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A Tribute to Jean Camper Cahn

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And where are we now with our heroes dead and our symbols under attack? We live in a grey age, what Matthew Arnold called an 'iron age'—a post-heroic age. We look for great issues—issues that call upon us for commitment, issues worth risking all—issues we can affect; and in doing so, affect the destiny of humankind. And they do not seem to be at hand.¹

When Jean Camper Cahn wrote these words in a 1984 tribute to civil rights scholar Clarence Clyde Ferguson, Jr., she must have seen a world markedly different from the one she helped to create as a leading architect of the War on Poverty. With the eighties' own War on the Poor, it is easy to understand Jean Cahn's despair at the passing of another hero.

Jean Cahn was a hero as well, and her passing this year marks the loss of another great pioneer. In the thirty years following her graduation from Yale Law School in 1961 until her death this year, Jean Cahn left a deep imprint on American society and law. Because of her significant contributions to the War on Poverty, legal education, and the numerous lives she touched through her personal and professional accomplishments, the *Yale Law and Policy Review* proudly dedicates this issue to the memory of Jean Camper Cahn.

After her law school graduation, Jean Cahn taught at Yale Law School and provided legal services in an experimental program sponsored by the Ford Foundation. She also wrote, with her husband Edgar Cahn, a trailblazing article, *The War on Poverty: A Civilian Perspective*,² which served as a blueprint for the creation of a nationwide legal services program.

Unlike many others in the academy, Jean Cahn also brought her scholarship to bear on real-world problems. She was the first director of the National Legal Services Program of the Office of Economic Opportunity. She represented Adam Clayton Powell, Jr. when the House of Representatives refused to seat him. Along with her husband, she co-founded and became the first co-dean of the Antioch Law School, a Washington, D.C. institution designed to provide law students with the tools to practice law in the public interest. There were many more accomplishments, of course; the chronology at the end of this Tribute offers an overview of Jean Cahn's life work.

1. Cahn, *In Memoriam: Turn Back Now?, A Tribute to Clarence Clyde Ferguson, Jr.*, 19 HARV. C.R.-C.L. L. REV. 281, 289 (1984).

2. 73 YALE L. J. 1317 (1964).

These achievements, however, provide only a partial picture of Jean Cahn's life and her commitment to social progress. We therefore asked three people who knew Jean Cahn well to share their recollections of her work.

Edgar Cahn, professor of law at the University of the District of Columbia, met Jean Camper when they were both students at Swarthmore College; they married in 1957 and embarked upon a remarkable personal and professional collaboration. Chuck Stone, who served as a legislative assistant to Adam Clayton Powell, offers a front-line account of Jean Cahn's participation in one of the most highly charged political battles of the 1960s. Finally, Frank Carlucci, once director of the Office of Economic Opportunity, provides an insight into how Jean Cahn worked within the system to achieve social justice.

These authors recount the highlights of Jean Cahn's career and underscore the persistence of Jean Cahn's vision. Jean Cahn well understood the importance of securing rights for America's poor and disadvantaged, but much of her work focused on creating institutions that would empower the poor to assert their own rights. These institutions, despite resistance from many sides, still exist. After the Antioch Law School closed, Jean Cahn persisted and helped convince the Washington, D.C. City Council to create the D.C. School of Law. And, despite the cynical efforts of the Reagan and Bush administrations to gut the Legal Services Corporation, that institution continues to serve the legal needs of people our government has seemingly forgotten.

Jean Cahn, however, never forgot. We hope that those who read this Tribute will also remember and cherish the achievements of this remarkable life. More important, we hope that those who never have encountered Jean Cahn will want to read her works and learn more about her life—and in so doing realize that the great issues are indeed at hand.

The Editors

Honoring the Promise

Edgar Cahn[†]

For Jean, life often felt like a series of defeats. Almost everything either of us did, we did as a team. So we would talk about it half jokingly:

The catalytic Yale Law Journal piece¹ came because Jean was “run out of” New Haven—for representing poor people under a program designed to “help.”

