

**21 Ohio N.U. L. Rev. 455**

Ohio Northern University Law Review  
1994

William P. Quigley<sup>1</sup>

Copyright (c) 1995 by the Ohio Northern University Law Review; William P. Quigley

## **REFLECTIONS OF COMMUNITY ORGANIZERS: LAWYERING FOR EMPOWERMENT OF COMMUNITY ORGANIZATIONS**

Poverty will not be stopped by people who are not poor. If poverty is stopped, it will be stopped by poor people. And poor people can stop poverty only if they work at it together. The lawyer who wants to serve poor people must put his skills to the task of helping poor people organize themselves.<sup>2</sup>

Empowerment lawyering with organizations of the poor and powerless differs from corporate lawyering or criminal defense lawyering in purpose, substance and style. It also differs from traditional public interest lawyering in significant respects.<sup>3</sup>

The purpose of empowerment lawyering with community organizations is to enable a group of people to gain control of the forces \*456 which affect their lives.<sup>4</sup> The substance of this lawyering is primarily the representation of groups rather than individuals.<sup>5</sup> This style calls for lawyering which joins, rather than leads, the persons represented.

Community organizing is *the* essential element of empowering organizational advocacy. Unless the lawyer recognizes that advocacy with groups cannot proceed without community organizing, there can be no effective empowering advocacy. In fact, if an organization could only have one advocate and had to choose between the most accomplished traditional lawyer and a good community organizer, it had better, for its own survival, choose the organizer.<sup>6</sup>

Community organizers are in an important position to observe and evaluate lawyers in community organizations. Because lawyers ask doctors and engineers to help shape and evaluate their legal product, lawyers should also consider the insights of community organizers in developing approaches to lawyering with organizations where the goal is empowerment of the organization's members. This article considers the observations and reflections of three community organizers, none of whom are lawyers, who have worked with hundreds of community groups.<sup>7</sup> They were interviewed concerning the role lawyers play in community organizations, how they help and how they hurt the empowerment of organizations. These reflections offer insight on the role of the law and lawyers in working with empowering community organizations.

This article concludes with themes highlighted by the organizers and some observations about how those themes apply to lawyering for empowerment of community organizations.

**\*457** I. REFLECTIONS BY COMMUNITY ORGANIZERS

*A. Ron Chisom*

Ron Chisom, an African-American community organizer, has worked over three decades with dozens of community organizations in the southern United States, including public housing tenants, people opposing police brutality, neighborhood preservationists, and civil rights groups.<sup>8</sup> He consults with numerous groups and is a national trainer with The People's Institute for Survival and Beyond.<sup>9</sup> Here are his reflections on the role of lawyers in community organizations:

Lawyers have killed off more groups by helping them than ever would have died if the lawyers had never showed up.

Most organizations when they come up with a problem - they turn it into an issue and then they get stumped and then they call a lawyer. A lawyer steps in, in what is essentially a technical role and shows some real authority and expertise by even simple things like taking notes which most people in the community do not do.

People in the organization look up to the lawyer because of their writing skills, their reading skills, their education, their speaking skills and it really makes the lawyer look like they are doing something. People then tend to transfer their interest in the issue and the problem to the lawyer to have the lawyer solve it and this creates dependency.

Total dependence on a lawyer by an organization is not good because most lawyers are "career oriented." They will usually help the community, but they also later hurt the community by making money off the contacts in the community, by political aspirations and by leaving the community stranded. In many cases, they actually leave the community in a worse condition had they never been involved.

Most lawyers do not understand about organizing. Lawyers do not understand that the legal piece is only one tactic of organizing. It is not the goal.

**\*458** In my 25 years of experience, I find that lawyers create dependency. The lawyers want to advocate for others and do not understand the goal of giving a people a sense of their own power. Traditional lawyer advocacy creates dependency and not interdependency. With most lawyers there is no leadership development of the group.

If lawyers get involved, they create a lot of problems. Most lawyers have never been through the consistent frustration of community building with its petty disputes, confusion, personality problems and the like.

Most lawyers get frustrated with that, have a low degree of tolerance with people problems, and will walk away from the effort of community building.

The legal dimension of community organizing is only one piece of the overall strategy. Commonly, lawyers are not clear about strategy. They don't understand community, they don't understand organizing, they don't understand leadership development.

Lawyers, if they understand the process, can play a major role in the development of the community. If lawyers understand the dynamics of community leadership and development, this understanding can also work to reduce the frustration level of the lawyer because the people involved will not call the lawyer for every little problem that they have in the struggle.

As an example, when the organization goes to court or to confront the government, the people must play a major role in the choices of where to go and how to go. The people must also participate in the investigation and speaking out on the issue.

At a certain level, groups will need a lawyer. What the groups really need is a lawyer with understanding and an analysis of the community group - who they are, what are their problems and what is their history. If the lawyer does not understand how the group fits into the larger part of society and community, the lawyer will only see this organization as just another case. This is particularly true when the group itself does not understand the big picture either.

Big problems develop when the lawyer becomes the leader. The lawyer ends up almost as a god to the group and that will kill off the momentum and emotionalism that brought the group that far. The people lose interest as the lawyer becomes the momentum. The lawyer can stimulate the group, pacify the group or walk out at any time. This effectively kills the leadership and power of the group.

The lawyer is "credentialized." The lawyer is structured, disciplined, succinct, and trained. He or she is closer to and understands the system better than anybody in the group. Then, the lawyer becomes the focal point of the group and becomes leader of the group. More mature groups will not let this happen, but when it does happen the collective power of the group is transferred from the individuals to the lawyer. The group is then susceptible to any action or lack of action that the lawyer takes rather than the direction and leadership being given by the organization.

\*459 In tactics, the legal piece is only one tactic of many. There is the legislative, legal, demonstration, picketing, fund-raising, community building, leadership development and many other pieces. Lawyers do not usually understand that.

Lawyers tend to focus only on the case and want the organization to bend itself to the case rather than the other way around. Lawyers think in terms only of what will help or hurt the case, but they do not understand that “the case” is not the point of building up the community.

Another problem is that most community lawyers, especially white lawyers, do not want to confront or agitate the power structure. This is primarily because of the role of racism in all of these conflicts. Lawyers, particularly white lawyers, are trained to understand and be comfortable with the system even when they criticize it. Almost all lawyers, including community lawyers, want to succeed in the system. They want money, power, political advantage, respect or whatever their individual dreams are. Therefore, confronting the system or raising hell makes the lawyer very uncomfortable because it is not how the lawyer was trained to deal with the system, and the lawyer, without realizing it, is challenged individually because the lawyer is part of the system.

The white legal system perpetuates the white power system. Reliance on that system is a contradiction to the development of collective power in a community organization. I also find that black lawyers also have serious problems confronting the system because they don't really want to challenge the system because black lawyers gain advantage and reap rewards from the system so, therefore, they cannot challenge it the way it needs to be challenged.

The lack of understanding is not confined to lawyers because it is frequently that the group itself and many times inexperienced organizers themselves do not understand the demands of leadership development.

