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PEDAGOGY
of the
OPPRESSED

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CHAPTER **1**

While the problem of humanization has always, from an axiological point of view, been humankind's central problem, it now takes on the character of an inescapable concern.¹ Concern for humanization leads at once to the recognition of dehumanization, not only as an ontological possibility but as an historical reality. And as an individual perceives the extent of dehumanization, he or she may ask if humanization is a viable possibility. Within history, in concrete, objective contexts, both humanization and dehumanization are possibilities for a person as an uncompleted being conscious of their incompleteness.

But while both humanization and dehumanization are real alternatives, only the first is the people's vocation. This vocation is constantly negated, yet it is affirmed by that very negation. It is

¹ The current movements of rebellion, especially those of youth, while they necessarily reflect the peculiarities of their respective settings, manifest in their essence this preoccupation with people as beings in the world and with the world—preoccupation with *what* and *how* they are "being." As they place consumer civilization in judgment, denounce bureaucracies of all types, demand the transformation of the universities (changing the rigid nature of the teacher-student relationship and placing that relationship within the context of reality), propose the transformation of reality itself so that universities can be renewed, attack old orders and established institutions in the attempt to affirm human beings as the Subjects of decision, all these movements reflect the style of our age, which is more anthropological than anthropocentric.

thwarted by injustice, exploitation, oppression, and the violence of the oppressors; it is affirmed by the yearning of the oppressed for freedom and justice, and by their struggle to recover their lost humanity.

Dehumanization, which marks not only those whose humanity has been stolen, but also (though in a different way) those who have stolen it, is a *distortion* of the vocation of becoming more fully human. This distortion occurs within history; but it is not an historical vocation. Indeed, to admit of dehumanization as an historical vocation would lead either to cynicism or total despair. The struggle for humanization, for the emancipation of labor, for the overcoming of alienation, for the affirmation of men and women as persons would be meaningless. This struggle is possible only because dehumanization, although a concrete historical fact, is *not* a given destiny but the result of an unjust order that engenders violence in the oppressors, which in turn dehumanizes the oppressed.

Because it is a distortion of being more fully human, sooner or later being less human leads the oppressed to struggle against those who made them so. In order for this struggle to have meaning, the oppressed must not, in seeking to regain their humanity (which is a way to create it), become in turn oppressors of the oppressors, but rather restorers of the humanity of both.

This, then, is the great humanistic and historical task of the oppressed: to liberate themselves and their oppressors as well. The oppressors, who oppress, exploit, and rape by virtue of their power, cannot find in this power the strength to liberate either the oppressed or themselves. Only power that springs from the weakness of the oppressed will be sufficiently strong to free both. Any attempt to "soften" the power of the oppressor in deference to the weakness of the oppressed almost always manifests itself in the form of false generosity; indeed, the attempt never goes beyond this. In order to have the continued opportunity to express their "generosity," the oppressors must perpetuate injustice as well. An unjust social order is the permanent fount of this "generosity," which is nourished by death, despair, and poverty. That is why the dispensers of false generosity become desperate at the slightest threat to its source.

True generosity consists precisely in fighting to destroy the causes which nourish false charity. False charity constrains the fearful and subdued, the "rejects of life," to extend their trembling hands. True generosity lies in striving so that these hands—whether of individuals or entire peoples—need be extended less and less in supplication, so that more and more they become human hands which work and working, transform the world.

This lesson and this apprenticeship must come, however, from the oppressed themselves and from those who are truly solidary with them. As individuals or as peoples, by fighting for the restoration of their humanity they will be attempting the restoration of true generosity. Who are better prepared than the oppressed to understand the terrible significance of an oppressive society? Who suffer the effects of oppression more than the oppressed? Who can better understand the necessity of liberation? They will not gain this liberation by chance but through the praxis of their quest for it, through their recognition of the necessity to fight for it. And this fight, because of the purpose given it by the oppressed, will actually constitute an act of love opposing the lovelessness which lies at the heart of the oppressors' violence, lovelessness even when clothed in false generosity.

But almost always, during the initial stage of the struggle, the oppressed, instead of striving for liberation, tend themselves to become oppressors, or "sub-oppressors." The very structure of their thought has been conditioned by the contradictions of the concrete, existential situation by which they were shaped. Their ideal is to be men; but for them, to be men is to be oppressors. This is their model of humanity. This phenomenon derives from the fact that the oppressed, at a certain moment of their existential experience, adopt an attitude of "adhesion" to the oppressor. Under these circumstances they cannot "consider" him sufficiently clearly to objectivize him—to discover him "outside" themselves. This does not necessarily mean that the oppressed are unaware that they are downtrodden. But their perception of themselves as oppressed is impaired by their submersion in the reality of oppression. At this level, their perception of themselves as opposites of the oppressor does not yet

signify engagement in a struggle to overcome the contradiction,² the one pole aspires not to liberation, but to identification with its opposite pole.

In this situation the oppressed do not see the "new man" as the person to be born from the resolution of this contradiction, as oppression gives way to liberation. For them, the new man or woman themselves become oppressors. Their vision of the new man or woman is individualistic; because of their identification with the oppressor, they have no consciousness of themselves as persons or as members of an oppressed class. It is not to become free that they want agrarian reform, but in order to acquire land and thus become landowners—or, more precisely, bosses over other workers. It is a rare peasant who, once "promoted" to overseer, does not become more of a tyrant towards his former comrades than the owner himself. This is because the context of the peasant's situation, that is, oppression, remains unchanged. In this example, the overseer, in order to make sure of his job, must be as tough as the owner—and more so. Thus is illustrated our previous assertion that during the initial stage of their struggle the oppressed find in the oppressor their model of "manhood."

Even revolution, which transforms a concrete situation of oppression by establishing the process of liberation, must confront this phenomenon. Many of the oppressed who directly or indirectly participate in revolution intend—conditioned by the myths of the old order—to make it their private revolution. The shadow of their former oppressor is still cast over them.

The "fear of freedom" which afflicts the oppressed,³ a fear which may equally well lead them to desire the role of oppressor or bind them to the role of oppressed, should be examined. One of the basic elements of the relationship between oppressor and oppressed is

prescription. Every prescription represents the imposition of one individual's choice upon another, transforming the consciousness of the person prescribed to into one that conforms with the prescriber's consciousness. Thus, the behavior of the oppressed is a prescribed behavior, following as it does the guidelines of the oppressor.

The oppressed, having internalized the image of the oppressor and adopted his guidelines, are fearful of freedom. Freedom would require them to eject this image and replace it with autonomy and responsibility. Freedom is acquired by conquest, not by gift. It must be pursued constantly and responsibly. Freedom is not an ideal located outside of man; nor is it an idea which becomes myth. It is rather the indispensable condition for the quest for human completion.

To surmount the situation of oppression, people must first critically recognize its causes, so that through transforming action they can create a new situation, one which makes possible the pursuit of a fuller humanity. But the struggle to be more fully human has already begun in the authentic struggle to transform the situation. Although the situation of oppression is a dehumanized and dehumanizing totality affecting both the oppressors and those whom they oppress, it is the latter who must, from their stifled humanity, wage for both the struggle for a fuller humanity; the oppressor, who is himself dehumanized because he dehumanizes others, is unable to lead this struggle.

However, the oppressed, who have adapted to the structure of domination in which they are immersed, and have become resigned to it, are inhibited from waging the struggle for freedom so long as they feel incapable of running the risks it requires. Moreover, their struggle for freedom threatens not only the oppressor, but also their own oppressed comrades who are fearful of still greater repression.

When they discover within themselves the yearning to be free, they perceive that this yearning can be transformed into reality only when the same yearning is aroused in their comrades. But while dominated by the fear of freedom they refuse to appeal to others,

2. As used throughout this book, the term "contradiction" denotes the dialectical conflict between opposing social forces.—Translator's note.

3. This fear of freedom is also to be found in the oppressors, though, obviously, in a different form. The oppressed are afraid to embrace freedom, the oppressors are afraid of losing the "freedom" to oppress.

or to listen to the appeals of others, or even to the appeals of their own conscience. They prefer gregariousness to authentic comradeship; they prefer the security of conformity with their state of unfreedom to the creative communion produced by freedom and even the very pursuit of freedom.

The oppressed suffer from the duality which has established itself in their innermost being. They discover that without freedom they cannot exist authentically. Yet, although they desire authentic existence, they fear it. They are at one and the same time themselves and the oppressor whose consciousness they have internalized. The conflict lies in the choice between being wholly themselves or being divided; between ejecting the oppressor within or not ejecting them; between human solidarity or alienation; between following prescriptions or having choices; between being spectators or actors; between acting or having the illusion of acting through the action of the oppressors; between speaking out or being silent, castrated in their power to create and re-create, in their power to transform the world. This is the tragic dilemma of the oppressed which their education must take into account.

This book will present some aspects of what the writer has termed the pedagogy of the oppressed, a pedagogy which must be forged *with, not for*, the oppressed (whether individuals or peoples) in the incessant struggle to regain their humanity. This pedagogy makes oppression and its causes objects of reflection by the oppressed, and from that reflection will come their necessary engagement in the struggle for their liberation. And in the struggle this pedagogy will be made and remade.

The central problem is this: How can the oppressed, as divided, unauthentic beings, participate in developing the pedagogy of their liberation? Only as they discover themselves to be "hosts" of the oppressor can they contribute to the midwifery of their liberating pedagogy. As long as they live in the duality in which *to be is to be like, and to be like is to be like the oppressor*, this contribution is impossible. The pedagogy of the oppressed is an instrument for their critical discovery that both they and their oppressors are manifestations of dehumanization.

Liberation is thus a childbirth, and a painful one. The man or woman who emerges is a new person, viable only as the oppressor-oppressed contradiction is superseded by the humanization of all people. Or to put it another way, the solution of this contradiction is born in the labor which brings into the world this new being: no longer oppressor nor longer oppressed, but human in the process of achieving freedom.

This solution cannot be achieved in idealistic terms. In order for the oppressed to be able to wage the struggle for their liberation, they must perceive the reality of oppression not as a closed world from which there is no exit, but as a limiting situation which they can transform. This perception is a necessary but not a sufficient condition for liberation: it must become the motivating force for liberating action. Nor does the discovery by the oppressed that they exist in dialectical relationship to the oppressor, as his antithesis—that without them the oppressor could not exist⁴—in itself constitute liberation. The oppressed can overcome the contradiction in which they are caught only when this perception enlists them in the struggle to free themselves.

The same is true with respect to the individual oppressor as a person. Discovering himself to be an oppressor may cause considerable anguish, but it does not necessarily lead to solidarity with the oppressed. Rationalizing his guilt through paternalistic treatment of the oppressed, all the while holding them fast in a position of dependence, will not do. Solidarity requires that one enter into the situation of those with whom one is solidary; it is a radical posture. If what characterizes the oppressed is their subordination to the consciousness of the master, as Hegel affirms,⁵ true solidarity with the oppressed means fighting at their side to transform the objective reality which has made them these "beings for another." The oppres-

4. See Hegel, *op. cit.*, pp. 236–237.

5. Analyzing the dialectical relationship between the consciousness of the master and the consciousness of the oppressed, Hegel states: "The one is independent, and its essential nature is to be for itself, the other is dependent, and its essence is life or existence for another. The former is the Master, or Lord, the latter the Bondsman." *Ibid.*, p. 234.

sor is solidary with the oppressed only when he stops regarding the oppressed as an abstract category and sees them as persons who have been unjustly dealt with, deprived of their voice, cheated in the sale of their labor—when he stops making pious, sentimental, and individualistic gestures and risks an act of love. True solidarity is found only in the plenitude of this act of love, in its existentiality, in its praxis. To affirm that men and women are persons and as persons should be free, and yet to do nothing tangible to make this affirmation a reality, is a farce.

Since it is a concrete situation that the oppressor-oppressed contradiction is established, the resolution of this contradiction must be *objectively verifiable*. Hence, the radical requirement—both for the individual who discovers himself or herself to be an oppressor and for the oppressed—that the concrete situation which begets oppression must be transformed.

