

MOVEMENT LAWYERING AS REBELLIOUS LAWYERING: ADVOCATING WITH HUMILITY, LOVE AND COURAGE

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This essay offers a reflection on how social movement lawyering is an essential paradigm within the larger framework of rebellious lawyering. By supporting and advancing the building and exercise of collective power, led by the most directly impacted, movement lawyering can contribute to systemic institutional and cultural change. The piece explores three essential threads of movement lawyering: i) to be grounded in a place of humility that recognizes lawyering as but one of multiple strategies necessary to advance a social movement; ii) to act from a place of love that affirms the intersectional humanity of the whole person and entire communities in order to build movements together; and iii) to practice courage and be willing to relinquish our privileges in order to act and stand up for justice.

On the morning of June 15, 2012, I stood in the middle of an intersection in front of the downtown Los Angeles federal building as hundreds of undocumented immigrant youth chanted: “Undocumented and Unafraid, Queer and Unashamed.” Participants in the UCLA Labor Center’s Dream Summer program, the youth had organized this direct action to call for the federal government to recognize their inherent humanity and to provide protection from fear of deportation. As the demonstration was about to start, the Obama Administration publicly announced the Deferred Action for Childhood Arrivals (DACA) program to grant immigrant young people who meet certain requirements a reprieve from deportation and the right to work legally in the United States.

I had received a call the night before from Neidi Dominguez, one of the primary leaders in the campaign to win DACA and the person who had conceived of the DACA campaign in the first place. She told me what the White House was about to announce. A few weeks ear-

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lier, in my role as a member of the legal team for Dream Team LA, I had accompanied Neidi to a meeting with White House officials to make the case for DACA. Neidi and two other undocumented immigrant youth leaders brilliantly articulated why President Obama should agree to DACA as a policy and program. The members of the legal team played supporting roles. At the end of the meeting, the outcome was still unclear, so when Neidi told me the news on the night of June 14, I was elated and could not quite believe it. Driving to the protest on the morning of June 15, I broke down in tears as I heard confirmation on public radio.

I stood there in the middle of the intersection on June 15 overcome with feelings of love, hope, and awe. I soaked in the fierce courage and determination palpable on the faces of the immigrant youth. I knew with absolute conviction that it was the immigrant youth movement and the leadership, organizing, and creativity of the young people themselves that had led to this monumental and seemingly unattainable victory.

Now, weeks after the election of Donald Trump, as I reflect on that moment, I am even more convinced that social movements are the key to positive social change and that an essential role of rebellious lawyers is movement lawyering in service of the leadership and organizing of those most directly impacted. If we as rebellious lawyers are to advocate for inclusion, equity, and justice, then it is imperative that we strive to do so with humility, love, and courage.

MOVEMENT LAWYERING AS REBELLIOUS LAWYERING

While there are varying definitions of movement lawyering, I have developed my own personal interpretation over the years:

Lawyering that supports and advances social movements, defined as the building and exercise of collective power, led by the most directly impacted, to achieve systemic institutional and cultural change.

In practicing movement lawyering, especially at this political moment, there are at least three essential threads: i) to be grounded in a place of humility that recognizes lawyering as but one of multiple strategies necessary to advance a social movement; ii) to act from a place of love that affirms the intersectional humanity of the whole person and entire communities in order to build movements together; and iii) to practice courage and be willing to relinquish our privileges in order to act and stand up for justice.

REBELLIOUS LAWYERING FROM A PLACE OF HUMILITY

Over the course of my nearly 20 years of engaging in the praxis of

rebellious lawyering, I have witnessed the power and impact of movement lawyering and the necessity of doing so from a place of humility.

Social movements that strive for systemic institutional and cultural change must be understood in context. Rather than operating in a vacuum, the structures of power, influence, and decision-making and the composition of players largely determine what strategies are most effective in pushing for greater equality and justice. There are myriad strategies that are deployed in campaigns and movements: grassroots community organizing, direct action, leadership development, community education, media and communications, arts and culture, research and data, electoral engagement, political and legislative advocacy, fundraising — and yes, legal strategies.

Rebellious lawyering from a place of humility entails recognizing that legal strategies are but one of multiple strategies that can be implemented to achieve social change. Depending on the context and the goals of a strategic campaign, differing strategies and tactics will be most effective.