The extraordinary backing that the organized bar gave legal services for the poor—backing that saved it through the Nixon era and the Reagan era and still remains as its most stalwart line of defense—came because she was “run out of” the Office of Economic Opportunity. After trying every other means, she was convinced that only by her resignation could she hold the director to the commitments he had made to create a National Advisory Committee with the clout to protect the independence and professional integrity of lawyers representing the poor.

The Legal Services Corporation was shaped in part as the result of a little known report Jean was commissioned to write as consultant to the President’s Commission on Government Reorganization—but only after she and the entire National Advisory Committee had been “fired” when they attempted to thwart those who sought to politicize the program and intimidate lawyers who wanted to provide vigorous, zealous and creative representation for the poor.

The Antioch School of Law was created—only after Jean was “run out of” George Washington University’s law school because the Urban Law Institute she created and directed proved so successful and effective in training students to be “corporate lawyers” for the poor and for community groups.

The D.C. School of Law was created—because Jean was “run out of” the Antioch School of Law for trying to protect its resources from being raided by the university.

And even in Miami, after Jean had won the first of a series of judgments on behalf of low income, black and Hispanic elderly, the Area Agency on Aging that she represented was “expelled” by the United Way umbrella agency that had housed it—because Jean’s advocacy had been too effective.

There was always a price to be paid for every accomplishment; and somehow, always a way of wresting from defeat, a larger meaning, a larger vision and somehow, another opportunity to create.

Perversely, when there was a triumph, an achievement, a victory—no matter how extraordinary—it was not long before Jean would alienate friends

[†] Professor, District of Columbia School of Law; former Co-Dean, Antioch School of Law.
1. Cahn & Cahn, *The War on Poverty: A Civilian Perspective*, 73 YALE L. J. 1317 (1964).

and allies by daring to question whether the accomplishment lived up to the larger vision that lay behind it. And it never did.

*“At each point, our faith will be tested
and when weighed in the balance,
if we are honest, our best efforts will be found wanting.”*

So two years after founding the Legal Services program, Jean would question whether these new “retail outlets” for law could provide justice retail—while the legal system itself remained incapable of producing justice “wholesale” for a mass, democratic society. The market, she wrote, was not for legal services; that was brand name monopoly. The market was for justice. And to the shock and horror of many, she would question whether a basically medieval guild system could deliver on that scale.

And she would raise those questions, not just with words but with deeds. Over the opposition of legal service attorneys and legal aid agencies, she would insist on the necessity of creating an independent National Clients Council to hold legal service attorneys themselves accountable to the client community they purported to serve.

Risking deep personal friendships, she would also side with the community workers of California Rural Legal Assistance when they sought to organize in order to prevent the fate of the client community from being dictated by some of the finest, most dedicated but essentially unaccountable Anglo lawyers representing a predominantly Hispanic, migrant community.

The Antioch School of Law was a clinical law school designed to produce competent lawyers who would live up to the finest traditions and ideals of the profession. But it was not long before Jean devoted most of her energies to creating what she referred to as the Allied Justice Professions—a legal technician program, a migrant paralegal program, a Native American paralegal program, a program to train lay persons in the law, and even a series of prize-winning films to educate lay people so that they could assert their own rights without lawyers.

Jean’s response to Antioch’s faculty organizing as a union was to enfranchise the ultimate consumers—students and clients—through a tri-partite agreement that empowered the students and a special governance role for the Clients Council she insisted be created.

Observers noted that it was a form of administrative suicide to recruit a group of students with a demonstrated track record for challenging authority. It was no accident that Jean presided over the recruitment committee from first to last. For Jean, a record of activism was evidence that bore on the commitment of an applicant to use the law as a means of enfranchising the disenfranchised. And that admissions policy along with the mission of providing service

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to the community were the two features that were mandated by the D.C. Council in creating Antioch's successor, the D.C. School of Law.

Sometimes the truth is very uncomfortable. Jean had a way of saying it bluntly—about a year or two before it became fashionable. And she had a way of saying it that crossed conventional ideological lines; not infrequently, she found herself condemned by liberals and befriended by conservatives.

Jean did not have much patience with former allies who were content to fight a holding action when there was a need to go on the offensive. And she did not have much truck for a younger generation who seemed to have lost the capacity to dream dreams or to sacrifice in order to give those dreams substance.