To present this radical demand for the objective transformation of reality, to combat subjectivist immobility which would divert the recognition of oppression into patient waiting for oppression to disappear by itself, is not to dismiss the role of subjectivity in the struggle to change structures. On the contrary, one cannot conceive of objectivity without subjectivity. Neither can exist without the other, nor can they be dichotomized. The separation of objectivity from subjectivity, the denial of the latter when analyzing reality or acting upon it, is objectivism. On the other hand, the denial of objectivity in analysis or action, resulting in a subjectivism which leads to solipsistic positions, denies action itself by denying objective reality. Neither objectivism nor subjectivism, nor yet psychologism is propounded here, but rather subjectivity and objectivity in constant dialectical relationship.

To deny the importance of subjectivity in the process of transforming the world and history is naïve and simplistic. It is to admit the impossible: a world without people. This objectivistic position is as ingenuous as that of subjectivism, which postulates people without a world. World and human beings do not exist apart from each other, they exist in constant interaction. Marx does not espouse

such a dichotomy, nor does any other critical, realistic thinker. What Marx criticized and scientifically destroyed was not subjectivity, but subjectivism and psychologism. Just as objective social reality exists not by chance, but as the product of human action, so it is not transformed by chance. If humankind produce social reality (which in the "inversion of the praxis" turns back upon them and conditions them), then transforming that reality is an historical task, a task for humanity.

Reality which becomes oppressive results in the contradistinction of men as oppressors and oppressed. The latter, whose task it is to struggle for their liberation together with those who show true solidarity, must acquire a critical awareness of oppression through the praxis of this struggle. One of the gravest obstacles to the achievement of liberation is that oppressive reality absorbs those within it and thereby acts to submerge human beings' consciousness.⁶ Functionally, oppression is domesticating. To no longer be prey to its force, one must emerge from it and turn upon it. This can be done only by means of the praxis: reflection and action upon the world in order to transform it.

Hay que hacer al opresion real todavía mas opresiva añadiendo a aquella la *conciencia* de la opresion haciendo la infamia todavía mas inflamante, al pregonarla.⁷

Making "real oppression more oppressive still by adding to it the realization of oppression" corresponds to the dialectical relation between the subjective and the objective. Only in this interdependence is an authentic praxis possible, without which it is impossible

6. "Liberating action necessarily involves a moment of perception and volition. This action both precedes and follows that moment, to which it first acts as a prologue and which it subsequently serves to effect and continue within history. ~~The action of domination, however, does not necessarily imply this dimension: for the structure of domination is maintained by its own mechanical and unconscious functionality.~~" From an unpublished work by José Luiz Fiori, who has kindly granted permission to quote him.

7. Karl Marx and Friedrich Engels, *La Surrada Familia y otros Escritos* (Mexico, 1962), p. 6. Emphasis added.

to resolve the oppressor-oppressed contradiction. To achieve this goal, the oppressed must confront reality critically, simultaneously objectifying and acting upon that reality. A mere perception of reality not followed by this critical intervention will not lead to a transformation of objective reality—precisely because it is not a true perception. This is the case of a purely subjectivist perception by someone who forsakes objective reality and creates a false substitute.

A different type of false perception occurs when a change in objective reality would threaten the individual or class interests of the perceiver. In the first instance, there is no critical intervention in reality because that reality is fictitious; there is none in the second instance because intervention would contradict the class interests of the perceiver. In the latter case the tendency of the perceiver is to behave “neurotically.” The fact exists; but both the fact and what may result from it may be prejudicial to the person. Thus it becomes necessary; not precisely to deny the fact, but to “see it differently.” This rationalization as a defense mechanism coincides in the end with subjectivism. A fact which is not denied but whose truths are rationalized loses its objective base. It ceases to be concrete and becomes a myth created in defense of the class of the perceiver.

Herein lies one of the reasons for the prohibitions and the difficulties (to be discussed at length in Chapter 4) designed to dissuade the people from critical intervention in reality. The oppressor knows full well that this intervention would not be to his interest. What is to his interest is for the people to continue in a state of submersion, impotent in the face of oppressive reality. Of relevance here is Lukács’ warning to the revolutionary party:

... il doit, pour employer les mots de Marx, expliquer aux masses leur propre action non seulement afin d’assurer la continuité des expériences révolutionnaires du prolétariat, mais aussi d’activer consciemment le développement ultérieur de ces expériences.⁸

In affirming this necessity, Lukács is unquestionably posing the

problem of critical intervention. “To explain to the masses their own action” is to clarify and illuminate that action, both regarding its relationship to the objective facts by which it was prompted, and regarding its purposes. The more the people unveil this challenging reality which is to be the object of their transforming action, the more critically they enter that reality. In this way they are “consciously activating the subsequent development of their experiences.” There would be no human action if there were no objective reality; no world to be the “not I” of the person and to challenge them; just as there would be no human action if humankind were not a “project,” if he or she were not able to transcend himself or herself, if one were not able to perceive reality and understand it in order to transform it.

In dialectical thought, world and action are intimately interdependent. But action is human only when it is not merely an occupation but also a preoccupation, that is, when it is not dichotomized from reflection. Reflection, which is essential to action, is implicit in Lukács’ requirement of “explaining to the masses their own action,” just as it is implicit in the purpose he attributes to this explanation: that of “consciously activating the subsequent development of experience.”

For us, however, the requirement is seen not in terms of explaining to, but rather dialoguing with the people about their actions. In any event, no reality transforms itself,⁹ and the duty which Lukács ascribes to the revolutionary party of “explaining to the masses their own action” coincides with our affirmation of the need for the critical intervention of the people in reality through the praxis. The pedagogy of the oppressed, which is the pedagogy of people engaged in the fight for their own liberation, has its roots here. And those who recognize, or begin to recognize, themselves

9 “The materialist doctrine that men are products of circumstances and upbringing, and that, therefore, changed men are products of other circumstances and changed upbringing, forgets that it is men that change circumstances and that the educator himself needs educating.” Karl Marx and Friedrich Engels, *Selected Works* (New York, 1968), p. 28.

8. Georg Lukács, *Lénine* (Paris, 1965), p. 62.

as oppressed must be among the developers of this pedagogy. No pedagogy which is truly liberating can remain distant from the oppressed by treating them as unfortunates and by presenting for their emulation models from among the oppressors. The oppressed must be their own example in the struggle for their redemption.

The pedagogy of the oppressed, animated by authentic, humanist (not humanitarian) generosity, presents itself as a pedagogy of humankind. Pedagogy which begins with the egoistic interests of the oppressors (an egoism cloaked in the false generosity of paternalism) and makes of the oppressed the objects of its humanitarianism, itself maintains and embodies oppression. It is an instrument of dehumanization. This is why, as we affirmed earlier, the pedagogy of the oppressed cannot be developed or practiced by the oppressors. It would be a contradiction in terms if the oppressors not only defended but actually implemented a liberating education.

But if the implementation of a liberating education requires political power and the oppressed have none, how then is it possible to carry out the pedagogy of the oppressed prior to the revolution? This is a question of the greatest importance, the reply to which is at least tentatively outlined in Chapter 4. One aspect of the reply is to be found in the distinction between *systematic education*, which can only be changed by political power, and *educational projects*, which should be carried out *with* the oppressed in the process of organizing them.

The pedagogy of the oppressed, as a humanist and libertarian pedagogy, has two distinct stages. In the first, the oppressed unwell the world of oppression and through the praxis commit themselves to its transformation. In the second stage, in which the reality of oppression has already been transformed, this pedagogy ceases to belong to the oppressed and becomes a pedagogy of all people in the process of permanent liberation. In both stages, it is always through action in depth that the culture of domination is culturally confronted.¹⁰ In the first stage this confrontation occurs through the

change in the way the oppressed perceive the world of oppression; in the second stage, through the expulsion of the myths created and developed in the old order, which like specters haunt the new structure emerging from the revolutionary transformation.

The pedagogy of the first stage must deal with the problem of the oppressed consciousness and the oppressor consciousness, the problem of men and women who oppress and men and women who suffer oppression. It must take into account their behavior, their view of the world, and their ethics. A particular problem is the duality of the oppressed: they are contradictory, divided beings, shaped by and existing in a concrete situation of oppression and violence.

Any situation in which "A" objectively exploits "B" or hinders his and her pursuit of self-affirmation as a responsible person is one of oppression. Such a situation in itself constitutes violence, even when sweetened by false generosity, because it interferes with the individual's ontological and historical vocation to be more fully human. With the establishment of a relationship of oppression, violence has *already* begun. Never in history has violence been initiated by the oppressed. How could they be the initiators, if they themselves are the result of violence? How could they be the sponsors of something whose objective inauguration called forth their existence as oppressed? There would be no oppressed had there been no prior situation of violence to establish their subjugation.

Violence is initiated by those who oppress, who exploit, who fail to recognize others as persons—not by those who are oppressed, exploited, and unrecognized. It is not the unloved who initiate disaffection, but those who cannot love because they love only themselves. It is not the helpless, subject to terror, who initiate terror, but the violent, who with their power create the concrete situation which begets the "rejects of life." It is not the tyrannized who initiate despotism, but the tyrants. It is not the despised who initiate hatred, but those who despise. It is not those whose humanity is denied them who negate humankind, but those who denied that humanity (thus negating their own as well). Force is used not by those who

10. This appears to be the fundamental aspect of Mao's Cultural Revolution.

have become weak under the preponderance of the strong, but by the strong who have emasculated them.

For the oppressors, however, it is always the oppressed (whom they obviously never call "the oppressed") but—depending on whether they are fellow countrymen or not—"those people" or "the blind and envious masses" or "savages" or "natives" or "subversives") who are disaffected, who are "violent," "barbaric," "wicked," or "ferocious" when they react to the violence of the oppressors.

Yet it is—paradoxical though it may seem—precisely in the response of the oppressed to the violence of their oppressors that a gesture of love may be found. Consciously or unconsciously, the act of rebellion by the oppressed (an act which is always, or nearly always, as violent as the initial violence of the oppressors) can initiate love. Whereas the violence of the oppressors prevents the oppressed from being fully human, the response of the latter to this violence is grounded in the desire to pursue the right to be human. As the oppressors dehumanize others and violate their rights, they themselves also become dehumanized. As the oppressed, fighting to be human, take away the oppressors' power to dominate and suppress, they restore to the oppressors the humanity they had lost in the exercise of oppression.

It is only the oppressed who, by freeing themselves, can free their oppressors. The latter, as an oppressive class, can free neither others nor themselves. It is therefore essential that the oppressed wage the struggle to resolve the contradiction in which they are caught; and the contradiction will be resolved by the appearance of the new man: neither oppressor nor oppressed, but man in the process of liberation. If the goal of the oppressed is to become fully human, they will not achieve their goal by merely reversing the terms of the contradiction, by simply changing poles.

This may seem simplistic; it is not. ~~Resolution of the oppressor~~ oppressed contradiction indeed implies the disappearance of the oppressors as a dominant class. However, the restraints imposed by the former oppressed on their oppressors, so that the latter cannot reassume their former position, do not constitute *oppression*. An act

is oppressive only when it prevents people from being more fully human. Accordingly, these necessary restraints do not in themselves signify that yesterday's oppressed have become today's oppressors. Acts which prevent the restoration of the oppressive regime cannot be compared with those which create and maintain it, cannot be compared with those by which a few men and women deny the majority their right to be human.

However, the moment the new regime hardens into a dominating "bureaucracy"¹¹ the humanist dimension of the struggle is lost and it is no longer possible to speak of liberation. Hence our insistence that the authentic solution of the oppressor-oppressed contradiction does not lie in a mere reversal of position, in moving from one pole to the other. Nor does it lie in the replacement of the former oppressors with new ones who continue to subjugate the oppressed—all in the name of their liberation.