Leadership development is the key to solving problems locally. If the lawyer does not understand leadership development and the group does not understand leadership development then certainly leadership development is not going to happen. There may well be some flurry of activity on a problem, perhaps even the problem will be solved, but the community will be left with as little, or sometimes even less power and understanding of power than they had before they started the fight.<sup>10</sup>

#### *B. Wade Rathke*

Wade Rathke is Chief Organizer of Local 100, Service Employees International Union (SEIU) and one of the founders of the Arkansas \*460 Community Organization for Reform Now (ACORN).<sup>11</sup> He has been an organizer for twenty

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

years, first with the Welfare Rights Organization movement, and later as a founder and chief organizer for ACORN. ACORN has created a national organization of low and moderate income members, with active local organizations in twenty states. He speaks about the experiences of the organizations with which he has worked:

The fundamental challenge in finding good organizational lawyers is to find out whether or not a lawyer is willing to see their role as similar to an organizer or researcher who is employed by an organization as a helper toward the process of helping the organization gain power. Empowerment must be the lawyer's goal; not breaking the new legal ground which changes a particular statute or right.

I remember a top lawyer who worked with us in the early days of the ACORN organization who used to take new volunteer lawyers and the first thing he would make them do, for as long as a month, was make them run the mimeograph machine and put out mailings. He would take them door to door canvassing and train them like organizers. He believed that unless lawyers for organizations understood that there is different training to work with organizations than the training they had in law school then there would always be problems. Lawyers have to be able to understand that organizing an issue is a process where an individual problem changes and becomes a political issue.

ACORN has found that the lawyers who are most accessible to organizations tend to be ones who come out of the union lawyer tradition. In union lawyers there is still a strong culture that says the organization's membership must bear the control of final decisions. Because that tradition is not as common in either civil rights or in poverty law, we have tended to find that we do better in working with lawyers who come out of the union tradition of membership and organizational leadership and service than those coming out of classically trained legal services lawyers who, we have found, more want to create law than create power.

One thing that you just do not find much in lawyers is people who are sensitive enough to understand organizations and their \*461 dynamics well enough to be able to look at the structures of law and figure out how you can attack some laws to open up vital organizational opportunity and authority. You know, it is not necessarily a colorful area of law, but there is a tremendous amount of work that needs to be done in areas like access to public records and opening up payroll and other deduction systems.

In the ACORN experience we have seen substantial legal precedents in law won through organizational activity joined with lawyers. At the same time, there is a level of what some call "gonzo law" that is essential to allow organizations to pursue campaigns. This law may pursue new ideas in the law but may not pursued to create precedent at all, and in some non-organizational view may be almost totally frivolous. As an example, it is certainly not news that it is a common organizational tactic in trying to pursue issue campaigns, that, when you are unable to win all the objectives of the campaign and it has been a fierce struggle, the organization may try to exit the campaign by filing a suit. The filing of a lawsuit may make it appear that the issue is not totally lost and gives the losing issue an afterlife where something may or may not come down the legal avenue, but it at least gives it a public viability that it is being pursued. If something comes of it, great, if not, it was a way to get out of a losing situation.

This is a tactical use of law. There are some lawyers who are comfortable with this sort of use of the law, but I think it is a rare talent.<sup>12</sup>

*C. Barbara Major*

Barbara Major, an African American organizer, works with numerous low income women's groups in the southern United States.<sup>13</sup> She is also a trainer with the People's Institute for Survival and Beyond.<sup>14</sup> She has suggested the following:

Empowerment is when a person or a group of people know who they are, accept who they are, and refuse to let people make them anything else.

Lawyers, like any other profession, can be a really good resource in the community that is seeking to empower itself. An excellent resource and always a necessary one. Especially when you look historically in terms of the need - not only to change attitudes, but \*462 to change policy and legislation to really make access available to resources for everybody. I think lawyers have always played a key role, especially in the civil rights movement, the worker's rights movement, and the women's rights movements in this country.

I think one of the things that lawyers have to understand is the reality of the community that it deals with. I think oftentimes lawyers come in with their own reality, their own world view, and think or assume that this is everybody's reality and they just start moving along. That is not the case because a lot of times, especially when you are dealing in a struggling community, their reality is very different from the reality that people who have been educated have, or their world view is very different from the people at the bottom that they will be working with.

People use to work "in community" but I think now people should think a little more about working "with community." This means lawyers have to learn how, with all of their skills, to journey with the community. This journey has to involve the community really getting a sense of who they are, in the sense of beginning to understand their own power. In working with community the wisdom or the knowledge of the lawyer does not outweigh the wisdom and the knowledge of the community, about itself especially.

I think also when you talk about lawyers you must help them have a reality check, in my experience lawyers don't often do that. You know, they often believe in the system - that the system is going to work because it's the right thing to do. I do not think they understand that, when you are dealing with challenging power, that the system works on the side of power. The lawyers do not realize they need another tool to challenge the system, one that lawyers do not know about, and that is the power of the community. Because no matter how good you might be in court, the power of the people in the street weighs mightily heavily on the decision

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

of the power brokers, sometimes more heavily than the law itself. One lawyer, I don't care how good she is, how well she argues or whatever, the power brokers will take that same lawyer and beat her to death one day, unless, the people in the street say this is not legal, this is not fair.

I think a lot of times lawyers have come into the community and only created another entity to be dependent on. Their communities begin to believe that all they have to do is bring their problems to court and they forget that they must continue to organize and educate the people. I think the lawyers too often create another entity to be dependent on so people will lay back and just think well "I'll just sue 'em." This will not lead to permanent change. Because even if the community wins the suit, what are they going to do the next time there is a problem? Sue again?

Problems can be headed off if the powerful know there is an organized community willing to fight them. That is better than the best suit.

Another problem is when the lawyer comes in and just takes over and becomes the leader and the spokesperson and it disempowers \*463 the community. The lawyer becomes the one everyone wants to interview and everybody wants to talk to. Then the media and the powerful don't ever talk directly to the people any more. The community's struggle becomes the lawyer's struggle and not the people's struggle.

Who becomes the spokesperson is real important because the community starts out so weakened. It's not destroyed, but it's weakened. The community needs to feel its own power and continue to be built back up in the sense that says you not only have the right to speak for yourself, but you can speak for yourself. The community needs to be allowed to demonstrate as many times as possible its capabilities and abilities to do and to be itself, its own power source, its own leadership. I find it real destructive when outside people speak for the community. It is the simple folk that sustain us as a people - not some lawyer or nun or hot shot organizer who comes in and does works in the community. It is very important for the community to feel its own power, and part of that power is the ability to speak for itself.

If lawyers want to work with the community, they must first do some thinking. If they come in with a sense of not only just coming in to say they want to work, they want to help the community, but coming in and saying that I, too, have something to gain from this, then I think the community will welcome them. Because, then the building up will not be one-sided. As the community builds its power and self confidence, the lawyer will also reach new heights. I know as an organizer when I see the community moving up and I am connected to them, it's like hey, I am moving too. You know they are not leaving me behind and I can't leave them behind. So we are moving together. It's a different kind of relationship.

It is not a matter to me of where you live, or whether you are poor yourself. The lawyer can live in a nice house, as long as they are struggling for folk in that community to have nice houses too. See, I don't think

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

poverty is a damned virtue. It's your becoming a part of that human family is what you are really becoming a part of in that community. I have had problems out of all kinds of lawyers - Black male, Black female, White male, White female and everything in between. So, their race and gender does not matter to me. It is the ability of that person to see the human capacity in the community. Unfortunately, a lot of people don't see it - all they see is that depressed community that I am coming in and giving something to.

