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Thomas Davies, "I can't not do it"

Testifying to a Life of Witness

Elizabeth Quay Hutchison

"Winds of the Old Days" is an incredible statement of how Joan Baez views [Bob] Dylan: "So thank you for writing the best songs / Thank you for righting a few wrongs / You're a savage gift on a wayward bus / But you stepped down and you sang to us." The song I think sort of ties together everything, at least it did for me, and people like me, that were involved in all this stuff.

—THOMAS M. DAVIES JR., 2015

Tom Davies always came prepared. Ever the expert witness—this time prepared to explain *himself*—on this September afternoon he brought three documents to our second interview: a list of the almost five hundred asylum cases he had worked on, a personal chronology of key political events of the 1960s, and the lyrics to a song Joan Baez wrote about Bob Dylan. The next two hours did indeed tie it all together, exposing the qualities of compassion, expertise, and commitment that shaped Davies's work as an expert witness, primarily on Mexican LGBTQ+ cases, for over two decades. In these interviews, conducted in August and September 2015 in his Albuquerque home, with his wife and collaborator, Adele Davies, standing by, Tom (or "Tommy") worked from his documents as he testified to us, with modesty and insight, about why he had devoted so much of his life to the singular purpose of supporting attorneys seeking asylum for Latin American LGBTQ+ persons, Indigenous people, women, and others who flee persecution.

Kimberly Gauderman and I had arranged to conduct these interviews with Davies for a variety of reasons. We went to Davies not only because of his critical participation in so many successful asylum cases—including his intervention in the first successful case of asylum for a Mexican transgender woman in 2000—but also because he represents the heart and best expression of this book's focus, practicing asylum. Even as Davies refined his own practice as an expert over the

years, he partnered with and mentored many immigration attorneys and expert witnesses, including several of this book's contributors. In addition to formal work as a country conditions expert, Davies collaborated extensively with an emerging cohort of asylum attorneys and also trained other academics as expert witnesses, setting high standards for integrity, research, and legal strategy as he did so. Up to his death in 2019, Davies provided critical support to many experts and attorneys, remaining even now an inspiration and a model for his life of scholarly activism.

As a young man in the 1960s, Davies embraced activism in both the antiwar and civil rights movements, concerns that shaped his subsequent travels in Latin America and his career as a historian. By Davies's own account, his life took a turn in the summer of 1960, when he observed expressions of white supremacy while traveling with a friend in the segregated South. Thereafter Davies taught for several summers in Peru with the Peace Corps and became active in the civil rights, antiwar, and democratic socialist movements. Throughout his scholarly career, Davies continued this activist practice, supporting the engagement of students and colleagues with a variety of social justice movements, escorting community members to visits along the U.S.-Mexico border, and developing university departments and programs that expanded student training in ethnic, women's, and Latin American studies. Listening to Davies recounting his personal and political journey over seven decades—from Nebraska farm boy raised after World War II to senior historian and country conditions expert—we heard echoes of his participation in the radical social movements of the 1960s. In Davies's case, this sometimes also included now-antiquated notions of racial and sexual identity, or even the white guilt so common among progressive activists of his generation. But the principles of equality, human rights, and social justice that guided Davies's long life of scholarly activism also animated his continuous learning, and he modeled these critical values for the attorneys and academics with whom he worked.

For Davies, the full-time work of expert witnessing came only after a long and successful career as a scholar and academic. Specializing at first in Indigenous laws of twentieth-century Peru, Davies received his PhD in Latin American history in 1966 from the University of New Mexico and went on to an academic career at San Diego State University (SDSU), where he taught in the Department of History and founded and served as director of the Center for Latin American Studies for twenty-three years. After publishing *Indian Integration in Peru: A Half Century of Experience 1900–1948* and related articles, Davies collaborated with the political scientist Brian Loveman, producing edited collections on authoritarian and revolutionary movements in Cold War Latin America, works still widely used in university courses in Latin American studies.[1] This scholarly trajectory illustrates Davies's penchant for constant expansion of his research horizons, which led him to take in new regions, research questions, and collaborations throughout his career. Asked to reflect on his own scholarly record, Davies remarked that "the publications, if you look at them in order, are a desperate search for some way to

do something for people, and maybe harness the army." As founder and director of San Diego State's Center for Latin American Studies, Davies engaged in constant community outreach, lecturing on Latin America to local teachers and professionals and organizing university-led tours across the U.S.-Mexico border.

