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Inner-City Anti-Poverty Campaigns

Anthony V. Alfieri

ABSTRACT

This Article offers a defense of outsider, legal-political intervention and community triage in inner-city anti-poverty campaigns under circumstances of widespread urban social disorganization, public and private sector neglect, and nonprofit resource scarcity. In mounting this defense, the Article revisits the roles of lawyers, nonprofit legal services organizations, and university-housed law school clinics in contemporary anti-poverty, civil rights, and social justice movements, in part by chronicling the emergence of a faith-based municipal equity movement in Miami, Florida. The Article proceeds in four parts. Part I introduces the notion of community triage as a means of addressing the impoverished and segregated aftermath of urban development in a cluster of postindustrial inner cities. Part II examines the First Wave of anti-poverty campaigns launched by pioneering legal services and public interest lawyers and their inchoate community triage models. Part III surveys the Second Wave of anti-poverty campaigns pressed by more client- and community-centered legal services and public interest lawyers and their alternative community triage paradigms. Part IV appraises the Third Wave of anti-poverty campaigns kindled by a new generation of legal services and public interest lawyers and their site-specific community triage approaches in the fields of community economic development, environmental justice, immigration, low-wage labor, and municipal equity in order to discern legal-political lessons of inner-city advocacy and organizing. Taken together, the four Parts forge a larger legal-political vision imagined and reimagined daily by a new generation of social movement activists and scholars—a protean vision of community-based law reform tied to clinical practice, empirical research, and experiential reflection about law and lawyers in action.

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TABLE OF CONTENTS

The concept of community is gone.

—Mr. Pastor.[1]

INTRODUCTION

Mr. Pastor telephoned me the day after Christmas. The Miami-Dade branch of the National Association for the Advancement of Colored People (NAACP), he said, had referred him. Mr. Pastor told me that an eight-story housing project for homeless veterans called Karis Village[2] was under construction on his block in Goulds,[3] a predominantly black low-income area of unincorporated Miami-Dade County located twenty-five miles southwest of Miami, Florida. Settled in 1900,[4] Goulds was scarred early by two black

1. Telephone Interview with Mr. Pastor (Jan. 12, 2017). The name "Mr. Pastor" is a pseudonym. Mr. Pastor granted me permission to disclose his communications and to use his descriptions regarding Karis Village and Goulds here in order to illustrate the challenges of mounting anti-poverty campaigns in historically segregated low-income communities of color. He continues to advise the Environmental Justice Clinic and the Historic Black Church Program on civil rights and municipal equity initiatives in Goulds.

2. Miami-Dade County officials refer to the housing project as Karis Village. *See* Douglas Hanks, *Miami-Dade's Homeless Agency Avoids Federal Cuts After Losing $6 Million in 2016*, MIAMI HERALD (Dec. 21, 2016, 4:08 PM), http://www.miamiherald.com/news/local/community/miami-dade/article122261119.html [http://perma.cc/4ZL8-AUX9]. Proponents describe Karis Village as "a new construction $25M affordable housing development which will provide 88 fully-amenitized units serving low-income and formerly homeless veterans and families. Half of the community's apartments will be allocated for formerly homeless individuals/families and the other half will serve those earning at or below 60% of the AMI." *Communities in Progress*, CARRFOUR SUPPORTIVE HOUSING, http://carrfour.org/communities-in-progress [https://perma.cc/BQ6E-XEDA].

3. Like numerous municipal housing projects in blighted urban areas nationwide documented by urban poverty scholars, Karis Village is the product of a "complex [community development] network—government policymakers, personnel in multiple departments, agencies, programs at federal, state and local levels, staff and directors of nonprofit organizations' foundations and their program managers, and an extensive array of for-profit and not-for-profit development partners—as well as lawyers, planners, architects and builders." Barbara L. Bezdek, *To Attain "The Just Rewards of So Much Struggle": Local-Resident Equity Participation in Urban Revitalization*, 35 HOFSTRA L. REV. 37, 56 (2006). These public-private partners, Barbara Bezdek explains, "typically relate to each other as participants in (1) direct physical development of housing or of facilities to be leased to existing for-profit businesses or to start-up local businesses, (2) technical and grant assistance or loans in connection with development projects, or (3) direct investments as partners in a joint venture." *Id.* at 56–57.