In the campaign for DACA, immigrant youth developed their demands, engaged the Obama Administration over the course of several meetings, and conducted nonviolent direct action protests. In the midst of the campaign, we held a meeting of immigrant youth organizers and lawyers where we discussed a question that had been raised by White House officials: whether the President had the legal authority to grant deferred action to immigrant youth. We conceived of the tactic of submitting to the White House a letter signed by law professors outlining why the President has the clear legal authority. Eventually Professor Hiroshi Motomura of UCLA Law School led this effort and sent a letter to the White House signed by over 100 law professors across the country concluding that the President has the legal authority to enact the movement's proposals.

This was an example in which the lawyers involved recognized that the DACA campaign was rightfully led by directly impacted immigrant youth who had conceived of the campaign, strategized and planned it, and were with great courage pushing the White House to take action. Legal strategies and tactics played a supporting role in the campaign and were deployed at the right time and in an effective manner.

While in other situations, legal strategies might play a more prominent role, rebellious lawyering entails humility in recognizing that a rebellious lawyer's role is to utilize legal strategies and tactics when deemed appropriate and effective by those leading campaigns, especially in the context of broader social justice movements.

REBELLIOUS LAWYERING FROM A PLACE OF LOVE

Especially in this post-election context in which individuals and communities are increasingly the targets of hate and harassment on the basis of aspects of their identity, there is an urgent need to engage in rebellious lawyering from a place of love that affirms the intersectional humanity of individuals and communities. Only by centering and celebrating intersectionality can we build a strong, powerful, and diverse movement that is capable of steering the future direction of our nation towards - rather than away from - the arc of justice. Rebellious lawyers have a role to play in this critical endeavor.

In the past few years, I've witnessed growing momentum in grassroots communities and among advocates around the need for an intersectional approach to social justice organizing, advocacy, and movement building. We increasingly understand and respect intersectionalities of race, gender, gender identity, sexual orientation, class, immigration status, religion, different abledness, and other dimensions of identity on individual, community, and movement levels.

A fundamental premise of this intersectional, holistic framework is embracing and respecting the inherent humanity and dignity of the whole person and whole communities, recognizing the complexities and fluidity of both. For me, this entails recognizing that I am not just Asian American or just a woman, but a heterosexual Asian American woman from a middle class background from an immigrant family where English was not our first language and who has the privilege of formal citizenship status. Rebellious lawyering should similarly embrace the intersectional wholeness of individual clients.

Rebellious lawyering must also be grounded in intersectionality and an expansive, inclusive love for communities. This is especially critical in the current political context. In the weeks after the presidential election, we saw a disturbing spike in hate crimes and incidents against people of color, immigrants, LGBTQ individuals, Muslims, women, and differently-abled persons. According to the Southern Poverty Law Center, in a mere three days after the presidential election, there were over 200 incidents of hateful harassment and intimidation across the nation, with the most commonly reported location of harassment being K-12 schools.¹

In response to this troubling trend, I recently facilitated an effort by the College for All Coalition, a California-based multiracial coalition of community, civil rights, education, faith, and labor organiza-

¹ Southern Poverty Law Center, *Over 200 Incidents of Hateful Harassment and Intimidation Since Election Day*, SPLC HATEWATCH (November 11, 2016), available at <https://www.splcenter.org/hatewatch/2016/11/11/over-200-incidents-hateful-harassment-and-intimidation-election-day> (last visited January 20, 2017).

tions to organize an open letter to California's educational leaders that was signed by over 120 organizations.² The open letter calls for all K-12 schools and colleges and universities in California to be sanctuary schools and campuses that ensure safe, inclusive, and equitable learning environments for students most vulnerable in this post-election climate, focusing particularly on students of color and immigrant, Muslim, LGBTQ, differently-abled, and female students. We intentionally took an intersectional approach, recognizing that many communities are being targeted on the bases of various aspects of identity and that there is both a moral imperative and movement building opportunity to form an intersectional coalition. By recognizing intersectionality as a strength on a community level, we were able to build a larger, more diverse, and more powerful coalition than if we had focused on just one or two communities of identity.

By joining together in solidarity and recognizing that our struggles are linked and interconnected, we can build a powerful, diverse, and vibrant movement that is rooted in love and humanity and that can achieve systemic institutional and cultural change. As Dr. Rev. Martin Luther King, Jr., said, "Hate cannot drive out hate; only love can do that."