As a senior scholar in the early 1990s, Davies began another long career as a country conditions expert for Latin American asylum cases, where his efforts—supported by his wife, Adele Davies—made him a sought-after witness for LGBTQ+, gang, and domestic violence cases. The volume of requests for his expertise—he completed over 487 affidavits in less than thirty years, an average of eighteen cases per year—inspired Davies to first limit his work to Mexico and then train others to handle the growing tide of asylum seekers from Central America and other parts of Latin America. Davies's success as an expert witness relied not only on his deep knowledge of Latin American history but also on his unceasing research into the contours of state violence, gender discrimination, and religion in contemporary Latin America.

Davies's work as an expert witness was remarkable, not only because of how often his testimony contributed to grants of asylum (in 418, or 85 percent, of the total of 476 cases in which he testified), but also because of his participation in several cases that were won on appeal at the Ninth Circuit Court, which unlike immigration court rulings granted them precedential status. By far the most important of these victories was *Hernández-Montiel v. INS*, a landmark case at the Ninth Circuit Court that in 2000 first established "homosexual men who manifest female characteristics" as a particular social group worthy of asylum in the United States.[2] In his hearing testimony for the 1996 asylum case, Davies testified that Geovanni Hernández-Montiel—a homosexual Mexican man with feminine characteristics who had been repeatedly raped by police, set upon by street mobs, and discriminated against by his family and school administrators—belonged to the particular social group "gay men with female sexual identities" and would likely be persecuted if he returned to Mexico. Drawing on extensive social science research and country conditions reports, Davies argued that homosexual men exhibiting feminine characteristics had been subjected to violence, both historically and in contemporary Mexican society. Although the immigration judge and the Board of Immigration Appeals (BIA) did not refute Davies's testimony, or present any evidence to the contrary, they refused to grant asylum or withholding from deportation; instead, they found that the applicant's appearance and behavior were not "immutable characteristics" and that therefore the applicant had failed to demonstrate persecution on account of a protected ground.

Three years later, attorneys appealed the BIA decision in *Hernández-Montiel* to the Ninth Circuit Court, which in 2000 found in favor of withholding of deportation for Hernández-Montiel and recommended that the attorney general grant him asylum. Significantly, both the amicus brief filed in the appeal and the court's opinion cited Davies's 1996 affidavit repeatedly (nine and seventeen times,

respectively) to argue against the BIA ruling. The final opinion noted, "Although not necessary to establish the 'particular social group,' the testimony of Professor Davies is helpful to our analysis." The Ninth Circuit's *Hernández-Montiel* decision established an important precedent for later decisions granting asylum to transgender women and has been cited in hundreds of cases thereafter: ten years later, Davies himself was focusing exclusively on LGBTQ+ cases from Mexico and the Northern Triangle countries, completing affidavits on almost three hundred LGBTQ+ cases, including forty-three Mexican transgender women's cases.

Although Davies himself never put it this way, he helped to transform the legal arguments for asylum in U.S. immigration courts, responding as political pressures against asylum mounted with ever more deft and detailed affidavits on the conditions of violence and persecution faced by asylum seekers in their countries of origin. As a historian, he also understood the value of his considerable archive of cases, donating with his wife, Adele Davies, a set of redacted affidavits to the San Diego State archival collections for use by future researchers.[3] By sharing with us in summer 2015 how and why he employed his considerable expertise in defense of Latin Americans seeking asylum in the United States, Davies took yet another step in his lifelong effort to—in Davies's words—"harness the army."