4. On the history of Goulds, see Raymond A. Mohl, *Miami: The Ethnic Cauldron*, *in* SUNBELT CITIES: POLITICS AND GROWTH SINCE WORLD WAR II 58, 69 (Richard M. Bernard & Bradley R. Rice eds., 1983). Both black and white homesteaders settled the "high and dry land" of Goulds in 1900. JEAN TAYLOR, VILLAGES OF SOUTH DADE 89 (1985) ("William Johnson filed on a quarter section later bisected diagonally by the railroad from what is now 216th Street past 224th Street. It included all the land that later became downtown Goulds. Nothing is

lynchings in 1923.[5] Mr. Pastor complained that the Karis Village building was "too big" for a former agricultural district and a county-designated "black housing" area[6] composed mainly of single-family homes.[7] He worried aloud that the housing project might bring more crime, drug traffic, and homeless to the neighborhood,[8] a neighborhood still rife with drug-related crime and violence.[9] And he objected that no black tradesmen were employed at the construction site, adding that he had repeatedly visited the site and its foremen to protest the scale of the building and the absence of black tradesmen but the foremen would no longer speak to him.

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known of Mr. Johnson except that he was black."). Local historians note that an early homesteader, William Randolph, "wanted all blacks to have a piece of land of their own" and, accordingly, "sold cheaply or gave away much of his homestead." *Id.* (adding that "[f]ive acres of his land was part of a deal to provide schools for black children"). Founded in 1903, Goulds' development coincided with the southern expansion of the Florida East Coast Railway, which constructed a siding below 216th Street. *Id.* ("[The siding] was operated by a Mr. Gould from Indiana who was in charge of cutting ties for the railroad. The town that grew up was called Gould's Siding and later just Goulds."); *see also* SETH H. BRAMSON, SPEEDWAY TO SUNSHINE: THE STORY OF THE FLORIDA EAST COAST RAILWAY (1984); LES STANDIFORD, LAST TRAIN TO PARADISE: HENRY FLAGLER AND THE SPECTACULAR RISE AND FALL OF THE RAILROAD THAT CROSSED AN OCEAN (2002). Historians report that Henry Flagler, a co-founder of Standard Oil and founder of the Florida East Coast Railway, "recruited bums and hobos from the Bowery, and also secured a lot of his labor force from the North Florida prisons." TAYLOR, *supra*, at 130; *see also* DAVID LEON CHANDLER, HENRY FLAGLER: THE ASTONISHING LIFE AND TIMES OF THE VISIONARY ROBBER BARON WHO FOUNDED FLORIDA 119–33 (1986). They describe Goulds as "a rough, tough place, with open saloons and killings and fights" and as "the center of the packing house industry, which brought in hundreds of the fruit-tramps during the season." TAYLOR, *supra*, at 89 ("Prisoners were released to [Flagler] to work out their sentences, and were turned loose when they finished."). They also confirm that "many blacks settled in Goulds to work for the railroad, the Drake Mill, and for the homesteaders in the surrounding area who farmed or operated large groves." *Id.* at 90; *see also* MARVIN DUNN, BLACK MIAMI IN THE TWENTIETH CENTURY 72–73 (1997).

5. DUNN, *supra* note 4, at 121.
6. *Id.* at 206.
7. Telephone Interview with Mr. Pastor, *supra* note 1.
8. For discussions of localism and land use, see David J. Barron & Gerald E. Frug, *Defensive Localism: A View of the Field From the Field*, 21 J.L. & POL. 261 (2005), and Richard Briffault, *Our Localism: Part II—Localism and Legal Theory*, 90 COLUM. L. REV. 346 (1990). Also, see Peter Margulies, *Building Communities of Virtue: Political Theory, Land Use Policy, and the "Not in My Backyard" Syndrome*, 43 SYRACUSE L. REV. 945 (1992).
9. On drug-related criminal violence in Goulds' Arthur Mays Villas public housing projects, "a sprawling brown-painted 144-unit community long known . . . as 'Chocolate City,'" see David Ovalle, *Surveillance Cameras Fail as Crime Concerns Grow at Goulds Housing Project*, MIAMI HERALD (May 4, 2013, 5:10 PM), http://www.miamiherald.com/news/local/in-depth/article1951016.html [https://perma.cc/DSP2-AE4S]. Ovalle reports: "Violence in Chocolate City has ebbed and flowed over the decades. But the crushing poverty has remained constant, as has complaints from many residents, longtime and newer, most African American." *Id.*

I asked Mr. Pastor whether he or his neighbors had received notice of the Karis Village housing project from Miami-Dade County officials or from the developer itself, Carrfour Supportive Housing.[10] He said no, remarking that the only notice came from signage posted at the construction site.[11] I asked him whether he had called the Miami-Dade County commissioner for his district. He said no, voicing skepticism toward "black politicians."[12] I asked him whether there were any black churches in the neighborhood engaged in community development. He said no, expressing misgivings about local ministers and their churches. I asked him whether he had talked to his neighbors about their objections to the Karis Village housing project. Mr. Pastor responded that his neighbors were afraid "to get involved."[13] I asked him whether he had tried to reach out to others in the larger communities of East and West Goulds. He replied: "The concept of community is gone."[14] Finally, he announced that the local NAACP would be meeting at his home during the upcoming week. "Will you be there?" he asked.[15]