Only when they understand that they will not only be the only one giving, but they will also be receiving, then it can roll. And it will be a growing and learning process for everybody.<sup>15</sup>

**\*464** III. THEMES IN COMMUNITY EMPOWERMENT LAWYERING

*1. The primary goal is building up the community.*

As Chisom suggested,

If the lawyer does not understand leadership development and the group does not understand leadership development then certainly leadership development is not going to happen. There may well be some flurry of activity on a problem, perhaps even the problem will be solved, but the community will be left with as little, or sometimes even less power and understanding of power than they had before they started the fight.<sup>16</sup>

In his very first meeting with the residents of a neighborhood, Joe Lewis, a community organizer hired by the Atlanta Project as a coordinator for the area, was asked by residents what he was going to do for the community. He said, "I don't know. You haven't told me yet."<sup>17</sup>

As one author has suggested, "Organizing in its simplified form is people working together to get things accomplished. Organizing is about people taking a role in determining their own future and improving the quality of life not only for themselves but for everyone."<sup>18</sup> Educate, activate, and build the membership of the organization. These are the goals of organizational empowerment lawyering.<sup>19</sup>

*2. Lawyers can disempower groups by creating dependency*

Empowerment is a term that has been given several slightly differing conceptual meanings. In all meanings, it involves an attempt **\*465** to give the acted upon the right to decide for themselves or act in their own interests. What does traditional public interest lawyering say to the goal of empowerment? Not much.<sup>20</sup>

There are two traditional methods of public interest lawyering: providing individual legal services to the indigent, usually in a government-funded setting, and providing reform or impact litigation which targets particular issues for focused high intensity litigation. Neither of these traditional forms of public interest lawyering is well suited to empowering. Both focus the power and the decision-making in the lawyer and the organization which employs the lawyer. The lawyer decides if



REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

she will take the case. The lawyer decides what is a reasonably achievable outcome. The lawyer and her employer decides how much time and resources can be committed to the effort. Both approaches individualize or compartmentalize the problems of the poor and powerless by not addressing their collective difficulties and lack of power.

While both approaches employ many hard-working and dedicated advocates, even when successful in achieving their defined mission they define for themselves, empowerment will not occur. Consider the following example:

In 1983 a group in a suburban area contacted the Citizens Clearing-house for Hazardous Waste (CCHW) for guidance on opposing the construction of a solid-waste landfill. The people of this suburb were primarily older residents plus a small but growing number of professionals. All told, the group had two or three hundred members of various backgrounds. CCHW gave the group some basic advice: Organize. Put out a fact sheet. Go door to door to educate the public. Petition. Get people involved.

In the months that followed, the group called CCHW frequently for advice. Each time they were given the same advice: action. The group seemed to agree, yet took no action. At the outset they had hired a prominent lawyer from the area. He was well respected in the county and had numerous official contacts. The group relied upon his suggestions and would not take any action that contradicted them. Effective methods like canvassing door to door, putting out flyers, and petitioning he considered “undignified.” The group, he said, should not engage in any activity that might upset any court action.

**\*466** Within a year, the ribbon-cutting ceremony was held for the unlined landfill the group had formed to oppose. Of the groups's hundreds of members, ten or fifteen carried signs that day - their first public demonstration. Their fight had been lost by their lawyer. Anticipating a loss of the court fight, he had been calling for a lined landfill.

In the process the group accumulated legal fees amounting to nearly \$300,000. The group's only courtroom victory came after they had lost their major fight. By dropping a subsequent suit against the county, they were able to recover \$75,000 of their legal fees from the county.

Today, the landfill is leaking and the group is now taking that message to the streets with some success. At last they are learning from their mistakes.<sup>21</sup>

If empowerment is the end, creating dependence on a lawyer is not the means.<sup>22</sup>

*3. Litigation is only one of many means to the end.*

The clash in problem-solving approaches between the lawyer and the organizer highlights one of the inherent difficulties in using litigation in an empowering fashion. Consider the following:

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

Lawyers and organizers tend to approach problems differently, with often marked implications. For example, consider an intersection where the lack of a stop sign is causing traffic hazards and threatening children. A lawyer would solve this problem by going to court to get the stop sign put into place. From this process people either do not know how the stop sign got there or learn that lawyers produce change. Both results aggravate people's perceptions of their powerlessness, which is disastrous from an organizer's perspective. In contrast to the lawyer, the organizer would knock on all the doors in the neighborhood, organize a meeting of interested people, and help them collectively deal with the problem. They would probably hold a mass demonstration, meet with a city official, and successfully pressure her to provide the stop sign. From this experience, people in the neighborhood would learn that they can have **\*467** power if they organize, and coordinate their efforts. Because so many individuals participated in producing the sign, nearly everyone in the neighborhood would learn this lesson. Suddenly an aspect of the neighborhood is the product of the residents' personal actions.<sup>23</sup>

This example sharply contrasts two ways to approach the same problem. If the goal is getting a stop sign, then litigation may well be the superior method to use. If the goal is taking, developing, and sharing power, then litigation is not effective.<sup>24</sup>

Other than the circumstances discussed below, it is a good rule to avoid litigation in empowerment advocacy. The goal of this advocacy is to help the group and its members take, develop, and share their rightful power. Litigation usually does not further that goal.<sup>25</sup> There are literally scores of other actions that groups can take that will highlight the problem, call for solutions, and involve the community members in leading their own fight.<sup>26</sup> At its worst, litigation on behalf of an emerging organization of people may well be harmful to the growth and development of the organization.<sup>27</sup>

**\*468** When lawyers are confronted with a wrong, they are tempted to draw on their litigation skills. Also, people tend to seek out lawyers for their litigation skills as opposed to their organizational assistance.<sup>28</sup> In advocacy with an organization, litigation can be considered helpful in three situations: defending the organization and its members;<sup>29</sup> serving the organization's development;<sup>30</sup> and terminating causes from which the organization has no other way to exit.<sup>31</sup>

Law reform litigation should be undertaken only reluctantly in organizational advocacy and only after considerable thought by the organization. Litigation should be avoided in most other situations because lawyering and organizational development do not often go together. Indeed, in a 375 page guide on organizing for grassroots leaders, organizer Si Kahn devoted four sentences to legal action.<sup>32</sup> Martin Luther King, Jr. also pointed out that litigation was not the desired path of organizational campaigns: "Whenever it is possible, we want to avoid court cases in this integration struggle."<sup>33</sup> Many lawyers have tried to achieve justice for poor and powerless people and organizations and victims of discrimination. As even most successful lawyers will ruefully admit, there was often more victory in the courtroom than in reality.<sup>34</sup>

One of the weaknesses of litigation is the inherent limitation of the judicial system when called upon to produce social reform.<sup>35</sup> The **\*469** judiciary is far more disposed to and capable of stopping something from happening than it is to force something positive to occur. If the organization needs to stop something and can figure no other way to do it,

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

or, better yet, is trying all other ways to stop it, then litigation may prove helpful if properly constrained and directed. However, the real work of organizational development is to take the members' rightful share of power and redistribute it. The judicial system has fundamental problems with such positive actions.<sup>36</sup> And even where the judicial system takes a modest step or two forward, it can only make change and was probably prodded to those modest achievements in the first place, with significant support from other parts of society.<sup>37</sup> \*470 Thus, litigation, particularly litigation as the sole approach to a problem, will not likely be effective in solving the problem.

