

**Neil**

So, uh, yeah, I've got the air conditioning turned off. I've got the front desk holding calls. Uh, so all we have in the background now in room 1927 of the Fairmont and Austin, Texas is the highway that never seems to stop out here.

**Bryan**

No, that's right. Uh, do people always traveling through Texas? So I think that's part of what happens.

**Neil**

Are you in Texas much?

**Bryan**

Um, fair amount. I I, when I came through the airport, I remembered being stranded there for several hours not that long ago. And how it was not a very happy experience <laugh> in Austin, airport in Austin. I was remembering that as I walked through, I thought, oh, I remember, remember this airport? Cuz I spent a lot of time here.

**Neil**

I partly asked about Texas just because historically for me, like growing up reading John Grisham novels and, and so Texas has always been in the forefront of some of the work you do. Yeah. You know, but then, you know, you starting in Georgia and then going to Alabama, I wondered if it was the whole south that you kind of traversed or it sort of planted where the need is the greatest.

**Bryan**

It, it has been the whole south. Um, but, um, interestingly, when I would come to Texas, it would be for something very particular, very specific. And I would get in and I would get out. And so I've been to Dallas and Houston and to the prison in Huntsville, um,

**Neil**

Where the death row is

**Bryan**

Death row is, where death row is, um, community across the state. Although most of my work has actually been Texas actually had a lot more resources in terms of people doing the work earlier than some of the other states. And, um, unlike Louisiana, Mississippi, Alabama, and to a certain extent, Arkansas and South Carolina, there just weren't many people doing the work. And so I, I ended up spending more time in those states than I did here in Texas.

**Neil**

It's a nice way to orient yourself Yeah. As a giver <laugh> to go where the the need is the greatest.

**Bryan**

No, that's right. I mean, I've, I've always felt like, well, if somebody else can do that, but there's something over here that nobody else will do, I should probably do the thing that nobody else will do.

**Neil**

Yeah, that's, that's a nice way to think about it. Well, I know that you are very thoughtful. I know that you, I mean, it's 7:00 AM just for people to know. We're looking out at full length windows here that's pitch black outside. I just see the red lights of the cars going down the highway. I can see a glaring kind of Hilton garden sign, um, or, uh, on garden signs. And some of the letters are, are faded out here, <laugh>. Um, and, but I bumped into you this morning at the gym of 5:30. Yeah. And we decided to move this from 7:30 to 7:00 <laugh>. And it's funny because it made me think about the fact that every single profile I've read about you, Brian has a word in it called tireless <laugh>. The word tireless is attached to you more than almost any other word. Do you see yourself as tireless?

**Bryan**

You know, I see myself as really excited about the work that I get to do, motivated to do as much as I can. Um, I, I'm really privileged to have a life and a career where I care deeply about the people I represent about the things I'm trying to do. It allows me to kind of carry a certain amount of passion and engagement. And I think that makes you ready. I think it just pushes you. And, um, and yeah, so I'm, I'm always anxious to start the day. I'm always trying to put as much into the day as I can just cause I know there are, are a lot of needs that won't ever get met.

**Neil**

But do you also though now, so now we're 40 years into this incredible career. EJI was on the website last night, has grown. I was speaking to Caitlin, who helped us set this up, and she told me about, you know, the arms of the organization now. Yeah. Um, you know, Michael B. Jordan has play in film. You know, this is the thing, you know, this is kind of like, you know, when you watch Wallace in the Wire, you're like, this guy's gonna be me one day. I mean, this is, now you've hit this level where you must have to say also no, way more Yeah. Than you say. Yes. Yeah.

**Bryan**

And that's hard for me because there's so many things I'd like to do. You know, I used to spend time in little tiny places with, you know, 40 or 50 people and speak to them and interact with them. And those were really rich experiences and I can't really do that as much anymore. And so it's, it's hard to say no, but it's necessary because we are trying to do so much more now. Uh, when I went from just representing people on death row to representing lots of other people who were not on death row, but who had been wrongly convicted or unfairly sentenced, you know, the universe of potential clients increased exponentially. And so all of those letters started coming in and calls started coming in. And then when we took on these extra campaigns, challenging life without parole for children, challenging, uh, the prosecution of, of people with severe mental illness, uh, all these new categories of vulnerable people who we were trying to help, again, the number of requests coming in just expanded.

**Bryan**

And then when we started doing work all over the country, that really, um, made it necessary to define the disciplined way to say no a lot more than you say. Yes. And that's frustrating, but it is necessary because if you're not careful, you can get so over extended that you don't do effective work for anybody. And in our criminal legal system, you have to be really on it. You have to be strategic, you have to be tactical, you have to be knowledgeable, you have to know everything to have a chance of having an impact on someone's case. And so to maintain that kind of focus, yeah. You have to say no a lot. And now that we're doing this narrative work, which has really opened us up to things out

**Neil**

About the museum,

**Bryan**

The museum, the memorial, um, kind of challenging our history of racial inequality.

**Neil**

It's first ever national museum towards lynching, correct?

**Bryan**

Yes, that's right. Mm-hmm. <affirmative> then the National Memorial is the most comprehensive and the first dedicated to the thousands of black people who were lynched in this country. But our legacy museum is also trying to make a case for how we've not reckoned with our history of, of slavery and how that evolves into lynching and then segregation and now into over incarceration and, and the presumption of dangerousness and guilt gets assigned to black and brown people. So that kind of work touches on so many, um, things in, in American society, actually across the globe that, um, yeah, there's a lot of incoming, I was actually in Paris last weekend speaking at a conference on, uh, for museum directors about trying to use cultural spaces more effectively to talk about these issues that haven't been addressed historically. And really talking about the way in which cultural institutions have contributed to the racial caste system that often disfavors people of color, the values that we assign to certain kinds of lives and all of that. So yeah, I I've had to just kinda reconcile myself to being somebody who has to say no a lot, um, which is, you know, not entirely satisfying, but I recognize it as necessary.

**Neil**

No, I I I'm so happy that you recognize it as necessary. I, I've seen one soccer game in my life. It was happened to be in Barcelona. I was there for work and I saw this one guy walking up and down the field. I dunno, it was this one guy walking, nobody else is walking, everyone's running. But when he, they passed the ball to him, everyone started screaming, that's Messi. And he flew past everybody. And I was like, ah, strategic rest. Absolutely <laugh> you save up for the big things. That's right. Then you are changing the world. You have gone through the Supreme Court many times. You have changed laws. You are doing it. And it's a real privilege to talk about your formative books today. Well, thank you. Um, thank you. Uh, and thank you to Austin Wong, who two years ago called 1 8 33, read a lot from, from Oregon and begged to have you on the show.

**Neil**

And so it's come for fruition now from June, 2020, all the way into fall 2022. So thank you. Now, way back when, and you're gonna tell us when you picked up a book Brian called Invisible Man by Ralph Waldo Ellison. This book was published in 1952 by a random house, for people that haven't seen it, the covers got an almost abstract, dark brown, a white face peering outta the shadows with a thin slanted white cross across it. The title is in a large capital letters at the top in white and yellow. And it just says by Ralph Ellison at the bottom. I want people to sort of picture holding it in a store. So I'll just say a couple things. Ralph Waldo Ellison, named after Ralph Waldo Emerson, interestingly, was born in 1913 in Oklahoma City, died in 1994 in New York City. He's an American writer, critic and scholar.

