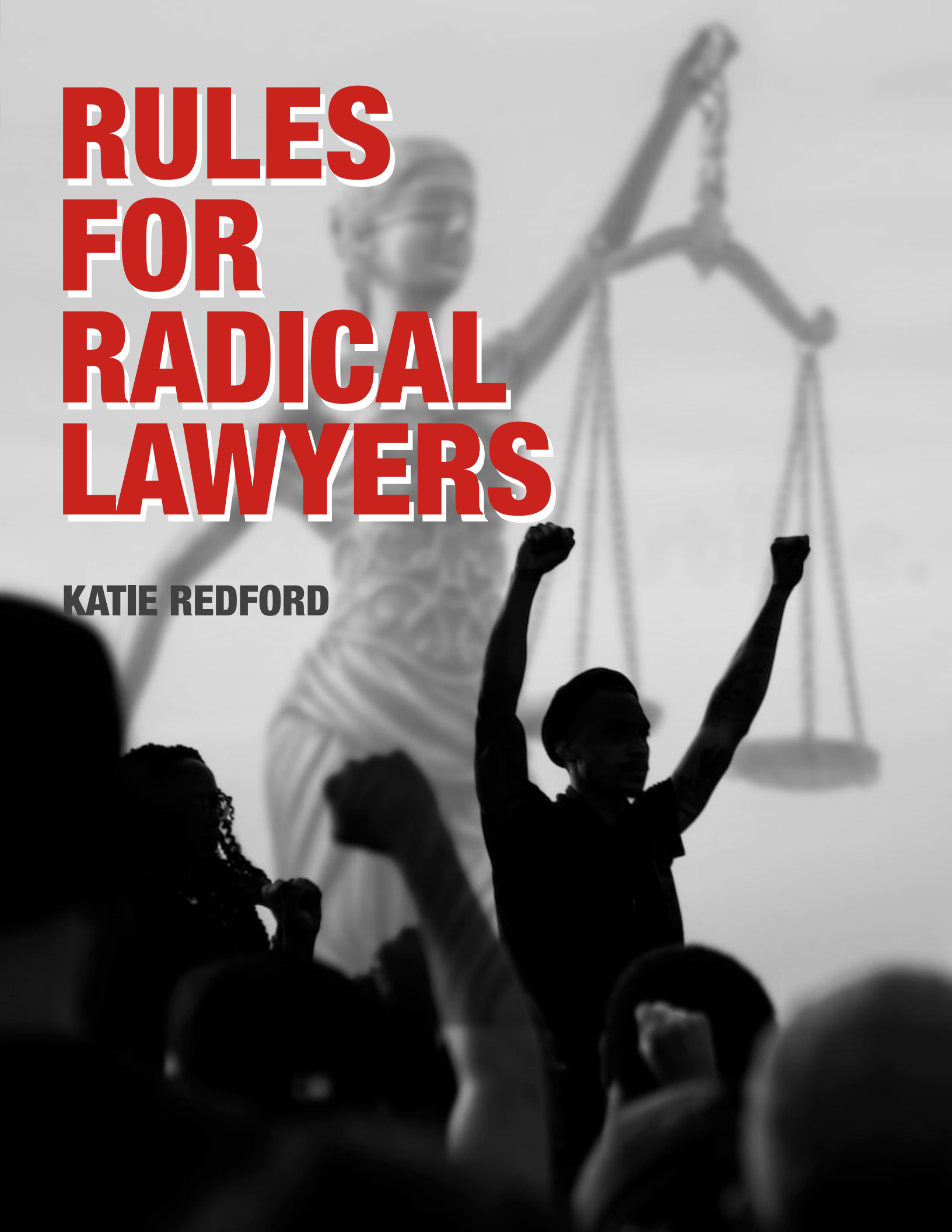
RULES FOR RADICAL LAWYERS

KATIE REDFORD



Survival is not an academic skill. It is learning how to stand alone, unpopular and sometimes reviled, and how to make common cause with those others identified as outside the structures in order to define and seek a world in which we can all flourish . . . For the master's tools will never dismantle the master's house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change.