Another difficulty in utilizing litigation in empowerment is the clash of cultures between the legal system and the powerless or group members.<sup>38</sup> This clash is founded on the fact that what is important in the context of a lawsuit is often not at all important in the real world of people.<sup>39</sup> Everything from dress codes to language patterns, from the race and gender roles to the emphasis on the written word, not to mention the obvious role that wealth and power play in all phases of litigation, work against the poor and powerless role in litigation.<sup>40</sup>

Further, even when reform-minded lawyers participate on behalf of the poor and the powerless, too frequently a gap in understanding and common priorities prevents even infrequent, well-intentioned litigation from succeeding in actually empowering those on whose behalf the litigation is brought.<sup>41</sup> This failure is a result of the different priorities that litigation has, by its nature, opposed to the priorities of helping people gain power.<sup>42</sup> As Professor White ironically notes in her analysis of the empowerment shortcomings of public interest litigation,

The gap between what poor people want to say and what the law wants to hear often seems enormous. Legal education does not \*471 prepare lawyers for this daunting task, and the profession does not encourage or reward such efforts. Reform-oriented lawyers have been taught to read statutes, question bureaucrats, and analyze policy. They have not learned to listen and talk to poor people ...

Therefore, in practice, welfare litigators often subordinate their clients' perceptions of need to the lawyers' own agendas for reform. They rarely design litigation to respond to their clients' own priorities and ideas. Rather, litigation is designed to effect broad reforms that will benefit the whole class of welfare recipients .... Not only do clients feel incapable of speaking and acting freely in the strange language and culture of the courtroom; in addition, their own lawsuits are often framed to render their perceptions and passions irrelevant to the legal claims.<sup>43</sup>

Thus, traditional public interest reform, or impact litigation, is of very limited value in actually helping the poor and powerless. While identifiable progress may well be made on a particular issue, the progress will be made by lawyers in an environment unsympathetic to poor people. If empowerment is the end, this type of legal public interest work is rarely the means.

*4. Learn community organizing and leadership development.*

The challenge of the community organization process is to help the people recognize common challenges and fashion common, workable strategies to address the common problems. While most people, including the powerless, are fairly cognizant of common challenges to themselves and their communities, it takes strategy and skill to develop realistic,

achievable approaches to combat the problems.<sup>44</sup> Without such community organizing, there can be spontaneous protest, a flare of activity, and minimal progress. But this progress will be short-lived and likely reversed once the immediate crisis passes, unless there is good community organizing in between these moments of passion.<sup>45</sup>

Friedmann recognizes community organizers by their French description as *animateurs*.<sup>46</sup> Their challenge is to “animate” or breathe \*472 life into the soul of the community and move it to appropriate action. These animateurs or organizers can be members of the powerless community; indeed, the very best organizers often are community members. However, the essence of the organizer is an understanding of how to empower people.<sup>47</sup>

In the context of an organization of poor or powerless people lawyering has as its goal the reallocation of power from those who have an unfair share to those who lack their rightful share.<sup>48</sup> The organization lifts the concerns of the individuals together beyond the concerns of any one individual. Individual desires and energies are fused to secure greater power, voice, and influence for those who are individually undervalued by the present system. Therefore, lawyering involves not advocacy for individual interests, but advocacy with a group of people organized to reclaim what is rightfully theirs, their own power. That is empowerment. Lawyers interested in learning more about organizing and leadership development have a variety of sources from which to choose.<sup>49</sup>

\*473 5. *The community must be involved in everything the lawyer does.*

Martin Luther King, Jr. once said,

[W]e've got to understand people, first, and then analyze their problems. If we really pay attention to those we want to help; if we listen to them; if we let them tell us about themselves - how they live, what they want out of life - we'll be on much more solid ground when we start 'planning' our 'action,' our 'programs,' than if we march ahead, to our own music, and treat 'them' as if they're only meant to pay attention to us, anyway.<sup>50</sup>

There is a tendency to consider work with organizations as volunteer or pro bono work that is somehow governed by different dynamics than work for paying clients.<sup>51</sup> It should not be so considered. If the lawyer takes the community organization's problem as her own task and begins to independently prepare and execute a legal strategy, the organization immediately loses control of its own actions. No lawyer would consider independently creating and implementing a legal strategy for a big corporation. Community organizations demand the same respect. Since empowerment by definition means controlling one's own destiny in as many ways as possible, even the \*474 most well-intentioned lawyer who works independent from the organization is undercutting the life of the organization.

The organization should work with the attorney to decide what the attorney should be involved in, how the legal strategy should proceed, and when the lawyer's assistance is needed. If a legal strategy is developed, the organization should decide what are the first steps taken, what forum should those steps be taken in, what resources should be committed to the task, and what realistic goals and timetables should be communicated to the members of the organization. This control of the legal agenda by the organization is at the heart of advice provided to organizations by those with experience in dealing with lawyers. Here we will consider a few things to keep in mind and discuss with your lawyer from the outset:

You should control key decisions on your case. Use your lawyer for advice. Some lawyers automatically discuss the handling of their case with their clients; others do not. If your lawyer seems to be making important decisions without consulting you, it may be time to get another lawyer. Remember: You hired the lawyer - you are the boss.

Your lawyer's help or legal action can be a useful component to your local organizing. But don't let your lawyer decide your organizing strategy. Most lawyers are not experts on organizing. ...

Many people think once they have hired a lawyer they no longer need to participate in the local group because the lawyer has the problem under control. Nothing could be further from the truth.<sup>52</sup>

*6. Never become the leader of the group.*

Consider the advice of another veteran organizer: "You don't need a lawyer to talk to politicians for you. Hiring a lawyer to deal with politicians would be a waste of your money. You can say it better than them - from the heart and from your own experience."<sup>53</sup> Empowerment means people seizing control of their own life choices. Following a lawyer is not empowerment. As was once said so succinctly, "the lawyer should be on tap, and not on top."<sup>54</sup>

*7. Be willing to confront the lawyer's own comfort with an unjust legal system.*

Interests that have pushed themselves onto the stage have been organized, have been part of a movement, have, in short, been \*475 groups; ... Groups did not gain ground because the legal profession "discovered" them, or because reformers in and out of government took up their case on theoretical grounds. They gained ground by exerting pressure. It was the squeaky wheel that got the oil."<sup>55</sup>

Ultimately every group of people who seeks power must face those with the power. Seeking a rightful share of power means demanding the return of that power from the powerful. This is confrontation. It can happen in the legislatures, on the streets, in the courts, in the media, or in the banks, but it is confrontation. It is certainly one of the options that those without power must consider.<sup>56</sup> The lawyer for an organization can assist in the inevitable confrontation by either of two approaches: shut up and get out of the way and/or help the group discuss the best options to provoke or defend the resulting confrontation.

The lawyer's comfort level with the current legal, political, economic and social system comes to the forefront at certain points in organizing, even when there is confrontation. Lawyers participate and reap benefit from these systems even while apparently challenging the them. Lawyers profit by their education in and participation in the legal system, even while they self-identify themselves as "standing outside the system." This participation cannot be denied but need not paralyze the lawyer of an organization seeking its rightful share of power. This participation must first be consciously recognized as an investment in the current system and then, to the degree the lawyer can do so, it must be consciously set aside while assisting the organization in confronting those who unjustly have their power.

