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 \*455 REFLECTIONS OF COMMUNITY ORGANIZERS: LAWYERING FOR EMPOWERMENT OF COMMUNITY  
                                   ORGANIZATIONS  
  
                             William P. Quigley [FN1]  
  
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          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.  
   [FN2]  
  
     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. [FN3]  
  
     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. [FN4] The substance of this lawyering is primarily the representation of  
groups rather than individuals. [FN5] 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. [FN6]  
  
     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. [FN7]  
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. [FN8] He consults with numerous groups  
and is a national trainer with The People's Institute for Survival and Beyond.  
[FN9] 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. [FN10]  
  
     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). [FN11] He has been an organizer for twenty 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. [FN12]  
  
     C. Barbara Major  
  
     Barbara Major, an African American organizer, works with numerous low income  
women's groups in the southern United States. [FN13] She is also a trainer with  
the People's Institute for Survival and Beyond. [FN14] 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 mighty heavily on the decision 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  
   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. [FN15]  
  
     \*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. [FN16]  
  
     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." [FN17]  
  
     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." [FN18] Educate, activate, and build the  
membership of the organization. These are the goals of organizational empowerment  
lawyering. [FN19]  
  
     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. [FN20]  
  
     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 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. [FN21]  
  
     If empowerment is the end, creating dependence on a lawyer is not the means.  
[FN22]  
  
     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:  
  
          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.  
   [FN23]  
  
     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. [FN24]  
  
     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. [FN25] 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. [FN26] At its worst,  
litigation on behalf of an emerging organization of people may well be harmful to  
the growth and development of the organization. [FN27]  
  
     \*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. [FN28] In  
advocacy with an organization, litigation can be considered helpful in three  
situations: defending the organization and its members; [FN29] serving the  
organization's development; [FN30] and terminating causes from which the  
organization has no other way to exit. [FN31]  
  
     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. [FN32] 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." [FN33] 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. [FN34]  
  
     One of the weaknesses of litigation is the inherent limitation of the  
judicial system when called upon to produce social reform. [FN35] 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, 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. [FN36] 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. [FN37] \*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. [FN38] 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. [FN39] 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.  
[FN40]  
  
     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. [FN41] This failure is  
a result of the different priorities that litigation has, by its nature, opposed  
to the priorities of helping people gain power. [FN42] 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. [FN43]  
  
     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. [FN44]  
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. [FN45]  
  
     Friedmann recognizes community organizers by their French description as  
animateurs. [FN46] 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. [FN47]  
  
     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. [FN48] 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. [FN49]  
  
     \*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. [FN50]  
  
     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. [FN51] 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. [FN52]  
  
     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." [FN53] Empowerment means people seizing control of their own  
life choices. Following a lawyer is not empowerment. As was once said so  
succinctly, " t he lawyer should be on tap, and not on top." [FN54]  
  
     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." [FN55]  
  
     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. [FN56] 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.  
  
     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. [FN57] 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 [FN58] 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.  
[FN59] 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 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. [FN60] 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. [FN61] 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." [FN62]  
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 .... [FN63]  
  
          ....  
  
          \*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. [FN64]  
  
     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.  
  
  
[FN1]. 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.  
  
[FN2]. 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.  
  
[FN3]. 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]hough 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).  
  
[FN4]. 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.  
  
[FN5]. 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).  
  
[FN6]. 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).  
  
[FN7]. 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).  
  
[FN8]. 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); Treme 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).  
  
[FN9]. 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.  
  
[FN10]. Interview with Ron Chisom national trainer with The People's Institute for  
Survival and Beyond (Jan. 26, 1993) (transcript on file with author).  
  
[FN11]. 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).  
  
[FN12]. Interview with Wade Rathke, co-founder of Arkansas Community Organization  
for Reform Now (ACORN) (Jan. 28, 1993) (transcript on file with author).  
  
[FN13]. 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.  
  
[FN14]. See supra note 9.  
  
[FN15]. Interview with Barbara Major, Trainer with the People's Institute for  
Survival and Beyond (Mar. 8, 1993) (transcript on file with author).  
  
[FN16]. See supra note 10 (citing quote in text).  
  
[FN17]. 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.  
  
[FN18]. 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].  
  
[FN19]. 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.  
  
[FN20]. 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.  
  
[FN21]. 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).  
  
[FN22]. 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.  
  
[FN23]. Steve Bachmann, Lawyers and Social Change, 13 N.Y.U. REV. L. & SOC. CHANGE  
1, 6 (1985).  
  
[FN24]. 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.  
  
[FN25]. 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).  
  
[FN26]. 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.  
  
[FN27]. 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.  
  
[FN28]. 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).  
  
[FN29]. Bachmann, supra note 25.  
  
[FN30]. 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).  
  
[FN31]. Bachmann, supra note 25.  
  
  
[FN32]. See KAHN, supra note 24, at 52, 56, 187, 188.  
  
[FN33]. As quoted in GERALD ROSENBERG, THE HOLLOW HOPE: CAN COURTS BRING ABOUT  
SOCIAL CHANGE? 139 (1991).  
  
[FN34]. 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).  
  
[FN35]. 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.  
  
[FN36]. 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 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.  
  
[FN37]. 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.  
  
[FN38]. 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).  
  
[FN39]. 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.  
  
[FN40]. White, supra note 38, at 542-46.  
  
[FN41]. Tremblay, supra note 20, at 949.  
  
[FN42]. 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).  
  
[FN43]. White, supra note 38, at 544-45.  
  
[FN44]. See SAUL ALINSKY, RULES FOR RADICALS 63-80 (1971).  
  
[FN45]. 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).  
  
[FN46]. Id. at 144.  
  
[FN47]. 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).  
  
[FN48]. 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.  
  
[FN49]. 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).  
  
[FN50]. 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).  
  
[FN51]. 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.  
  
[FN52]. Lewis, supra note 21, at 214.  
  
[FN53]. Lewis, supra note 21, at 210.  
  
[FN54]. Quote made by an organizer at Environmental Racism Workshop at Xavier  
University in New Orleans, December 5, 1992.  
  
[FN55]. Lawrence Friedman, Claims, Disputes, Conflicts and the Modern Welfare  
State, in CLAIMS, CONFLICTS AND THE WELFARE STATE 260 (1981).  
  
[FN56]. 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.  
  
[FN57]. 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.  
  
[FN58]. 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.  
  
[FN59]. 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.  
  
  
[FN60]. 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.  
  
[FN61]. See CHARLOTTE RYAN, PRIME TIME ACTIVISM: MEDIA STRATEGIES FOR GRASSROOTS  
ORGANIZING 4-34 (1991), for another excellent discussion of media and  
organizational development.  
  
[FN62]. Lucie E. White, From A Distance: Responding to the Needs of Others Through  
Law, 54 MONT. L. REV. 1, 18 (1993).  
  
[FN63]. See supra note 15 (interview with Barbara Major).  
  
[FN64]. Id.  
  
  
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