Audre Lorde, *The Master's Tools Will Never Dismantle the Master's House*

Law, of course, is the master's tool par excellence. And for those of us who are lawyers, the hallowed halls of the master's house are often our playing fields. Here, we wield our coveted tools and training; we analyze, we parse, we debate. Here, we maintain professional distance, replace hot emotions with cold logic; we argue any and every side. Here, we rely on past precedent rather than reimagining the future, as we ask for incremental changes.

But some of us entered law school with bigger visions of truth and justice—of "fighting for the little guy" and "saving the world." I became a lawyer because I'd seen the movies and was inspired by the moral force of lady justice, with her blindfold and balanced scales. It's a lovely theory, but in practice legal education prepares you for a legal *career*; you are trained to play a certain role, and then perceived to be playing this role. Regardless of who or where we were before we got there, the law is an elite field, and we feel and absorb this status when we go to law school. Surrounded by this sense of privilege and power in the most ivory of towers, we are taught to cultivate the skills that will make us excel professionally. Whether intentionally or not, we became part of the fraternity preserving the very status quo we went in to change.

This isn't what I thought I signed up for. As a high school student awakening to my activism during the anti-apartheid movement of the 1980s, I wanted not only to know what to do, but also how to do it, and why. I read all the "how to" books, devoured every "manifesto" I could find. Looking back on it, I see my pre-lawyer tendencies, wanting to understand the theory and practice of social change, and needing to develop a level of expertise that lawyers spend careers honing in other subjects. Back then, Saul Alinsky's *Rules for Radicals: A Practical Primer for Realistic Radicals* was the progressive activists' lodestar, and for many it still is. As many of my classmates began carrying around their mini Constitutions, I was wishing for my own pocket-sized Rules for Radical Lawyers, but it didn't exist.

I responded then, and still do, to the word "radical." Its literal meaning is "root," rather than what many today think of as "extreme," and I've always understood a "radical" agenda as one that either addresses root causes, brings us back to our roots as humans (our shared humanity and connection to the earth), or both. I also love its implication of change that is sweeping and transformational rather than incremental or ordinary—and of course its slang meaning: "cool"! But especially for a budding pre-

lawyer like myself, I now realize that what also attracted me was the whole alliterative package of Saul Alinsky's book title: the pairing of "radical" with "rules" and "realism." Rules are a lawyer's home turf, and realism—a strategic assessment of what is possible—is the crux of our training.

When I got to law school, seeking to be a realistic yet radical vehicle for social justice and the rule of law, I encountered lofty legal theory, judicial opinions, and one hypothetical fact pattern after another presented by brilliant law professors. But where was my practical primer about how to make real change for real people? Certainly not in the legal textbooks filled with Supreme Court decisions. I yearned for something based on lived experience, and reflective not only of laws and precedents, but of their contexts and impacts. This was why I set out to make this book: to add to the library of any law student or lawyer—in fact, any person at all interested in how to use the law as part of their activism—something that was so painfully missing from mine when I was studying. The process of making this book has helped me clarify the ten Rules for Radical Lawyers that follow below.

All the writers in this book walk the talk of these rules, whether they are legal practitioners or activists or both. They demonstrate that survival—as Audre Lorde puts it—is not an academic pursuit. Nor is transformational change an academic pursuit driven by the sharpest analyst, the best debater, or the strongest evidence in the room. Whether they are writing about villagers in Burma who worked and died as slaves for a US oil company, about sex workers and members of the LGBTQ community murdered in Kenya, or about Black people in Ferguson and New York stopped and frisked and killed by the police, each knows that life, and death, can turn on who makes the rules and who enforces them. And each chapter of this book is equally clear that the elites who benefit from business as usual have used the tools at their disposal—in government, academia, media, finance, religion, the military—to resist change and preserve their power.