**Neil**

Best known for this novel, which won the National Book Award in 1953, was ranked by the modern library in their list of 100 best novels. And even according to the New York Times, was the model for Barack Obama's 1995 memoir *Dreams from my Father*. What's it about? Well, basically, as he journeys from the deep South to the streets and basements of Harlem, our unnamed narrator goes through a horrifying battle royal, where black men are reduced to fighting animals to a communist rally where they're elevated to the status of trophies. And the nameless protagonist ushers readers into a parallel universe that throws our own into harsh relief. Dewey decimal heads can file this under 8 1 3.54 for American 20th century literature. And Brian, we're so eager to understand your relationship with *Invisible Man* by Ralph Waldo Ellison.

**Bryan**

Yeah. Yeah. Well, you know, it's interesting. I, when I was in the ninth grade, I, um, earned some money that was mine and I used it to join one of these book clubs. Back in those days, you could sign up and they would send you, you get to pick five books like every three months or something. Yeah. And I was so excited, like back in the magazine time. Yeah, exactly. And I remember just ordering all of these books and they were mostly history books. And I was so excited about that. And, um, and I was in 10th grade when I finally ordered *Invisible Man* by Ralph Ellison. And I haven't read it in gosh, you know, decades. But I still remember it's the only book that I remember reading the first page, like over and over and over again.

**Bryan**

Uh, because I think it begins with something like where the first sentence is, I am an Invisible man, not one of those Hollywood ectoplasms. And then he goes on to describe the life he lives, the life he's living. And I was just fascinated by how this wasn't going to be science fiction, this wasn't going to be fantasy, this was going to be real. And the anonymity of the narrator of the storyteller just made me think, oh yeah, this could be me. And I'd never read a book where the protagonist was someone whose life could be mine. And, um, I just never read a book like that. Yeah. And it just engaged me in this way that nothing had engaged me previously. And, um, is this like seventies Delaware? Yeah, seventies Delaware, which was where I grew up, was rural and southern. I started my education in a colored school.

**Bryan**

Um, there were no high schools for black kids when my dad was a teenager. So we were in the early years of a post segregation era. Uh, the schools were post being quotation mark. Yes, exactly. That's right. The legal architecture had been, um, to a certain extent dismantled. But even when I started school, so, you know, my first grade, we were in the colored school. They open up the new school, all the black kids go over there, but they put all the black kids in one section. So it was still segregated. Yeah. So, uh, and then I remember my mom, I know this is so weird, but again, I'm just thinking of these things, but they used to have something called, I think it was called sra. And you'd get these books and they were color coded, and if you finished level red, you would get to move to level green and level green to blue and, and blah, blah, blah.

**Bryan**

And I remember, um, being in the classroom and getting above the level that they had for that classroom. And, and I remember saying to my mom, I said, mom, I want to get to the next level, but they don't have them. And my mother figured out that they were effectively segregating the kids, um, and then not giving them access to these other books. And, and, and she complained about it. And then I

ended up getting put in the, um, what was previously all white section of the grade, uh, where I had access to these other books. You saw Justice Validated. Yes, that's exactly right. And, um, I just remember it was reading that was the indicator for my mom that this wasn't, this wasn't working. And, um, uh, but yes, uh, so, so in books, there was this real kind of portal. There was a portal to a bigger world than I could see outside of my community.

### **Bryan**

I, you know, I I, I talk about this more now, but my great-grandfather was enslaved in Caroline County, Virginia. And, um, when he was a teenager, he decided he would learn to read, even though there were anti literacy laws that made it illegal for enslaved people to read, he could have been sold, he could have been killed if someone discovered that he could read. And, um, he still believed one day he'd be free and he would need to know how to read. So he took the chance. And I, I think about that now because it wasn't rational for some enslaved person in Virginia to believe they were going to be free. But he had that belief and he learned to read. And when emancipation came, my grandmother told me that, um, once a week, uh, formerly enslaved people who couldn't read would come to their house.

### **Bryan**

And my great-grandfather would stand on the porch and he would read the newspaper so everybody would know what was going on. And my grandmother was so proud of the fact that her father knew how to read, and she would always push her siblings aside to get close to him when he read, and she would wrap her arm around his leg because she wanted to know how to read too. And she told me that she thought that if she held onto him, that the knowledge of reading would pass through his body into her body. Wow. And, uh, he eventually told her, I said, no, Victoria doesn't work like that. I'm gonna teach you to read. And she learned to read. And even though there weren't schools around, she became a big reader. And my grandmother had 10 children, but all of her children were readers. She insisted that people be readers.

### **Bryan**

And, uh, my mom was the youngest of her 10 kids, and we grew up poor in a racially segregated, uh, community. Most of the adults didn't have high school degrees because they hadn't been high schools available to them. And so when you looked out the door, you saw people getting on buses to go work at the poultry plant. Um, you didn't see a lot of opportunity. But my mom went into debt when we were kids to buy us the World Book Encyclopedia, and we had these books in the living room, and they were the valued possession in that house. Mm-hmm. <affirmative>, I'm not even sure she ever was able to pay for those books, but we had them. And at the time, I didn't appreciate it because, you know, Christmas would come along and you go outside and your friends would say, well, I got a bicycle for Christmas.

### **Bryan**

And somebody would say, I got a basketball, I got a baseball. And I'd have to say, well, I got Volume G of the World Book <laugh>. But I, I think about how those books created a portal for a bigger world, and I could see outside that door, and I would be in those books all the time, and I'd read about what they were doing to discover treasures at the bottom of the ocean. I'd read about parts of the world I'd never heard anyone speak about. And it was in the midst of that. Uh, and that's part of the reason why I used my pennies and nickels to join this book club. But it was in the midst of that, that I, that I read Invisible Man. And it was the first book that seemed to speak to me and take me on a journey from where I was

to a new place. And I had imagined what life would be, uh, outside of the rural south, I'd imagine what life would be in different systems. And so, um, Ellison seemed to be narrating that journey. Yeah. At a time when, um, I could really identify with it. And just given where I lived and what I saw around me, it was incredibly compelling.

**Neil**

Yeah. Well, I, I, I, the only part of that story of my challenge is that your grandmother hugging your great grandfather's leg mighta worked. Man, look what's happened. Look at the amplification. Look at the prioritization, look at what it's done for you and for the world. There is a huge lever that has been pushed on that porch

**Bryan**

Yeah.

**Neil**

Back in Virginia all the way up to today

**Bryan**

Yeah. Well, you know, it's, it's funny, I have a niece, uh, who has these two precious little girls, uh, Olivia and Charlie. And, uh, when I go home, uh, it's interesting, one of them will settle in. She'll be restless if I'm just talking, but if I start reading, she will settle in <laugh> and just kind of hold onto you and lean into you. And, uh, it makes me think of, uh, what my grandmother described. And yes, I, you know, I'm really inspired by the hope that my great grandfather had for freedom and for his children. And the hope my grandmother had. My grandmother worked as a domestic her whole life. But she was incredibly literate and loved reading, loved knowledge, loved information. She was very verbal. So I know my history because of her Yeah. Willingness to tell stories. Yeah. And my mom was the, the same way. And, um, I am not unaware of how I would not be able to do what I'm doing if I hadn't been lifted up. Yeah. By four parents who had a different vision of what is possible than others gave them. Absolutely.

**Neil**

You know, it's interesting, the, you are, you are a master of language. Mm-hmm. <affirmative>, you are the words, even just reading Just Mercy, the phrase kept hitting me, sentenced to die in prison. Yeah. Whereas my whole life, I've heard the phrase sentenced to life in prison. Yeah. And just, just, you're a master of language. And just when I heard you say just there, I was inspired by the hope my grandfather had for freedom, what I hear in that phrase is that we're not free.