In typical fashion, the last paper Jean undertook set forth a candid assessment of the increasing frustration encountered in attempts to use litigation to expand the rights to share and to consume. That didn't prevent Jean from initiating such litigation: her last major victory was to secure a targeting of Older American Act funds for those in greatest social and economic need. But her hope was that we would see the creation and realization of a new group of rights: rights to become productive, rights to remain productive, rights to avoid obsolescence.

That was why she insisted that I leave her bedside to serve on a new commission set up to examine what could be done to make Chapter I of the Elementary and Secondary Education Act a real catalyst for change in public education. She told me: "This is *Brown v The Board of Education* all over again." She knew our society had the knowledge necessary to educate young people and above all, to stop destroying them. The question for her was: could we compel officials to use that knowledge?

And that was also why there was no day I could come to the hospital without first having written a minimum of two pages on a new kind of money people could earn by helping other people. For her, that was one way to give content to the "right to become and remain productive."

When Jean was most bitter, she would ask whether this society would ever give black people the opportunity to create or whether the only option they would have was to exercise the power to destroy. But Jean's strength was that she could never stop fighting and never stop giving love—one person at a time. She chose to fight the cancer with aggressive chemotherapy; we know now that shortened her life perhaps by a few months—but she would not have wanted it any other way. And I know from nurses and others at the hospital, that she was never alone because nurses and nurses' aides and orderlies would come, even in the middle of the night, to get her guidance about how to raise their children, whether to go on to school, how to deal with the fact that a loved one was about to be shipped out to the Middle East. She gave because she could not stop giving any more than she could stop fighting.

Unbeknownst to me, the only thing she requested, should things go against her in her fight to live, was that there be read over her the words from our joint credo, which ends:

*“And so, all that we have, in the here and now, is
our love for each other,
our willingness to forgive each other,
our willingness to come to each other’s rescue,
and our unwillingness to stand by silent or passive
in the face of injustice.*

*“This is my belief, this is our joint belief
and this we shall try to honor
so long as life and breath permit.”*

Jean did.

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They Couldn't Keep Her Out

Chuck Stone[†]

So many of us go through life without living our faith or implementing our ideals. Jean Cahn did both of these things exceedingly well and with distinction.

She did so many audacious things in her trailblazing life. She starred at Yale Law School, married Edgar, raised a family and then made some of the most critical contributions to the fledgling Great Society program of any person. Even when the Establishment tried to push her out, she kept coming back with that unflagging belief that the poor and oppressed also were entitled to a share of the American dream.

As a matter of record, there are three things about Jean Cahn and the life she led that need to be remembered and cherished:

- 1) Her inspirational genius as a founding force for Community Legal Services—which really can't be denied or contradicted.
- 2) Her incredible energies and dedication to the proposition that the sixth amendment also applied to poor people and minorities, an ideal that was embodied by her deanship of Antioch Law School.
- 3) Her critical contributions to Congressman Adam Clayton Powell's defense after the House of Representative refused to seat him.

I first saw Jean in action during the Powell hearings in 1967, when the House of Representatives refused to seat Adam and then set up a Select Committee to determine if the Congressman should be seated in that congressional session.¹ It was a case of constitutional and social dimensions that remains a landmark to this very day.

Along with some of the most flamboyant lawyers of the 60s, Jean represented Adam Clayton Powell during the Select Committee's hearings. I still

[†] Senior Editor, Philadelphia Daily News and Professor of English, University of Delaware. Mr. Stone served as special assistant to the Chairman of the House Labor and Education Committee—Congressman Adam Clayton Powell, Jr.

1. See *Powell v. McCormack*, 395 U.S. 486 (1969). The Select Committee recommended that Powell be sworn and seated as a member of the 90th Congress but that he also be censured by the House, fined \$40,000 and deprived of his seniority. The House rejected this recommendation and excluded Powell, declaring his seat vacant in March 1967. *Id.*, at 492-493. In November 1968, the people of the 18th Congressional District elected Powell to Congress and he was seated by the 91st Congress.

remember one of the earliest sessions when many of those lawyers were jammed into Adam's office—Bill Kunstler, Arthur Kinoy, Herb Reid and Jean.

