver Spoon*. Sharing the lyrics from the piece, along with a video clip, helped us forge an emotional connection and engage in a lively exchange.

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<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

<sup>196</sup> *See id.* See also Tensei Jingo, ASAHI SHIMBUN, Nov. 30, 2021, at 1 (noting that roughly seventy percent of those interviewed replied that they would support the concept of self-making while rejecting the “parent lottery” concept).

<sup>197</sup> MICHAEL J. SANDEL, THE TYRANNY OF MERIT: WHAT’S BECOME OF THE COMMON GOOD? 35 (2020).

Diverse individuals shared their insights while exploring the preceding intersection within their own cultural contexts.

## VII *BOHEMIANS AS A TEXT*

Nagayama's story resonates with me even more deeply because it has inspired and empowered me to reflect on my future role as an educator. Before delving into the Nagayama case, I completed writing *Bohemians*, what I call a "culturally unique, mini-textbook" examining poverty. *Bohemians* consists of three chapters, each of which contains a story followed by a list of possible discussion topics. I wrote it, hoping that it would help us navigate our way through poverty-related issues, legal or nonlegal.

For this purpose, I interweaved scholarship and storytelling. Though the work takes the format of a novel, I conducted extensive research to offer a synthesis of facts and theories, cautiously selected, for the purpose of embodying how poverty impacts Japan. Starving children who shoplift from multiple stores or who sprinkle salt on tissue paper and munch on it for snack. Young women who work in the adult entertainment industry, living off sugar daddies who pay handsomely per date. Single parents who bounce from job to job: housekeeper, telemarketer, call center operator. Addictions. Evictions. Collective narratives turn into a stark reminder: They all carry scars, large or small, from fragile homes.

*Bohemians* also turns into a social commentary through the eyes of the main character, Ryo, a twenty-one-year-old aspiring writer. The story depicts the human toll of socioeconomic injustice through the eyes of a "cyber-homeless" (resident at an internet café) enduring self-isolation within his own digital realm. He is also a self-described bohemian who plugs away at his writing within the confines of a closet-sized cubicle at one of the many "internet cafes" in Tokyo. *Bohemians* transports the reader to contemporary Japan, filled with the unheeded voices of the unprivileged. It is also about the "unequal" world of music, about young Tokyoites living for the here and now, about all of us. The title, *Bohemians*, at least partly reflects the unfair treatment suffered by those who stand outside a sea of dark suits.

Finding some parallels between Nagayama and Ryo fascinated me: They are both impoverished and alienated youths from a broken home. They were both abandoned by their own mothers. They stand outside a sea of dark suits called *Japan, Inc.*, within Shibuya in metropolitan Tokyo. They both question the unfairness inherent in our society.



Confined within a limited space, both choose to employ the power of the written word as a tool, aching to pursue a literary career. I internally hear their voices merge into a single message—a simple yet haunting one: *Isn't it time for people in Japan to heed the unheeded voices of the marginalized?*

The following exemplifies Ryo's internal dialogue:

Looking back, I ask myself: Were my brother and I poor? We weren't without warm coats in winter, though they were hand-me-downs. We were rarely, if ever, without food, though we anxiously awaited and devoured instant ramen noodles . . .

Never mind that we'd once slept in our car when the eviction notice was handed out by our landlord, following months of non-payments. Never mind that our mother sometimes prevented us from bathing more than three times a week, even in the sweltering heat of a typical Japanese summer. So, were we poor? I believe we were. No tents. No shacks. Yet, day by day, we were striving to stay afloat. Living for the here and now, we were too fearful to face into the future.

Family disintegration, often inextricably linked to poverty, remains another theme. A child from working-class Japan, Ryo reflects on what he considers a deceptive but persistent illusion of the middle-class family in Japan. It is also a glorified, media-fueled image:

To many, working-class Japan feels far too removed from the community they comfortably inhabit. The Japan they know is an egalitarian society where everyone belongs, happily and safely, to a group called the middle class. Scenes from a "typical" family persist in the popular imagination: The mother puts on an apron and cooks miso (fermented soybean paste) soup. The father hoists a briefcase and hops onto the 7:12 train. The kids put on yellow school hats and head off to their own worlds.