REBELLIOUS LAWYERING FROM A PLACE OF COURAGE

Earlier this year, I participated in two nonviolent civil disobedience actions just two days apart that highlighted the same cause of opposing the detention and deportation of children and families from Central America to the United States. The first action consisted of a group of attorneys. We protested at the downtown federal building in Los Angeles where Immigration Customs and Enforcement (ICE) holding facilities are located, blocked the driveway, and were arrested. In the second action, I was part of an interfaith group of clergy and laity that blocked an intersection in downtown LA next to the immigration court and were arrested.

The responses to the two actions were markedly different. During and after the lawyer protest, I saw numerous social media postings that praised the bravery and courage of the lawyers for risking arrest. Many of the postings highlighted the fact that we were a group of attorneys. In contrast, there was a positive, but more muted response overall to the interfaith protest, even though some of my fellow arrestees were clergy in their 70s. I saw several social media postings that applauded our protest, but I did not see the same language prais-

² *An Open Letter to California's Educational Leaders* (November 28, 2016), available at <https://docs.google.com/document/d/1EKPyBMUEHSRPiyO1g6CWpcT9RazHm4a70aLhIF2Y0xs/edit>, (last visited January 20, 2017).

ing us for our “courage” that I had seen just two days earlier.

In reflecting on this, I concluded that it might be due to the relative infrequency of attorneys putting ourselves on the line to call attention to injustice. We often view nonviolent direct action and protest as something that “others” engage in. We might support demonstrations by legal observing, but it is not common for lawyers to actually engage personally in civil disobedience.

But rebellious lawyers must be courageous. Social movements require vision, boldness, creativity, and sacrifice. Those on the front lines often stand up for justice at great risk to themselves. Rebellious lawyers who desire to be fully enmeshed in and of service to social movements must be willing to take risks and to relinquish their privileges.

We must dare to venture outside the traditional category of “lawyer” to take on “activist” roles that may be warranted to move forward a social justice campaign and movement. Not only does this necessitate a philosophical and mental paradigm shift, it also raises the very real issue of taking risks that may have costs and consequences. This is fair, especially when considered in light of the sacrifices that those most directly impacted often make when organizing against injustice.

In social movements, it is common for participants to take personal risks. In the workers rights organizing context, it is almost always the case that at least some worker leaders will experience retaliation by the targeted employer. When workers come forward to join an organizing effort, speak at a press conference, march at a picket, speak to elected officials, or sign up as a plaintiff in a lawsuit, they do so knowing that they may be retaliated against by being harassed, having their hours cut, or being fired. Yet, workers continue to make the decision to organize for justice.

While lawyers may work long hours and, in the public interest context, for what may be perceived as meager pay, we rarely take the risks and make the sacrifices that directly impacted community members do. There is an innate privilege in this.

But how can we expect our clients, community organizers, and others to step up, take risks, and demonstrate courage if we as rebellious lawyers are not willing to do so ourselves?

I was forced to confront this question when, a few years ago, I provided legal support for a taxi worker organizing campaign to improve dismal, exploitative working conditions. The taxi companies took retaliatory action and fired one of the worker leaders. Just a few weeks later, the companies filed an administrative complaint against me alleging violations of Legal Services Corporation rules and sought

Spring 2017]

Movement Lawyering as Rebellious Lawyering

669

to have me fired. While I was vindicated and prevailed in the complaint process, I caught a glimpse into what workers experience when they are retaliated against. It was one of the most difficult periods of my life - yet, I kept my job the entire time. The worker leader, on the other hand, faced an excruciatingly difficult situation when he was fired and had to figure out how he was going to support his family.

If rebellious lawyers are truly going to be partners in social movements that strive for a better world, we must also be ready and willing to take risks, relinquish our privileges, make sacrifices, and demonstrate real courage in the face of adversity.

LOVE IN ACTION

Rev. James Lawson, Jr., the architect of nonviolence during the civil rights movement, has a saying that nonviolence is love in action. In attending his workshops on nonviolence, I have tried to take to heart his teaching that we must not replicate the injustice, hierarchy, and oppression that those who perpetrate inequality engage in, but instead act with integrity and love.

Movement lawyering as rebellious lawyering is at its core a practice of love in action that combines humility, love, and courage. By centering the leadership of those directly impacted, building a framework and praxis of intersectionality, and having the courage to do what is just and necessary even when we are fearful and may suffer, we can model the world that we seek and that does not yet exist - and get just a little bit closer to achieving it.