The plainspoken question—"Will you be there?"—is familiar to community-based political activists, legal advocates, and clinical teachers alike. I hear it routinely from the clients of our Environmental Justice Clinic,[16] from the

10. Carrfour Supportive Housing describes itself as "a nonprofit organization established in 1993" to "develop[], operate[] and manage[] innovative housing communities for individuals and families in need through a unique approach combining affordable housing with comprehensive, on-site supportive services." CARRFOUR SUPPORTIVE HOUSING, http://carrfour.org [https://perma.cc/FSJ6-7JZ8].

11. In addition to the absence of notice, others pointed to the lack of "community input" in the planning of the Karis Village project. *See* Phillip Murray, Jr., *Low-Cost Housing*, MIAMI HERALD (Apr. 16, 2017, 11:00 AM), http://www.miamiherald.com/opinion/letters-to-the-editor/article144950014.html [https://perma.cc/2BC8-CJEK] ("How can an apartment complex [Karis Village] be constructed in Goulds with little or no community input?").

12. Telephone Interview with Mr. Pastor, *supra* note 1.

13. *Id.* For ethnographic studies of race and class in inner-city neighborhoods, see ELIJAH ANDERSON, STREETWISE: RACE, CLASS, AND CHANGE IN AN URBAN COMMUNITY 138–206 (1990), and PETER MEDOFF & HOLLY SKLAR, STREETS OF HOPE: THE FALL AND RISE OF AN URBAN NEIGHBORHOOD 7–36 (1994).

14. Telephone Interview with Mr. Pastor, *supra* note 1. On community identity, see MARY R. ANDERSON, COMMUNITY IDENTITY AND POLITICAL BEHAVIOR 35–75 (2010); Peter D. Bishop, Fern Chertok & Leonard A. Jason, *Measuring Sense of Community: Beyond Local Boundaries*, 18 J. PRIMARY PREVENTION 193 (1997); and Terri Mannarini, Stefano Tartaglia, Angela Fedi & Katiuscia Greganti, *Image of Neighborhood, Self-Image and Sense of Community*, 26 J. ENVTL. PSYCHOL. 202 (2006).

15. Telephone Interview with Mr. Pastor, *supra* note 1.

16. Housed at the Center for Ethics and Public Service, the Environmental Justice Clinic currently "provides rights education, interdisciplinary research, public policy resources, and advocacy and transactional assistance to low- and moderate-income communities discriminated against by state and private actors in the fields of economic development, education, housing, transportation, and municipal equity, and to communities seeking fair treatment and meaningful involvement in the

ministers and congregations affiliated with our Historic Black Church Program in the Coconut Grove Village West (West Grove) neighborhood of Miami,[17] and from our nonprofit and pro bono partners at the Center for Ethics and Public Service, three interwoven civic engagement and experiential learning projects together housed at the University of Miami School of Law.[18] In fact, Mr. Pastor's question is so commonplace and our answer—"We will do our best."[19]—so banal and habitual a refrain that I scarcely reflect, and too seldom urge my students to reflect, upon the true complexity of the inquiry, especially when the community at stake may be, in practical fact, *gone*.[20]

Narrowly cast, the first purpose of this Article is to revisit and to enlarge Mr. Pastor's question as a straightforward petition for clinical, legal-political intervention in the Karis Village project specifically and in Goulds and similarly impoverished Miami-Dade County communities more generally, and to suggest a partial answer to the growing calls for outsider, clinical intervention in this time of widespread inner-city social disorganization,[21] public and private

development, implementation, and enforcement of environmental laws, regulations, and policies, including incinerator contamination and industrial pollution." CTR. FOR ETHICS & PUB. SERV., U. MIAMI SCH. OF LAW, 2016 ANNUAL REPORT 2–3 (2016) (footnotes omitted), http://media.law.miami.edu/center-ethics-public-service/pdf/2016/CEPS-2016-Annual-Report.pdf [https://perma.cc/85V8-ZPFP].