ELIZABETH QUAY HUTCHISON: *What can you tell us about your transition in retirement from San Diego State University to full-time work on Latin American asylum cases?*

The transition was actually very easy, because I had been doing these cases before I retired. And I hadn't done very many. Then in 1996, an ex-student of mine who was a lawyer in town called me and said that they had a case of a young Mexican transvestite who was living in Balboa Park as a [prostitute]. And one of my other graduate students who now lives here in Albuquerque had found him, and they wanted to get him asylum. Well, that was impossible before that. And so I went in, and I didn't know what I was doing, I didn't write an affidavit, I just talked. The stupid attorney for the government said, "Have you ever been in a gay bar?," and I said "Yeah." And he said, "Have you ever been in a heterosexual bar?," and I said, "Yeah." And he said, "That's all," and the judge just [assented]. We lost, obviously. There was never any way we were going to win that. That is the famous *Hernández-Montiel* decision. That's the base for everything that Kymm [Gauderman] and I do, in terms of LGBT. That's where it started.

. . . And so when I got here [to Albuquerque] . . . I was deeply committed to this. So after the *Hernández-Montiel* decision, which came out in 2000, the phone didn't stop ringing. Because, all of a sudden, if you had an LGBT client, then you had a chance. It wasn't a gimmee, I've lost I think just about two out of three hundred, . . . and I didn't have a chance. But one thing that has been the most difficult: even the nut-balls in this country admit there's something

called a gay or a lesbian, but the transgender person is hard to wrap your head around, and I've worked awfully hard on those [cases]. . . . It's hard to get isolated judges to understand that you can have a girl in a boy's body.

And I think it was hard for the LGBT community in the United States ten years ago. Two of the organizations I think the most of, Human Rights Campaign and Lambda Legal, fought against [transgender rights]. Now, they wouldn't do that today.

But I have had trouble with this. I had a transgender case. Lady called me from Salt Lake, and she was working for Catholic Charities. And she was in her office, . . . [and I] came in and said, "You have a very interesting case out there." So it was transgender. We wound up with a Mormon judge and a Mormon trial attorney. He started out by saying, "He is a male and I'm going to call him 'he,'" and by the end of my testimony, which went on for an hour and a half or so, he was calling her "she." But it's hard, I think that's the last frontier. . . . We're working on it.

And I think [Caitlyn] Jenner has helped.[4]

EQH: *What strikes me about some of the continuities here is the focus, from your work in San Diego to your work with asylum cases, on education: your emphasis on reaching judges and attorneys in a specific way, for specific cases. You worked so much in Latin American studies on outreach and work with students, retirees . . . do you see that coming into the asylum phase of your work as well?*

I think the education has kept up, because I had to keep up, I keep reading all day. . . . The education part has not stopped: we don't stop learning, and if I don't keep up, then my clients are gonna lose. And we're not talking about a $10,000 settlement, we're talking about a human life. And I've actually said that to several judges. One said, "This [affidavit] is too long" or "What are you doing?," and I said "Your Honor, I'm dealing with a human life, there can't be too much." And so I've kept up, but what I couldn't keep up on was all twenty countries and all topics. But you'll see if you go through this [list of cases] that it isn't until *Hernández-Montiel* that there's a gay or lesbian case, and I just couldn't do [all of] it anymore. . . . No, I've done over half, oh, more than that, probably three-quarters of the cases, I've done pro bono, but I got to the point where, you know, I've got a law firm that's got two thousand lawyers, they can come up with fifteen hundred bucks.[5] I think I started at 500, then I went to 750. . . . But the other thing is, and I've been told—you know, this takes a toll on me—and I've been told by a couple of doctors to stop it, and I think they understand sort of now: I can't not do it. And I can't be sitting around knowing that there's somebody out there whose life I might be able to save. Now I'm sure that sounds corny, but I really mean it. And even with just doing Mexico, and then just Mexico LGBT, I couldn't keep up with the other [countries]. . . .