The essays in this book demonstrate that transformational change is driven by people power—and that people power runs on emotions and connections as well as ideas. The changes we need to save ourselves from the planetary collision course we are on now must be led by those fighting to protect what they love, and reclaim or seek redress for what they have lost. This was the stunning lesson from the youth climate movement,

which did more to focus global attention and action on the climate crisis in months than the scientific and legal "experts" did in decades. From the climate movement and the Movement for Black Lives, from the resistance of Indigenous people at Standing Rock to those on the streets of Beirut and South Africa, the message of this book is clear. The law is important; more than that, it has the power to be transformational. But the revolution will not be litigated. It will be fought by those with the most at stake, with the help of the law in service of the movement.

What does that mean for those of us who are trained in the law, and who still believe in its transformational power?

Power is at the center of every movement story and legal case. Whether advocating for racial justice, sexual and gender equality, human rights, Indigenous self-determination, environmental protection, or corporate accountability—this book's contributors, and the people they work with, are exercising and demanding power. Law is one language of this power, and it is for this reason that it is one of the master's go-tos. But if law is a language of power, need it be the exclusive preserve of the powerful? Can it be invoked to strip away power from the abusive and unlock it in the abused? This is the fundamental question this book has set out to answer: not just whether, but how, law can be the servants' tool for systemic change to such an extent that they cease to be servants at all, but become masters of their own destiny. One answer is clear: to shift law from its establish- ment moorings cannot be done unharnessed from the power of the people.

"The arc of the moral universe is long but it bends towards justice." I still believe, passionately, in "the power of law," but—like many contributors to this book—I too have become frustrated with the glacial pace of legal advocacy. How do we grapple with this when the threats we face—to life, dignity, the very survival of the human species—make clear that we *just don't have the time to wait for that arc to bend?* Increasingly, those of us who seek radical and meaningful change understand that movements are the answer, with the sweeping, rapid change they demand and have the potential to deliver.

As lawyers try to think differently about our roles in the world—and the movements we are part of—we need to unlearn the behaviors, skills, and practices drilled into us in law school. That means we must relearn

how to be humans and advocates first, and lawyers and technocrats second. Whether we call ourselves "movement lawyers," "public interest lawyers," "radical lawyers," "cause lawyers," or even "judicial activists," we must see ourselves differently and use our training in a very different way.

Rules for Radical Lawyers is a starting point for this unlearning and relearning process. It's a way to be proud of what you do as well as good at it.

Rule #1: "Make common cause with those others."

"Lawyer" means "advocate," and every movement leader, activist, protestor, and "radical" is an advocate for a cause. The myth of neutrality is one of the first to reject if you are seeking genuine change by dismantling thehouse and building back a better one. You are not neutral: you came to your life's work because it's personal to you, so take it personally! In spite of this, one of the first skills you learn in law school is to be able to argue any side of a case and your legal education trains you to do that. Legal training emphasizes intellect and professional distance; while these are critical to remember and to practice when appropriate, movement lawyers need to practice empathy and tap into emotion too.

The examples in this book show how movements are born of pain and rage, and sustained by the powerful urge to protect and fight for what we love. Lawyers disregard this at their peril: we must cultivate connection by grounding our practice in our own lived experience of trauma, injustice, and love. This does *not* mean that you make your legal work about yourself (even though, as with many in this book, you may well be part of the community you seek to help and represent). On the contrary, empathy requires that you take a step back and think deeply about what others have experienced, as if it had happened to you. Failing to do so can miss the point entirely—as when my cocounsel and I celebrated our first major victory in *Doe v. Unocal*. We rejoiced in making legal history, until we were reminded that our victory made no immediate tangible difference for our clients from Burma, who were still living in poverty, in exile, and in even more danger than before because of the heightened attention that this legal victory came with.

Planning for such disconnects and tensions between, for example, clients' immediate needs and movement goals is part of our work. We need to leverage the combined power of personal connection and empathy while also applying our traditional legal skills. This can bring about the particular win-win for which we movement lawyers search: achieving justice with our clients rather than simply winning the case.

Rule #2: Begin with a vision for genuine change.

Martin Luther King did not say, "I have a hypo to think through." Nor did he say, "I have a minor problem that needs tinkering." He articulated an audacious vision with such clarity that others could see it and work toward it, take risks or make sacrifices for it, and then ultimately feel it to be inevitable.