**Bryan**

No, that's right. That's right. I don't think we are. And, and in many ways, that is why, um, I had to start doing work outside of the courts, you know, so because my life was impacted by people who were committed to the rule of law. So I started my education in a colored school, 80 a county, 80% white. The majority of people in that county, all of the white people did not want their kids to go to school with black kids. And so if you left it to the political process would've never happened. And these lawyers came in and enforced the Supreme Court's decision in Brown versus Board of Education and made them open up the public schools even though they didn't want to. But that commitment to the rule of law required that. And so when I graduated high school, in college, I went to law school because I wanted to

access that power. The lawyers had to help disfavored people who would never be helped, or our political process, which is majoritarian and

**Neil**

Majoritarian

**Bryan**

Yeah. So that in a, in a demo, in a democracy, in a political process, you have to have majority support to elect the people who are going to advance your goals. Absolutely. Yeah. And if you're a disfavored minority who can't achieve that majority support, you're going to really be vulnerable. And there was never a time that black people had the political power to elect folks. Well, first of all, they were disenfranchised. They weren't even allowed to participate in the political process, which is what happens when people in power really wanna isolate and oppress a disfavored minority. And so many of the rights that, um, you've seen evolve in this country are a result of a commitment to the rule of law. So there's marriage equality in the United States, not because the majority of states have passed laws authorizing that in fact, states haven't passed those laws.

**Bryan**

Even California couldn't pass that law. It took the court to articulate this. Right. I've been able to kind of get the courts to ban life without parole sentences for children. Yeah. I couldn't have done that through a political project in Alabama, Mississippi and Georgia. These rights have been essential. Um, we've ended executing people with intellectual disability and children and things, things. So it's the rule of law that has pushed us, uh, to places that I think are really important. And that's why I've been doing the legal work I've been doing my whole career. And I will continue to do that because I'm still persuaded that we're gonna need the law, the rule of law and rights to help guide us to a place where there's more opportunity, where there's, where we're closer to freedom, closer to justice. But it's also true to me, clear to me that the narrative work, the ideas that impact the decision makers in courtrooms has also got to be addressed. Yeah. And that's why, um, you know, about 12, 13 years ago, I decided we're gonna have to get outside of the courts and begin doing these narrative projects. Because for the first time in my life, I was concerned that we probably couldn't win Brown versus Board of Education today. Yeah. I'm not sure our court would do something that disruptive on behalf of a disfavored group.

**Neil**

You said 12 or 13 years ago, I know on your 2012 Ted Talk, you said specifically, we have a hard time talking about race. And I believe it's because we are unwilling to commit to a process of truth and reconciliation. Yeah. You even go so far as to say, in South Africa, people understood we couldn't overcome apart apartheid without a commitment to truth and reconciliation in Rwanda. Even after the genocide, there was a commitment. But in this country, we haven't done that. Yeah. So the work you're doing, and by the way, as you're talking about the rights that you have changed in the Supreme Court, I want people to know a very, like thin yellow sunrise is starting to come up behind you. It's like very, I feel I am touched. I want people to kind of feel what I feel here. Um, so what does that process look like?

**Neil**

I know you're doing, you were in Paris last, or you were in France last week for talking to museum directors, and you're doing incredible work, but national conversations around reckoning with slavery

and talking about truth and reconciliation, I heard Oprah say to you, but my friends say I wasn't there. This wasn't me. And she was brave to say that. Right, right. That was very, I thought that was very brave of her to say that. Yeah. Yeah. Cause she was articulating something. Yeah. But what does this process look like more broadly? I'm, I'm living in Canada. We're trying to do that now with our residential schools. Yeah. We're trying to have a trip to the reconciliation process, um, long, slow, hard work, and messy work, unclear work. And so I'm curious what your vision for what that looks like in this country Yeah. Over the next, you know, coming decades.

### **Bryan**

Yeah. Yeah. Well, I think first of all, it's acknowledging that we have a long history that continues to haunt us. That compromises our commitment to freedom and equality and justice that we are burdened by, by the contaminants created by our history of racial inequality. And I, and I don't believe we're free yet. I think whether you live in the northwest or the Southeast or the Midwest or New England, wherever you live in the United States, you, you live, live in spaces where there is a history of racial injustice. And it's created this pollution that compromises our ability to trust one another, to hear one another, to even see one another. Doesn't take much in America to create dis distrust and conflict and, and division. Trust is at an all time low. Trust is at an all time low. And in many ways, I think some have argued that these contaminants will eventually dissipate on their own.

### **Bryan**

That's not true. We're gonna actually have to actively commit to a process of changing the narrative that we inherited, which is steeped in this racial hierarchy. And that means talking about things that we haven't talked about before. And like in Canada, I believe we have to talk about the fact that we live in a post genocide society. Because what happened when Europeans came to this continent is that millions of indigenous people were killed, uh, through famine and war and disease. It was a genocide. And we haven't acknowledged that that phrase is not used. It's not used because it's taught, it's not taught because it's a heavy phrase. And we don't like to think of European immigrants in settlers as the perpetrators of genocide. But you can't, uh, disconnect from the consequences of these horrific displacement strategies, these abuse strategies. And we, in the America and the United States, created a constitution that talked about equality and justice for all.

### **Bryan**

We wrote this Declaration of Independence that's envied all over the world, but we didn't apply those concepts to indigenous people. We didn't guarantee equality and justice and liberty to indigenous people. Well, says all men are created equal when they had slaves at the time. Yes. And, and, and to, to defend that dicon, that disconnect, uh, we had to create a narrative of racial difference. And so we said that native people, their savages, they're not like the way Europeans. And that narrative of racial difference then justified different treatment, abuse of treatment, violent treatment, rounding up children and putting them in schools to try to take away their heritage and identity, shaving their heads, shaving their heads, them in languages they didn't understand. Giving them disease blankets, knowing their vulnerability and susceptibility to some of these diseases. Uh, it was horrific. We kept their words, we kept their land, but we made the people leave.

### **Bryan**

Half the states in America are native words, Alabama, that's a native word. You know, most of these states are native words. And that narrative of racial differences, then what got us comfortable with two



and a half centuries of slavery, um, because for me, the, the real evil of American slavery wasn't the involuntary servitude. It wasn't the forced labor. It wasn't the brutality of, and the violence of a. Those were horrific. But the greatest evil for me, me, was the narrative we created to justify enslavement. Because white enslavers didn't want to feel immoral or un-Christian or unjust. So they had to create a narrative that allowed them to be reconciled with the human condition of all of these people in chains who were being separated from their children and their loved ones. And so they made up this false narrative that black people aren't as good as white people, that black people are less capable, less deserving, less worthy, less human, less evolved. And that narrative of racial difference gave rise to an ideology of white supremacy, of racial hierarchy. And the racial caste system that came out of that survives the Civil War. When I give talks, I often argue that the North won the Civil War, but the South won the narrative war, because that racial hierarchy persisted even many abolitionist didn't believe in racial equality. And so after the Civil War, we created the 14th Amendment, which should have guaranteed equal protection.

**Neil**

Oh sorry, what you say the South won the narrative war. What do you mean?

**Bryan**

I mean that the ideas that had allowed that system to thrive, persist, persisted. That this idea that black people aren't the same as white people. Yeah. That yeah. Continued because the US Supreme Court struck down every law intended to help, uh, emancipated black people achieve equality because they believed in racial hierarchy too. And it meant that the 15th Amendment, which should have guaranteed the right to vote to black people in the 1860s wasn't enforced until a century later after we passed a voting rights act in the 1960s. And even now, it's being contested in places all across the South.

**Neil**

And you, even in your wonderful books say, you know, if you have a record, you can't vote. That's if you're in certain districts at certain, you know, you, you, I think you go so far as that it's still not fair Today's to vote rights.