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

In analyzing options in confrontation strategies, the lawyer's comfort level with some types of confrontation and lack of comfort with others must be identified and, to the degree possible, set aside. Since some lawyers have substantial experience in controlled legal confrontation, there is the tendency of the lawyer to try to control and direct the confrontation to conform to the confrontation style to which the lawyer is accustomed.<sup>57</sup> This tendency usually seeks for \*476 more polite, ordered confrontation that follows the rules of polite, ordered society. This tendency is usually a mistake for those who have been shut out of the polite, ordered society. The point of confrontation is not to persuade the quiet and ordered powerful to generously provide a donation of excess power, but to assist the powerless in finding their own voice to demand what is justly theirs.

Subjecting the powerless to the rules of the powerful in a confrontation over the just reallocation of power is contradictory and counterproductive. This is not to say that thoughtless stridency is the best approach to confront the powerful, rather the lawyer must be prepared for the group to consciously adopt and utilize methods of confrontation which the lawyer would never choose for herself.

Take the simple example of deciding whether to be quiet when ordered to do so in a public meeting of the city council. Continuing to speak beyond the allotted time or on topics not allowed on the agenda or directly to members of the government who do not wish to be so addressed will likely result in being requested or ordered to sit down and be quiet. The polite, ordered response of those who follow the rules would be to reluctantly sit down and ponder other ways to get the point across. For the purposes of development of the group, it may well be most effective to continue to speak and either be physically expelled or even arrested<sup>58</sup> to demonstrate the unwillingness of the powerful to even give an airing to the group's concerns. The lawyer's tendency to seek ordered results has to be subordinated to the development of progress on the organization's goals.

In working with organizations, the goal of all action, legal and nonlegal, is to empower the members of the group so they are able to be as self-directed as possible. This means assisting the members to work jointly to take and share their rightful power. There is a new role for the lawyer, a role not taught in law schools and a role not prized by the legal profession as a whole. Put politely as possible, \*477 the legal profession views such practice of law with great anxiety.<sup>59</sup> A further challenge involves the entire concept of de-lawyering current systems so the members of the organization can better learn to advocate for themselves.

The lawyer has a delicate and paradoxical role to play in empowerment advocacy. The primary role is to help the organization and its members take, develop, and share their rightful power. In contemporary society, the lawyer holds a position of power partly because the law has drawn away from regular people and become a system unto itself, unaccessible to a nonlawyer, with its own language, and its own liturgies of practice. In this sense, the ignorance of the client enriches the lawyer's power position. Thus, the lawyer, even the well-intentioned public interest lawyer, has a share of power that is only the result of others not having access to it. The lawyer pursuing the goals of empowerment advocacy is called to a higher form of advocacy than "doing for" her client. Rather, the lawyer is called to assist her client to escape the need of being anyone's client and learning to advocate for herself. This demands that the lawyer undo the secret wrappings of the legal system and share the essence of legal advocacy. Doing so lessens the mystical power of the lawyer but, in practice, enriches the advocate in the sharing and developing of rightful power.

8. *Be wary of speaking for the group.*

There are only two instances when it is appropriate for a lawyer to speak to the media about the organization. First, if the organization asks the lawyer and specific instructions on how to proceed, and second, in an emergency. The

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

lawyer should not speak for the organization unless that is the only way the organization's position will be reported, all the organization's members are unavailable, or the organization's message is already decided and communicated to the lawyer. Consider how the powerful deal with the media. Does a lawyer for Proctor & Gamble assume she has the authority to comment on anything for Proctor & Gamble without explicit permission and direction? No, and neither should the organizational lawyer.

A working organization should have a media committee and the lawyer could be a great help to that committee by having work and home numbers for all members to give to the media when they call \*478 the lawyer.<sup>60</sup> The lawyer for the organization must herself consider the media implications of whatever efforts she will engage in on behalf of the organization and help the organization think through these issues.<sup>61</sup> The primary goal must continue to be whether the action will help or hinder the organization's development in taking and sharing power.

*9. Understand how much the lawyer is taking as well as giving.*

It has been suggested that “the challenge of responding to others, especially across great distances of life experience, inevitably leads us to confront more deeply the uncertainty-the possibility-that is ourselves.”<sup>62</sup> Anyone who has worked with vital community organizations in a fight against those who oppress the members of the organization knows it can be one of life's peak experiences. Along the way it will also likely be one of the most frustrating experiences in which they will ever participate.

The essence of working with a community organization is harnessing the powers of the individuals involved into a team. When the lawyer is part of that team, and the team wins an uphill battle, there is no big fee, no precedent-setting case, no pro bono award, that can ever substitute for the enduring sense of fulfilling friendship that binds those who were there and met the challenge.

The lawyer gives, no doubt about it. But the lawyer receives, too, no doubt about it.

*10. Be willing to journey with the community.*

As Barbara Major said,

People used to work “in community” but I think now people should think a little more about working “with community” which means lawyers have to learn how, with all of their skills, to journey with the community. This journey has to involve the community really getting a sense of who they are, in the sense of beginning to understand their own power ....<sup>63</sup>

....

\*479 Only when they understand that they will not only be the only one giving, but they will also be receiving then it can roll. And it will be a growing and learning process for everybody.<sup>64</sup>

There is no need to expound upon this quote, it is poignant and says all that needs to be said.

#### IV. CONCLUSION

Learning to join rather than lead, learning to listen rather than to speak, learning to assist people in empowering themselves rather than manipulating the levers of power for them, these are the elements of lawyering for empowerment. By mastering their elements, a lawyer can help people join together and control those forces influencing their daily lives. By helping people in a community organized process to recognize common challenges, they can work together to formulate common strategies to combat these challenges.

#### Footnotes

- <sup>1</sup> Assistant Professor and Director of Gillis Long Poverty Law Center, Loyola University School of Law, New Orleans, Louisiana. The author wishes to thank Anthony Alfieri, Steve Bachmann, Ron Chisom, Pam Karlan, Martha Mahoney, Barbara Major, Jack Nelson, Wade Rathke, Florence Roisman, and Elizabeth Scott for their help. Many of these ideas were first presented at the Joint Conference on Lawyering presented by the University of Liverpool Law School and the University of California at Los Angeles School of Law at Lake Windermere, UK.
- <sup>2</sup> Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049, 1053 (1970). Professor Anthony Alfieri says this quote is an “autocite” for writers about advocacy with poor and powerless people. There is a very good reason it is cited so much. It is because there are so few examples of quotable legal writing about poor people and organizing.
- <sup>3</sup> Traditional public interest lawyering is called “regnant lawyering” by Gerald Lopez, as opposed to “rebellious lawyering” which seeks to empower subordinated clients. Gerald Lopez, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603, 1609-1610 (1989). This “regnant lawyering” is criticized as well-intentioned individual and even class-wide problem solving by liberal and progressive lawyers in offices isolated from organizational activity like community organization, community education, self-help campaigns, and other forms of grass roots mobilization. *Id.* Lopez goes further in *Training Future Lawyers to Work with the Politically and Socially Subordinated: Anti-Generic Education*, 91 W. VA. L. REV. 305, 358-386 (1989). He indicates one of the reasons why lawyering for empowerment or “rebellious lawyering” is not prevalent is that even “[t]hrough millions in this country live in social and political subordination and though lawyers have worked to help challenge these conditions, law schools only rarely have understood their job to include designing a training regimen responsive to this situation and this task.” *Id.* at 306. Lopez takes up this task and proposes a curriculum for legal education and training of students to work with, and for, the poor and powerless. *Id.* at 376-78. Finally, in REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF A PROGRESSIVE LAW PRACTICE (1992), Lopez illustrates the potentials and pitfalls inherent in lawyering with sketches of struggles faced by those who take both law and justice seriously. See also Louise G. Trubek, *Critical Lawyering: Toward a New Public Interest Practice*, 1 B.U. PUB. INT. L.J. 49 (1991) and Ruth Buchanan & Louise G. Trubek, *Resistances and Possibilities: A Critical and Practical Look at Public Interest Lawyering*, 19 N.Y.U. REV. L. & SOC. CHANGE 687 (1992).
- <sup>4</sup> Some well-intentioned persons may ask: Why do people need to gain power over their own lives? Why can't we just help give them what they need? The answers to these questions are discussed in Joel Handler, *Community Care for the Frail Elderly: A Theory of Empowerment*, 50 OHIO ST. L.J. 541, 544 (1989). Handler points out that even if we were to provide more funds for social programs, enact better laws, and provide many more dedicated lawyers to help them, powerless people still need to work on the imbalance of power in our society or they will, by definition, remain powerless and trapped. *Id.* at 557. Granting codes of legal rights and protection to the powerless, without more, is fruitless. People need power to use the legal system. *Id.*



REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

- 5 See discussion of group representation in Luke W. Cole, *Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law*, 19 *ECOLOGY L.Q.* 619, 663-670 (1992).
- 6 That is not to say that good community organizing alone guarantees a continuously healthy, vibrant movement of actively engaged people. See, for example, the story of the growth, development, and ultimate decline of an excellent organization, the Congress of Racial Equality, in AUGUST MEIR & ELLIOTT RUDWICK, *CORE: A STUDY IN THE CIVIL RIGHTS MOVEMENT* 329 (1975).
- 7 The observations included in this article are taken from transcripts of oral interviews, not written statements by the organizers (transcripts on file with the author).
- 8 Examples of groups with which Mr. Chisom has been involved, in developing organizational campaigns include: New Orleans City-Wide Tenants Council (improvement of public housing in New Orleans, Louisiana); Tremé Community Improvement Association (low income neighborhood preservation); Parkchester Tenants Association (attempting to prevent demolition of low income housing); Fishermen and Concerned Citizens Association of Plaquemines Parish, Louisiana (wide range of civil rights and economic justice issues including survival of independent oyster fishermen, securing running water for an all African-American town, and reclaiming thousands of acres of expropriated land in rural Louisiana).
- 9 The People's Institute for Survival and Beyond was founded in 1980 and is a national multiracial, antiracist collective of veteran organizers and educators dedicated to building an effective movement for social change. The Institute conducts “undoing racism” and training workshops around the United States. The Institute is a nonprofit organization operating out of New Orleans, LA.
- 10 Interview with Ron Chisom national trainer with The People's Institute for Survival and Beyond (Jan. 26, 1993) (transcript on file with author).
- 11 ACORN was launched as Arkansas Community Organizations for Reform Now in 1970 by organizers from George Wiley's National Welfare Rights Organization. It has since changed its full name to the Association of Community Organizations for Reform Now, keeping the acronym ACORN. ACORN now has community organizations operating in twenty states. Local 100 of the Service Employees International Union is based in New Orleans and, though a separate organization, is an outgrowth of ACORN's organizing efforts with low wage workers in industries in Boston, Chicago and New Orleans. A good history of ACORN, Rathke, and the organizational challenges each has faced, can be found in GARY DELGADO, *ORGANIZING THE MOVEMENT: THE ROOTS AND GROWTH OF ACORN*, 63 (1986).
- 12 Interview with Wade Rathke, co-founder of Arkansas Community Organization for Reform Now (ACORN) (Jan. 28, 1993) (transcript on file with author).
- 13 Representative of the groups Major has worked with are the following: Clergy and Laity Concerned (peace and justice issues); New Orleans City-wide Tenant Council (public housing); Kuji Center (holistic health and economic justice for low-income area of New Orleans); and many other women's groups in the southeastern United States.
- 14 *See supra* note 9.
- 15 Interview with Barbara Major, Trainer with the People's Institute for Survival and Beyond (Mar. 8, 1993) (transcript on file with author).
- 16 *See supra* note 10 (citing quote in text).
- 17 *Atlanta Project: Empowering the Powerless*, *FOCUS*, Mar. 1993, at 3. The Atlanta Project is a community-based initiative launched by former U.S. President Jimmy Carter to improve the lives of residents of the city's most depressed neighborhoods. The project goal is to empower the traditionally powerless.

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

18 John O'Connor, *Organizing to Win*, in FIGHTING TOXICS: A MANUAL FOR PROTECTING YOUR FAMILY, COMMUNITY AND WORKPLACE 25 (Gary Cohen & John O'Connor eds., 1990) [hereinafter FIGHTING TOXICS].

19 Cole, *supra* note 5, at 688. Cole cites three similar questions for environmental advocacy:

1. Will it educate people?

2. Will it build the movement?

3. Will it address the root of the problem, rather than merely a symptom? *Id.* These questions were adapted from Michael Kazin, *The Peace Movement: Signs of Life ... And Intelligence?*, SOCIALIST REV., Sep-Oct. 1987, at 113, 115.

Like many others, I believe that if lawyering educates, activates and builds the organization, there is no need to focus on the root versus the symptom of the problem, since the root problem is the powerlessness of the people. Educating, activating, and building, inherently address the root problem. Many organizers think the actual problem being addressed is irrelevant, be it a stop sign or a toxic waste dump. They see the problem as powerlessness and everything else is a campaign to learn how to empower.

20 *But see* Paul R. Tremblay, *Rebellious Lawyering, Regnant Lawyering, and Street-Level Bureaucracy*, 43 HASTINGS L.J. 947 (1992). Tremblay rightly sees some conflict between those who advocate for greater use of individual client narrative or voice and those who seek more of a collectivist approach to lawyering. Tremblay would no doubt accurately describe the point of view adopted by this article as collectivist and then point out that this approach can be seen as substituting longer term justice quests for short term legal remedies. *Id.* at 950.

21 Sanford Lewis, *Your Legal Recourse*, in FIGHTING TOXICS: A MANUAL FOR PROTECTING YOUR FAMILY, COMMUNITY, AND WORKPLACE, 209, 231-32 (Gary Cohen & John O'Connor eds., 1990).

22 As one author states:

Two major touchstones of traditional legal practice—the solving of legal problems and the one-to-one relationship between attorney and client—are either not relevant to poor people or harmful to them. ... The lawyer for poor individuals is likely, whether he wins the case or not, to leave his clients precisely where he found them, except that they will have developed a dependency on his skills to smooth out the roughest spots in their lives.

Wexler, *supra* note 2, at 1053.

23 Steve Bachmann, *Lawyers and Social Change*, 13 N.Y.U. REV. L. & SOC. CHANGE 1, 6 (1985).

24 See SI KAHN, ORGANIZING: A GUIDE FOR GRASSROOTS LEADERS, 56 (1982). Kahn writes: “Advocacy may make real improvements in people’s lives. It may change the operating conditions of agencies or institutions. But it does little to alter the relationship of power between these institutions and the people who deal with them.” *Id.*

25 Indeed, Steve Bachmann, who has written frequently on this subject, recently summarized his perspective as follows:

Litigation validates the perception that ordinary people of low and moderate income have nothing to do with law reform and social change, and that such reform and change result only from efforts of well-heeled attorneys and judges. Litigation perpetuates the notion that significant change occurs “by magic,” because ordinary people of low and moderate income frequently do not know or care what happens in the court rooms. When ordinary people perceive that they can change nothing or that they have to rely on “experts” or “magic” to solve their problems, they come to believe they are powerless: ... which is to say, their original condition of limited capability for societal change is only exacerbated. The deplorable conditions of the status quo are intensified, not ameliorated.”