Lawyers and law students start with fact patterns, legal issues, and technical questions, then spend hours, even lifetimes, debating their implications on hypothetical, fictional scenarios ("hypos"). They rely on past precedents from existing case law to develop legal strategies that influence the outcomes of the situations with which they are presented. More often than not, their job is to convince a judge, jury, or other decision maker that they are not really asking for change, but instead that the outcome they seek rests on the rational order of past precedent.

Movements are similarly grounded in facts, but they focus on actual injustices of the here and now to urge and advocate for the necessity of a radically changed future. While lawyers come up with legal theory and apply the facts of their particular case to convince a judge or jury to side with their client, movements aim to mobilize the masses around a particular incident or injustice that typifies the systemic injustice they seek to dismantle. They then build and sustain momentum by connecting that initial outrage to an inspiring vision of societal change. In contrast, a lawyer's case ends with a decision or verdict—for or against a particular perpetrator who has harmed a particular person, people, or place. We may have achieved a legal victory in forcing Unocal to pay reparations for the human rights abuses our clients alleged happened on their pipeline, and deterred future harms by attaching costs to that kind of abuse for the first time. But the work of the movement for corporate accountability, human rights, and indeed democracy in Burma was certainly not done.

All the movements described in this book have demanded fundamental, transformational change—and articulated a vision for a world that addressed the root causes of the injustices they were fighting against. Movement lawyers understood and decried not only the injustices against Michael Brown in Ferguson and Jane Doe 1 in Burma, but also the police impunity, white supremacy, and unregulated corporate power that allowed for, and even encouraged, such abuse in the first place.

Rule #3: Think strategically.

It's not enough to "want" to make the world a better place, or to believe in typical lawyer ideals like truth, justice, and the rule of law. Putting that vision, and the legal theories that underpin it, into practice requires you to be able to map the connections between your work and the specific, fundamental—radical—change you seek to create. Aside from or alongside litigation, legal tactics may include legislative advocacy, developing public policy, media activities to influence the "court of public opinion," or even constitutional reform.

Law school provides ample training and exposure to various legal strategies. But it often fails to distinguish between tactics and strategies, to connect strategy to a broader vision, or to ask the basic question: Does it achieve anything outside of winning the legal argument? Like all US law students, I read the Supreme Court opinions in Ruth Bader Ginsburg's and Thurgood Marshall's famous sex discrimination and school desegregation cases; like most US law students, I studied those decisions in a vacuum. Left out was the fact that litigation was one tactic in a broad legal strategy for civil rights aligned with an even broader vision for gender and racial equality that has been entrenched and advanced by movements.

Radical lawyers must not only focus on a winning legal strategy, like a jury verdict or a judicial opinion that sets precedent. They must also be intentional about how and whether those strategies fully serve the broader outcomes, and societal changes, sought by their clients or the movements they connect to.

Rule #4: It's all about power.

Power mapping is a cornerstone movement strategy, and one that lawyers all too often either skip or are unaware of. This may be because of the myth we're taught about law being the great equalizer: the poor and rich alike can seek justice, which is blind. Even if this were true in the courtroom (it's not), lawyers must understand the context outside of the courtroom to realize the lasting benefits of any legal victory they seek. Ask yourself not only who has the power, but also who enables that power (which is often less obvious), how they have it, and how this power can be shifted and reallocated using the law and other levers. If you define yourself as a lawyer seeking social, environmental, racial, or economic justice, your role must be that of a "legal Robin Hood," disrupting the power and privilege of institutions and individuals that use such power to abuse and exploit.

The lawyers in this book teach us that our role is not just to hold power to account. We must also focus our work to help our clients realize the power that they already have; to provide access to new tools, including but not limited to legal ones, and help our clients wield them effectively; and to create opportunities for clients and movements to unleash that power on the systems and structures that seek to suppress it. This is not the work of building power, but rather acknowledging that the power is already there, and *unleashing* it in the most impactful way the law allows for. This could be by creating opportunities for people who have been silenced to raise their voices and tell their stories; or providing a forum for those who have been harmed to seek relief for themselves and create change for others; or buying time for movements to organize themselves and mobilize additional support; or using their access and training to reform unjust laws and legal systems. For a movement lawyer, justice is fundamentally about disrupting and shifting power.