At the end of the day, they sit down at the dinner table. They quarrel. They fight. They cry. They make up. They smile. Life goes on. This is a mundane and comforting portrait of an ordinary family. As imperfect as they may be, they are bound by unspoken, unconditional love. No idiosyncrasies. My family failed to fit into such a mold.

Writing *Bohemians* in English reflects my desire to create a broader context for examining poverty from multiple angles through a lively exchange of views with participants from overseas. For this purpose, I integrated unique cultural aspects of both traditional and contemporary Japan while pursuing a universal and perennial theme of inequality.

### A. Suicide

Suicide exemplifies one such aspect.<sup>198</sup> The story begins with “another *jinshin jiko*” (“human body incident”), referring to a person leaping in front of an oncoming train in a nation laden with suicides. It is “one of those lives cut short,” in the words of Ryo. He lost his older brother to one of those “unending incidents that no longer shake people,” a reflection of the emotional void inseparable from poverty. The prevalence of train suicides in an already suicide-ridden nation may reflect that void. These suicides rarely trigger news headlines. One might find a five-sentence article, hardly a tribute to human loss, in an obscure corner of a newspaper. Few readers would pause to read between the lines. Few would reflect on a poignant human drama behind the corpse lying on the tracks. Those corpses have become part of Tokyo’s inner city landscape, where youth suicides have risen.

In January 2022, *Mainichi Japan*, one of the nation’s major newspapers, published an editorial referring to the intersection of poverty and suicides.<sup>199</sup> “Of particular concern is the increase in suicides stemming from economic hardship,” the article noted. “The ratio of those taking their own lives because of ‘poverty’ rose about 10% from the previous year, to nearly 1,000 people.”

### B. Cyber-Homelessness

Cyber-homelessness arises as another pressing issue. Ryo counts himself among the refugees forced into solitude within the confines of a cyber universe.<sup>200</sup> In the neon-drenched city, he traces the familiar path to the village of net cafés tucked deep in the shadow of the sprawling buildings. He then arrives at one of the villages for the cyber-

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<sup>198</sup> See, e.g., BARBARA EHRENREICH, NICKEL AND DIMED 231 (2001) (offering statistical information by the National Suicide Prevention Lifeline in the United States suggesting that suicide is one way some people have responded to their economic obstacles).

<sup>199</sup> Editorial: *Japan’s High Suicide Numbers Show Support Not Reaching People Most in Need*, THE MAINICHI (Jan. 31, 2022), <https://mainichi.jp/english/articles/20220131/p2a/00m/0op/011000c> [<https://perma.cc/N5U6-SWR4>] (describing how Japan is “known globally for its large number of suicides, which remain high compared with other rich nations.”). See also, e.g., Nana Oishi, *Suicide, Under-Employment and Poverty: The Gendered Impacts of COVID-19 in Japan*, MELBOURNE ASIA REV. (Jan. 3, 2021), <https://melbourneasiareview.edu.au/increasing-suicides-pseudo-employment-and-hidden-poverty-the-gendered-impacts-of-covid-19-in-japan/>

<sup>200</sup> See, e.g., Jack Rathborn, *Tokyo’s ‘Internet Café Refugees’ and How Coronavirus Shone a Light on Japan’s Homelessness Problem*, INDEP. (Apr. 21, 2020, 2:49 PM), <https://www.independent.co.uk/news/world/asia/coronavirus-japan-tokyo-internet-cyber-cafe-refugees-shinzo-abe-a9470346.html> [<https://perma.cc/399S-D7WE>].

homeless.<sup>201</sup> It is a strangely isolated community called a cybercafé. He takes refuge in a closet-sized cubicle for 1,600 yen (about US\$13) for one night. His stay there has spanned almost three months now. A lone and perpetual wanderer, he has lived a nomadic life in metropolitan Tokyo. Also known as cyber-homeless, “net café refugees” live in cubicles for an extended period, with all their belongings intact. Having been selected as one of the most popular words in 2007, the phrase *net nanmin* (net refugee) refers to homeless Japanese using those cafés as homes while lacking permanent addresses.<sup>202</sup> An estimated 5,000 “net refugees” exist in Japan. Moving from one place to another, they live their own nomadic lives. Unemployed or underemployed, these accidental nomads drift into the cyber world and find themselves helplessly trapped. Perhaps a man carrying all his possessions squeezed into worn-out bags. Perhaps a high school dropout who ran away from a broken home. The cybercafé community contains the marginalized world of security guards, waitresses, bartenders, truck drivers, and store clerks.