But even when the contradiction is resolved authentically, by a new situation established by the liberated laborers, the former oppressors do not feel liberated. On the contrary, they genuinely consider themselves to be oppressed. Conditioned by the experience of oppressing others, any situation other than their former seems to them like oppression. Formerly, they could eat, dress, wear shoes, be educated, travel, and hear Beethoven; while millions did not eat, had no clothes or shoes, neither studied nor traveled, much less listened to Beethoven. Any restriction on this way of life, in the name of the rights of the community, appears to the former oppressors as a profound violation of their individual rights—although they had no respect for the millions who suffered and died of hunger, pain, sorrow, and despair. For the oppressors, "human beings" refers only to themselves; other people are "things." For the oppressors, there exists only one right: their right to live in peace, over against

¹¹ This rigidity should not be identified with the restraints that must be imposed on the former oppressors so they cannot restore the oppressive order. Rather, it refers to the revolution which becomes stagnant and turns against the people, using the old repressive, bureaucratic State apparatus (which should have been drastically suppressed, as Marx so often emphasized).

the right, not always even recognized, but simply conceded, of the oppressed to survival. And they make this concession only because the existence of the oppressed is necessary to their own existence.

This behavior, this way of understanding the world and people (which necessarily makes the oppressors resist the installation of a new regime) is explained by their experience as a dominant class. Once a situation of violence and oppression has been established, it engenders an entire way of life and behavior for those caught up in it—oppressors and oppressed alike. Both are submerged in this situation, and both bear the marks of oppression. Analysis of existential situations of oppression reveals that their inception lay in an act of violence—initiated by those with power. This violence, as a process, is perpetuated from generation to generation of oppressors, who become its heirs and are shaped in its climate. This climate creates in the oppressor a strongly possessive consciousness—possessive of the world and of men and women. Apart from direct, concrete, material possession of the world and of people, the oppressor consciousness could not understand itself—could not even exist. Fromm said of this consciousness that, without such possession, “it would lose contact with the world.” The oppressor consciousness tends to transform everything surrounding it into an object of its domination. The earth, property, production, the creations of people, people themselves, time—everything is reduced to the status of objects at its disposal.

In their unrestrained eagerness to possess, the oppressors develop the conviction that it is possible for them to transform everything into objects of their purchasing power; hence their strictly materialistic concept of existence. Money is the measure of all things, and profit the primary goal. For the oppressors, what is worthwhile is to have more—always more—even at the cost of the oppressed having less or having nothing. For them, *to be is to have* and to be the class of the “haves.”

As beneficiaries of a situation of oppression, the oppressors cannot perceive that if *having* is a condition of *being*, it is a necessary condition for all women and men. This is why their generosity is

false. Humanity is a “thing,” and they possess it as an exclusive right, as inherited property. To the oppressor consciousness, the humanization of the “others,” of the people, appears not as the pursuit of full humanity, but as subversion.

The oppressors do not perceive their monopoly on *having more* as a privilege which dehumanizes others and themselves. They cannot see that, in the egoistic pursuit of *having* as a possessing class, they suffocate in their own possessions and no longer are; they merely *have*. For them, *having more* is an inalienable right, a right they acquired through their own “effort,” with their “courage to take risks.” If others do not have more, it is because they are incompetent and lazy, and worst of all is their unjustifiable ingratitude towards the “generous gestures” of the dominant class. Precisely because they are “ingrateful” and “envious,” the oppressed are regarded as potential enemies who must be watched.

It could not be otherwise. If the humanization of the oppressed signifies subversion, so also does their freedom; hence the necessity for constant control. And the more the oppressors control the oppressed, the more they change them into apparently inanimate “things.” This tendency of the oppressor consciousness to “in-animate” everything and everyone it encounters, in its eagerness to possess, unquestionably corresponds with a tendency to sadism.

The pleasure in complete domination over another person (or other animate creature) is the very essence of the sadistic drive. Another way of formulating the same thought is to say that the aim of sadism is to transform a man into a thing, something animate into something inanimate, since by complete and absolute control the living loses one essential quality of life—freedom.¹²

hatred love is a perverted love—a love of death, not of life. One of the characteristics of the oppressor consciousness and its necrophilic view of the world is thus sadism. As the oppressor consciousness,

12. Erich Fromm, *The Heart of Man* (New York, 1966), p. 32.

in order to dominate, tries to deter the drive to search, the restlessness, and the creative power which characterize life, it kills life. More and more, the oppressors are using science and technology as unquestionably powerful instruments for their purpose: the maintenance of the oppressive order through manipulation and repression.¹³ The oppressed, as objects, as "things," have no purposes except those their oppressors prescribe for them.

Given the preceding context, another issue of indubitable importance arises: the fact that certain members of the oppressor class join the oppressed in their struggle for liberation, thus moving from one pole of the contradiction to the other. There is a fundamental role, and has been so throughout the history of this struggle. It happens, however, that as they cease to be exploiters or indifferent spectators or simply the heirs of exploitation and move to the side of the exploited, they almost always bring with them the marks of their origin: their prejudices and their deformations, which include a lack of confidence in the people's ability to think, to want, and to know. Accordingly, these adherents to the people's cause constantly run the risk of falling into a type of generosity as malefic as that of the oppressors. The generosity of the oppressors is nourished by an unjust order, which must be maintained in order to justify that generosity. Our converts, on the other hand, truly desire to transform the unjust order; but because of their background they believe that they must be the executors of the transformation. They talk about the people, but they do not trust them; and trusting the people is the indispensable precondition for revolutionary change. A real humanist can be identified more by his trust in the people, which engages him in their struggle, than by a thousand actions in their favor without that trust.

Those who authentically commit themselves to the people must re-examine themselves constantly. This conversion is so radical as not to allow of ambiguous behavior. To affirm this commitment but to consider oneself the proprietor of revolutionary wisdom—which

must then be given to (or imposed on) the people—is to retain the old ways. The man or woman who proclaims devotion to the cause of liberation yet is unable to enter into *communion* with the people, whom he or she continues to regard as totally ignorant, is grievously self-deceived. The convert who approaches the people but feels alien at each step they take, each doubt they express, and each suggestion they offer, and attempts to impose his "status," remains nostalgic towards his origins.

Conversion to the people requires a profound rebirth. Those who undergo it must take on a new form of existence; they can no longer remain as they were. Only through comradeship with the oppressed can the converts understand their characteristic ways of living and behaving, which in diverse moments reflect the structure of domination. One of these characteristics is the previously mentioned essential duality of the oppressed, who are at the same time themselves and the oppressor whose image they have internalized. Accordingly, until they concretely "discover" their oppressor and in turn their own consciousness, they nearly always express fatalistic attitudes towards their situation.

The peasant begins to get courage to overcome his dependence when he realizes that he is dependent. Until then, he goes along with the boss and says "What can I do? I'm only a peasant."¹⁴

When superficially analyzed, this fatalism is sometimes interpreted as a docility that is a trait of national character. Fatalism in the guise of docility is the fruit of an historical and sociological situation, not an essential characteristic of a people's behavior. It almost always is related to the power of destiny or fate or fortune—inevitable force—or to a distorted view of God. Under the sway of magic and myth, the oppressed (especially the peasants, who are almost submerged in nature)¹⁵ see their suffering, the fruit of exploitation,

13. Regarding the "dominant forms of social control," see Herbert Marcuse, *One-Dimensional Man* (Boston, 1964) and *Error and Civilization* (Boston, 1955).

14. Words of a peasant during an interview with the author.

15. See Candido Mendes, *Memento dos citos—A Esquerda católica no Brasil* (Rio, 1966).

as the will of God—as if God were the creator of this “organized disorder.”

Submerged in reality, the oppressed cannot perceive clearly the “order” which serves the interests of the oppressors whose image they have internalized. Chafing under the restrictions of this order, they often manifest a type of horizontal violence, striking out at their own comrades for the pettiest reasons.

The colonized man will first manifest this aggressiveness which has been deposited in his bones against his own people. This is the period when the niggers beat each other up, and the police and magistrates do not know which way to turn when faced with the astonishing waves of crime in North Africa. . . . While the settler or the policeman has the right the lvelong day to strike the native, to insult him and to make him crawl to them, you will see the native reaching for his knife at the slightest hostile or aggressive glance cast on him by another native; for the last resort of the native is to defend his personality vis-à-vis his brother.¹⁶

It is possible that in this behavior they are once more manifesting their duality. Because the oppressor exists within their oppressed comrades, when they attack those comrades they are indirectly attacking the oppressor as well.

On the other hand, at a certain point in their existential experience the oppressed feel an irresistible attraction towards the oppressors and their way of life. Sharing this way of life becomes an overpowering aspiration. In their alienation, the oppressed want at any cost to resemble the oppressors, to imitate them, to follow them. This phenomenon is especially prevalent in the middle-class oppressed, who yearn to be equal to the “eminent” men and women of the upper class. Albert Memmi, in an exceptional analysis of the “colonized mentality,” refers to the contempt he felt towards the colonizer, mixed with “passionate” attraction towards him.

How could the colonizer look after his workers while periodically gunning down a crowd of colonized? How could the colonized deny himself so cruelly yet make such excessive demands? How could he hate the colonizers and yet admire them so passionately? (I too felt this admiration in spite of myself.)¹⁷

Self-depreciation is another characteristic of the oppressed, which derives from their internalization of the opinion the oppressors hold of them. So often do they hear that they are good for nothing, know nothing and are incapable of learning anything—that they are sick, lazy, and unproductive—that in the end they become convinced of their own unfitness.

The peasant feels inferior to the boss because the boss seems to be the only one who knows things and is able to run things.¹⁸

They call themselves ignorant and say the “professor” is the one who has knowledge and to whom they should listen. The criteria of knowledge imposed upon them are the conventional ones. “Why don’t you,” said a peasant participating in a culture circle,¹⁹ “explain the pictures first? That way it’ll take less time and won’t give us a headache.”

Almost never do they realize that they, too, “know things” they have learned in their relations with the world and with other women and men. Given the circumstances which have produced their duality it is only natural that they distrust themselves.

Not infrequently, peasants in educational projects begin to discuss a generative theme in a lively manner, then stop suddenly and say to the educator: “Excuse us, we ought to keep quiet and let you talk. You are the one who knows, we don’t know anything.” They often insist that there is no difference between them and the animals; when they do admit a difference, it favors the animals. “They are freer than we are.”

16. Frantz Fanon, *The Wretched of the Earth* (New York, 1968), p. 52.

17. *The Colonizer and the Colonized* (Boston, 1967), p. x.

18. Words of a peasant during an interview with the author.

19. See chapter 3, p. 113 ff.—Translator’s note.

It is striking, however, to observe how this self-depreciation changes with the first changes in the situation of oppression. I heard a peasant leader say in an *asentamiento*²⁰ meeting, "They used to say we were unproductive because we were lazy and drunkards. All lies. Now that we are respected as men, we're going to show everyone that we were never drunkards or lazy. We were exploited!"

As long as their ambiguity persists, the oppressed are reluctant to resist, and totally lack confidence in themselves. They have a diffuse, magical belief in the invulnerability and power of the oppressor.²¹ The magical force of the landowner's power holds particular sway in the rural areas. A sociologist friend of mine tells of a group of armed peasants in a Latin American country who recently took over a latifundium. For tactical reasons, they planned to hold the landowner as a hostage. But not one peasant had the courage to guard him; his very presence was terrifying. It is also possible that the act of opposing the boss provoked guilt feelings. In truth, the boss was "inside" them.

The oppressed must see examples of the vulnerability of the oppressor so that a contrary conviction can begin to grow within them. Until this occurs, they will continue disheartened, fearful, and beaten.²² As long as the oppressed remain unaware of the causes of their condition, they fatalistically "accept" their exploitation. Further, they are apt to react in a passive and alienated manner when confronted with the necessity to struggle for their freedom and self-affirmation. Little by little, however, they tend to try out forms of rebellious action. In working towards liberation, one must neither lose sight of this passivity nor overlook the moment of awakening.

Within their unauthentic view of the world and of themselves, the oppressed feel like "things" owned by the oppressor. For the latter, *to be is to have*, almost always at the expense of those who have

nothing. For the oppressed, at a certain point in their existential experience, *to be* is not to resemble the oppressor, but *to be under* him, to depend on him. Accordingly, the oppressed are emotionally dependent.