But I think the thing is, I was able to keep up in my own way, the scholarship and the teaching. Because yes, that's what I have to do. I have to teach a court that this person deserves political asylum. . . . But it also has the leading component of political activism. Teaching a class at San Diego State was not an act of political raising hell, although I got a lot of political stuff in there. Well, I just told them all at the beginning of the year, "You don't have to agree with whatever I say, you can agree with whatever, but please, please just listen and think, that's all I ask." And that's basically what I'm doing with judges. I try to do it with trial attorneys, but with all fairness I tried to cut the affidavits down three times, because the last one I sent off with the appendices was 311 single-spaced pages, longer than [my book, *Indian Integration in Peru*]. And then the trial attorneys would say, "Well, what about this? You don't have proof for that. You don't have documentation, you are just making this up. This is an anomaly." Well, see, the minute that comes up and I don't have a good answer, I'm [in trouble], and so is the client. So they're getting [everything I can give them]. And in all fairness to them, there are 190-some countries in the world, and I don't know how many languages, probably a thousand or more, and you can't expect a judge or [government] attorney to know the internal conditions of each one of these countries, and that's why [immigration] lawyers go out and get country experts, because they don't either. So I think if you're polite, as we always were with our students, and try to make [the judges and attorneys] see something, another side which they haven't seen or understood, then, yeah, I'm still Professor Davies, I really am. I try to educate lawyers.

But, yeah, I'll tell you what I quit doing. There are a couple of law firms in L.A., huge ones that have offices all over, they have 2,500 lawyers in them, they were assigning these cases to associates who had just come on that year. And it became clear to me, after longer than it should have, that I was being used to train their [junior associates], and [they] wanted this or that or didn't understand what I was talking about, and finally I just gave it up. I just don't work for [those firms] anymore. I don't have anything against associates. What I'm against is the law firm using me as the postdoc professor, you know, so no. But there are so many others I don't have to worry about. And the vast majority [of asylum requests I get], I do.

We had one attorney . . . she had a case, and, well, at some point I said, "Well, now, what about some money," and she said, "Well, I haven't been paid," and I said, "Well, until you're paid I'm not going to take any money." Six years later we won . . . we finally won it. Now, see, if I were a lawyer I would have been charging for every minute, because I was putting all sorts of stuff together—send this to her, send that, do this. Now [that attorney] is something else . . .

EQH: *I have been thinking about your work in asylum. You mentioned the kind of trauma that's involved in the work of working with asylum clients, working with the subjects that you have to work with as an expert witness, and being immersed in what has caused people to flee and seek asylum. Is there more that you want to say about trauma as another unifying theme running through this kind of work?*

No, [you're right]: I think it's there. And I think [the work you describe] contains very emotional things. And I guess, well, I'm an emotional person. And when we got [to Albuquerque] we had this doctor . . . and all he wanted to do was just prescribe medicines, so I just kept getting these sleeping medicines because I have PTSD,[6] and of course I was waking up every two hours and taking two more. And so we went to this doctor and said that I couldn't take them anymore at all and tried to explain and nada, and so with [my wife] Adele we decided to stop taking everything.

[Recently] I had this horrible case, I had just read it, it was two little boys who were five and six . . . and the family started raping them, and they finally made it here, and I was really upset, I remember sitting there crying, and I told [my psychologist] about it, and she'd always been very serious, and she had never really cracked a smile, and as I was leaving she stood up and smiled, and she said, "Thank you for what you're doing," but it's hard, Adele can attest to it. There was a chair in there, and I [would] just go sit down and cry. Now, did I cry on several of these? Yeah, but a lot of that is me, you see. Other people that do this don't get as involved emotionally as I do, and I don't suppose that's good, but I don't know how to change it. I think the only way you can be a lawyer and do this, you have to be disengaged, personally and emotionally, and the ones that can't, have trouble, and I've worked with some. You're going to find that Blaine Bookey[7] is sort of a combination of both of these. . . . I've been working with her since she was in law school, . . . and now she's in a position where she's got to have pure objectivity and sort of stand off and take a look at it while at the same time having the emotional commitment. I don't know if this is making any sense at all . . .