17. For background on the Historic Black Church Program and its community-based anti-poverty, civil rights, and environmental justice campaigns, see Anthony V. Alfieri, *Community Education and Access to Justice in a Time of Scarcity: Notes From the West Grove Trolley Garage Case*, 2013 WIS. L. REV. 121; Anthony V. Alfieri, *Educating Lawyers for Community*, 2012 WIS. L. REV. 115; Anthony V. Alfieri, *Rebellious Pedagogy and Practice*, 23 CLINICAL L. REV. 5, 23–26 (2016) [hereinafter Alfieri, *Rebellious Pedagogy and Practice*]; Anthony V. Alfieri, *Paternalistic Interventions in Civil Rights and Poverty Law: A Case Study of Environmental Justice*, 112 MICH. L. REV. 1157 (2014) (book review); and Anthony V. Alfieri, Resistance Songs*: Mobilizing the Law and Politics of Community*, 93 TEX. L. REV. 1459 (2015) (book review).

18. Founded in 1996, the Center for Ethics and Public Service operates as "a law school-housed interdisciplinary ethics education, skills training, and community engagement program devoted to the values of ethical judgment, professional responsibility, and public service in law and society." CTR. FOR ETHICS & PUB. SERV., *supra* note 16, at 1. The mission of the Center for Ethics and Public Service "is to educate law students to serve their communities as citizen lawyers." *Id.*

19. This refrain is borrowed in part from Gary Bellow. *See* Gary Bellow, *Legal Aid in the United States*, 14 CLEARINGHOUSE REV. 337, 345 (1980) .

20. On the psychological consequences of community loss, see Denis J. Brion, *The Meaning of the City: Urban Redevelopment and the Loss of Community*, 25 IND. L. REV. 685, 728–32 (1992); David M. Chavis & Abraham Wandersman, *Sense of Community in the Urban Environment: A Catalyst for Participation and Community Development*, 18 AM. J. COMMUNITY PSYCHOL. 55, 68 (1990); Thomas J. Glynn, *Neighborhood and Sense of Community*, 14 J. COMMUNITY PSYCHOL. 341, 345 (1986); David W. McMillan & David M. Chavis, *Sense of Community: A Definition and Theory*, 14 J. COMMUNITY PSYCHOL. 6, 15 (1986); and Jack L. Nasar & David A. Julian, *The Psychological Sense of Community in the Neighborhood*, 61 J. AM. PLAN. ASS'N 178, 180 (1995).

21. On social disorganization in the inner city, see DOUGLAS S. MASSEY & NANCY A. DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS (1993);

sector neglect,[22] and nonprofit resource scarcity.[23] In doing so, the Article brackets some of the classical concerns of access to justice, indigent representation, and lawyer responsibility implicit in the question of outsider legal and political intervention.[24] Fuller accounts of those serious moral[25] and ethical[26] concerns have been presented by others. Instead of

WILLIAM JULIUS WILSON, WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR 3–24 (1996); Dan Cantillon, William S. Davidson & John H. Schweitzer, *Measuring Community Social Organization: Sense of Community as a Mediator in Social Disorganization Theory*, 31 J. CRIM. JUST. 321 (2003); and Loïc J.D. Wacquant & William Julius Wilson, *The Cost of Racial and Class Exclusion in the Inner City*, *in* THE GHETTO UNDERCLASS: SOCIAL SCIENCE PERSPECTIVES 25 (William Julius Wilson ed., 1993). Also, see WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY 144 (1987). Wilson argues that the "removal" of neighborhood-rooted "families made it much more difficult to sustain the basic institutions in the inner city (including churches, stores, schools, recreational facilities, etc.) in the face of prolonged joblessness." *Id.*

22. *See* Christine E. Ahn, *Democratizing American Philanthropy*, *in* THE REVOLUTION WILL NOT BE FUNDED: BEYOND THE NON-PROFIT INDUSTRIAL COMPLEX 63 (INCITE! Women of Color Against Violence ed., 2007).

23. *See* Anthony V. Alfieri, *(Un)Covering Identity in Civil Rights and Poverty Law*, 121 HARV. L. REV. 805, 806 (2008) ("Scarcity requires that effective legal change be measured not by the outcomes of individual cases, but rather by the progress of social change: specifically, by the degree to which individual clients are able to collaborate in local and national alliances to enlarge civil rights and to alleviate poverty."); *see also* Norman J. Glickman & Lisa J. Servon, *More Than Bricks and Sticks: Five Components of Community Development Corporation Capacity*, 9 HOUSING POL'Y DEBATE 497, 497–98 (1998); Sara E. Stoutland, *Community Development Corporations: Mission, Strategy, and Accomplishments*, *in* URBAN PROBLEMS AND COMMUNITY DEVELOPMENT 193, 195 (Ronald F. Ferguson & William T. Dickens eds., 1999).