The peasant is a dependent. He can't say what he wants. Before he discovers his dependence, he suffers. He lets off steam at home, where he shouts at his children, beats them, and despairs. He complains about his wife and thinks everything is dreadful. He doesn't let off steam with the boss because he thinks the boss is a superior being. Lots of times, the peasant gives vent to his sorrows by drinking.²³

This total emotional dependence can lead the oppressed to what Fromm calls necrophilic behavior: the destruction of life—their own or that of their oppressed fellows.

It is only when the oppressed find the oppressor out and become involved in the organized struggle for their liberation that they begin to believe in themselves. This discovery cannot be purely intellectual but must involve action; nor can it be limited to mere activism, but must include serious reflection: only then will it be a praxis. Critical and liberating dialogue, which presupposes action, must be carried on with the oppressed at whatever the stage of their struggle for liberation.²⁴ The content of that dialogue can and should vary in accordance with historical conditions and the level at which the oppressed perceive reality. But to substitute monologue, slogans, and communiqués for dialogue is to attempt to liberate the oppressed with the instruments of domestication. Attempting to liberate the oppressed without their reflective participation in the act of liberation is to treat them as objects which must be saved from a burning building; it is to lead them into the populist pitfall and transform them into masses which can be manipulated.

At all stages of their liberation, the oppressed must see them-

20. *Asentamiento* refers to a production unit of the Chilean agrarian reform experiment.—Translator's note.

21. "The peasant has an almost instinctive fear of the boss." Interview with a peasant.

22. See Regis Debray, *Revolution in the Revolution?* (New York, 1967).

23. Interview with a peasant.

24. Not in the open, of course, that would only provoke the fury of the oppressor and lead to still greater repression.

selves as women and men engaged in the ontological and historical vocation of becoming more fully human. Reflection and action become imperative when one does not erroneously attempt to dichotomize the content of humanity from its historical forms.

The insistence that the oppressed engage in reflection on their concrete situation is not a call to armchair revolution. On the contrary, reflection—true reflection—leads to action. On the other hand, when the situation calls for action, that action will constitute an authentic praxis only if its consequences become the object of critical reflection. In this sense, the praxis is the new *raison d'être* of the oppressed; and the revolution, which inaugurates the historical moment of this *raison d'être*, is not viable apart from their concomitant conscious involvement. Otherwise, action is pure activism.

To achieve this praxis, however, it is necessary to trust in the oppressed and in their ability to reason. Whoever lacks this trust will fail to initiate (or will abandon) dialogue, reflection, and communication, and will fall into using slogans, monologues, and instructions. Superficial conversions to the cause of liberation carry this danger.

Political action on the side of the oppressed must be pedagogical action in the authentic sense of the word, and, therefore, action *with* the oppressed. Those who work for liberation must not take advantage of the emotional dependence of the oppressed—dependence that is the fruit of the concrete situation of domination which surrounds them and which engendered their unauthentic view of the world. Using their dependence to create still greater dependence is an oppressor tactic.

Libertarian action must recognize this dependence as a weak point and must attempt through reflection and action to transform it into independence. However, not even the best-intentioned leadership can bestow independence as a gift. The liberation of the oppressed is a liberation of women and men, not things. Accordingly, while no one liberates himself by his own efforts alone, neither is he liberated by others. Liberation, a human phenomenon, cannot be achieved by semihumans. Any attempt to treat people as semihumans

means only dehumanizes them. When people are already dehumanized, due to the oppression they suffer, the process of their liberation must not employ the methods of dehumanization.

The correct method for a revolutionary leadership to employ in the task of liberation is, therefore, *not* "libertarian propaganda." Nor is the leadership merely "implant" in the oppressed a belief in freedom, thus thinking to win their trust. The correct method lies in dialogue. The conviction of the oppressed that they must fight for their liberation is not a gift bestowed by the revolutionary leadership, but the result of their own *conscientização*.

The revolutionary leaders must realize that their own conviction of the necessity for struggle (an indispensable dimension of revolutionary wisdom) was not given to them by anyone else—if it is authentic. This conviction cannot be packaged and sold; it is reached, rather, by means of a totality of reflection and action. Only the leaders' own involvement in reality, within an historical situation, led them to criticize this situation and to wish to change it.

Likewise, the oppressed (who do not commit themselves to the struggle unless they are convinced, and who, if they do not make such a commitment, withhold the indispensable conditions for this struggle) must reach this conviction as Subjects, not as objects. They also must intervene critically in the situation which surrounds them and whose mark they bear; propaganda cannot achieve this. While the conviction of the necessity for struggle (without which the struggle is unfeasible) is indispensable to the revolutionary leadership (indeed, it was this conviction which constituted that leadership), it is also necessary for the oppressed. It is necessary, that is, unless one intends to carry out the transformation *for* the oppressed rather than *with* them. It is my belief that only the latter form of transformation is valid.²⁵

The object in presenting these considerations is to defend the eminently pedagogical character of the revolution. The revolutionary leaders of every epoch who have affirmed that the oppressed must

25. These points will be discussed at length in chapter 4.

accept the struggle for their liberation—an obvious point—have also thereby implicitly recognized the pedagogical aspect of this struggle. Many of these leaders, however (perhaps due to natural and understandable biases against pedagogy), have ended up using the “educational” methods employed by the oppressor. They deny pedagogical action in the liberation process, but they use propaganda to convince.

It is essential for the oppressed to realize that when they accept the struggle for humanization they also accept, from that moment, their total responsibility for the struggle. They must realize that they are fighting not merely for freedom from hunger, but for

... freedom to create and to construct, to wonder and to venture. Such freedom requires that the individual be active and responsible, not a slave or a well-fed cog in the machine. . . . It is not enough that men are not slaves; if social conditions further the existence of automatons, the result will not be love of life, but love of death.²⁶

The oppressed, who have been shaped by the death-affirming climate of oppression, must find through their struggle the way to life-affirming humanization, which does not lie *simply* in having more to eat (although it does involve having more to eat and cannot fail to include this aspect). The oppressed have been destroyed precisely because their situation has reduced them to things. In order to regain their humanity they must cease to be things and fight as men and women. This is a radical requirement. They cannot enter the struggle as objects in order *later* to become human beings.

The struggle begins with men's recognition that they have been destroyed. Propaganda, management, manipulation—all arms of domination—cannot be the instruments of their rehumanization. The only effective instrument is a humanizing pedagogy in which the revolutionary leadership establishes a permanent relationship of dialogue with the oppressed. In a humanizing pedagogy the method

comes to be an instrument by which the teachers (in this instance, the revolutionary leadership) can manipulate the students (in this instance, the oppressed), because it expresses the consciousness of the students themselves.

The method is, in fact, the external form of consciousness manifested in acts, which takes on the fundamental property of consciousness—its intentionality. The essence of consciousness is being with the world, and this behavior is permanent and unavoidable. Accordingly, consciousness is in essence a “way towards” something apart from itself, outside itself, which surrounds it and which it apprehends by means of its ideational capacity. Consciousness is thus by definition a method, in the most general sense of the word.²⁷

A revolutionary leadership must accordingly practice *co-intentional* education. Teachers and students (leadership and people), co-intent on reality, are both Subjects, not only in the task of unveiling that reality, and thereby coming to know it critically, but in the task of re-creating that knowledge. As they attain this knowledge of reality through common reflection and action, they discover themselves as its permanent re-creators. In this way, the presence of the oppressed in the struggle for their liberation will be what it should be: not pseudo-participation, but committed involvement.

26. Fromm, *op. cit.*, pp. 52–53.

27. Alvaro Vieira Pinto, from a work in preparation on the philosophy of science. I consider the quoted portion of great importance for the understanding of a problem posing pedagogy (to be presented in chapter 2), and wish to thank Professor Vieira Pinto for permission to cite his work prior to publication.

SYMPOSIUM

Immigrants' Rights: From Global To Local

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ESSAY—LAW AND ORGANIZING FROM THE PERSPECTIVE OF ORGANIZERS: FINDING A SHARED THEORY OF SOCIAL CHANGE

*Betty Hung**

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I. INTRODUCTION

In recent years, much has been written about law and organizing, a model of social change lawyering that endorses collaboration between lawyers and organizers, as well as the utilization of legal strategies to advance grassroots community organizing.¹ Critical analysis has focused, in large part, on the role of *law* and *lawyers* within the law and organizing model. For example, law and organizing is understood as a way to re-envision the attorney-client relationship to promote client agency and empower clients; reflect on innovative methods of lawyering beyond conventional legal practice; and analyze the efficacy and limitations of legal strategies in social movements.² Proponents of the law and organizing model posit that legal strategies, when pursued in combination with and in support of grassroots organizing campaigns, are more effective than legal strategies alone in both empowering communities and achieving social justice goals.

In practice, however, tensions between lawyers and organizers persist and, at times, hinder campaigns for social justice. There are

1. See, e.g., Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443 (2001) (describing the history and the evolution of joint legal and organizing strategies); Jennifer Gordon, *We Make the Road by Walking: Immigrant Workers, the Workplace Project and the Struggle for Social Change*, 30 HARV. C.R.-C.L. L. REV. 407, 429 (1995) (describing the Workplace Project, an organization based in Long Island that organizes immigrant workers to address the many problems they face at their jobs and in their communities); Victor Narro, *Finding the Synergy Between Law and Organizing: Experiences from the Streets of Los Angeles*, 35 FORDHAM URB. L.J. 339 (2008) (describing immigrant worker organizing campaigns involving law and organizing strategies). See also Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 COLUM. HUM. RTS. L. REV. 67, 67 (2000) (urging lawyers to adopt an activist lawyer model that incorporates organizing and other nontraditional strategies to support low-income communities).

2. See generally Cummings & Eagly, *supra* note 1; Diamond, *supra* note 1; Austin Sarat & Stuart Scheingold, *What Cause Lawyers Do For, and To, Social Movements: An Introduction*, in CAUSE LAWYERS AND SOCIAL MOVEMENTS 1 (Austin Sarat & Stuart A. Scheingold eds., 2006).

long standing critiques, particularly on the part of organizers, that lawyers, even those who are progressive, undermine community organizing and collective action. Rather than building the power of marginalized communities, lawyers tend to create dependency on lawyers and legal strategies without altering structural inequalities and the status quo.³ Notably, in my experience, community organizers believe that these criticisms are applicable even to lawyers and lawyering within the “law and organizing” model. The reality of these on-the-ground conflicts between organizers and lawyers must be addressed if “law and organizing” is to be effective and sustainable as a model for bringing movement players together to achieve systemic change.

This essay explores the philosophical, interpersonal, and operational tensions in law and organizing from the perspective of organizers and concludes that the key to the law and organizing model—and to effective partnerships in social justice movements—is a shared theory of social change based on the primacy of affected community members. Community members—not lawyers or organizers—should lead and be at the center of efforts seeking to improve their lives. Organizers and lawyers can and should find common ground as facilitators, supporters, and allies of affected community members.

Section II begins by discussing the perspectives of organizers on “law and organizing,” specifically, the strategic reasons underlying organizers’ decisions to involve lawyers in their campaigns. I then turn to the operational and interpersonal challenges of law and organizing identified by organizers, namely the privileging of legal strategies by lawyers at the expense of building community power, as well as the unequal power dynamics perpetuated by lawyers who take on the “expert” role in their interactions with organizers and community members. Next, in Section III, I explore the philosophical underpinnings of the ongoing tensions between organizers and lawyers. I conclude that a primary source of conflict is when lawyers and organizers have divergent theories of social

3. See generally Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049 (1970); William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U.L. REV. 455 (1994).

change, and propose that lawyers and organizers find common ground with a shared theory of social change that honors the primacy of affected community members. In Section IV, I set forth a model of law and organizing based on movement building, and suggest philosophical, interpersonal, and operational guidelines to strengthen the law and organizing model as a concrete and practical method to advance social justice.

II. “LAW AND ORGANIZING” FROM THE PERSPECTIVE OF ORGANIZERS

Integral to the law and organizing model is the proposition that grassroots organizing and mass mobilization are central to social movements, and that legal strategies are ancillary strategies that, while at times provide necessary and effective support to organizing campaigns, do not result in meaningful long term social change by themselves.⁴ Despite the primacy of grassroots organizing in this model, an ongoing and serious criticism levied by organizers about lawyers is that even progressive lawyers minimize and fail to understand the role of organizing in social justice efforts. Organizers often believe that lawyers undermine, rather than advance, their on-the-ground organizing efforts.