I saw this in *Doe v. Unocal* when I watched Jane Doe 1 confronting the American oil corporation's lawyers in her deposition, knocking them off their game and leaving them speechless; or when John Doe 5 proudly showed us the school and community center he built with the money he received in the settlement. My clients were no longer victims, but active survivors who took charge and had a say, literally, over their own lives, their families, and their communities.

Rule #5: Listen to understand rather than to argue.

Lawyers are trained in listening to argue, a process of pulling out and parsing pieces of what we hear to determine whether they support our case, weaken our opponents, or both. But listening to understand is different; something that the contributors in this book did as an ongoing practice over visits to clients' homes, canoe trips to their villages, sharing family stories, and breaking bread, returning time and again rather than swooping in and disappearing as dictated by the rhythms of a case.

This takes both time and humility; time that lawyers trained to charge by ten-minute increments might not feel they can offer, and humility to letgo of the "argue to the death" mentality drummed into us at law school. Indeed, serving your clients vigorously and with total allegiance does not mean you do whatever it takes, at whatever cost, to win the case. Rather, it means understanding not just their legal claims, but who they are, and how they align with the broader movement. It requires spending time with your clients' families and listening to their hurts and fears; or addressing a community's confusion, and remembering all their concerns as you move forward with your legal strategy. There is little room for "not my client, not my job" in movement lawyering.

The best corporate counsel know their client's business inside and out, and advise clients to drop or settle lawsuits against the corporation when it makes business sense. Movement lawyers could take a page from this playbook, centering what makes "movement sense" as integral to their clients' interest. When done right, your clients can ground you in the movement. Your legal strategy should leave them, their community and the movement stronger and more cohesive regardless of the outcome of the case. A focus solely on winning can mean you listen to analyze instead of empathize, and to find support for your case instead of your client or the movement. And so listening to understand is a step lawyers often skip as they develop a strategy to win their case, and seek out clients and witnesses whose "facts" align with a strategy for legal victory. But this emphasis on addressing past harms, rather than working toward a vision of a better future, limits our impact as movement lawyers.

Client intake must include specific and targeted questions to ensure you have the right combination of facts and law to mount a successful legal strategy. But it should also happen over multiple conversations, in their community and environment, and include open ended questions like:

"What does winning mean to you? What does success look like for you, your family, and your community? What change are you seeking and what will be different for you after this case?" The legal system might not be the right one to deliver these goals, but the lawyer can still share them, and support or help facilitate their achievement. Shared values with clients and movements, and the long-term change strategies that can serve everyone, come through personal relationships cultivated and tended over time.

Rule #6: Embrace the power of storytelling—not just as a legal strategy, but as a form of justice itself.

Over the years, I have asked clients and potential clients why they want to bring a case, and what they hope to achieve. The answers are as diverse as the people and places they come from. But there is one thing they all say: I want to tell my story. Movement lawyers serve clients and marginalized communities; having their day in court is already a profound shift. It bestows dignity on the storyteller, who is fully in control over the narrative she chooses to share and highlight; it requires the defendant—or at least their attorneys—to listen; and it bestows a level of gravitas and importance to the harms the litigant has suffered.

Storytelling is at the core of most cultures and traditions, and the legal tradition is no exception. Stories are the lifeblood of legal cases and movements, and certainly provide critical content for the media. This is particularly true when defendants have a public reputation to maintain: exposure can compel settlement talks, activate shareholders and corporate boards, or make unsympathetic judges more cautious in their rulings. However, there may be times when a storytelling priority is in tension with legal strategies. Keep all of this in mind when considering what details to put into a complaint, remembering that your audience—and the individuals and insti- tutions that can deliver the change you need—often extends far beyond the judge(s) upon whose desk it lands. A journalist once told me that our climate change complaint against Exxon "was a page-turner that read like a John Grisham novel." I was delighted to hear this: mobilizing the court of public opinion, and government officials beholden to it, can often bring change faster than what gradual legal processes can accomplish.