24. Elsewhere I argue that "interventions encompass the threshold decision to provide advocacy assistance, the difficult judgment to mediate intramural group conflict, and the need-based determination to summon external resources." Anthony V. Alfieri, *Faith in Community: Representing "Colored Town"*, 95 CALIF. L. REV. 1829, 1844 (2007). "Hard choices" of this kind "acquire further complexity from their multicultural racial contexts." *Id.* Such "[c]omplexity arises from the cultural differences, social tensions, and economic competition at work in such contexts." *Id.* Added complexity stems from racial identity, especially when "impacted" by differences of ethnicity, gender, and sexuality. *Id.* In exercising the discretion of "legal and non-legal interventions," I urge "adherence to the collaborative process of community-centered decision-making" as well as "observance of the extra-legal lessons of the civil rights and poor people's struggles of the last century." *Id.*

25. *See, e.g.*, DAVID LUBAN, LEGAL ETHICS AND HUMAN DIGNITY 358–91 (2007) (exploring political objections from the standpoint of democratic governance).

26. *See, e.g.*, Stephen Ellmann, *Client-Centeredness Multiplied: Individual Autonomy and Collective Mobilization in Public Interest Lawyers' Representation of Groups*, 78 VA. L. REV. 1103 (1992); Shauna I. Marshall, *Mission Impossible?: Ethical Community Lawyering*, 7 CLINICAL L. REV. 147 (2000); Amy M. Reichbach, *Lawyer, Client, Community: To Whom Does the Education Reform Lawsuit Belong?*, 27 B.C. THIRD WORLD L.J. 131 (2007); Janine Sisak, *If the Shoe Doesn't Fit . . . Reformulating Rebellious Lawyering to Encompass Community Group Representation*, 25 FORDHAM URB. L.J. 873 (1998); Paul R. Tremblay, *Counseling Community Groups*, 17 CLINICAL L. REV. 389 (2010); *see also* Max Helveston, *Promoting Justice Through Public Interest Advocacy in Class Actions*, 60 BUFF. L. REV. 749 (2012); Deborah L. Rhode, *Class Conflicts in Class Actions*, 34

rehearsing those accounts, the Article addresses the more bounded, but still unsettled, core issue embedded in all calls for clinic-facilitated,[27] legal-political intervention under circumstances of neighborhood social disorganization, namely the issue of *community triage*. Broadly cast, the second purpose of this Article is to expand the mounting body of work revisiting the role of lawyers and nonprofit legal services organizations in contemporary inner-city anti-poverty, civil rights, and social justice movements, in part by chronicling the background and slow rise of the faith-based[28] municipal equity movement in Miami.

The Article proceeds in four parts. Part I introduces the notion of community triage as a means of addressing the impoverished and segregated aftermath of urban development in a cluster of postindustrial inner cities, drawing in particular on the history of Goulds and the West Grove. Part II examines the First Wave of anti-poverty campaigns launched by pioneering legal services and public interest lawyers and their inchoate community triage models. Part III surveys the Second Wave of anti-poverty campaigns pressed by more client- and community-centered legal services and public interest lawyers and their alternative community triage paradigms. Part IV appraises the Third Wave of anti-poverty campaigns kindled by a new generation of legal services and public interest lawyers and their site-specific community triage approaches in the fields of community economic development, environmental justice, immigration, low-wage labor, and municipal equity in order to discern legal-political lessons of inner-city advocacy and organizing. Taken together, the four parts forge a larger legal-political vision imagined and reimagined daily by a new generation of social movement activists and scholars—a protean vision of community-

STAN. L. REV. 1183 (1982); William B. Rubenstein, *Divided We Litigate: Addressing Disputes Among Group Members and Lawyers in Civil Rights Campaigns*, 106 YALE L.J. 1623 (1997).

27. On lawyer methods of supporting client activism, see Eduardo R.C. Capulong, *Client Activism in Progressive Lawyering Theory*, 16 CLINICAL L. REV. 109 (2009), and Richard D. Marsico, *Working for Social Change and Preserving Client Autonomy: Is There a Role for "Facilitative" Lawyering?*, 1 CLINICAL L. REV. 639, 646 (1995).