If the law and organizing model is to be truly effective as a social change strategy, then we must understand the range and nature of the tensions that exist when organizers and lawyers attempt to collaborate. To obtain the perspective of organizers, I interviewed community organizers who have substantial experience working with lawyers on workers’ rights, civil rights, and immigrants’ rights campaigns that fall within the rubric of “law and organizing.”⁵ I also drew on my personal background as a community organizer on gender justice issues, as well as my near-decade of experience working with organizers. In particular, I reflected on the numerous conversations I have had with organizers and progressive lawyers over the years about law and organizing. The following is meant to be a preliminary and non-scientific exploration of law and organizing from the vantage point of organizers.

4. See Narro, *supra* note 1, at 340; Sarat & Scheingold, *supra* note 2, at 2-3.

5. To learn more about the perspectives of community organizers on the difficulties that arise when lawyers work with community organizations, see Quigley, *supra* note 3.

A. Why Add “Law” to “Organizing”

Rather than assume that lawyers should be involved in organizing efforts, I asked organizers the following preliminary questions: Should lawyers be involved in organizing efforts in the first place? If so, why? What value do lawyers add to grassroots organizing endeavors?

According to the organizers with whom I spoke, the decision to involve lawyers in their organizing campaigns is contextual and based on strategic considerations, namely whether legal strategies can help to advance a campaign. The organizers uniformly said that they view legal strategies, including litigation, legal community education, and legislative advocacy, as just one of multiple components that comprise a campaign.

The following is an analytical framework, based on my conversations with organizers, for how organizers evaluate whether lawyers and legal strategies can add value to their organizing efforts. The key strategic questions that organizers consider in deliberating whether to involve lawyers include:

- Will legal tactics put *pressure* on the organizing targets?
- Will legal tactics help to enhance the *legitimacy* of the grievances against the target?
- Will lawyers and legal tactics provide *support for organizers* by defending them from attacks, providing them with legal guidance, or helping to build trust and credibility with members?
- Will lawyers and legal tactics provide *support for members* by defending them from attacks, educating them about their legal rights, or providing support through direct legal services?
- Will legal tactics generate *publicity* and *public support* that will put pressure on the targets and cultivate allies, alliances, and support for the campaign?
- Will legal support help to *institutionalize* and *enforce* hard fought victories?

In my conversations with organizers over the years, there are seven primary legal strategies that organizers have identified as being effective in advancing community organizing objectives such as those outlined above: affirmative litigation; legislative advocacy; community legal education; strategic counseling and advice; defensive litigation; direct legal services; and legal drafting of agreements or legislation.

First, affirmative litigation can put pressure on campaign targets, thereby gaining leverage and advancing organizing goals. For example, one organizer noted that campaigns to organize workers who are employed by large corporate institutions are difficult without the assistance of lawyers.⁶ Large corporate targets have ample resources and use scurrilous tactics to rebuff organizing efforts. Legal strategies can help to overcome this power differential by imposing pressure through wage and hour, health and safety, or other affirmative litigation. In addition, affirmative lawsuits can—in seeking to create, enforce, and/or strengthen legal rights for workers—effect systemic change by altering the existing legal framework. They can also generate media attention and public support, affording campaigns with much needed leverage to accomplish their desired goals.

Second, campaigns may also seek to alter unjust laws or to create new laws to advance the rights of marginalized communities. In highlighting the disjuncture between the injustices that exist under the current legal structure and the normative vision possible under a new statutory framework, legislative campaigns can be an effective way of drawing media attention and public support to put pressure on the campaign targets. Lawyers can play a critical role in such legislative reform efforts. Lawyers may analyze existing laws, identify possible legislative changes, strategize about how to frame legislation to withstand potential legal challenges, draft proposed legislation, and testify before legislative bodies.

Third, community legal education is important, according to the organizers, to educate both organizers and members about the members' legal rights. This process of understanding that existing

6. Telephone Interview with Vy Nguyen, former Campaign Coordinator, Koreatown Immigrant Workers Alliance, in L.A., Cal. (Dec. 19, 2008).

conditions are not just unjust, but at times also unlawful, may give members a greater sense of political consciousness and agency, enabling them to stand up for their rights and alter the status quo. Armed with such knowledge, organizers can then integrate “know your rights information” into the organizing campaign to strengthen members’ capacity to mobilize.⁷ For example, one of the very first outreach events for car wash workers in Los Angeles, which eventually led to a union organizing drive, was a carne asada (barbecue). This community education event was held for workers to inform them about their legal rights to minimum wage, overtime, and healthy and safe work conditions.⁸

Fourth, the organizers commented that lawyers provide valuable input regarding the legality of organizing strategies and tactics. One organizer noted, for example, that he values the advice of lawyers in planning direct actions like picketing at a campaign target.⁹ This organizer also commented that knowing what can or cannot be done legally (*e.g.*, understanding that there is a First Amendment right to picket on a public sidewalk) is invaluable, and that it is necessary to have legal observers at direct actions.¹⁰ Lawyers may also present strategic options of which organizers are unaware.

Fifth, lawyers are indispensable when organizers and members are attacked by the opposition for organizing and speaking out, often through the filing, or threat of filing, lawsuits intended to harass and intimidate. In recent years in Los Angeles, garment worker and taxi worker activists have both been hit with lawsuits ultimately deemed to be Strategic Lawsuits Against Public Participation (“SLAPP”) designed by the plaintiffs to chill the organizers’ First Amendment rights and deter them from engaging in protected activities such as passing out flyers and testifying to city officials about exploitative

7. Interview with Nelson Motto, Community Organizer, CLEAN Carwash Campaign, in L.A., Cal. (Dec. 17, 2008).

8. This carne asada took place in April 2007 at the UCLA Labor Center, a community education event planned by lawyers and organizers at which workers were informed about their legal workplace rights.

9. Interview with Nelson Motto, *supra* note 7.

10. *Id.*

working conditions.¹¹ Legal advocates played a critical role in defending these organizers and enabling them to continue with their campaigns. They strategically employed their litigation skills to push back against the opposition.

A sixth way that lawyers may add value to organizing efforts is by providing direct legal services that enhance the credibility and appeal of the organization leading the campaign. For example, Los Angeles worker centers and immigrants rights organizations, such as the Garment Worker Center, Koreatown Immigrant Workers Alliance, and South Asian Network, have referred workers with wage claims to legal services providers, in addition to providing internal case management services. Other worker centers have made direct legal services a membership benefit.¹² Whether legal services are provided in-house or through referral, they can facilitate trust-building between organizing entities and community members, and lay a foundation for community members' further involvement in organizing campaigns. It may also bolster grassroots organizations by providing legal support and a means of involvement for community members who may not be directly involved in a campaign.

Seventh, legal drafting skills contribute to organizing campaigns by helping to institutionalize campaign successes. For instance, a lawyer may draft agreements or legislation to codify the victory and ensure enforcement, including potential remedies in the event the agreement or statute is violated. The lawyer may also help to reach out to affected community members to explain the components of the victory, as reflected in such an agreement or legislation.

Thus, from the organizers' point of view, the issue of whether to involve lawyers and lawyering is, in many ways, a utilitarian one. The fundamental question is: will a legal strategy help to advance the organizing? A critical assumption underlying this approach is that legal strategies, both offensive and defensive, should fit within the context of the *overall* organizing campaign. For lawyers and

11. See *Fashion 21, Inc. v. Garment Worker Ctr.*, No. BC-269427 (Cal. Super. Ct. 2002) (discussed in Narro, *supra* note 1, at 350-51); *Bell Cab Co., Inc., et al. v. S. Asian Network, Inc.*, No. VC051895 (Cal. Super. Ct. 2008) (appeal pending).

12. *Cummings & Eagly*, *supra* note 1, at 467-68, 496.

organizers to work together effectively—according to all the organizers interviewed—there should be a shared understanding of the larger campaign goals and strategy, as well as the specific organizing objectives underpinning the legal tactics. As discussed in the section below, however, organizers believe that it is often the lack of a shared understanding, and differences of opinion as to who should make the decisions, that cause tensions between organizers and lawyers and hinder the organizing despite the best intentions of both.

B. The Challenges of Adding “Law” to “Organizing”

Although the interplay between organizing and law as a social change strategy has become increasingly complex and sophisticated, the integration of lawyers and lawyering into organizing endeavors is not without its pitfalls. The ideal situation, from an organizer’s point of view, is to collaborate with lawyers who understand the long-term organizing goals, recognize the strategic and supporting role of legal strategies, creatively push the boundaries of the law and legal system to advance organizing efforts, and are capable of establishing respectful partnerships with both organizers and members. Yet, while “law and organizing” has become vogue in progressive legal circles, a perception of organizers is that lawyers fail at times to meet these expectations on operational, interpersonal, and philosophical levels.

In my conversations with organizers (all of whom have worked with lawyers in the context of broader organizing campaigns that would be considered examples of “law and organizing”), several expressed a significant amount of frustration about collaborating with lawyers. In particular, they conveyed dismay about how lawyers—even those who profess to value the primary role of community organizing in social justice struggles—privilege litigation and other legal strategies at the expense of organizing. They also expressed dissatisfaction that lawyers find it difficult to play a supporting role, instead assuming “expert” roles and trying to impose their views on both organizers and members. The irony is that law and organizing has evolved and gained credibility as a social change

strategy in large part to address such concerns about the limitations of law and lawyering in effecting systemic change.

In order to analyze and explore how to address these tensions, the following discussion outlines some of the critical operational, interpersonal, and philosophical challenges of working with lawyers from the perspective of organizers.¹³

1. Operational Challenges: Privileging the LAW in “LAW and Organizing”

Many of the criticisms of lawyers expressed by organizers are grounded in the perception that lawyers privilege legal strategies above other social change strategies, including community organizing, thereby neglecting the longer-term challenge of movement building. While organizers are responsible for a multi-faceted organizing campaign in which legal tactics comprise just one component, the perception is that lawyers—even those with the best intentions—focus on legal advocacy, particularly litigation, and treat the legal fight as the entire picture. Rather than defer to organizers with respect to strategic decisions, lawyers prioritize their desired legal outcomes and are too willing to allow their litigation goals to take precedence over organizing goals.¹⁴ For example, one organizer noted that lawyers who had filed affirmative litigation against a target within the context of an organizing campaign repeatedly

13. While there were many common themes expressed by the organizers whom I interviewed and with whom I have conversed over the years, by no means do I intend to suggest that there is just one monolithic organizers' viewpoint. The organizers expressed a range of opinions about law and organizing, full of nuances and complexities. The following discussion is intended as an initial effort to begin to outline some of the primary critiques that organizers have of lawyers to better understand perspectives that are not often heard within legal fora.

14. It is important to note that the organizers who raised this issue were cognizant of the ethical obligations that attorneys have to their clients. As one organizer noted, a lawyer may approach it as “my case, my clients, and my ethical obligations,” whereas an organizer thinks not of individual members' interests but about how to achieve long-term systemic change that benefits the collective community and furthers values of social justice. While this is a structural issue given that lawyers are bound by professional responsibility rules to advocate for their clients' interests, the organizers expressed that it is much more difficult to bridge this divide when the lawyers fail to keep in mind the big picture and the original purpose of the legal advocacy to support and achieve the overarching organizing goals. When lawyers and organizers have such a shared understanding, in the organizers' view, it is more possible to devise workable solutions that allow lawyers to fulfill their ethical obligations and to simultaneously advance the organizing.

counseled organizers not to conduct direct actions against the campaign target because it might jeopardize lawsuit settlement talks. While both the organizers and lawyers shared the goal of settling the lawsuit, the lawyers viewed it as so imperative that the organizing goals of mobilizing allies and providing a space for members to speak out publicly were temporarily set aside.