EQH: *It seems like expert witnesses really have to deal not only with the traumatic impact of the testimony, with what individuals have gone through, but then systematically research the broader collective trauma. And so I wonder just how one's skills and practice as a researcher provide not only insight but also the opportunity for distance, so that you can actually do the work?*

It's hard. I remember I had a case . . . and this woman had married this guy, she spoke a Maya dialect that is extremely rare, and so she got married to him, and then the brothers and uncle and father, everybody else, gang raped her. And somehow she got away, and she made it to Los Angeles. And the judge said, "Well, that's impossible." And I'm sitting there on the stand, and

I said, "What's impossible, Your Honor?," and he said, "You can't walk from Guatemala to Los Angeles." . . . I just looked up and said, "Well, it takes a little longer, Your Honor. Why can't you walk from Guatemala? Of course you can walk!" But we've got this thing in our heads, you see, with "modernity," that if you can't get a plane or a train or a fast-moving bus, you can't do it. A friend of mine used to say, "It all depends," whatever it was, it all depends: can you take a train, do you have to walk, do you have to get a job, all of this. And we don't really in U.S. culture even think about things like that. But people in other countries do, and the ones who are being oppressed and threatened with death—and these are all death threats, regardless of what the affidavit says—they are escaping from very real potential death, torture and death. I have no trouble saying that with cases I accept, because I think it's true . . .

KIMBERLY GAUDERMAN: *Can you talk more about the kind of research you have to do for these cases? One of the reasons I think I have been as successful as an expert witness is because you trained me, and one of the important lessons that you gave me is the extreme amount of research—as you call it, throwing the kitchen sink in—using every single element of a country's conditions in your affidavit. You're really able to do that broad research that shows, through citations and through analysis, that indeed what that individual has lived through is in fact documented, it reflects the general conditions. I'm wondering if maybe you could expand on that process that we, as expert witnesses, use in order to present that individual experience in a context of those broader cultural conditions, which we have to be able to show.*

OK, and I overdo it . . . I tried to cut it back, I tried to cut it back a couple of times, and I had attorneys and even judges saying, "Well, then it's an anomaly, it's just [the one incident]," and so I put in the kitchen sink. And it also restricts the government attorney and the judge; they do not have an open playing field. Which is why I won't testify without having a written affidavit. [My affidavits] are out of control, I'm fully cognizant of that, but I'm not going to be around that much longer to do 'em, so. . . . Boy, the last case [I did], with a lawyer I've worked with a number of times in L.A., it was the first time in his career he walked in and he got inside the door, and the trial attorney said, "Well, this is all over," before anybody testified or anybody said anything, because he knew he didn't have [a strong case]. Now, in fairness to [the government attorneys and judges], there are 190-something countries, you can't know the internal conditions of all of them, and so you can inundate them [with information]. But I think it's terribly important to put the individual's case in the context of what's happening in the country at a given point in time. And that varies, depending on the country and who's under attack, and there are groups you don't even think about.

I've done a number of cases for Jehovah's Witnesses . . . and they're persecuted, and the children are really persecuted. They won't salute the flag, they won't sing the national anthem, and so really it's fallen on the children. And a couple of them were married to non–Jehovah's Witnesses, citizens of a country (let's say, Mexico), and so [some of the in-laws] hated the Jehovah's Witnesses, and saw them again as dangerous, as evil, and the kids were terribly harassed. And that I think is a real concern, someone's gonna kill one of those children, they really are. And so yeah, it's not as exciting, I guess, as doing [research on] guerrilla movements or crazy armies that are wiping villages out like in Guatemala, but it's nevertheless for the individual just as real, and the danger's just as real. . . . And so all of a sudden you've got a Jehovah's Witness, and the children, and all of these things that really aren't that dangerous that they're doing, confronting 98 percent of the population that's Catholic . . . yeah, I think [this work is about] education, and obviously this is why [expert witnesses can be] so successful: you're doing this, you're educating judges and attorneys about the things that they don't understand and they don't know. And without the expert witness, the loss rate is enormous, it's huge.