28. Elsewhere I argue that "conventional and reformist lawyering models speak of moral conversation and religious faith." Anthony V. Alfieri, *Post-Racialism in the Inner-City: Structure and Culture in Lawyering*, 98 GEO. L.J. 921, 939–40 (2010). Imbued "by a vision of civic professionalism," it is "faith-based conversation" that often "links the ability to make thoughtful moral judgments with the ethical, legal, and social skills of advocacy." *Id.* at 940 ("Expanding the capacity of students to experience this ethical-social development requires the reimagining of the lawyering process as both a social and a cultural practice."). On faith and theology in lawyering and jurisprudence, see CHARLES MARSH, GOD'S LONG SUMMER: STORIES OF FAITH AND CIVIL RIGHTS (1997), and David Luban, *Difference Made Legal: The Court and Dr. King*, 87 MICH. L. REV. 2152, 2154–55 (1989).

based law reform tied to clinical practice, empirical research,[29] and experiential reflection about law and lawyers in action.[30]

I. POSTINDUSTRIAL INNER CITIES AND TRIAGE

> They been pushed around so long, they see stuff and just accept it.
>
> —Mr. Pastor[31]

This Part examines the notion of community triage as a means of addressing the impoverished and segregated aftermath of urban development in a cluster of postindustrial inner cities, including Pittsburgh, Milwaukee, St. Louis, Memphis, and Miami. In an early study of inner-city poverty law practice, I describe triage as a "crude" and often "covert" means of case selection adopted by legal services providers "as a permanent stopgap method of allocating scarce institutional resources" without meaningful assessment of its "appropriateness or efficacy" and without adequate consideration of client or community preference.[32] Amplifying this description within the contours of direct client legal services delivery, Paul Tremblay defines triage as "a practice of distinguishing among several clients in determining which should receive what level of service, acknowledging that each cannot receive an unlimited delivery of

29. *See* Theodore Eisenberg, *The Origins, Nature, and Promise of Empirical Legal Studies and a Response to Concerns*, 2011 U. ILL. L. REV. 1713; Edward L. Rubin, *Passing Through the Door: Social Movement Literature and Legal Scholarship*, 150 U. PA. L. REV. 1 (2001); Robert Weisberg, *Empirical Criminal Law Scholarship and the Shift to Institutions*, 65 STAN. L. REV. 1371 (2013).

30. Lucie White's early Second Wave body of work outlined the contours of theory-practice integration, urging clinical scholars "to map out the internal microdynamics of progressive grassroots initiatives" and "to observe the multiple impacts of different kinds of grassroots initiatives on wider spheres of social and political life." Lucie E. White, *Collaborative Lawyering in the Field? On Mapping the Paths From Rhetoric to Practice*, 1 CLINICAL L. REV. 157, 160–61 (1994) ("Such scholarly projects would focus, at once, on groups, social change effects, lawyering skills, and clinical pedagogies."). White also encouraged scholars "to devise typologies, or models, or theories that map out a range of opportunities for collaboration" and "to study how lawyers work most effectively with different initiatives, and ask how student-lawyers can be trained to do this work." *Id.* at 161; *accord* Scott L. Cummings, *Movement Lawyering*, 2017 U. ILL. L. REV. 1645, 1654 (2017) ("In the end, the real promise of the social movement turn lies in repowering a contemporary dialogue—less freighted by the critical canon of the past—in which scholars and practitioners can create a new account, rooted in more sustained empirical inquiry, of the conditions in which progressive lawyering is most likely to produce accountable and effective social change.").

31. Telephone Interview with Mr. Pastor (Dec. 29, 2016).

32. Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L.J. 2107, 2122–23 (1991).

service."[33] On this common baseline, triage encompasses both case and client selection.

Community triage by comparison, as practiced by either university-housed law school clinics or legal services and public interest organizations, describes both the decision-making process and the ultimate judgment to provide, or not to provide, legal resources to politically and economically subordinated *communities*. Such legal resources include rights education, fact investigation, policy research, direct service, impact or test case litigation, administrative and legislative law reform, and transactional assistance. Like triage selection principles common to the fields of international development,[34] rural studies,[35] and urban planning,[36] the principle of community triage assigns weight to communities, rather than to cases, clients, or causes,[37] for purposes of rationing scarce legal services and resources. By weighting and rank ordering communities instead of institutional target or test cases, individual or group clients, and discrete or generalizable causes, the choice principle of community triage offers a more neighborhood-specific, street-level version of the priority-setting and macroallocation procedures previously catalogued by David Luban[38] and subsequently elaborated by Tremblay[39] in the litigation and transactional forums of poverty law practice.

Every day at the Center for Ethics and Public Service, the Historic Black Church Program and the Environmental Justice Clinic confront priority-setting and macroallocation choices because of a lack of institutional resources and because of an overabundance of unserved legal needs in the historically

33. Paul R. Tremblay, *Toward a Community—Based Ethic for Legal Services Practice*, 37 UCLA L. REV. 1101, 1104 (1990) (considering a community-based ethic for legal services practice); *see also* GERALD R. WINSLOW, TRIAGE AND JUSTICE 1, 9–11 (1982).