**Bryan**

Oh, absolutely. Absolutely. There is still this effort to disenfranchise those who are disfavored. But the reason why the court retreated from enforcement of these laws is that they were more committed to racial hierarchy. They were more committed to this narrative of racial difference. And they were committed to the rule of law. And that's how for a century, black people could be pulled out of their homes and beaten and drowned and tortured and lynched sometimes on the courthouse lawn with no risk of prosecution to any of the perpetrators of that. We just tolerated malevolence and lawlessness in the United States throughout the first half of the 20th century. And you can't understand that unless you understand the power of this narrative of racial difference, this narrative of white supremacy and racial hierarchy to keep people from doing the legal things that they are obligated to do. So that when we get into the 1960s and there's this powerful movement to, to, to break down the legal architecture, the laws of Jim Crow, the laws that have been enacted to codify racial hierarchy,

**Neil**

A lot of it happening where you are today. Right. In my,

**Bryan**

A lot of it happening where I am today,

**Neil**

Rosa Parks, the, the bus boycott, all of that activism.

**Bryan**

Yeah. We succeed in getting the Congress to ban that kind of legalized segregation. But the narrative still persists. The presumption of dangerousness and guilt gets assigned to black and brown people. It continues, and it's still with us today. Which is why, you know, a police officer can put his knee on the neck of George Floyd. It's why three white men in Georgia can chase a black man jogging and shoot him dead and not expect to be held accountable.

**Neil**

Break into the wrong person's apartment.

**Bryan**

That's exactly right.

**Neil**

Um, the, the presumption of danger and guilt is in the narrative today. And it has persisted for hundreds of years to even before slavery, to even when you're talking about the genocide of Native Americans. Yeah. And I'm gonna guess even before that.

**Bryan**

That's right. That's right. Because in the 15th century when Europeans begin, uh, looking for gold and wealth, uh, on the coast of, of West Africa, uh, they didn't see, um, governments and communities that they respected. They saw people who they wanted to exploit because they didn't respect them. They didn't think of them as equal. And the transatlantic slave trade begins in this way where, um, the, the abuse, the abduction, the kidnapping of people can be justified by governments that understood that kidnapping should be a crime, that abduction should be a crime. And yet they engaged in a whole industry of abuse and abduction. And you couldn't do it without racializing, uh, that system without thinking that black people are somehow different than white people inferior. And so, yes, we've, we've cultivated this caste system that continues to burden our ability to achieve equality today.

**Neil**

How is this intertwined with capitalism? Cuz when I hear the 15th century boats, I'm also picturing, you know, gold jewels resources. Uh, I'm, I'm picturing that same thing from native tribes labor Yeah. Is the number one cost line on any company's, uh, P and L. What I'm trying to say is, where are we in the story of capitalism and do these stories entwine, I, cause I've heard you talking a lot about our obsession with wealth in society. Yeah. And you have been very articulate in saying this is a big part of the problem. Yeah. Um, are they related or am I saying..

**Bryan**

No, they're very much related. Yeah. I think anyone who believes that the pursuit of wealth, money, um, profit, um, at all costs is going to be complicit in supporting and creating systems that oppress and abuse people who are vulnerable. Yeah. And it is necessary that we have a different relationship to the things we want. Uh, that has to be rooted in some basic respect for the needs of other people. Yeah. And it's not inherent in capitalism. It doesn't mean that you can't have a capitalist society that, that achieves something close to equity and justice. But it can't be the sort of reckless, single-minded pursuit of wealth that has shaped, uh, the formation of America. I mean, you know, the, the reason why, um, you know, the North was able to slowly retreat from slavery is because they no longer needed enslaved labor in the north. As long as they had enslaved labor in the South and they would send the cotton, uh, to the cotton mills in New England, they could still make huge profits. Right. We ban.

**Neil**

But isn't that the case today though, Brian, with our running shoes? You know, we're all wearing running shoes. Me and you are wearing running shoes right now. And based on what I hear, they're not coming from good places.

**Bryan**

Yeah. Well, there has to be a, has to be a commitment to, um, ensuring that we are engaged in a relationship to the world that is just, that is moral. That is fair. And if, if you, if you're not prioritizing those things and you're just letting the pursuit of revenue, the pursuit of profit guide the decision making, you're gonna end up doing things that are unjust. Yeah. Unfair. Yeah. And abusive. Yeah. And I don't, and it doesn't matter what the economic model is, <laugh> it, it's true in virtual, every economic system. If there's not an attention to the needs of the other, to prioritizing the, the needs of people who are vulnerable, then you're gonna end up with structures and systems and practices that, that are abusive.

**Neil**

So we got here by you talking about the fact that we need to acknowledge our history. Yeah. And I will say in Canada, you know, only now in my mid forties am I even learning cuz the story in Canada about slavery has always been about the Underground Railroad. Yeah. We're heroes in that story. Yeah, yeah. We're the heroes. But we haven't even come close to reckoning with how slavery existed in Canada. That's right. And the three is, we're we're almost further behind because it was longer ago. Yeah. But the acknowledging of the history is a big step. But I do think Justin Trudeau declaring, you know, as our prime minister to be a national truth and reconciliation process, and whether that there's a council that does do some symbolic steps that it sounds like we could use here in this country. And I'm speaking as an outsider of course.

**Bryan**

Yeah. No, I think that's absolutely right. I mean, I do think you have to be intentional. I mean, we're trying to do something very different than what happened in South Africa because in South Africa, a black majority took power after the collapse of apartheid. So things were going to change, even if you didn't commit to truth and reconciliation, it was gonna be a new day. Uh, the country had been governed by a white minority, and now it was gonna be governed by a black majority. There was a shift in power even in that there was a recognition that if we don't create space for people to talk honestly about the harm and the injury and the pain of apartheid, and give space for people to give voice to how

they recognize the wrongfulness of apartheid, we're not gonna do what we need to do. Same is true in Rwanda right.

**Bryan**

A military intervention changed the power dynamic of those who had been horribly murdered and killed during that genocide. Germany lost the war. If Germany had won the war, there wouldn't be a Holocaust memorial in Berlin. There wouldn't be the architecture of reckoning that you see throughout that nation. But because they lost and there was this obligation to confront the allies insisted that they learn about the Holocaust initially. And then the next generation began to not fear that knowledge, but to see in it a sort of truth that might allow them to, to create a new future. Yeah. And, and, and now you see in places like Berlin, a landscape that is so very different than the landscape in the United States, you can go 200 meters in Berlin without seeing markers and stones that have been placed next to the homes of Jewish families that were abducted. The Holocaust memorial sits in the center of the city. And as a result of that reckoning and that truth telling, there are no Adolph Hitler statues in Germany. There are no monuments of memorials to the perpetrators of the, of the Holocaust.

**Neil**

And there's no capital punishment.

**Bryan**

There's no capital punishment. It would be unconscionable. But in the region where I live, the landscape is littered with iconography that celebrates the perpetrators of slavery. The defenders of white supremacy. We're here in Texas where there are hundreds of confederate memorials and monument schools named after people whose whole lives were defined by their commitment to preserving racial hierarchy, preserving white supremacy. And you cannot create a just society if you are holding onto, if you're seeing valor and honor and purpose and legitimacy in those ideas. Yeah. And that's why this truth and reconciliation, truth and restoration, truth and reparation truth and redemption process is so urgently needed in this country. And the only thing I'll add about that is that truth and re re uh, reconciliation truth and reparation truth and restoration, these things are sequential. Yes. You gotta tell the truth before you get to the, the re reconciliation.