KG: *Maybe you could talk a little bit more about that process, of how we take the individual and connect them to that particular social group that makes them eligible for asylum, because that too is a really careful process, and we have to use education, and we also have to be good storytellers, to be able to grab the judge and convince the judge that our person deserves asylum.*
Absolutely, and it is a process of education. Some don't need to be educated, believe it or not, there are immigration judges who never heard about *Hernández-Montiel*, the turning point that made [transgender women] a particular social group. It is a matter of education, it's a matter of first really understanding what happened to the individual. But the other ones, yes, they need to be connected, connecting their own individual case and circumstance to what is happening in the country. And that's why I dwell so much on internal conditions: and this is what's happening, the vigilantes are on the loose, and all law and order has broken down, and Mexico is a failed state. And then you put the individual in the context of the failed state. Its definition is that you don't control the national territory, you don't have a monopoly of force, and you can't provide basic security for your people, that's the Carnegie Endowment for Peace and United Nations definitions. All right, if you've got chaos like you do in Mexico, with the drug gangs and cartels and then the vigilante [groups] growing, and then you've got all sorts of other reactions, you got the military going in and just killing people, just going into a situation and doing what Rios Montt did in Guatemala where you just wipe everybody out. . . . And yeah, it's really difficult, and I can't say I was always successful in what I did. In the early days I didn't have any idea about what I was doing,

but I learned as I went along, and then I developed what I'm using today, obviously a much shorter version, because we didn't have that much. But yes, you've got to tie everything together, it's gotta make sense, and if there are any big holes, they're going to jump [all over the expert], either the attorney or the judge. You see, in a federal district court, the judge can't just ask you a question, but they sure as hell can in immigration court, there are no rules! . . .

EQH: *I wanted to ask whether you see in this role, educating the court and working within these cases, any continuities with the kind of education and activism that marked your long career as an academic as well? . . . We kept asking you about the institution and your work, and you kept taking us out to social movements and to political change of the period. Do you see yourself in a Latin American tradition more than a U.S. tradition with respect to how these different pulls of education, intellectual life, and the institutional life are connected?*
Well, I think I would go back to something I probably said the last time we met. That is why I brought up Dylan and folk music. What I'm doing is a very logical consequence of what I've been doing for fifty years. I don't see any difference between testifying for these people and fighting for civil rights in Mississippi. That list [of events from the 1960s] I gave you, I was involved in most of that, and we had the first women's studies department in the United States. . . . I worked for the dean behind the scenes on that, and I worked on Chicano studies, and we had one of the first Chicano studies departments. And I think through all of this and what I've written—and there is a line through all of that—this is a logical step beyond what I have done all my life. It's a matter of civil rights and human rights. And I had a judge one time who said, "Well, how did you get interested in all of this?" And I said, "Well when the [AIDS] plague hit San Diego my friends and students started to die." It was 1981, and it was just logical to me that [the call to action] was the same as guerrilla movements or Indian integration in Peru or trying to have APRA[8] be the savior of the continent. . . .

I'm a teacher . . . teaching is more than just getting up with a set of notes in front of a class. It entails being ready to deal with new things and helping other people understand new things. And that's what I think I've been doing all my life, starting in that swamp outside Pine Bluff, Arkansas [in 1960]. So yeah, we are teachers, and we have to be, that's what we're supposed to do: make sure that we have taught the judge and the attorney correctly.

I have had to do a lot of research on a number of these [cases]. I didn't know what a Jehovah's Witness was or what a Mormon was or what they believed or how they viewed themselves within the context of the society in which they lived. I had to do a lot of research on disabled [persons], I've been very active in the disabled student thing, in San Diego, and Jayne[9] was a part of that, got me deeper involved than I had been before, but she really did it. And yeah, you can't go into one of these cases and just wing it: you'll get killed [lose the case]. Marching for a civil rights law is one thing; trying to ensure that someone is

not tortured and murdered is quite another. And so I spend at least two days just preparing for the oral [testimony], just going over stuff, making sure, and I scatter stuff around here. I probably don't have to anymore, I've seen it so many times. You've got to sit down and read the Amnesty International report on torture. You've gotta read other cases. Now there's one that came out in California about three or four years ago, and it was some lawyer . . . and she had this gay guy [as a client], and she didn't do anything, so they lost. The Ninth Circuit just threw it out, and I was getting phone calls saying [we've lost], and I said I don't think so. . . . I had not seen her affidavit, but she couldn't have lost, three or four years ago, on a simple homosexual case, with *Hernández-Montiel* in force since 2000. She apparently didn't do any work at all. Well, that young man, I hope to God he didn't get killed or tortured, and it has never come up again in anything I've done on Mexico; nobody has mentioned that decision. Which tells me that they understood that this kind of nothing [result] doesn't count. But you do have to do research, and we're trained to do that. You can have other expert witnesses that aren't trained in research, and I've heard stories about them, some of them just sort of get up and try to wing it, and that does everybody a disservice, and I think it's very unfair and dangerous.