Those residents at net cafés are unable to rent an apartment for various reasons. Renting can be a daunting task in Japan. The cost of moving itself requires a large amount of money to be paid in advance, including *shikikin* (a security deposit) and *reikin* (a gratuity). The screening process also requires the designation of at least one guarantor. When renting remains beyond reach, opting for a net café could be one of the few realistic options, especially among job seekers and job hoppers. The lack of a permanent address substantially limits job seekers’ pathways to reemployment. Fortunately, some cafés are willing to allow residents to use their own addresses as fixed residences for the purpose of job applications. With nowhere else to go, a net café becomes an inevitable destination as a less time-consuming and more cost-effective alternative.<sup>203</sup> Within the narrow confines of their makeshift living spaces, they share an unspoken longing for a way out of such darkened space.

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<sup>201</sup> See, e.g., Shir Lee Akawaza, *Net Cafe Refugees: The Coronavirus Pandemic and Japan’s Homeless Population*, METROPOLIS (Apr. 16, 2020), <https://metropolisjapan.com/net-cafe-refugees/> [<https://perma.cc/U4DE-BUWE>]. See also NHK SHUZAIHAN, *supra* note 9, at 191–94.

<sup>202</sup> See NHK SHUZAIHAN, *supra* note 9, at 189–204 (introducing the examples of a family—a mother and her two teenage daughters, aged nineteen and fourteen, who have lived a long time at an internet café in Tokyo).

<sup>203</sup> *Id.* at 173, 187.

### ***C. Corporate Abuse of Power***

Corporate abuse of power toward *haken* workers emerges as another social issue examined in *Bohemians*. *Haken* workers refer to the so-called disposable workforce—those in low-paying and irregular employment, usually temporary staff dispatched to employers by staffing agencies.<sup>204</sup> They work with the nagging fear of being let go. Furloughs and layoffs remain inescapable. Paid hourly and often lacking fringe benefits, these workers face bleak prospects for gaining full-time status. Implicitly or explicitly, society treats them as outcasts, drawing a sharp contrast between them and full-time corporate warriors. The sea of dark suits reflects the war-torn nation's extraordinary rise from ashes, made possible through the zeal and dedication of such warriors.

Every year, on April 1, firms throughout the nation hold opening ceremonies welcoming new hires fresh out of college. In exchange for their all-encompassing commitment, employees are guaranteed economic stability and benefits, from housing assistance to recreational facilities. In today's Japan, where younger workers feel less reluctant to switch jobs, lifelong employment is beginning to fade. But only slowly. The ideal of lifetime commitment itself endures, deeply affecting Japan. Those who lack that commitment are pushed aside as secondary workers with reduced benefits, and job hoppers face disdain.

### ***D. Juxtaposition of Two Worlds***

While exploring poverty as an overarching theme, *Bohemians* also revolves around a juxtaposition of two brothers, two worlds—rock and classical music—addressing the intersection of income inequality and early childhood arts education. Ryo's older brother, Tai, nurtures a yearning for a future career as a violinist. His dream flies in the face of his financial reality, and he is painfully aware of it. "Violin?" Their father expresses disdain for classical music. "Mozart?" Imagining a tuxedo-clad old man waltzing into the opera house, he groans as he lights a cigarette. "That's a hobby for the rich," he yells. He is able to envision it only as a sphere unwelcoming to the underclass.

The pursuit of an artistic career is typically viewed as a privilege given to those who can afford the luxury of taking a distant chance. Classical music lovers are more likely to be financially secure compared to, for instance, country music fans. The unprivileged remain underrepresented among classical music performers and audiences.

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<sup>204</sup> *Id.* at 39.

Society seems to have difficulty dispelling unfortunate stereotypes of elitism and exclusivity within the world of Bach and Mozart.