**Bryan**

Cause if you skip the truth, you're gonna do something performative and meaningless that doesn't actually move the society forward. I liken it to the healthcare context. Nobody's gonna say, no findings gonna sign up for chemotherapy or radiation treatment just because someone suggested who's gonna do that. But if you get a diagnosis of a potentially life threatening cancer, you think differently about your willingness to endure these very challenging treatments because you know, you have to, to survive. And the truth telling will help us understand how cancerous, how deadly, how lethal the infection is that we continue to carry, created by our silence about the history of racial inequality. It's not just a thing. It is toxic. It may even destroy this democracy if we are not sober about reckoning with the history, the dangerousness of these ideas of, of bigotry and, and racial animus and, and violence. And that's why I think the truth telling has to be the priority.

**Neil**

Mm. And how difficult that is today.

**Bryan**

It's very difficult. Although in many ways here you and I are having this conversation in a medium that people can hear and understand were people of color. And you know, a generation ago, two generations ago, it wouldn't have been possible. Yeah. Uh, I mean, in many ways I would've never imagined that my project would build a museum and a national memorial. And I started out in the eighties. I mean, we could barely, you know, find the resources needed to get to the prison to see our clients. And in a lot of ways, we're entering a period of world history where we have the capacity to do narrative work, unlike any prior generation.

**Neil**

That's right. That's right. And we should hold onto that. Cause this is long form. It's, it's it's user generated. I made up this podcast. We're talking to thousands and thousands of book lovers around the world. You're about to go downstairs and talk to 700 lawyers Yeah. Who are desperate to hear from you. Yeah. To, so that they can be inspired and motivated and given some clarity about the work that they're doing from you. Right. So it's amplified. I mean, look, I mean, Jamie Fox is in the movie <laugh>. You know, you can't get much bigger than that and Oprah had you in her backyard.

**Bryan**

Well, I think that's what's happening. It is happening. And I, and I'm, I'm both worried about the moment we're in, but I'm also encouraged by the, the truth tellers that are emerging across the planet and the power of their witness. You know, I just think it's, it's, uh, we should, we should recognize despite the challenges that we've got, the ability to do things that our for parents could have only only dreamed about the long arc of history.

**Neil**

Yes. Um, speaking of a long arc of history, and I'm hinting by the, the way, for those that don't know, the phrase that Brian often calls into, uh, his speeches and words, is it the long arc of history bends towards justice? That's right. And I love that quite, and it is very hope inspiring. Yeah. And as your history, uh, moves from the seventies and Delaware and the post colored school, um, we're gonna transfer now or move up a little bit to when you encountered a book called The Brothers Karamazov by Dostoevsky. D O S T O E V S K Y. This was published in 1880, originally as a serial in the Russian Messenger. I've got a 1966 mass market paper back here with an oil painting on the cover of 3 dower looking men in long winter coat standing in front of a Kremlin esque building.

**Neil**

I dunno if that is the Kremlin or not. Dostoevsky who was born in eighteen, eighteen twenty one in Moscow, died in 1881 in St. Petersburg. He led a very volatile life, including being sentenced to death, forced to do years of hard labor in a Siberian prison, being watched by an evading legal authorities. And through all this, writing 12 novels, including this big one, which was his last, and also very famously Crime and Punishment, his, his books have been translated to 170 language. What, what is this about? Well, an old propagator Fyodor Karamazov is murdered and his oldest son is tried and convicted for the crime. All the sons of the Karamazov family, however, each in his own way, feel complicity and the need to atone for their part in the death of the old man Dewey decimal heads can file this under 8 9 1.73 for Russian literature. Brian, I'm so eager to hear your relationship with The Brothers Karamazov.

**Bryan**

I, I, I often tell people it's the most influential book I've ever read. Um, and I, I've started thinking about why that is. Recently, I read it at a time when I was really, really struggling. I took a summer program in Washington DC at Georgetown University. I was gonna intern on the hill and I was gonna take the seminar. And, um, I thought it came with this money that it actually didn't come with. And so I showed up.

**Neil**

You're in your twenties here?

**Bryan**

I'm 19. I'm about to start my junior year in college. It was between Howard, uh, no, I was at Eastern College. Eastern College, yeah. Mm-hmm. <affirmative>. So, uh, but I go to DC and, um, you know, at the time, you know, we're in the dorms and they have like priests on every floor, and, but I get there, I have no money. And I remember I'm eating, I, I would get three little things of yogurt. I'd have one in the morning, one in midday, one in the evening. I would go to churches if they had some advertisement of a meal. But I was reading Dostoevsky in the midst of this. And, um, there was something about the kind of the Catholic setting, because he talks, he writes a lot about the church, the Catholic church in particular, and the priests and, and, and the hypocrisy and all of, of that.

**Bryan**

Uh, and I remember going to one of the, uh, priests on the floor and saying, you know, I'm actually struggling a little bit. Is there like some free meal plan? And the guy was just completely uninterested in. And so I'm reading Dostoevsky as I'm, I'm feeling the indifference from these people who I see as help figures. And I think that deepened my engagement. It's an extraordinary book because it talks about all the big existential issues of life. It talks about faith, it talks about family, it talks about love, it talks about temptation. It talks about power, but it also talks about mm-hmm. <affirmative> about meaning. And, um, I was writing letters. I started writing letters when I was reading this book because I would read about, you know, uh, a character that Dostoevsky creates who, who offers someone something, but then gets greedy and takes it back and then suffers as a result of that.

**Bryan**

Or I'd read about how a character was trying to shield their intense guilt by drowning themselves with alcohol or, you know, immoral behavior. I'd read about the priest, the central character, Alyosha. It's this priest who's really yearning to get someplace healthy. And it just made me write these. And I was writing letters to all these people. And when I went back to college, I think two or three, I, I'd been writing, there were several women in the choir who I directed them to and I think they thought I was trying to court them because I was writing so much about love and ways that I realized later that these letters were very, um, misleading <laugh>. It was, it was both funny. Well, when you write people, when you write love letters in general Yeah, exactly. You know, particularly, you know, for no apparent reason sending.

**Bryan**

But it was how moved I was by just the intensity of it. And it was profound because it just introduced me to all of these ideas. There's a very famous section of this book, um, that's titled The Grand Inquisitor, where, um, uh, Dostoevsky actually brings Christ back to life. And he is being interrogated by this figure who represents organized religion. And the figure says to Christ, you know, you set us up for, for

centuries of conflict and violence. You did horrible things by acting irresponsibly. You should have just come off the cross and shown us your power. And had you done that, everyone would've believed we wouldn't be in this world where all of this conflict and, and violence and and disagreement has persisted. And, you know, Dostoevsky has the Christ figure say, but I didn't want to enslave people with a miracle. I didn't want them to believe because they had to.

**Bryan**

It was necessary for me to create an identity where we believe because we choose to, because the beliefs we choose to embrace, that we discover, that, we find, that we hold onto even when they're inconvenient, even when they're uncomfortable. Those are the beliefs that give meaning to our lives. Mm-hmm. <affirmative> and then the inquisitor says, but they buried you in the ground and they question, and he has the, you know, the Christ figures say, but truth crush to earth shall rise again. And there's this powerful explanation about how if you hold on to truth, you may suffer, you may struggle, but you are aligned with something that is so eternally powerful that you will ultimately prevail.

**Neil**

Wow. Truth crushed to earth will rise again.

**Bryan**

Yeah. And it's the powerful only way I could understand the brutality and the history of, of enslaved people and the suffering. It's the only way I could understand the humiliation of Jim Crow in segregation. It's the only way I could actually make sense of why I was, you know, 19 trying to do my very best, trying to help everybody and couldn't find enough food to eat in this program. And, and in that respect, it just had a really profound impact on me. I thought there was, um, knowledge and insight and discovery unlike anything I'd experienced in a book.

**Neil**

Did this book also not, was this book also given to you by an inmate at one point?