For our clients, telling their stories validates their claims, their experiences, and their suffering even if the ultimate outcomes of their cases don't. Storytelling is a form of justice: whether it happens in a trial, in the media, in a deposition, during client intake, or even a settlement negotiation.

Rule #7: Words matter—know what you're talking about, to whom, and why.

Attention to detail is one of our strengths, a skill we spend years perfecting. We are so good at parsing when reading and writing briefs, and we'll spend hours on a single word or semicolon, debating its meaning with opposing counsel and judges. There is an irony here. Given that our profession rises and falls on an ability to manipulate details with the right language and rhetoric to "win the case," this strength makes us sometimes lose sight of what our work—and our words—really mean. Where is this attention to detail when thinking about our clients ?

Is a "remedy" really a remedy? Can money damages ever "compensate" someone for their dead family members, or "repair" the loss of dignity and security that survivors of rape and violence endure? And what are "damages," really? For a lawyer, it's the money we demand for our clients. But for our clients, damages are the actual and tangible harms to their bodies, their health, their family, their home, their culture. Damages are the lived experience—often unspeakably terrible—of our clients.

As lawyers, our "evidence" is our clients' lived experience, too, and details that make for a "great case" can be the absolute worst for our clients who never wanted their personal tragedies to be boiled down to a case name and a discussion of legal elements. Likewise, gathering client and witness testimony is another way of asking people to recount and relive their trauma. Storytelling can, indeed, be a form of justice, but it's a double-edged sword, for the legal system's emphasis on witness and client testimony requires people to be retraumatized by telling their stories over and over again. Understand that your function as an advocate is to navigate and translate without assuming that the language and procedures of the law serve or even make sense to your clients.

There are many reasons why people don't like lawyers, and one of them is the way we treat people and talk to them. Not every person is a judge, jury or opposing counsel, and not every communication is a legal brief. So don't try to win in every conversation. But do prepare for every interaction, and treat every person in the movement and the case with the same level of gravitas and respect as you do your judge. The information you carefully provide to your clients and families can ease their fears,

increase their agency in litigation and their confidence to keep fighting. Winning the change you seek often turns on your ability to explain complex legal issues to the media or the public in regular human language, not legalese.

Ultimately, the way we speak and listen to people, and actually care about them, can deliver not only a legal win, but also the dignity required to achieve the true justice outcomes our clients seek. Restoring this sense of hope is perhaps the most important remedy—not in the idealistic wishful thinking sense, but in the way it creates a fierce desire to keep fighting even in the face of danger. This is the dignity and hope that unleashes power.

Rule #8: Celebrate wins, but learn how to lose—and celebrate that too.

Learning how to lose, and identifying the wins to the movement despite a loss in court, is critical to the long game of a radical lawyer.

To do radical work, we have to hold two things at once. First, it is vital to cultivate a vision of the better world you want to realize, and to feed your belief that your work is bringing us all closer to that better reality. Those who benefit from the status quo also benefit from the pernicious (and pervasive) view that our current moment in time, and all the inequity that comes with it, is an inevitability. "This is the way things are and the way they've always been. You're dreaming, and you need to focus on how to survive in the world we've got." By taking on entrenched power structures, we are doing something audacious: hope, confidence, and vision are prerequisites for achieving audacious goals. As is often said: everything is impossible until it's not.

At the same time, it is just as vital that we foster resilience, both in our movements and in our own individual selves. Oftentimes we *are* fighting against the odds, the money, and the ingrained power structures. Losses along the way *are* inevitable. You will often lose and that will sting. But doubt and despair are the master's tools too, because they lead to a paralysis that is unhelpful to the fight for change.