The disparity between the rich and the poor manifests itself in the availability of educational opportunity.<sup>205</sup> We have all heard about those parents. Parents who extensively research “quality preschools” before their children’s birth. Parents who ready themselves to relocate to an upscale neighborhood hailed for its superb school district. And yes, there are those parents who send their kids to Taimei Elementary School. This public school in the posh Ginza district of Tokyo adopted its Armani-designed uniform priced at over 80,000 yen (US\$614).<sup>206</sup>

More privileged parents display an active interest in early arts education as well. They can give their child a giant canvas with the gift of freedom to throw paint on it and pursue creative aspirations through early arts education. Ballet lesson every Tuesday afternoon. Piano lesson Saturday morning. Come special occasions, they are eager to snap photos of their impeccably dressed kids at concert halls and recitals. *Great job!* They lavish praise on their children, throwing their arms around them. Those cheerleading parents are also capable of providing the gift of a second chance—a buffer zone if their kids fail.

The pursuit of the art world and financial stability go hand in hand. Even if a conservatory hopeful learns that her artistic aspirations fall short of reality, or even if she ultimately opts out of the conservatory, her parents can still shield her from financial ruin. They can reach out to put her back on the right track in life. Those conservatory hopefuls are gambling, and they can afford to gamble. Relying on parents’ resources to fall back on, affluent kids are allowed to tread risky waters to pursue their own passions.

### ***E. Questions Presented***

The following exemplifies Ryo’s internal dialogue, recalling the earlier days when his father matter-of-factly denied him the chance to join a baseball team:

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<sup>205</sup> SANDEL, *supra* note 197, at 12 (“Seeking to avert this danger, parents [in the United States] became intensely involved in their children’s lives—managing their time, monitoring their grades, directing their activities, curating their college qualifications.”).

<sup>206</sup> See Francesca Wallace, *This Primary School in Japan Is Forcing Children to Wear Armani Uniforms Every Day*, VOGUE (Feb. 9, 2018), <https://www.vogue.com.au/fashion/news/this-primary-school-in-japan-is-forcing-children-to-wear-armani-uniforms-every-day/news-story/eb02490f9d591f3b62ef607c098ea83a> [<https://perma.cc/2VT7-TFN3>].

What do you want to be when you grow up? Grown-ups casually ask. Baseball player? Ballet dancer? Singer? The stark reality is that poverty shatters dreams. Few cling to grand visions of what they'd like to achieve. It's too easy, in the face of daily struggles, to lose a sense of the future. The unprivileged move on wordlessly to factories, taverns, construction sites, nursing homes. Early on in their lives, they give up molding their dreams into reality and lifting their way into the future.

I then present the following questions in class:

Education is viewed as the key to the future. This poses challenges to working-class parents who are struggling to eke out a living. How do you think we could improve the situations of working-class parents' inattention (or inability to remain attentive) to their children's education?

How could we broaden and diversify access to cultural experiences across socioeconomic divides? Do you think conservatories and orchestras, for instance, should make a conscious effort to recruit people from economically vulnerable backgrounds?

Discussing human rights, some identify "basic" needs such as food, utilities, housing, and medical care as areas of prioritization. At the same time, they may view the arts as a mere "luxury," something one can live without. What do you think about this prioritization?

Can you share personal stories from your own upbringing? Did your parents make investments of time and money in your own early childhood education?

Aiming to diversify our dialogue with guests from overseas, I prepared some questions that can be explored from multicultural perspectives:

What role do diversity and inclusion play in your society? Diversity comes in many shapes and forms. How is socioeconomic diversity treated in comparison to some other forms of diversity, such as racial/ethnic diversity or gender diversity? What are some of the social and educational benefits flowing from a broader range of economic backgrounds?

In the United States, for instance, affirmative action has long ignited national debate, spawning a host of lawsuits. In a nation that prizes individualism and autonomy, some critics fear that zealous pursuit of equality could imperil a culture of excellence. One of the persistent challenges may be striking a balance between meritocracy and egalitarianism—rewarding merit and remedying inequality. In Japan, seemingly liberal-minded students shake their heads unapprovingly when exploring affirmative action issues. Many argue that "leveling" a playfield could result in injustice in the name of reverse discrimination. What are your views?