Another serious ramification of prioritizing legal strategies, according to organizers, is that members may come to rely on the legal system and lawyers rather than their own power in organizing for social change. Members look to the lawyers and develop a dependency on legal remedies, thus hindering organizing efforts intended to encourage collective action and community leadership.¹⁵

This leads us to a second related criticism that lawyers at times hinder—rather than help to advance—organizing efforts. The complaint is that, instead of jointly strategizing with organizers about how to deploy creative legal tactics to achieve organizing goals, lawyers fail to think outside the box and focus on what *cannot* be done.

For example, one organizer recounted how all major campaign decisions and all written documents, including action alerts, first had to be reviewed and approved by lawyers. This process of review and veto authority had the effect of slowing down and delaying organizing efforts, even during emergencies when organizers felt like they needed to mobilize public support immediately. Moreover, this organizer noted, the lawyers effectively gained control over strategy and messaging. After the campaign experienced a legal attack from the campaign target, the lawyers insisted that the organizers hold off on conducting any direct actions despite the organizers' belief that it was critical to respond to the attack with public mobilization. The lawyers' opinion that it was necessary to suspend the direct actions in order to strengthen the campaign's legal position prevailed over the protests of the organizers. The lawyers thus failed to partner with

15. The concern about potential dependency on lawyers and the legal system is a recurring theme in the literature on lawyering in poor communities. *See, e.g.*, Quigley *supra* note 3, at 464-44; Wexler, *supra* note 3, at 1053, 1055-56. It is also contrary to the strand of progressive public interest lawyering that seeks to empower clients to articulate stories and experiences in their own voices. *See* Cummings & Eagly, *supra* note 1, at 457-60.

the organizers to strategize how to defend against the legal attack and also continue the direct action tactics central to the organizing strategy. Instead, the lawyers curtailed and limited the organizing with their conservative “work within the system” approach. In the view of the organizer, this hindered the success of the campaign. As another organizer half-jokingly remarked: a lawyer’s mantra is “no se puede.”

2. Interpersonal Challenges: Unequal Partners

Another prevalent critique is that lawyers do not treat organizers and members as equals, perpetuating unequal power dynamics between lawyers, organizers, and members, which prevents effective collaboration for social change. Lawyers, in the organizers’ view, too often attempt to act as the “experts” in the room and take lead decision-making roles, rather than supporting ones. Lawyers are perceived as aggressive, prone to talking instead of listening, and hierarchical in their approach. This makes it difficult, according to organizers, to establish respectful and effective partnerships between organizers and lawyers.

Organizers believe that many lawyers do not truly value the roles of community organizing and organizers in movements for social justice. While lawyers may profess to value the primacy of organizing, organizers often feel that lawyers fail to understand movement building and how grassroots organizing and mass mobilization are key to achieving long-term systemic change. As a result, they often exert authority and convey a sense of superiority over organizers and members. For instance, one organizer commented that lawyers take a top down decision-making approach and seem puzzled when organizers explain that critical decisions must be made and approved by the membership rather than just the attorneys and organizers. Another organizer wryly noted that lawyers expect organizers simply to “show up” with clients whenever the lawyers need to meet, overlooking the amount of trust-building and logistics that goes into having strong members willing to be plaintiffs in lawsuits. Many lawyers, according to organizers, minimize the high level of skill involved in organizing and do not invest time or effort in cultivating trusting relationships with the

members who are their clients, instead relying on organizers to be liaisons, while the lawyers focus on the technical aspects of lawyering.

Organizers also expressed concern that, within this unequal power framework, lawyers often do not communicate effectively with clients or organizers about the status of legal advocacy. Organizers commented that members who have pending cases often complain that attorneys do not keep them updated about their cases and/or that they did not understand fully what the attorneys told them. The members, who sometimes are intimidated by the attorneys, will then ask the organizers, whom they trust, to explain what is going on with their cases. All too often, however, organizers feel that the lawyers have not apprised them of the status of the case. When organizers ask the attorneys, often on behalf of the members/clients, for updates on the legal advocacy, they are told that attorney-client privilege prevents disclosure of such information. The result is that organizers and members both feel disempowered.

Moreover, one organizer noted that the lack of effective communication results in a missed organizing opportunity. This organizer expressed a desire for lawyers to educate both organizers and members about the members' rights and remedies under the law and, in essence, unravel and deconstruct the existing legal framework in ways that organizers and members can understand. Integrating such "know your rights" education into organizing can increase members' political consciousness and embolden them to stand up, speak out, and organize for systemic social change.¹⁶ According to this organizer, however, lawyers too rarely make the effort to conduct this type of community education for organizers and members. Thus, rather than empowering organizers and members by sharing their knowledge of the law, lawyers continue to assume the exclusive role of expert.

One organizer did comment, however, that the imbalance of power is not always weighted toward the lawyers. The organizer cautioned that it should not be assumed that somehow lawyers have greater agency than organizers. Given that organizers and sometimes

16. See Wexler, *supra* note 3, at 1056.

community members have free will and agency in the context of a campaign, there are instances when lawyers' voices are not equally heard or taken into account. It is therefore important, according to this organizer, for lawyers, as well as members and organizers, to express their agency within relationships that are built on mutual trust and respect. Organizers, members, and lawyers are all human actors and should have a safe space where they can be themselves and act on their agency; to think otherwise is patronizing and romanticizes the situation.

Indeed, community organizers and other actors who come from outside the community are not immune from the potential pitfalls to which lawyers are vulnerable. Community organizers are susceptible—just as lawyers are—to sometimes imposing their agendas on community members. Whenever an outside actor interacts with affected community members, there is a complex and nuanced engagement and negotiation between the actor (be it lawyer or organizer) and the community members. Given that the craft of community organizing is premised upon building community power, organizers tend to be more conscious than lawyers of the importance of creating democratic mechanisms and processes for ensuring participation of members. Nonetheless, organizers' agendas—like those of lawyers—still may, at times, conflict with those of the individual community members.¹⁷

This does not by any means justify the tendency of lawyers to assume the role of “experts” and to treat organizers and community members as less than equals. While the power dynamics between lawyers, organizers, and community members are fluid and complex, in my experience, organizers' criticisms of lawyers that are interpersonal in nature, such as the ones noted above, are often legitimate and well-founded.

17. Interestingly, the ethical obligations that require lawyers to zealously advocate for their clients' interests and at their clients' direction may, at times, render lawyers more accountable to affected community members. A lawyer must “abide by a client's decisions concerning the objectives of representation and . . . shall consult with the client as to the means by which they are to be pursued.” MODEL RULES OF PROF'L CONDUCT R. 1.2(a) (2007). Thus, a lawyer is obligated to adhere to a client's articulated goals even when they conflict with the lawyer's conception of what is in the public interest. There is no such formal framework of professional accountability that applies to community organizers.

3. The Role of Race and Other Intersectional Axes of Identity

Organizers raised the issue of race as another significant factor that complicates relations between lawyers and organizers. In commenting on the common scenario of white public interest lawyers working with organizations led by and/or working within communities of color, one organizer noted that the lawyers often have not done the necessary anti-racist self-work and instead act out their white privilege in their interactions with organizers and members, thus contributing to the tendency of lawyers to act as the experts or authorities in the room. This prohibits developing sound working relationships built on mutual trust and respect.

The situation is further complicated, this organizer noted, when attorneys provide pro bono services in support of a community organization or its campaign. While pro bono representation is appreciated by organizers, the perception, based on actual experience, is that pro bono lawyers often do not provide services equivalent to the representation afforded to paying clients. This raises significant issues of accountability, or lack thereof, to the organization or community involved and reinforces an unequal power and class dynamic between lawyers on the one hand and organizers and community members on the other.

Other intersectional axes of identity, such as gender and sexual orientation also influence the power relations between lawyers, organizers, and community members. For instance, male privilege and/or heterosexual privilege on the part of lawyers also may add to the oppression of organizers or community members who are women and/or lesbian, gay, bisexual, or transgender (LGBT).

In some instances, power and privilege may shift away from lawyers who belong to the marginalized group(s). A LGBT woman of color lawyer, for example, may be confronted with the challenge of dealing with male, heterosexual, and/or race privilege on the part of organizers or community members. The reality is that lawyers, organizers, and community members alike possess privileges and biases that affect their worldviews and interactions with others. It is important to remember, however, that in the context of law and organizing, these power imbalances tend to weigh in favor of lawyers given that a disproportionate percentage of communities of

color are low income and people of color, women, and LGBT individuals are typically underrepresented in the legal field.

Due to all of the challenges that arise when organizers and lawyers work side by side, some of the organizers commented that they believe there are two main options in working with lawyers: either quarantine the lawyers into a discrete, limited role in the campaign or attempt to bring the lawyers more fully on board as partners by educating them on the broader organizing campaign to understand how legal strategies can advance the organizing goals. The route chosen depends in part on the interpersonal relations between the organizers and lawyers and whether they share a common vision of social change.

III. THE PHILOSOPHICAL DIMENSIONS OF LAW AND ORGANIZING: FINDING A SHARED THEORY OF SOCIAL CHANGE

The frustrations raised by organizers about their experiences working with lawyers deserve serious examination. The relationships between organizers, lawyers, and community members are part of the human infrastructure of social justice movements. If the overarching goal is to create a social justice movement that achieves long term structural change premised upon values like fairness and equality, then an analysis of the challenges of law and organizing should be done with an eye towards developing stronger collaborative relationships and social change strategies that can facilitate movement building. The implications of the tensions between organizers and lawyers working on social justice struggles should be understood and addressed.

In my conversations with organizers, they highlighted two specific areas of persistent tension and conflict. The first is the perception that lawyers privilege legal strategies above other social change strategies and do not appreciate the central role of organizing in winning campaigns and building social movements. The second recurring concern is the difficulty of establishing respectful, trusting relationships between lawyers and organizers.

At the crux of these tensions is the question of whether organizers and lawyers share a common theory of social change. An individual's worldview about how social change occurs—whether it

is rooted in mass protest and collective action, or winning and wielding electoral power, or altering legal frameworks and structures, or a combination of multiple factors—has significant implications for how an individual evaluates and prioritizes social change strategies. Even the issue of what constitutes meaningful systemic change—e.g., new statutory rights or altered social mores—has bearing on how an activist thinks about the desired social justice goals and the best means to achieve such outcomes. One's assumptions about what constitutes social change and how such change occurs influences one's approach to specific campaigns as well as the broader challenge of movement building.

Thus, it would not be surprising if we were to learn that, in general, lawyers and organizers often subscribe to different theories of social change. A simple version of the theory behind community organizing is that social justice can be achieved only when marginalized communities most affected by a problem are actively engaged and have a voice in making decisions and devising solutions that affect them. A critical underlying assumption is that there can be no meaningful and lasting systemic change unless the masses organize and democratic institutions and policies are established that enable ongoing mass participation. While other social change strategies, such as legal advocacy and research, are valuable and complementary tools in social justice struggles, the primary and requisite strategy is community organizing and mobilization.

Lawyers, on the other hand, may adhere to a range of theories of social change. A common theory amongst progressive lawyers is the belief that legal institutions and structures reflect the current balance of power and that a more equitable society can be created by challenging and altering existing laws, as well as enforcing laws that are just. Unlike theories of community organizing, in which the participation of those most affected is not just requisite, but is given primacy, progressive lawyering does not necessarily posit legal strategies at the forefront of social change strategies. While lawyers may at times privilege legal strategies, as noted in the critiques raised by organizers, theories of progressive lawyering for the most part recognize that other forms of challenging the status quo are

necessary to combat inequality. Law and organizing is a prime example of this.

Thus, in analyzing the opportunities for collaboration between lawyers and organizers, a critical initial question to ask is: *Is there shared agreement on a theory of social change?* If no common understanding exists at the outset, it is likely that the tensions and conflicts between organizers and lawyers discussed above will arise. Indeed, differences of opinion as to whether to prioritize legal or organizing goals and strategies are probably to be expected. Perhaps one reason organizers and lawyers often seem at odds is that both assume that they have a common progressive political analysis and commitment, without delving further into their underlying values and beliefs about how social change occurs and the most effective means for achieving it. Thus, expectations of positive collaboration are created without closer examination of whether there actually exists a common foundation and framework for moving forward.