34. *See* Dirk-Jan Koch, Axel Dreher, Peter Nunnenkamp, & Rainer Thiele, *Keeping a Low Profile: What Determines the Allocation of Aid by Non-Governmental Organizations?*, 37 WORLD DEV. 902 (2009); Bjørn Ivar Kruke & Odd Einar Olsen, *Knowledge Creation and Reliable Decision-Making in Complex Emergencies*, 36 DISASTERS 212 (2012); Thomas G. Weiss, *Triage: Humanitarian Interventions in a New Era*, WORLD POL'Y J., Spring 1991, at 59.

35. *See* Thomas L. Daniels & Mark B. Lapping, *Small Town Triage: A Rural Settlement Policy for the American Midwest*, 3 J. RURAL STUD. 273 (1987); Richard Rathge & Paula Highman, *Population Change in the Great Plains: A History of Prolonged Decline*, 13 RURAL DEV. PERSP. 19 (1998).

36. *See* Mahyar Arefi, *An Asset-Based Approach to Policymaking: Revisiting the History of Urban Planning and Neighborhood Change in Cincinnati's West End*, 21 CITIES 491 (2004); Dale E. Thomson, *Strategic, Geographic Targeting of Housing and Community Development Resources*, 43 URB. AFF. REV. 629 (2008).

37. *See* Scott Barclay & Daniel Chomsky, *How Do Cause Lawyers Decide When and Where to Litigate on Behalf of Their Cause?*, 48 L. & SOC'Y REV. 595, 597–606 (2014).

38. DAVID LUBAN, LAWYERS AND JUSTICE: AN ETHICAL STUDY 306–16 (1988) (enumerating moral objections to triage case and client selection procedures).

39. *See, e.g.*, Paul R. Tremblay, *Acting "A Very Moral Type of God": Triage Among Poor Clients*, 67 FORDHAM L. REV. 2475 (1999); Paul R. Tremblay, *Transactional Legal Services, Triage, and Access to Justice*, 48 WASH. U. J.L. & POL'Y 11 (2015).

impoverished but rapidly gentrifying neighborhoods of inner-city Miami. To make hard choices in rationing scarce education, research, and policy resources and limited advisory, litigation, and transactional services, both the Historic Black Church Program and the Environmental Justice Clinic experiment with different configurations of community-based collaboration in challenging private and state action that neglects the civil rights, environmental safety, and public health interests of underserved groups in historically subordinated Miami neighborhoods.[40] Emphasizing the common interests of such groups and the civic inclusion of such neighborhoods in municipal governance, those experimental configurations strive to encourage the rebellious practices of "client-generated intervention and problem solving, community-administered monitoring, joint client-lawyer impact assessment, and innovative . . . delivery system design" in order to facilitate legal-political education, advocacy, and organizing campaigns across the fields of environmental justice, housing justice, and municipal equity.[41]

Recent clinic-backed civil rights and environmental justice campaigns in Miami's adjoining West Grove and East Gables neighborhoods—for example, the West Grove Trolley Garage campaign, the East Gables Trolley Access campaign, the Old Smokey Cleanup campaign, and the Day Avenue 8 displacement moratorium campaign—tackled environmental discrimination and contamination, low-income rental housing mass eviction and segregation, and municipal transportation equity. The West Grove Trolley Garage campaign halted the siting of a City of Coral Gables municipal bus depot in a northern residential enclave of the West Grove by integrating federal administrative agency advocacy, state court litigation, and homeowner and church mobilization to protest the environmental segregation of an industrial facility and the risk posed to public health and safety.[42] The East Gables Trolley Access campaign obtained municipal trolley service for residents of the historically segregated MacFarlane Homestead Subdivision and the Golden Gates District of Coral Gables by organizing community education workshops and marshaling the power of homeowners and tenants to demand transportation equity within local administrative and legislative forums.[43] More far-reaching in scope, the Old Smokey Cleanup campaign harnessed federal, state, and local administrative and legislative advocacy, grassroots organizing, and widespread public outcry from homeowners, tenants, churches, and parents to compel the

40. *See* Alfieri, *Rebellious Pedagogy and Practice*, *supra* note 17, at 31–36.
41. *Id.* at 32.
42. *Id.* at 32–33.
43. *Id.* at 33.