What do you think is wrong with competition? It's just the way life is, some may say. Life remains filled with realities that can mercilessly divide winners and losers, who's in and who's out, someone at the top and someone at the bottom. From this perspective, competition reflects the cherished concept that one should be judged on merit. Nonetheless, some may point out that, by focusing on the merit-based approach, society may disregard the fact that people have divergent starting points. What are your views?

It is my sincere hope that I have been able to put human faces on Japan's concealed toll of inequality, empowering my students to question and overcome their own assumptions and biases. From toddlers rummaging for food to a corpse lying over the train tracks, we may be unconsciously averting our eyes from crises in our own backyard. These crises affect us all, directly or indirectly. This recognition itself can turn into a first step toward traveling on the road to battling poverty.

## VIII

### MOVING TOWARD A LESS POLARIZED SOCIETY

*Collective action or individual effort?* Perhaps, the safest and the most reasonable answer to this ongoing *A-or-B* question would be that "good arguments can be made on both sides of the spectrum." Tackling this *A-or-B* question, people too often follow the well-trodden path of simplifying complex, multilayered issues. Poverty results from numerous intertwined factors. How can anyone peel away all the different layers and arrive at a uniform response? Individual effort or collective action: Is this stark dichotomy even significant in the first place? Isn't it meaningless if the glorious theories of socioeconomic justice evaporate once those "theorists" leave their scholastic community to go out into the larger world that remains unchanged? At issue is humanity's never-ending quest for equity.

We should acknowledge the fact that we live in a society dividing haves and have-nots. Also importantly, we should all bear in mind: even among those who draw a line between themselves and the impoverished, poverty can become a reality and shatter their own lives suddenly. One bad decision can take a lasting toll. This is the universality of poverty. Many of us recall a person who has been set out on an unexpected journey triggered by one bad move, such as divorce or switching jobs. Anyone can fall victim to poverty.

The singular focus on personal responsibility draws attention away from the stark reality surrounding unprivileged children without hope

of independence. Even those who advocate for individual effort cannot turn a blind eye to those who are too young to articulate their problems. How can anyone look away from the toddlers desperately rummaging for food throughout their tiny apartment?<sup>207</sup> How can we impose moral judgments upon them? Destiny puts burdens on the shoulders of children. “I never asked to be born. But [my mother] gave birth to me,” wrote Norio Nagayama in his bestselling novel from jail, pondering his own childhood crippled by poverty.<sup>208</sup> And he is right. Children don’t walk into poverty. They are thrown into it. Unlike their privileged peers, they cannot afford to make a few wrong turns until they discover the right path. An impoverished childhood can cast a lasting shadow. Considering this, let us acknowledge that the winnings do not belong to the winners alone.<sup>209</sup> The winners are not solely responsible for their victories; they are indebted to the community—some helper along the way—that made it possible.<sup>210</sup>

*Asahi Shimbun*, one of Japan’s major newspapers, recently published a series of articles on an “empowerment school,” a public senior high school aimed at assisting youth from socioeconomically disadvantaged backgrounds.<sup>211</sup> One article introduces the story of a recent graduate, Takato Okimoto. Growing up in a single-parent household, he lived with his alcoholic mother.<sup>212</sup> Out of the blue, on his sixteenth birthday, Okimoto found his mother dead when he came home from school.<sup>213</sup> Following this loss, Nishinari Senior High School, an “empowerment school” he attended, provided emotional and academic support for him.<sup>214</sup> This enabled him to complete his high school education and embark on a new journey as a college freshman

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<sup>207</sup> See, e.g., PUTNAM, *supra* note 115, at 261 (stating that “America’s poor kids do belong to us and we to them”).

<sup>208</sup> NAGAYAMA, *supra* note 1, at 114 (examining the cherished concept of individual effort, referring largely to educational attainment). See also PUTNAM, *supra* note 115 at 223.

<sup>209</sup> See SANDEL, *supra* note 197, at 129 (citing a political philosopher, John Rawls).

<sup>210</sup> *Id.* at 131, 227 (“[F]or all our striving, we are not self-made and self-sufficient; finding ourselves in a society that prizes our talents is our good fortune, not our due.”).