**Bryan**

I gave the book to an inmate at one point. Yeah. When I represent young kids, uh, particularly, you know, I represent a lot of people with 13, 14 when they're, when they're arrested and convicted. And so when I take on those cases, we never charge anybody money. But for my young clients, I often say, okay, you're gonna have to read a book every month. And I usually pick the books at the beginning because some of them are very reluctant. Um, or actually, I usually let them pick the books, and then in time I'll start picking them. Yeah.

**Neil**

They aren't gonna pick 700 pages Dostoevsky

**Bryan**

No, they are not. No, they're not.

**Neil**

You gotta work up to that.

**Bryan**

You gotta work up to that. And, and, and this idea of being a reader as a way of getting outside the world in front of you is very much what has influenced this. But so many of my clients now are just deep into it. And I had a young man who was 14 when he was sentenced to life in prison, and I represented him now like 30 years. And I started, uh, sending him books, sending him books. And it was probably, I don't know, seven or six or seven years ago that I got a call one night and it was from this young man, and he was so excited. He's not somebody in Just Mercy because he has a parole eligible sentence, and I wrote mostly about kids who had life with no parole. But, um, uh, he called me late at night and I was a little annoyed that he was calling so late because I knew he was on a cell phone, which you shouldn't have because you couldn't use the regular phones.

**Bryan**

But it was like 11 o'clock. And I said, why are you calling me late? You know, you're not supposed to call me. And said, I'm just, I had to call you. I'm so excited. Uh, I just finished the book, you sent, and I didn't remember what I'd even sent him. And he actually started, man, he started saying, man, man, that was, man, I just got, he says, I got emotional reading. And he started to cry. And I finally said, what? I'm sorry, what? What, what did you just finish reading? He said, I just finished reading the Brothers Karamazov by Dostoevsky, and he starts talking about it. And the next thing I know, I'm crying because it was just so exciting for me to have someone condemned in a prison experiencing what I experienced at 19, when I read that book and talking about it in all the same ways,

**Neil**

A transmutation of energy from him in the 18 hundreds to Dostoevsky who because of reading was sentenced to death.

**Bryan**

That's right.

**Neil**

Because of reading. He was reading books against the Tsar. That's right. And right before they killed him, he, he, they gave him, depending what you read on online, it was like maybe a mock. Yeah. You know, a mock That's right. Right Before they killed him, said, oh, you're, you're forgiven. Yeah. And so I looked up the history of, uh, uh, United States, uh, population's, opinion of the death penalty Yeah. Before coming here. And I, I went by Pew Pew Research, and it looks to me as though it has been declining for like 50 years. That's right. And, uh, I was curious, just having you here, can you give us the history of the relationship with the death penalty in this country and how it fits into like, the wider global view? I mean, I'm, I'm, I know it, it's never existed as far as I understand in Canada. Yeah. But, but where are we? Because if, if indeed the majority that favor the death penalty is constantly shrinking to the point where it's in the 50 per, I think 50 to 60% range now. Right. Does that not mean that it's going to be abolished as the number dips, dips, dips, what's happening here?

**Bryan**

You, you have to hope that will happen. And actually, when people are given the choice between the death penalty and life without parole, it, it drops beneath 50%. And we have made progress. I mean, you know, the death penalty was a civil rights issue because after lynchings no longer became acceptable, it,



it just kind of moved indoors. And so the people who were being executed were largely, were disproportionately black, almost all of whom

**Neil**

Give us the numbers. You,

**Bryan**

Well, about 87% of the people who had been executed for the crime of rape were black men. 87%. (87% and this is like a 10% or less population probably. That's exactly right. )With, with, with 12% of the population being black, and this is between 1930 and 1972, when these issues were presented to the US Supreme Court for the first time, all of them had been executed for crimes involving victims who were white. And so the Legal Defense Fund, the premier civil Rights organization challenged the death penalty as discriminatory, arbitrary, all of that. And in 1972, after most countries in Europe had also recently abolished the death penalty, the US Supreme Court struck it down. They didn't say it's unconstitutional because it's cruel and unusual in all perk cases. They just said it's being applied in this arbitrary and discriminatory way. And when they did the, (with a 10% error rate), with an incredibly high error rate mm-hmm. <affirmative>.

**Bryan**

And when, uh, the Supreme Court did that in 1972 in a case called Furman versus Georgia, the South, just, they just absolutely exploded in rebellion. And rather than accept the ruling as the end of the death penalty, which many people thought it would be, they began creating new death penalty statutes designed to, uh, remedy the problems that the court talked about. And that's how we got the modern death penalty, which is now given rise to thousands and thousands of death sentences. And four years later, in Greg versus Georgia, the Supreme Court, uh, basically held that, you know, this racial bias may not be, um, uh, a problem that we have to worry about. And then 11 years after that, in 1987, this very famous death penalty to case McClusky versus Kemp, the Supreme Court is presented with dramatic evidence of racial bias in the death penalty.

**Bryan**

You're 11 times more likely to get the death penalty if the victim is white than if the victim is black, 22 times more likely to get the death penalty if the defendant is black and the victim is white. And the court nonetheless upholds the death penalty by arguing that if they recognize these disparities in the context of the death penalty, it'll be just a matter of time before the lawyers complain about similar disparities for other kinds of criminal sentencing. And that's a threat to our whole system. And, uh, it's what Justice Brennan and his dissent characterize as the court's quote, fear of too much justice that allow them to, to kind of keep, maintain this system. But it was the other thing that I found particularly devastating. The court said, a certain quantum of discrimination, a certain level of racial bias in the death penalty is inevitable in our system.

**Bryan**

And as somebody who's the product of Brown versus Board of Education, as somebody who's gone to the court and read the words on the building that say, equal justice under law, I could not understand how this court could be talking about the inevitability of racial bias and something as a, as extreme as the death penalty. And so for the last, you know, 40 years we've been pushing states to recognize that this is not a just space, this is not a healthy space. I mean, the death penalty for me has never been an

issue that can be decided by asking, do people deserve to die for the crimes they've committed? The threshold question is, do we deserve to kill? And if you have a legal system that treats you better, if you're rich and guilty than if you're poor and innocent, if you have a legal system that is compromised by racial bias and bigotry, if you have a legal system that is politicized, if you have a legal system where the rate of error is so high for every eight people now that we've executed in the United States, we've identified one innocent person on death row, it's a shocking rate.

**Neil**

And that's just identified

**Bryan**

Just identified. That's right. And it's something we would not tolerate in any other area. If, if, if we discovered that one out of eight apples has a toxin on it, and if you touch that apple, you will die. Nobody would sell apples. Yeah. No government would permit the selling of apples one other vehicle. Exactly. And yet we continue to tolerate it, but we have made progress. There are,

**Neil**

You even have a quote in here, sorry to say this, but just interrupt, I just wanna throw it in here. You say, we would never rape a rapist.

**Bryan**

That's right.

**Neil**

Right. Yeah. But we murder a murderer.

**Bryan**

Yeah. I think we recognize how immoral, how inhumane it would be to ask someone to rape another human being. Uh, we even nominally say we wouldn't torture someone who's a torturer because we realize that that does something to the person who is required to commit that violence. But somehow we want to kill people who kill as if we can somehow be insulated from the harm, the insult to the human spirit, the violence to the human spirit. When we say to someone, you have to go kill this person, uh, to show that killing is wrong, it's, you know, in my judgment, not reconcilable with a justice society. And United States remains one of the few democratic societies on the planet that that retains the death penalty. And part of the difficulty in predicting its, and is that it's state level, it's not a federal death. It's not a single national death penalty each state. And so we, we have 20 states that don't have the death penalty now, and a bunch of states have it, but don't use it. Uh, so, uh, we're gonna have to just keep pushing, uh, places like where I live Alabama, like Texas, where we are, are very active users of the death penalty.