And [Kymm,] you've had some pretty brutal stuff too. Domestic violence, what I did on that was just go back and find anything I could on how women were treated within a culture, historically and today, and what laws protect them. You gotta remember, it wasn't until the mid-1960s that you could charge a husband with raping his wife. I remember my dad saying in the early sixties, "Well, it just isn't gonna work, you can't charge a husband." Well [that's a lie]! Rape's rape, I don't care who the person is. But that's how [recently] we were just not paying any attention. In San Diego, my greatest fear was that the local police had the address of the women's shelter, and the worst people as professionals on domestic violence are the police and the military, and you gave them the address. I suppose that follows from our commitment to law and order; it's really stupid.

EQH: *In encountering that, or exposing what it is that people need to see about how violence functions or could function in a particular case, it's not just the techniques of knowing how to research that are important, but maybe asking the right questions. So for gang violence or guerrilla organizations, the whole roster of cases, you have to draw on different kinds of questions. If you aren't guided by those questions, you just have an assemblage of facts, right?*
Yes, you have to be able to offer the court your expert opinion as to what the facts mean. You're an expert witness, and if you can't do that, then don't do it. And you opened with a question about commitment, the emotional commitment that I have, and I think you have to have it. I don't think you can look at something like this dispassionately and just say, well, this is like a parking ticket. It's not; it's a human life—or lives, you've got families involved.

NOTES

1. Thomas M. Davies, "Indian Integration in Peru: A Half Century of Experience 1900–1948" (PhD diss., University of New Mexico, 1974); Thomas M. Davies and Brian Loveman, eds., *The Politics of Antipolitics: The Military in Latin America* (Lincoln: University of Nebraska Press, 1978); Che Guevara, *Guerrilla Warfare*, introd. Thomas M. Davies Jr. and Brian Loveman (Wilmington, DE: Scholarly Resources, 1997).

2. Hernandez-Montiel v. INS, 225 F.3d 1084 (9th Cir. 2000).

3. Thomas M. Davies Jr., Papers and Lecture, SDSU Library and Information Access Digital Collections, https://digital.sdsu.edu/view-item?key=R3siTiI6NTAsIlAiOnsiaXRlbV90eXBlcyI6WzJdfX0&pg=26&WINID=1583075630632#6mRbI_toEpgAAAFwlqkdfQ/300244, accessed Mar. 1, 2020. See also Davies's 2016 recorded lecture, "LGBT Asylum Warrior: The Road to the Courtroom," SDSU Digital Collection, https://digital.sdsu.edu/view-item?i=334097, accessed Mar. 1, 2020.

4. Caitlyn Jenner, an American decathlete who won an Olympic gold medal in 1976, came out as transgender in 2015.

5. While many expert witnesses work pro bono on behalf of asylum applicants, some experts accept compensation for their work.

6. Davies suffered post-traumatic stress disorder as a result of his research on the Peruvian military at the height of the Cold War, during which he witnessed military violence against guerrilla forces in the Peruvian rain forest.

7. Blaine Bookey is an attorney and the legal director of the Center for Gender and Refugee Studies at the University of California College of the Law, San Francisco.

8. APRA, or the Alianza Popular Revolucionaria Americana (American Popular Revolutionary Alliance), is a Peruvian socialist political party that was the subject of Davies's early research.

9. Jayne Spencer (1950–2004) received her PhD in history at UCLA, where she also lectured. She was active in Latin American solidarity and human rights movements in the 1980s. As a young woman, she became confined to a wheelchair due to a car accident. She advocated for accessibility for persons with disabilities at UCLA, and in 2005 a fund was established in her name to support students doing work in disability studies.