There also are implications with respect to the criticism of lawyers expressed by organizers about the difficulties of establishing relationships of mutual trust and respect. The theory of social change subscribed to by an individual will influence her views of the appropriate roles that should be played by various actors in a campaign. For example, if a person believes that change comes about only through the active participation of affected community members, then it is more likely that she will think that community members themselves and organizers should have more decision making authority and play more prominent roles in a campaign than lawyers.

A key lesson to draw from this is that a shared theory of social change is essential for effective collaboration between organizers, lawyers, and community members. For those dedicated to the law and organizing model, it seems imperative that there be commitment to a theory of social change based on the primacy and leadership of affected community members and, thus in practice, a prioritization of community organizing *complemented by* legal and other social change strategies. By definition, “law and organizing” is premised upon the recognition that legal strategies alone are not sufficient to achieve systemic change. Rather, grassroots organizing that fosters

the active participation of affected community members is critical to transforming existing structures and institutions. The fundamental purpose of the “law and organizing” model would be undermined if, even inadvertently, legal strategies were privileged over organizing strategies that empowered affected community members to build power and take action themselves. Moreover, the important democratic concept inherent to organizing — that affected individuals should have the greatest voice in decisions that impact them—is consistent with a primary goal of progressive public interest lawyering, which is to empower clients so that clients have a voice and speak for themselves rather than having lawyers speak for them.¹⁸ This is further reinforced by the ethical obligations that require lawyers to zealously advocate on behalf of their clients’ interests, as articulated by the clients, and to defer to decisions made by their clients, not themselves.¹⁹

While it is important to have a shared theory of social change premised upon the primacy and participation of affected community members, it should be noted that the effectiveness of community organizing, legal, or other strategies and tactics depends on context. Factors such as the political landscape, existing legal framework, availability of resources, community and cultural dynamics, characteristics and pressure points of the campaign target, and profile of the relevant decision makers all affect the development of campaign strategies and tactics—including which strategies and tactics should play a more prominent role in various stages of a fight.

In circumstances where legal strategies may be prioritized in a campaign, three issues become critical: first, there should be a deliberative process that includes organizers and community members, as well as lawyers, in reaching the conclusion that the battle is primarily a legal one; second, there should be strategizing as to how to maximize any organizing opportunities that may exist given the legal fight’s potential for increasing public awareness and support for the relevant communities and issues; and third, affected

18. See Cummings & Eagly, *supra* note 1, at 457-60.

19. See MODEL RULES OF PROF’L CONDUCT R. 1.2(a), 1.4(a)-(b) (2007).

community members should have a leading voice and decision making role in the shaping and implementation of legal objectives.

The overarching principle should be to ensure that affected community members are actively involved and have a leadership role regardless of whether community organizing, legal, or other strategies are utilized in a social justice campaign.

IV. LAW AND ORGANIZING AS MOVEMENT BUILDING: PRACTICAL GUIDELINES FOR EFFECTIVE COLLABORATION

In essence, affected community members—not lawyers or organizers—should be in the lead and at the center of campaigns for social justice. This is common ground that can bring together organizers and lawyers in their roles as facilitators, supporters, and allies of affected community members. By explicitly engaging in transparent dialogue about their theories of social change and the values implicit in such theories, this triad of actors will be better able to develop constructive partnerships and processes that will establish a strong human infrastructure for a social justice movement.

There are not just tensions—but also opportunities—inherent to law and organizing. The organizers with whom I spoke were, despite their mixed experiences, for the most part hopeful about the potential for collaborating with lawyers in future social justice struggles. Since there is no lack of desire for partnering, the issue becomes developing the necessary tools to facilitate building strong relationships between organizers, lawyers, and community members to advance effective law and organizing.

Within the framework of creating and strengthening a broader movement for social justice, set forth below are some thoughts for approaching law and organizing from three different dimensions: philosophical, interpersonal, and operational.

A. Philosophical

At the outset, organizers, lawyers, and community members can engage in a transparent dialogue about the theories of social change to which they adhere, and the implicit values in which they believe. By sharing their worldviews on how social change occurs and the most effective strategies for attaining it, lawyers, organizers, and

community members can begin a process of understanding and learning that develops philosophical and moral solidarity. It also is an opportunity to ensure that a social justice framework is established that can inspire and guide all participants over the course of a struggle.

To establish a framework for a philosophical discussion which also lays the groundwork for operationalizing principles and values, the following guideposts for planning social justice campaigns might be considered:

- What are the social justice values in which we believe and to which we are committed?
- How do we win long lasting systemic change that is socially just?
- What forms and strategies (both within and beyond campaigns) are effective in winning social justice campaigns *and* also consistent with social justice values?
- What forms and processes (both within and beyond campaigns) can help to guarantee that the people most affected have the greatest voice in decisions that affect them?
- What accountability mechanisms should be established to ensure that campaign goals, strategies and decision-making are guided by social justice values?

In reflecting on these questions, lawyers, organizers, and community members can do the necessary work of formulating and articulating the social justice values that guide their campaigns and struggles. While strategies and tactics may shift in the course of battle, having a shared philosophy, vision, and goals can enable social justice activists to build a strong, cohesive campaign team and to keep their eyes on the prize. The bonds created between organizers, lawyers, and community members who believe in the same ideology and values can help them to maintain trust and effectiveness even when tensions or conflicts arise. By agreeing on and establishing democratic mechanisms and processes for the operational aspects of a campaign, social justice principles can be

preserved and actualized during the campaign itself—resulting in a stronger and more effective campaign.

Moreover, there is an opportunity for organizers, lawyers, community members, and other movement players to challenge themselves to consciously and proactively develop systems that will help to avoid perpetuating inequality and marginalization in the struggle for social justice. For example, in reflecting on other historical movements, the women's movement has been criticized for its lack of inclusion of women of color, while the black power movement has been criticized for its marginalization of women. By engaging in honest conversations about ideology and by developing processes based on shared values, lawyers, organizers, and community members can strive to be visionary and inclusive, and embody in practice a social justice ethos.²⁰

B. Interpersonal

There is an interpersonal dimension to law and organizing that can greatly influence whether collaboration between lawyers and organizers is effective as a social change strategy. In the course of a hard fought campaign marked by vigorous opposition, attacks, and setbacks, there is potential for divisiveness, finger pointing, and demoralization. It can be a testing ground for the relationships between organizers, lawyers, community members, and others involved in a struggle for social justice. Whether these individuals are able to withstand the pressure and continue to collaborate effectively in furtherance of campaign goals depends in part on whether there is adequate trust and respect amongst them. In charting an interdisciplinary approach to social justice, law and organizing holds the promise of fostering truly equal partnerships amongst organizers, lawyers, and community members.

As discussed above, law and organizing arguably begins with a theory of social change premised upon the belief that marginalized

20. While community members should lead and be at the center of campaigns, this is not to suggest that their potential biases or prejudices, for example homophobia, should be accepted without challenge. Rather, it is essential that a social justice framework be established and guide a campaign so that all actors, including community members, lawyers, and organizers, can be held accountable for practicing values of inclusion and equality.

communities should have an active role and voice to shape the institutions and decisions that affect them. This presents both an opportunity and obligation for organizers and lawyers to create an environment where community members are respected and able to express their agency, and where it is acknowledged that, as those with the most to risk and lose, community members should have the greatest role in campaign decisions affecting them and their communities. With respect for community members as a baseline, trusting relationships between organizers and lawyers can also be established. The centrality of community members can mitigate the potential for competitiveness or positioning between organizers and lawyers in a campaign, instead allowing both organizers and lawyers to be reflective and thoughtful about their supporting roles in facilitating the empowerment of community members.

A key to developing relationships of mutual trust and respect in this context is the recognition that organizers, lawyers, and community members are all human beings with agency. As one organizer noted, while there may be imbalances of power due to lawyers' professional training and credentials, these dynamics are fluid and do not always weigh in favor of lawyers. To think that lawyers always have the upper hand is both unrealistic and potentially condescending towards both organizers and community members. The challenge, according to this organizer, is to develop authentic relationships of trust and solidarity. By respecting the agency of others and oneself, equal partnerships that mitigate power imbalances can be created.

In my experience, two additional factors are essential to achieve authentic relationships of trust and solidarity. First, there must be an understanding and appreciation of the particular experiences, skills, and knowledge that each person—whether an organizer, lawyer, or community member—brings to the table. It entails recognition that multiple strategies—organizing, legal, research, media, alliance building—are necessary to challenge existing institutions and power structures and to shift power to the hands of those who are marginalized. Lawyers, organizers, researchers, academics, and others all possess specialized knowledge and expertise that are invaluable to a campaign. Organizing, like lawyering, is a skilled

profession and craft and should be valued. Most importantly, community members themselves are the “experts” on the conditions in which they live and work and, with their first hand knowledge and experience, possess wisdom and insight into what type of social transformation is necessary and the best means to get there. In offering and honoring their respective knowledge, experience, and skills, community members, organizers, and lawyers can establish relationships based on equality and mutual respect.

Second, there is a human dimension to movement building that is integral to developing trust. In my years of working with garment workers, immigrant youth, taxi drivers, and car wash workers, a fundamental lesson I have learned is to approach and respect community members first and foremost as human beings and partners in a shared struggle for social change. People are not simply “clients” or “members” to be organized, but rather individuals with their own histories and hopes for achieving a measure of justice. Trust is built when community members feel that a relationship with lawyers or organizers is not about expediency or utilitarianism in achieving campaign goals, but is based on true solidarity and friendship. Especially given the psychological toll that years of exploitation and abuse can inflict, it is important to create a safe space where community members can vent and express their agency and feel that allies are there to support them on a personal level even beyond the parameters of a campaign. When people feel that their innate value as human beings is respected, true partnerships can be developed. This is true not just of community members, but organizers and lawyers as well. By honoring each other as members of the larger human community and respecting the contributions of all, strong, trusting, and respectful relationships can be built.

As one organizer commented, “Unless we all break bread together and take ownership, these will remain projects.”

C. Operational

After a shared theory of social change is reached and everyone agrees to an approach that engenders and facilitates trust and respect, the focus should shift to more structural and operational issues. On a practical note, the following is a possible framework for planning a

campaign that involves both organizing and legal strategies to promote effective collaboration between organizers, lawyers, and community members:

- Campaign Goals: With organizers and community members taking the lead—and the involvement of lawyers—there should be discussion and agreement on the campaign’s overall goals.
- Campaign Strategies and Tactics: Campaign strategies and tactics should be discussed, including how the legal strategies (including litigation) *fit into* the overall campaign and are intended to advance campaign goals.
- Roles and Expectations: The roles of everyone involved in the campaign – organizers, lawyers, community members, researchers, allies – should be discussed and delineated to ensure transparency and understanding of all involved. Given the theory of social change, community members should play a leading and active role. An honest assessment of resources should be completed and communicated to ensure that expectations—especially on the part of community members—are not created that cannot be met.
- Decisionmaking Process: Protocols for making decisions should be established so that there is a shared understanding from the outset. Context and circumstances should be taken into account in determining who should be involved in various types of decisions. For example, deference may be accorded to lawyers regarding legal strategy, while organizers have a greater voice in organizing strategy. At all times, the central role of community members should be recognized and incorporated.
- Training for Organizers and Lawyers: There should be a training conducted by lawyers for organizers and community members regarding the professional rules of responsibility by which lawyers are bound. Issues such as attorney-client privilege and confidentiality should be discussed so that everyone has a shared understanding of lawyers’ ethical

obligations and protocols can be developed accordingly (e.g., communications protocols to preserve confidentiality). Organizers should also conduct a training for lawyers on the basics of organizing so that lawyers can better understand the methodology of organizing.