**Neil**

Somebody who sentenced to death, uh, I think yesterday here

**Bryan**

Yeah. No, it doesn't, it doesn't surprise me. The, the, the death sentencing rate has dropped dramatically. The execution rates have dropped. So we are making progress, but it's, you know, it's all about the struggle.

**Neil**

Yeah. Well, I I also feel like I, I don't wanna misquote you, but I feel like I've heard you in another interview, say, part of the truth and reconciliation process would be eliminating the death penalty would actually be a big step. Absolutely. Because I think I've heard you say, and again, I don't wanna put words in your mouth, that the modern death penalty is an actual living vestige of lynching Yeah. Of genocide of native people. It's just the modern incantation of

**Bryan**

That's right. I don't think, if you understand our history of the violence of slavery and the, and the horror of lynching and the degradation of segregation, that you could accept a death penalty that disproportionately impacts people of color, where, where black people are much more likely to be executed than white people. And, um, black victims are much less likely to get the same kind of treatment just based on that history. Yeah. Yeah. You would say, you know, we can do this.

**Neil**

Yeah, exactly.

**Bryan**

History alone means that we should not do it. And that was my point in Germany where the Germans don't have the death penalty, they'd say it's unconscionable for us, we couldn't do that. We couldn't do that. Yeah. And we certainly couldn't do it if the people who we were executing were disproportionately Jewish. And yet here we are in the US with this horrific history of violence against black people over centuries, tolerating executions, uh, that, um, have all of these racialized features. And so Yes. And the, and the powerful thing for me is that if we abandon the death penalty, we then have resources to actually help to reduce crime, to help people get more safety.

**Neil**

Well, that's a, it's a pretty expensive, uh, line item.

**Bryan**

Oh, absolutely. Absolutely.

**Neil**

Now, you are the only person I've ever met in my entire life, Brian, who has gone to the Supreme Court ever nevermind multiple times. Nevermind. To actually get laws changed. You just, you've mentioned a few of them. High level, you have to read Just Mercy if you're listening to this, you have to look into Brian's work. And I will add a big thing at the beginning of this before, before this goes out, because it's been profound. And I have to ask you, it appears as though the trust level in the actual Supreme Court itself is declining.

**Bryan**

Yeah.

**Neil**

It appears as though the Supreme Court itself, this, this objective, you know, we have a lot of faith in that institution, and when appeals as though, like, one president can make a call, one president can, I'm from, I'm speaking from a distance here. Yeah. But like, what about the institution itself?

**Bryan**

No, we're in a really perilous moment because, um, we've allowed, um, ideologues to influence who should be on the court. And you have people on the court now that are not committed to the rule of law. They have an agenda, they have a political agenda. Um, and that agenda is shaping their, um, decision making in ways that I think we haven't seen in quite a while. When you look at the history of the court, it was really only that era between the 1950s until recently that we had a court that was acting in a way that prioritized the rule of law, even against political preferences.

**Neil**

When you say that as someone who doesn't know law very well, I think what I'm hearing you say is the, it they're, they're interpreting and applying the law as opposed to coming in with their own views. That's right.

**Bryan**

That's right. That's so, if, if we say equality is mandated by the 14th Amendment, and we have two school systems, one for white kids and one for black kids, and the black kids are not getting just education, that has to be struck down. If you have laws that are effectively denying black people the right to vote, that has to be struck down. Even if the governors in those states are gonna be outraged and the mobs are gonna come out and they're gonna stand in the courthouse door and do all of these things to express their outrage, you don't let the political repercussions undermine your commitment to equality in that situation.

**Neil**

Right. You're interpreting and applying the law, hence, the many things you've got done have been based on cruel, unusual punishment.

**Bryan**

Exactly. Right. Right. And when you explain to a court that it is unusual to, to, to say to a 13 year old child that you're only fit to die in prison, given what we know about adolescent development, given what we know about the status of children, given what we know about human behavior, and then you say, we're going to condemn you to this prison, lock you into a cell for the rest of your life, which is harsher for the 13 year old than the 50 year old, you have to really reckon with what the language of our constitution means when it talks about cruel and unusual. And we were able to persuade them that it is cruel and unusual to condemn 13 year old children to die in prison for non-homicide offenses. But now I'm not sure that our court is open to the legal argument if it's going to, um, contradict the political narratives out there, which are again, once, once more, in my view, being fueled by fear and anger. And that's the, that's the challenge that we're seeing today, is

**Neil**

What's the, how do we navigate out of this? It's, you know, it's hard to get back, go backwards when things become so political.

**Bryan**

Yeah. I, I just think understanding the core elements, I mean, I'll be talking about this.

**Neil**

When are you applying for the Supreme Court? I'm asking

**Bryan**

<laugh>. Well, I'm not sure that's where my destiny lies, but I do want the members of the Supreme Court to realize that if we tolerate governance rooted in fear and anger, we will, we will accept things we shouldn't accept. Uh, we'll tolerate things we shouldn't, uh, tolerate. I think fear and anger are the essential ingredients of injustice. Uh, if

**Neil**

You, well, why do you come to those two words? You, you, you said very confidently a second ago. These are because of fear and then and anger. Why? Because I don't think ask the Supreme Court judges, they wouldn't say that's what, where they are basing their new, the abortion law that just came down, they wouldn't say it's based on fear and anger.

**Bryan**

No. But the politics around that, I, I can, I can listen to a serious debate about how we should think about reproductive freedom and the law that's completely acceptable. But that's not the nature of the political discourse. The political discourse is if you don't do this, we will, we will exclude you because we are angry that this exists, or we are afraid that this exists. And I, and I talk about fear and anger because they're just such powerful emotions in our personal lives.

**Neil**

Yeah.

**Bryan**

Yeah. I mean, if we are angry enough, yeah. We will do something we would never imagine doing. Yes. If we're fearful enough, we will, we will do things we wouldn't imagine doing. And you can't understand the Holocaust in Germany. You can't understand the Rwanda and genocide. You can't understand the worst, the most horrific moments in world history without seeing the power of fear and anger to cause people to act in ways that you would never expect a person to act.

**Neil**

Surgeon in general, vivid Murphy, who was on our show, told us every single decision is rooted in either love or fear.

**Bryan**

Yeah. Yeah. I, I think that our growing fears of the other are growing fears of displacement and the power hierarchy, our growing fears. These are the roots of so many of the issues that we're seeing on

display today. And when you match that with thinking that you should have all the power because you've had it, and then getting angry about it, a loss of power, it just creates this almost desperate, um, instinct to, to do, uh, reckless things, violent things. I mean, you know, they, people stormed the capital of the United States Congress and it was shocking over a lie about an election, and yet they did it. And at the time you would think there'd be consensus that this is wrong. This is absolutely unacceptable. And now here we are not that long later after, and people are trying to defend and legitimate that kind of behavior. And so, um, we have to commit. We have to decide individually and collectively, are we gonna be governed by fear and anger, or are we gonna be governed by a commitment to the rule of law, commitment to democracy, a commitment, uh, to respecting, uh, other people and other perspectives,

**Neil**

Maybe all the way up to love,

**Bryan**

All the way up to love. Mm-hmm. <affirmative>, that's ultimately where we need to be. Mm-hmm. <affirmative> mm-hmm. <affirmative>. And it's those who commit to love that are really going to be essential.