Steve Bachmann, *The Hollow Hope: Can Courts Bring About Social Change?*, 19 N.Y.U. REV. L. & SOC. CHANGE 391, 391-2 (1992) (book review).

26 See GENE SHARP, THE POLITICS OF NONVIOLENT ACTION: THE METHODS OF NONVIOLENT ACTION POLITICAL JIU-JITSU AT WORK, 117, 423 (1973). Sharp lists 198 methods of nonviolent protest and persuasion. The activities described range from petitioning to picketing to mock funerals to boycotts to civil disobedience. Not one of the 198 activities requires a lawyer’s involvement. It is a great cookbook of activities for organizers.

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

27 Wexler, *supra* note 2, offers a number of valuable observations on the role of a lawyer in developing or inhibiting organizational development. His observations on litigation for individuals are particularly appropriate and ring true for organizational development as well:

Two major touchstones of traditional legal practice—the solving of legal problems and the one-to-one relationship between attorney and client—are either not relevant to poor people or harmful to them .... The lawyer for poor individuals is likely, whether he wins cases or not, to leave his clients precisely where he found them, except that they will have developed a dependency on his skills to smooth out the roughest spots in their lives.

*Id.* at 1053.

28 As Richard Abel states: “Clients (especially individuals) consult lawyers in the first place because they have been trained to defer to and depend on professionals, and it is difficult in a few brief encounters, to overcome a lifetime of socialization in the culture of professionalism.” Richard Abel, *Lawyers and the Power to Change*, 7 LAW & POL’Y 5, 9-10 (1985).

29 Bachmann, *supra* note 25.

30 Joel Handler sees several areas of indirect organizational assistance possible through litigation: publicity, fundraising, consciousness raising, legitimacy. JOEL HANDLER, SOCIAL MOVEMENTS AND THE LEGAL SYSTEM 210 (1978).

31 Bachmann, *supra* note 25.

32 See KAHN, *supra* note 24, at 52, 56, 187, 188.

33 As quoted in GERALD ROSENBERG, THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE? 139 (1991).

34 See ROBERT H. MNOOKIN, IN THE INTEREST OF CHILDREN: ADVOCACY, LAW REFORM, AND PUBLIC POLICY (1985) which analyzes several major impact litigation campaigns and contrasts the occasionally substantial results achieved in the courtroom with the actual fairly unimpressive results achieved for the plaintiffs.

This also seems to be what Marc Galanter is saying when he observes that “[r]ule change is in itself likely to have little effect because the system is so constructed that changes in the rules can be filtered out unless accompanied by changes at other levels.” Marc Galanter, *Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change*, 9 LAW & SOC’Y 95, 149 (1974).

35 The most comprehensive discussion of the inherent limitations of the legal system is found in GERALD ROSENBERG, THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE? (1991). This excellent treatise examines the role of litigation in a number of social movements, including civil rights, abortion, women rights, environment, reapportionment, criminal rights, and prison reform. In each case, Rosenberg makes a powerful argument that the role of the court in bringing about social change was not only exaggerated in popular understanding, but that reliance on litigation actually was counterproductive in bringing about the change. Rosenberg sees three inherent constraints which frustrate any attempt to seek social reform through the courts: the need for legal precedent, the dependence of the judiciary on popular political support, and the lack of implementation power by the courts. *Id.* at 336-37. Although these constraints can be overcome, there are almost never overcome by litigation alone. *Id.* at 342. They are only overcome when social reform is proceeding because of historical, political, or economic change already underway. *Id.* at 337. The book is best summed up in its final paragraph:

American courts are not all-powerful institutions. They were designed with severe limitations and placed in a political system of divided powers. To ask them to produce significant social reform is to forget their history and ignore their constraints. It is to cloud our vision with a naive and romantic belief in the triumph of rights over politics. And while romance and even naivete have their charms, they are not best exhibited in courtrooms.

*Id.* at 343.

36 There are several reasons for this. Consider the civil rights struggle and women's rights struggle which are frequently pointed to as areas where traditional public interest litigation has been successful. Rosenberg suggests that the litigation victories in these areas were not in fact successful. ROSENBERG, *supra* note 35, at 227. It was not until mass movements, lobbying, and legislation on the state and national levels that success actually occurred. *Id.* at 123. Rosenberg posits that it is because

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

the courts have neither the “purse” nor the “sword” that they are extremely limited in their capacity to produce change. *Id.* at 15-21.

Galanter makes a similar observation on the limits of the court's power to bring about change:

The low potency of substantive rule-change is especially the case with rule-changes procured from courts. That courts can sometimes be induced to propound rule-changes that legislatures would not make points to the limitations as well as the possibilities of court-produced change. With their relative insulation from retaliation by antagonistic interests, courts may more easily propound new rules which depart from prevailing power relations. But such rules require even greater inputs of other resources to secure effective implementation. And courts have less capacity than other rule-makers to create institutional facilities and re-allocate resources to secure implementation of new rules. Litigation then is unlikely to shape decisively the distribution of power in society.

Galanter, *supra* note 34, at 149-50.

37 William H. Simon, *Visions of Practice in Legal Thought*, 36 STAN. L. REV. 469 (1984). Simon sees such a situation as the foundation for any successes the civil rights movement can claim through the courts:

Surely it is not controversial to insist that the achievements of the civil rights movement, including the decisions of the Warren Court, are due to a conjunction of judicial decision-making (in which some of the most important initiatives were taken at the trial court level), electoral politics, and popular mobilization.

*Id.* at 498-99.

38 The idea of a “clash of cultures” between the legal system and the powerless on whose behalf it is used is best articulated in Lucie White, *Mobilization on the Margins of the Lawsuit: Making Space for Clients to Speak*, 16 N.Y.U. REV. L. & SOC. CHANGE 535, 542-45 (1987-88).

39 See Anthony Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons from Client Narrative*, 100 YALE L.J. 2107, 2118-30 (1991) and his criticisms of current poverty lawyering, including those methods based on the reform or impact litigation method.

40 White, *supra* note 38, at 542-46.

41 Tremblay, *supra* note 20, at 949.

42 Consider the following observations by Professor White on the role that law plays and can play in the lives of the poor and powerless:

Legal remedies that are designed by lawyers to impose improved conditions upon the poor aren't likely to do much to challenge subordination in the long run. In many cases, lawyer-engineered remedies will not work as intended. Even in the rare cases where such remedies do work according to plan, they still do not challenge the lived experience of subordination-the experience, that is, of other people controlling the terms of one's life. Yet when legal remedies respond to strategic needs that emerge as poor people mobilize themselves, those remedies can, indeed, make a difference.

Lucy White, *Goldberg v. Kelly on the Paradox of Lawyering for the Poor*, 56 BROOK. L. REV. 861, 872 (1990).