Movement lawyers must identify, articulate, and celebrate the wins even if they're small—and see the wins in losses too. Sometimes what feels like a failure is the result of herculean and *successful* efforts to prevent things from being worse than they would have been. It's impossible to ever know or measure deterrence, yet we know that the threat of accountability and justice can prevent bad actors from deciding or continuing to do bad things. Losing your case may not make you want to pop a cork, but don't skip the celebration of what might have been achieved. Did your client tell her story? Was the perpetrator named, shamed, and held accountable in the court of public opinion? Did you buy time for the movement to organize, mobilize power, and get ready for the next fight? Winning is not only about the lawyers and the law.

Here we really should listen to the movement leaders in this book. Movements, and lawsuits, are born of pain and damage. But movements—and, yes, movement lawyers—are necessarily sustained by celebration and joy.

Rule #9: Navigate with grace.

Here's a dirty little secret. People who do good work aren't always good to each other.

If, indeed, movements are born of pain and rage, and sustained by the powerful urge to protect and fight for what we love, you can bet that extreme emotions are involved. Stakes are high, resources often low, and those who have been marginalized and harmed might understandably grab and guard power viciously. As for lawyers, our reputations precede us: we are often high-achieving, competitive perfectionists, overworked and over-stressed. The pressures and personalities involved in movement work are a potent cocktail, and perhaps it should be expected that the best and worst traits of our peers, and ourselves, will be amplified.

As with losing, difficult personalities are an inevitability; developing a facility for navigating your own quirks, and those of others, is an invaluable skill. Infighting can poison a movement; dividing and conquering is also a traditional tool of the master. Our lawyerly urge for accountability does not mean there is always someone to blame (especially on our own team). The system is often stacked against us, and we rarely have the human or financial resources of those we oppose. Remembering who the opposition really is, and focusing on changing that broken system, must be our North Star, rather than being "right."

In conclusion:

Rule #10: Winning the case isn't everything. Winning meaningful change is.

The master's tools will never dismantle the master's house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change. Audre Lorde's words can be discouraging to someone who became a lawyer to use the tools to overthrow a master that values corporate rights over human rights, that sacrifices people, and that dooms the planet to a wasteland. But as I have been engaging with the people who contributed to this book and their ideas, and reading my own damned rules, I remind myself to consider Lorde's words in their context and totality. So I return to Rule #1, and the less-often quoted part of her statement: "Make common cause with those others identified as outside the structures." This is a far cry from the professional distance we're trained to maintain as we put our own views, opinions, and causes aside in order to effectively serve (but not ally with) our clients. Rather than rely on existing law and precedent to advance our clients' cases, Lorde urges us "to define and seek a world in which we can all flourish."

Here is how I read Lorde and apply her to my own life and work. Once we (1) use our master's tools to "define and seek" a new world (rather than tweak what we have, relying on existing precedent) and (2) envision this world to be one in which all (not only our clients) flourish, then we too can be vehicles for transformative change that brings down the master's house. In my own work as a movement lawyer and in working with the contributors to this book, I have learned that we can use the law, very effectively, to beat the master at his own game—and we must. Once we understand and take our place in a movement in which our legal tools are just one part of a rich and diverse ecosystem of skills, knowledge, wisdom, beauty, rage, pain, and joy, we *can* bring about genuine change. That's the win that all of us must fight for.

FROM IRAC TO VISTA

IRAC is the methodology for legal analysis that every American law student is drilled in: **Issue, Rules, Application, Conclusion**:

- State the legal **Issue** at stake,
- Review the **Rules** that are relevant to the issue by looking at precedent and statute,
- **Apply** and analyze those rules to the issue at hand,
- Come to a **Conclusion** based on this process.

There are entire books and courses dedicated to this topic. But when you start with the narrow *legal* issue you want to sort, rather than a broader assessment of what you want to achieve and why, you are working from a technocratic baseline that may limit the impact of your advocacy. And so, rather than sticking with **IRAC**, the process of making this book has helped me to develop what we can call **VISTA**, which organizes the Rules for Radical Lawyers into the beginning of a "radical lawyers checklist" to fill in those blanks in your traditional legal education. Think of **VISTA** as your **IRAC** for strategic campaigning, applied here to the *Doe v. Unocal* case described in the first chapters of this book.