- *Communications Protocols*: Guidelines should be developed for how and when organizers, lawyers, and community members will communicate with one another. Regular meetings and other means of communication should be established. In addition, there should be protocols for urgent situations. For example, if there is a legal development that affects the campaign or there is a campaign development that affects the litigation, there should be guidelines for effectively communicating this information in a timely manner that preserves attorney-client privilege and confidentiality. In instances involving retaliation against community members, this is especially critical.
- *Document Protocols and Memorialize Agreements*: Protocols should be written down and documented to ensure that all parties are in agreement and have a shared understanding. If appropriate, agreements between the parties, such as communications protocols, should be memorialized.
- *Organizational Plaintiffs*: Situations sometimes arise where the individual plaintiffs in litigation filed to advance a campaign have interests that diverge from the campaign goals. In these circumstances, lawyers have ethical obligations to zealously advocate on behalf of their clients. In order to ensure legal strategies are consistent with lawyers' ethical and professional obligations and to avoid such situations where the individual plaintiffs' goals potentially conflict with the broader social justice organizing goals, the issue of whether to include organizational plaintiffs should be considered. Community organizations that share the values of the campaign—including the organizations leading the campaign—are potentially ideal plaintiffs and can play an

important role in ensuring an alignment between plaintiffs' interests and the broader campaign goals.

V. CONCLUSION

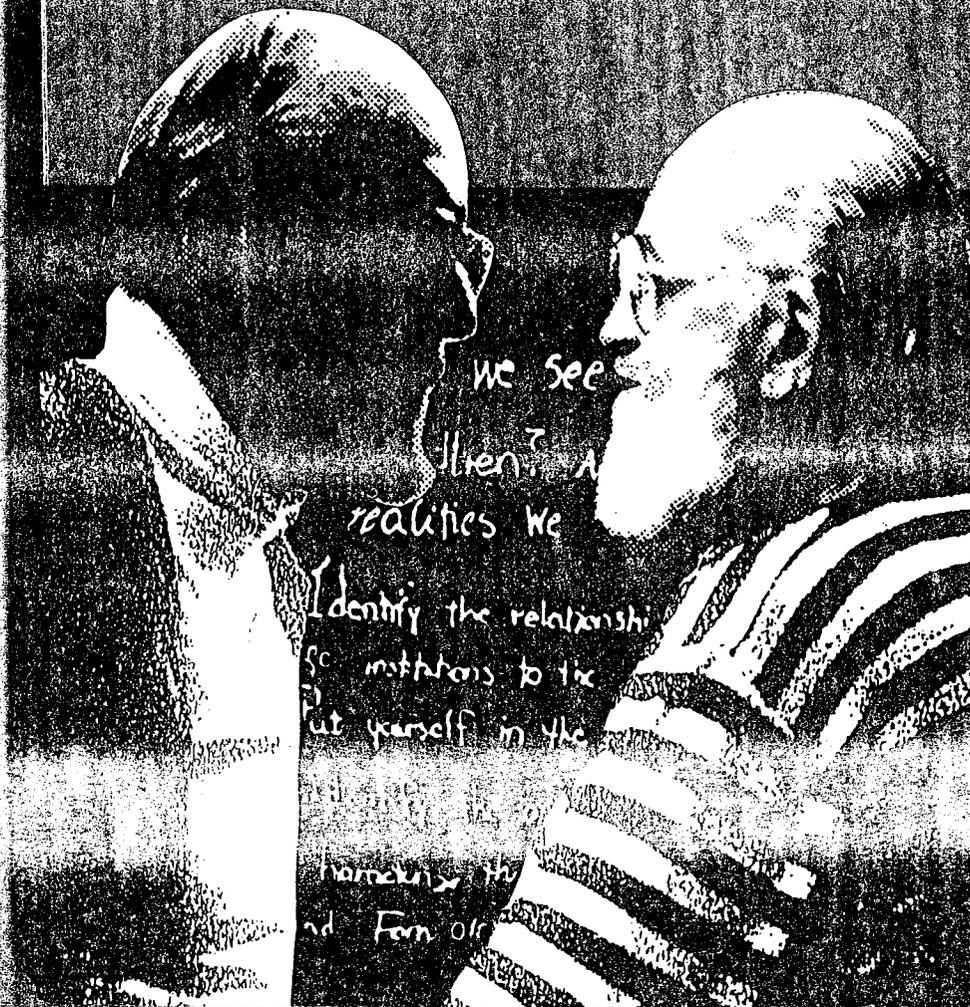
The universal concept underlying almost every social justice movement is the innate value and worth of every human being. Given the structural inequalities and daunting challenges that we face, it is often difficult not to perpetuate the very types of hierarchies and oppressions we fight against, especially when winning seems so crucial. The promise of law and organizing lies in part in its potential to establish a framework and accountability mechanisms that ensure that those community members whose lives and interests are at stake have a central voice and role in any effort to achieve social justice. The promise of law and organizing also rests in its emphasis on collective action that strives for systemic social change, rather than victories that benefit a few individual interests. By honoring the primacy of affected community members—and also challenging them and ourselves to adhere to social justice values—organizers and lawyers can find common ground as supporters, facilitators, and allies of the communities leading the struggle for a movement for social justice.

We Make the Road by Walking

Conversations on Education and Social Change

Myles Horton and Paulo Freire

Edited by Brenda Bell, John Gaventa, and John Peters



important distinction. And an educator should never become an expert, and an organizer quite often finds that that's his main strength, being the expert.

"My expertise is in knowing *not* to be an expert"

THIRD PARTY: Myles, is that sort of the same philosophy that you and Highlander used to exclude people from workshops who the people perceive as experts? I know we've had very similar discussions around other ways that people perceive authority. For instance, in the occupational health movement, when coal miners came to Highlander to learn about and talk about occupational disease, we didn't want doctors in the room. Is there something similar at work here between experts and charismatic leaders doing the same thing in a workshop process?

MYLES: I think we've had a lot of experience with that. Often when I say you start with people's experience, people get the point that you start and stop with that experience, but of course all of you know better. There's a time when people's experience runs out. I'll give you an example. We were working with a group of black parents here in a Tennessee town where only about 5 percent of the population is black. The schools had merged. They weren't integrated; they just absorbed the blacks and made whites out of them without schools changing any of their all-white, racist ways of doing. So the black kids were miserable. The parents at first insisted on them fitting in, and then they finally realized what they were doing, really brutalizing the kids by setting up situa-

tions in which they were discriminated against. So they came down to Highlander for a couple of workshops about this situation. They decided that they were going to have a lawsuit, go into court. Well, pretty soon they exhausted what they knew. At that point, I said, "Would it be helpful if we got a lawyer, a friendly lawyer, to tell you the processes you'll have to go through?" They said, "We'll welcome that." Now that's what I call an extension of their knowledge, their experiences, which stays well within the framework of where they are in their thinking. It's their idea. So at that point you can feed in a lot of information that they don't have.

I asked a friend if he could come out—as a teacher, not as a lawyer—to teach them about what having a lawsuit meant in terms of time, cost, likely results and so on. When he got through, they realized that the solution could be ten years off, because there could be appeals, and their kids would be out of school by the time that was over. It would cost a lot of money and, in the meantime, they would more or less just sit on their hands and do nothing. So it would in fact kill their organization. Now he was very sympathetic. He was very pro-integration and he was anxious to be helpful and what he did was extremely helpful. But he wanted to go ahead, go on and advise them about what to do. I stopped him at that point because I didn't want the expert to tell them what to do. I wanted the expert to tell them the facts and let them decide what to do. Now there's a big difference in giving information and telling people how to use it. I had to really just get a hold of him by the arm and lead him out of the room. He

was still talking over his shoulder when I was taking him out. He still wanted to help these people out.

Now that use of expert knowledge is different from having the expert telling people what to do, and I think that's where I draw the line. I have no problem with using information that experts have, as long as they don't say this is what you should do. I've never yet found any experts that know where the line is. If people who want to be experts want to tell people what to do because they think it's their *duty* to tell them what to do, to me that takes away the power of people to make decisions. It means that they're going to call another expert when they need help. They learn by doing what you're supposed to do, and there's no empowerment that comes as a result of that. There is an organizational success, maybe, as a result of that, but there's no *empowerment* of people, no learning. So that's my feeling about how you use and how you don't use experts.

THIRD PARTY: You could probably predict that this would come up. Why did you wait to bring the lawyer into the circle? Why wasn't he there from the beginning?

MYLES: Sure I knew it would come up. It had to come up, because I know the pattern in this region is you go into court and you lull people. But suppose I had said the first day that these people came to Highlander: "Now I know you're going to end up tomorrow talking about a lawsuit. We're going to get a lawyer out here and get this settled at once and let him tell you what to do." Then there'd be no learning taking place. There'd be some information shared, but no learning—no learning about how to deal with problems, no sense of responsibility.

They would learn that way to turn their problems over to an expert. People already do that all the time; they don't need to come to Highlander to turn things over to the expert. They've got to think through the information themselves or they can't use it when they get back. It can't be part of their experience, their experience of learning, and therefore be theirs, if you deny them the right of making it theirs. If I'm the expert, my expertise is in knowing *not* to be an expert or in knowing how I feel experts should be used.

"My respect for the soul of the culture . . ."

PAULO: How is it possible for us to work in a community without feeling the *spirit* of the culture that has been there for many years, without trying to understand the soul of the culture? We cannot interfere in this culture. Without understanding the soul of the culture we just invade the culture.

I think that it's necessary to clarify a point. I come back again to a question you [third party] asked us, in which you said you and Myles are demanding concerning vision and values. I come back again with a very good example now. My respect for the soul of the culture does not prevent me from trying, with the people, to change some conditions that appear to me as obviously against the beauty of being human. Let me give a concrete example. Let us take a main cultural tradition in Latin America that prevents men from cooking. It is very interesting to analyze that. In the last analysis, men created the tradition and the assumption in the

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In Memory of Luke Cole

Nancy asked me to say a little bit about Luke's professional legacy. Luke and I taught the first environmental justice class at Berkeley together, which was probably one of the first such classes in the country. I was there when Luke created the Center on Race, Poverty, and the Environment in a little cubicle in the back room of California Rural Legal Assistance, and I was the founding chair of his board when CRPE officially became a separate organization. We've never written an article together, but I talked to him a lot about his ideas and I teach his work all the time because his writings are so funny and true and useful.

The first thing to say is that Luke pretty much started the field of environmental justice lawyering. He didn't start the environmental justice movement, but he started the conversation about how you lawyer for the movement. For people who don't know, the environmental justice movement is about recognizing that environmental hazards, like pollution, pesticides, toxic waste, and natural disasters, affect everyone . . . but they don't affect everyone equally. Because of the way our society is structured, poor people and people of color suffer the most, whether it's farmworkers in the Central Valley dealing with toxic plumes of pesticides blowing off the fields into their homes or little villages in Alaska having their hunting and fishing livelihoods destroyed by oil extraction, pollution and climate change.

It seems obvious, and yet Luke was the first person to recognize that for lawyers, an environmental justice practice meant bringing together two fields that had always been understood as totally separate and unrelated: environmental law and civil rights law. His very first article, which made him famous in the academy, was about how lawyers have to master both fields in order to understand and represent poor people and people of color who are facing environmental hazards. Indeed, even for lawyers who have a purely "environmental" practice and lawyers who have a purely "civil rights" practice, it is important to recognize that a clean and healthy environment for all requires some measure of social justice, and that the fight against discrimination includes the fight for clean water and air and the right to participate in decisions made about the environment.

But Luke's contributions went beyond inventing a new legal practice area. He also spent a lot of time writing and lecturing and teaching young lawyers about how to be a lawyer in this new field. The first lesson that he was always trying to teach was a professional lesson about service and humility. Because we have our professional degrees and we have what he called "macho law brains," we lawyers always think we should be up there at the front of the struggle, filing lawsuits and saving everybody. Luke really tried to give lawyers the opposite message: Lawyers should be "on tap, not on top." It's not our job to run everything. It's our job to help communities help themselves. He told young lawyers not to take any action until they could convincingly answer the following questions:

Does it educate?

Does it build the movement?

Does it get to the root of the problem?

The second lesson that Luke tried to teach young lawyers was that, in the end, environmental justice isn't about law anyway; it's about power. . . . [T]hat's why CRPE has lawyers and community organizers working cooperatively to build the movement.

...

And even though Luke was all about professional humility and a service ethic for lawyers, when it came to building power, he was also all about kicking ass. He was never afraid to afflict the comfortable as well as comforting the afflicted. If he needed to be in your face, he was in your face. And although he was good at representing his clients in meetings, he was also good at completely shutting a meeting down

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