Everybody was talking and trying to impress Adam.

But when all the lawyers had left, Adam turned to me and said, "The only one who made any sense to me was the sister. She sounded like some kind of genius."

And then Adam paused and said, "I'll bet they're going to try and keep her out, too."

They tried to keep Jean out, many times. But they never could.

A Sense of Purpose

Frank C. Carlucci[†]

Lawyer and counsellor to the poor, teacher and molder of young minds, founder of a university, advocate for social reform, shaper of government programs, few have contributed as much in their lifetime as my friend Jean Cahn.

Jean made things happen. As a young and inexperienced director of the Office of Economic Opportunity in 1970, I had my first encounter with her at an advisory board meeting of the Legal Services Corporation. The minute Jean spoke, I felt the strength of her personality; and believe me, I continued to feel it during my tenure at OEO.

To be sure, Jean Cahn did not mince words. Yet it seemed that almost every word she uttered came from a sense of decency, compassion, and commitment. As our dialogue progressed, we turned from adversaries into partners and from partners into friends. With total confidence in her and Edgar, I helped fund the Antioch Law School despite determined opposition in the administration. It is a decision I have never regretted.

It is often said that the times we live in produce few role models for America's young people. Jean's life, however, challenges that popular notion. Her fierce determination, her undaunting sense of purpose, and her concern for those less fortunate than she are characteristics we would do well to instill in our future leaders. Jean was the type of person many of us aspire to be: someone who made our world a little bit better.

As we move through it, life becomes less expectation and more memory. Some stand out. My experiences with Jean always will because she had a significant impact on my thinking, my outlook and my approach to social problems. While I sometimes felt the heat, I will always be grateful that she was part of my life, and that we were able to share moments of friendship and laughter together. Like so many who knew Jean, I will miss her.

[†] Vice Chairman, Carlyle Group, Washington, D.C. The author was Secretary of Defense from 1988 to 1989 and was President Reagan's national security advisor in 1987. He also has been Ambassador to Portugal; Deputy Director of Central Intelligence; Undersecretary of the Department of Health, Education, and Welfare; Associate Director of the Office of Management and Budget; and Assistant Director and Director of the Office of Economic Opportunity.

Career Highlights

- 1961 Graduate, Yale Law School
- 1961-62 Associate General Counsel, New Haven Redevelopment Agency
- 1962-63 Lecturer in International Law and Director, J.S.D. Program,
Yale Law School
- Attorney, Dixwell Neighborhood Offices, Community
Progress Inc.
- 1963-65 International Attorney/Advisor for African Affairs,
Office of the Legal Advisor, U.S. State Department
- 1964 Published (with Edgar Cahn) *The War on Poverty: A Civilian
Perspective*, 73 YALE LAW JOURNAL 1317 (1964)
- 1964-65 Founded and became the first director of the National Legal
Services Program in the Office of Economic Opportunity.
- 1967-68 Counsel to Hon. Adam Clayton Powell, Jr.
- 1968-82 Founder and Director, Urban Law Institute
- 1971-80 Founder and Co-Dean (with Edgar Cahn), the Antioch School of
Law in the District of Columbia.
- 1984 Distinguished Visiting Professor, Middlebury College
- 1986 Distinguished Visiting Scholar, London School of Economics
- 1986-91 Of Counsel, Fernandez-Caubi, Fernandez, Cancio & Allen, P.A.

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Publications and Other Writings

The War on Poverty: A Civilian Perspective, 73 YALE L.J. 1317 (1964) (with Edgar Cahn)

Preventive Law for the Poor: A Misnomer (June 1965) (paper delivered at National Conference on Law and Poverty)

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Moving into the Eighties: Confronting the Deficiencies of the Legal System from a 'Consumer Perspective,' in TAKING IDEALS SERIOUSLY (Robert Ellis ed. 1981)

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19 HARV. C.R.- C.L. L. REV. 281 (1984)

Maximum Feasible Participation: A General Overview (monograph prepared
for U.S. Department of Health Education and Welfare) (co-author)

My Mother, the Lawyer, in WOMEN AND CAREERS