<sup>211</sup> Azusa Kato, *Boshi Katei, Aru-Chu-no Haha-mo Satta [Solo-Parent Family; My Alcohol-Addicted Mother Left, Too]*, ASAHI SHIMBUN (Mar. 18, 2022, 14:00), <https://www.asahi.com/articles/ASQ3J40WNQ3BPTIL00R.html> [<https://perma.cc/675H-R9ZE>].

<sup>212</sup> PUTNAM, *supra* note 115, at 261 (citing Yvonne Abraham, *Doing Right by the Children in Chelsea*, BOS. GLOBE (Aug. 31, 2013), <https://www.bostonglobe.com/metro/2014/08/30/doing-right-children-chelsea/mMQi2RET1PuVzXAwSrySOM/story.html> [<https://perma.cc/A8BG-H7HJ>]).

<sup>213</sup> *Id.*

<sup>214</sup> *Id.*



in April 2022.<sup>215</sup> He now attends college while eking out a living from construction work.<sup>216</sup>

The goal of his alma mater, Nishinari Senior High School, is not to encourage its students to “join the circle of winners” by battling and conquering economic hardship, according to Principal Yamada. Personal “victories” themselves would not help us dismantle socioeconomic barriers; in fact, they can only widen the gap dividing winners and losers. Yamada instead emphasizes the need for collective action, aspiring for a future where each of us can chart a new path.<sup>217</sup>

*A or B.* This dichotomy only reinforces the existing division. It is time to put debate aside and heed the unspoken voices of the marginalized. It is time to reckon with the reality that a level playing field can be an illusion. We all bear the brunt of socioeconomic inequality. What can we do to help lighten the burdens on the shoulders of the voiceless? Perhaps more than anything else, as a starting point, we should come together to build a sense of empathy and humility.

Child poverty remains a keenly felt issue in the United States as well. “If our kids are in trouble, my kids, our kids, anyone’s kids, we all have a responsibility to look after them”—one scholar shares this “generous, communitarian tradition” from the working-class Boston suburb of Chelsea.<sup>218</sup> Likewise, in his penetrating book analyzing America’s faith in meritocracy, prominent philosopher Michael Sandel reaches a simple but eloquent conclusion: “There, but for the grace of God, on the accident of birth, or the mystery of fate, go I.”<sup>219</sup> “Such humility,” writes Sandel, helps nurture a “less rancorous, more generous public life.”<sup>220</sup> Dismantling socioeconomic barriers remains a stark challenge. By cultivating gratitude and humility, we can at least find a way to a less polarized society.

Some critics have pointed out that humans are forced to live with their own imperfections, enduring the unfairness of their own society. Yet, at the same time, all of us share a desire to be judged for our intrinsic worth. Inequality is a perennial theme that plagues humanity. Taking a deeper look into Norio Nagayama’s story renewed my commitment to pursuing poverty-related issues through the art of

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<sup>215</sup> *Id.*

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> SANDEL, *supra* note 197, at 227.

<sup>220</sup> *Id.*

storytelling—in and beyond the university community. Pandemic-driven online education has further inspired me to enrich learning through the creation of a digital community. Wide exposure to divergent views can empower future generations to reexamine and reformulate their own views and further choose to put them into action. Aimed at a broad audience from divergent backgrounds, this interdisciplinary approach to legal studies can effectively help enhance one's awareness of socioeconomic injustice in Japan and beyond.

Undoubtedly, developing solutions to poverty will remain a daunting task, especially in our invisible culture of social inequality. When “they” become “we,” we can journey toward a more generous, caring society willing to assist the less fortunate. Social change does not take place overnight; yet, why claim defeat before the battle? Even the longest journey must begin where we are.<sup>221</sup>

Walking into clusters of neon signs in Tokyo's urban landscape, I picture faceless young people who have concealed their private anguish. Another day dawns within a matter of several hours. Crisp-suited corporate warriors sardined onto commuter trains carrying them to the destination called *Japan, Inc.*

I think of the nineteen-year-old in a faded monographic photo from April 7, 1969, when the spree killer was arrested. Before me soar the vast expanses of skyscrapers.

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221 KENNETH L. KARST, *LAW'S PROMISE, LAW'S EXPRESSION: VISIONS OF POWER IN THE POLITICS OF RACE, GENDER, AND RELIGION* 111 (1995).