VISION

Articulate the idealized change you and the movement(s) you're part of are seeking. Ask the questions: What will change in the world if we are successful? What systems and structures will be different if we achieve this vision?

For Doe v. Unocal*, our vision was a world where human rights were paramount to corporate rights, and where people in Burma could live with the dignity and justice of human rights protection. (Make sure sure you're aligned on this with your clients and the movements they are part of.)*

IMPACTS

Articulate the specific impacts and outcomes that contribute to this vision.

In Doe v. Unocal *these were: punishment and accountability for the fossil fuel corporations; remedy for our clients to make them whole and let them move on; an opportunity for our clients to tell their stories and be heard; a change to the system (ending corporate impunity for human rights abuses committed abroad); and prevention of future human rights abuses in Burma. (Once more, make sure sure you're aligned on this with your clients and the movements they are part of.)*

STRATEGY

Once you have clarity on your big vision, and the specific impacts you seek to contribute to it, and you are aligned on that vision and impacts with your clients, then decide which legal strategies are best deployed to deliver those outcomes.

In **Doe v. Unocal** *we chose to focus on litigation as our primary legal strategy, understanding how this would need to be connected to legislative and policy efforts we could contribute to when appropriate. Can your legal strategy actually deliver the vision your client wants and needs? We made legal history when we won jurisdiction, but when our clients asked if that meant they could go home, I was reminded of the limits of the law. That feeling was reinforced when disappointed movement activists expressed a feeling of betrayal that our clients chose to end the case with a settlement. We could not have avoided those legal limits, but we could have avoided the activist ire by having extensive conversations with clients and movement leaders in advance of litigation, aligning around a common vision, and then being transparent up front about which legal strategies could deliver what pieces of that vision, and for whom.*

TACTICS

Within your strategies are the even more specific tactics that you must use to support your strategy overall. If the Vision and Impacts are the "what," the Strategy and Tactics are the "how," with tactics being the various actions you take to achieve your overall strategic goals.

> *In* Doe v. Unocal*, our tactics included federal court litigation under the Alien Tort Statute; state court litigation under California tort laws; legislative advocacy for federal sanctions; state legislative advocacy for selective purchasing laws; exposing and highlighting legal risks in shareholder advocacy; media and public relations tactics.*

AUDIENCE, and ADVERSARIES, and ALLIES.

There are three A's, and you need to know them equally well. Your audience is the decision maker you appear before, with the power to grant or deny your demands. Make sure your strategy speaks to and influences them through the different tactics (messages and messengers) you might deploy, depending on whether your audience is a judge, jury, mediator, or government official. Always remember, however, there are

additional audiences with power to influence or deliver the change you seek: the media, the government, investors, the movements and the communities your clients come from. Legal strategies must not exist in a vacuum; they have the power to shift public opinion, spur government action, or inspire community mobilization.

In Doe v. Unocal*, our primary audience was members of the judiciary—the federal judges who delivered game-changing decisions and set a new legal bar for global corporate complicity in human rights abuses, and the state judge who presided over our proceedings from discovery through trial and settlement.*

Likewise, you must understand your adversaries, and choose the tactics that actually get them to make the changes that you are demanding.

In Doe v. Unocal, we knew that our corporate adversaries were concerned most about their bottom line and their brand. We thus reinforced our legal strategies with shareholder advocacy to elevate the financial risks associated with their investment in Burma, and media strategies to tarnish their name and their brand.

Finally, tailor these tactics to mobilize powerful allies, whose power might come in numbers or because your adversaries or audience are accountable to them, or awed or influenced by by them.

In Doe v. Unocal, *our allies were in the Free Burma Movement, in the labor movement, the environmental movement, the human rights movement, and the anti-globalization movement. They represented millions of citizens from around the world, many in democratic countries that had the power to issue sanctions on the Burmese regime and thus prevent further investment in their military junta.*

RULES FOR RADICAL LAWYERS

KATIE REDFORD

Rules For Radical Lawyers appears in *The Revolution Will Not Be Litigated: People Power and Legal Power in the 21st Century*, published by OR Books.

Additional information and resources available at TheRevolutionWillNotBeLitigated.com