43 White, *supra* note 38, at 544-45.

44 See SAUL ALINSKY, RULES FOR RADICALS 63-80 (1971).

45 John Friedman writes:

[T]he likelihood of a truly spontaneous organization of the poor is very small. The only unmediated action among disempowered households is mutual help and an occasional burst of protest .... But precisely because they lack formal organization, protest movements are easily contained. Local leadership may be coopted, state responses to social demands may be predicated on the promise of community compliance, and more overtly repressive measures may be used to discipline both the community and its leadership.

JOHN FRIEDMANN, EMPOWERMENT: THE POLITICS OF ALTERNATIVE DEVELOPMENT, 143 (1992).

46 *Id.* at 144.

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

- 47 As one example, consider India, where there is a group called SPARC (Society for the Promotion of Area Resource Centers) which advocates with groups in the areas of housing, women's issues, and drug abuse. Its method of operating is based on six general principles:
1. Locate the central features of the crisis as identified by the community facing the crisis;
  2. Understand how the state perceives that crisis;
  3. Share these insights with the community and debate the formulations of elements necessary for a solution;
  4. Create an information base for participatory research;
  5. Initiate professionals to take part in formulating alternatives with the communities;
  6. Initiate a campaign for change: mass demonstrations, publication of information, and workshops; negotiate meetings with government.
- Id.* at 143-44, nn.4 & 5.
- Also consider the following summary finding of a comprehensive study of many community organizations: The process of translating a provocative issue into collective action, in some cases supplemented by promotional or facilitative inputs, seems to involve: an appreciation by potential community group members that collective action is both possible and likely to be productive; individuals' motives being translated into a collective will to act; the identifying and mobilizing of group members; and the development of knowledge about the extent of the problem to enhance the members' commitment and capacity to act.
- HUGH BUTCHER ET AL., COMMUNITY GROUPS IN ACT: CASE STUDIES AND ANALYSIS 251 (1980).
- 48 Who has the power? Consider the view of FRANCES FOX PIVEN & RICHARD A. CLOWARD, POOR PEOPLE'S MOVEMENTS: WHY THEY SUCCEED, WHY THEY FAIL (1977). The authors state that “[c]ommon sense and historical experience combine to suggest a simple but compelling view of the roots of power in any society. Crudely but clearly stated, those who control the means of physical coercion, and those who control the means of producing wealth, have power over those who do not.” *Id.* at 1.
- 49 See FIGHTING TOXICS, *supra* note 18, which contains chapters on organizing, corporate research, working with the media, and use of lawyers; and a good little booklet by MARY EILEEN PAUL, ORGANIZATIONAL DEVELOPMENT TOOLS (1993), published and distributed by Resource Women, 733 15th Street NW, Suite 510, Washington, D.C. 2005. TOOLS includes activities and exercises for developing and revitalizing an organization. FIGHTING TOXICS gives an overview of the process of organizing in the environmental field but would also be very useful to anyone who wishes to learn more about the theory and practice of community organizing. TOOLS is more centered on the interior growth of an organization but is also useful for those who want to know more about the basic building blocks of effective organization of people. There is also an excellent short article describing how lawyers fit into community organizing. See Michael Fox, *Some Rules for Community Lawyers*, 14 CLEARING-HOUSE REV. 1 (1980).
- 50 Lucie White, *From a Distance: Responding to the Needs of Others Through Law*, 54 MONT. L. REV. 1, 16 (1993) (quoting Martin Luther King, Jr.), reprinted in JOELLE SANDER, BEFORE THEIR TIME: FOUR GENERATIONS OF TEENAGE MOTHERS, ix (1991).
- 51 Edgar and Jean Camper Cahn made a disturbing observation that lawyers in private commercial practice are somewhat more likely to respect the wishes of their clients than lawyers in traditional public interest practice. See Edgar S. Cahn & Jean Camper Cahn, *Power to People or the Profession?—The Public Interest in Public Interest Law*, 79 YALE L.J. 1005 (1970). They found in legal services law offices:
- a greater tendency to manipulate, to usurp group decision-making functions, to use clients to fit the private agenda of the lawyer than is to be found in private practice. There are several contributing causes which induce lawyers for the poor to cease to be accountable to clients and to aggrandize their role as “social engineers” and self-styled reformers. It is not clear whether they feel free to do so because the clients are poor or members of minority groups or because legal services programs have a monopoly which makes it impossible for the client not to concur in any decision by the attorney. All contribute: the arrogance of youth, the monopoly power of attorneys, and condescension based on race and class. None are consistent with the traditional lawyer-client relationship.
- Id.* at 1035-36.

REFLECTIONS OF COMMUNITY ORGANIZERS:..., 21 Ohio N.U. L. Rev. 455

---

- 52 Lewis, *supra* note 21, at 214.
- 53 Lewis, *supra* note 21, at 210.
- 54 Quote made by an organizer at Environmental Racism Workshop at Xavier University in New Orleans, December 5, 1992.
- 55 Lawrence Friedman, *Claims, Disputes, Conflicts and the Modern Welfare State*, in CLAIMS, CONFLICTS AND THE WELFARE STATE 260 (1981).
- 56 See PIVEN AND CLOWARD, *supra* note 48, at xi, xii. “[P]opular insurgency does not proceed by someone else's rules or hopes; it has its own logic and direction. It flows from historically specific circumstances: it is a reaction against those circumstances, and it is also limited by those circumstances.” *Id.* Piven and Cloward suggest that history proves mass defiance and disruptive protest are often preferable to other forms of political activity in order for the poor to make gains against those who hold power.
- 57 This process of the lawyer selecting and reshaping the needs and desires of the poor and powerless client is called “interpretive violence” by Anthony Alfieri. See Alfieri, *supra* note 39, at 2126. He defines interpretive violence as being based on three common practices in traditional public interest lawyering: marginalization, which establishes the client's inferiority; subordination, which changes the lawyer-client relationship into subject-object; and discipline, which actually ends up excluding the client's own story or narrative from the legal process. *Id.* at 2125-30. Lawyers who unintentionally practice like this, strip clients of their individuality and unwittingly push organizations away from discovering and acting upon their own unique character and plans for action. *Id.*
- 58 There is a rich literature on the virtues of being arrested rather than going along with an unjust system. For example, Henry David Thoreau said: “Under a government which imprisons any unjustly, the true place for a just man is also in a prison.” See HENRY DAVID THOREAU, ON THE DUTY OF CIVIL DISOBEDIENCE, reprinted in WALDEN AND ON THE DUTY OF CIVIL DISOBEDIENCE, 245 (Collier Books 1854). “It costs me less in every sense to incur the penalty of disobedience to the State, than it would to obey.” *Id.* at 247.
- 59 Simon, *supra* note 37. Simon describes the posture of the legal profession towards those advocating for what he describes as “the politics of popular mobilization” as “sheer anxiety and even terror.” *Id.* at 494.
- 60 See KAHN, *supra* note 24, at 235-256, for ideas on how an organization develops media strategy and decides who should speak. See also Peter Obstler, *Working with the Media*, in FIGHTING TOXICS, *supra* note 18, at 147.
- 61 See CHARLOTTE RYAN, PRIME TIME ACTIVISM: MEDIA STRATEGIES FOR GRASSROOTS ORGANIZING 4-34 (1991), for another excellent discussion of media and organizational development.
- 62 Lucie E. White, *From A Distance: Responding to the Needs of Others Through Law*, 54 MONT. L. REV. 1, 18 (1993).
- 63 See *supra* note 15 (interview with Barbara Major).
- 64 *Id.*

21 OHNULR 455