**Neil**

There is a lot of love and a lot of tough love and a lot of hard love in up, up called *The Color Purple* by Alice Walker, which came out in 1982 from a Harcourt Brace, Jovanovich, I'm holding a mass market paper back with a purple tone cover and the profile of a woman Sealy, presumably the narrator in a rocking chair reading letters. There's a delicate curtain in the window, kind of like today, a sun coming up, kind of like today. And now it's a bright light around us. The highway's still, still going. This book came out in 1918 and won the Pulitzer. Alice Walker was born in 1944 in Georgia, an American novelist, short story writer, poet, and social activists still alive today, who's published 17 novels in story collections. What's this book about? It depicts the lives of African American women in the earlier 20th century in rural Georgia, where you started your work separated as girls sisters.

**Neil**

Cellie and Nettie sustained their loyalty and hope in each other across time, distance, and silence. *The Color Purple* broke the silence around domestic and sexual abuse, narrating the lives of women through their pain and struggle, companionship and growth, resilience and bravery. This is an epic that carries readers on a spirit affirming journey towards redemption and love. I will tell you, I could not sleep last night on page 127. This is a mesmerizing book, the language. Oh my gosh. Brian, oh, by the way, file this one. I can't, can't forget the Dewey Decimal people out there like me. 8 1 3.54 for 20th century American Literature. Brian, tell us about your relationship with *The Color Purple*?

**Bryan**

It was just extraordinary. I was in law school. I had already been to Death Row and met condemned people. I was working with a lot of families that seemed to carry the pain, uh, created when a loved one is condemned. And, um, it just was, um, one of the most emotional books. Um, I, I'd read, I just remember crying a lot, reading this book, and it's so beautifully. I mean, Alice Walker such a gifted writer because she created portraits of people who even when they did things you didn't like, they were human beings doing things. They weren't just caricatures. They were, I mean, you know, the male

figures that are abusive, you, you see them struggling with their own aspirations that have been crushed by oppression. And, um, the people who are described and identified as ugly, uh, she gives a kind of beauty and a kind of richness that allows you to begin to look past these labels that are so often used in, in American society.

### **Bryan**

And, uh, it, it, it, there are just so many beautiful elements to it, I think as someone who was largely shaped by women, uh, my grandmother, my mother, uh, someone who saw in the conversations of my aunt, um, so much history, so much power, so much resilience, so much love, and so much struggle. Uh, the, I I just loved her ability to talk about how bonds between human beings can endure so much. And that's the power of the story between Celie and Nettie. And it's just, um, it's an extraordinary novel in that it, it is a rollercoaster. I mean, you take, she takes you through so many things, and it's a brave novel too. I mean, she introduces, um, uh, characters who, uh, are attracted to people of the same sex. Yeah. She introduces, um, things that are historically forbidden in, in the black reading experience. Um, I mean, she talks about the church and the constraints of the church. She talks about music and the power of music in the struggle to survive, which is so something I relate to so, so deeply. Uh, it just was a profound book that brought together so many things in my life that I had experienced that I'd seen, that I'd witnessed, that I'd felt, but never read articulated with such compassion. Yeah. It's a very compassionate novel. It is

### **Neil**

And the resilience you talk about this human spirit you talk about is a big, big part of it. You, you had an amazing conversation with Krista Tippett. I'd recommend everybody go listen to that one On Being, and you said, I think you're either hopeful or you're the problem. Yeah. You know, I thought that was a really interesting phrase because back in chapter 110, we talked to Kevin Kelly, who's the co-founder of Wired, one of these, um, he's a tech kind of evangelist, and he says, we have a moral imperative today to be optimistic. Yeah. He's talking a bit more about the technology side, but how do you cultivate that strong mind in the face of this endlessness? Yeah. You know, you do it well, and you inspire many to do it too. Yeah. But you're either hopeful or you're the problem. That's, that's a very strong stance I thought.

### **Bryan**

Yeah. And, and I'm not condemning people who are who, who don't have much hope. I'm just trying to push people to recognize that in my world, hopelessness is the enemy of justice. Ah, injustice prevails where hopelessness persists. Mm-hmm. <affirmative>, because if we accept the inequality, the injustice, the pain, the trauma that we see around us, if we don't have any aspiration to change it, it will continue. Yeah. You know, you could not end slavery without someone believing, without someone having a hope that abolition would come. That's right. You could not end segregation. You know, I, I spent the pandemic in Montgomery, and it was powerful for me to reflect on the generation that came before me there, because the generation that came before me, they were powerful, hopeful people. I stand on the shoulders of people who did so much more with so much less, uh, black people in, in the 1950s would, um, get up, put on their Sunday best and go places to push this country to honor their right to vote to, to, to break down the barriers of exclusion, something that they should have been given.

### **Bryan**

And they'd be on their knees praying, and they'd get beaten and battered and bloodied by law enforcement officers. And then they'd go home, wipe the blood off their bodies, change their clothes,

and go back and do it again. And you can't do something like that without this powerful hope. And I think hope is our superpower. It's the thing that will get us to stand up when people say, sit down. It's the thing that will get us to speak when people say, be quiet. And I preach it because I want everybody to have it. And I worry when I go into a courtroom and I see hopeless lawyers or hopeless judges, I worry when I see hopeless teachers or hopeless physicians, I can't expect good outcomes for children when they're being taught by people who are hopeless. I can't expect, expect good outcomes for patients who are sick when they're being treated by people who are hopeless.

### **Bryan**

And we cannot expect freedom and justice if we are, um, being governed and, and managed by people who are hopeless. And so, yes, I do think hope is essential. It is a requirement for a society that has not achieved the things that it must achieve to be healthy. And, um, you know, I had to believe I could be something I'd never seen when I got to Harvard Law School. I'd never met a lawyer, didn't, had never met a lawyer who looked like me. I had to have a hope I could do something, even if I hadn't seen it. You know, Vaclav Havel talked about this when, when he said in, in, Czechoslovakia of a, when they were, when they were trying to free themselves from the domination of Soviet oppression, they wanted all kinds of things. They wanted recognition, they wanted money, they wanted, uh, resources.

### **Bryan**

He said, but the only thing they needed was hope. And Havell says, the kind of hope you need is not a preference for optimism over pessimism. It's not this pie in the sky thing. He says, it's a willingness to sometimes position yourself in otherwise hopeless places and be a witness, and to believe that your witness matters. And that's why, you know, I continue to fight in Alabama. That's why I continue to go to death row. Why? That's why I'm worried about our court. But I'm not going to give up on, uh, pushing the rule of law, pushing justice, pushing freedom. It becomes a way of life. And for me, uh, it is what sustains you when it's not otherwise rational to do the hard things that you're trying to do, to believe things you haven't seen. And I just, I just think we have to be intentional about our hopefulness or otherwise, you know, the things that make us hopeless will gang up on us, overwhelm us, and we won't even realize that we've lost our hope.

### **Bryan**

You know, I tell students when I teach, I say, go back and read your college admission essays before you take a job. Go back and read your law school admission essays and make sure that your aspirations that motivated you to go to law school or medical school or graduate school are lining up with the career choices that you're making. Because otherwise you'll find yourself on a bad path. And I don't want you to be with somebody who 30 years later says, my God, what have I done with these last three decades of my life? Many of us have the ability to have choices, um, about what we do and where we do it, and how we do it. And if we let our hopes form those choices, shape those choices, I just think we end up in a better place, A place that that gives us meaning and purpose and, and, um, and some satisfaction. You know, I'm, I'm not satisfied by where the world is, but I am grateful that I've been able to be on the path I've been on despite how difficult it is. But I couldn't do it without, uh, without hope.

### **Neil**

You've given us a lot of hope today.

### **Bryan**



Oh, thank you.

**Neil**

And you've helped guide us. You are guiding us to a better place. Thank you for the gift of your presence and your time and for coming on this show.

Bryan ([01:27:01](#)):

Absolutely. My great pleasure.