environmental cleanup of municipal parks contaminated by hazardous waste from the 45-year operation of the City of Miami's now shuttered West Grove incinerator (*i.e.*, Old Smokey). Likewise, the Day Avenue 8 displacement moratorium campaign incorporated local administrative and legislative advocacy and homeowner, tenant, and church organizing to block the mass eviction and demolition of eight residential apartment buildings on Day Avenue in the West Grove, negotiate alternative low-income and affordable housing opportunities, and propel a city-wide fair housing investigation of municipal zoning and demolition patterns and practices in Miami's predominantly black inner-city neighborhoods that have caused, are causing, or predictably will cause a disproportionately adverse effect by displacing residents and perpetuating segregation.[44]

The legal-political strategies buoying the campaigns surrounding the West Grove Trolley Garage, the East Gables Trolley, Old Smokey, and the Day Avenue 8 rely on antisubordination norms to challenge and to dismantle racial status hierarchies, both white-over-black and brown-over-black, which are still entrenched in the culture, political economy, and social structure of Miami-Dade County and South Florida, a region burdened by residual state-sanctioned, de facto Jim Crow era segregation.[45] The historian N. D. B. Connolly links the perpetuation of white supremacy in southern Florida to "a set of historical relationships" systematically intertwined with "political, cultural, and business transactions" related to the built environment and "the meaning and value of real estate."[46] To Connolly, "Jim Crow in South Florida binds the history of the US metropolis to the history of resource extraction in the formally colonized and postcolonized world."[47] Put bluntly, Connolly remarks, "apartheid in Miami, and its accompanying violence, made money. Jim Crow's money, in turn, shaped the development of American politics."[48]

Antisubordination norms contest the construction and preservation of status hierarchies as the natural or necessary byproducts of industrial and postindustrial change. From this antisubordination stance, political powerlessness and economic privation are neither natural nor necessary

44. *Id.* at 34–35.
45. Mohl, *supra* note 4, at 69 (documenting "intense" racial segregation in urban and suburban neighborhoods).
46 N.D.B. CONNOLLY, A WORLD MORE CONCRETE: REAL ESTATE AND THE REMAKING OF JIM CROW SOUTH FLORIDA 4 (2014).
47. *Id.* at 6.
48. *Id.*

outcomes determined by individual behavior, biology, or moral character. Instead, they are the result of systematic political disenfranchisement and structural inequality in education, employment, health care, food security, housing, and economic opportunity.[49] To illustrate the urban manifestations of this structural inequality, consider the public and private sector dynamics of inner-city race and class in five cities: Pittsburgh, Milwaukee, St. Louis, Memphis, and Miami.[50]

A. Urban Development: Pittsburgh, Pennsylvania

Recent research on postindustrial urban space shows an upsurge in race- and class-demarcated neighborhood partitioning induced by public-private partnership development models.[51] Designed in lieu of public investment, the models steer the transition of inner-city industrial economies in Pittsburgh, Milwaukee, St. Louis, Memphis, Miami, and elsewhere to service- and knowledge-based economies through "coalitions composed of local political and business elites."[52] Rising out of competition over scarce public resources in the 1970s and 1980s, the coalitions champion an ideology of postindustrial growth favoring "white-collar jobs and middle-class residents" and utilizing "pragmatic tactics designed to remake urban space, including financial incentives, branding campaigns, and physical redevelopment."[53] By the early 1980s, the

49. *Cf.* Alfieri, *supra* note 23, at 807 ("The shortage of legal services and the limits of litigation in poor communities underscore the importance of grassroots interest-group organization and mobilization in support of equal opportunity and economic justice.").

50. For additional studies of inner-city race and class, see COLIN GORDON, MAPPING DECLINE: ST. LOUIS AND THE FATE OF THE AMERICAN CITY (2008); KEVIN MUMFORD, NEWARK: A HISTORY OF RACE, RIGHTS, AND RIOTS IN AMERICA (2007); MELANIE SHELL-WEISS, COMING TO MIAMI: A SOCIAL HISTORY (2009); and THOMAS J. SUGRUE, THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY IN POSTWAR DETROIT (2005).

51. *See* Tracy Neumann, *Postindustrial Cities and Urban Inequality*, POVERTY & RACE, Apr.–June 2016, at 7; *see also* TRACY NEUMANN, REMAKING THE RUST BELT: THE POSTINDUSTRIAL TRANSFORMATION OF NORTH AMERICA 69–72 (2016).

52. Neumann, *supra* note 51, at 7; *see also* Leonard Nevarez, *Efficacy or Legitimacy of Community Power? A Reassessment of Corporate Elites in Urban Studies*, *in* UNDERSTANDING THE CITY: CONTEMPORARY AND FUTURE PERSPECTIVES 379, 380–93 (John Eade & Christopher Mele eds., 2002).

53. Neumann, *supra* note 51, at 7. Barbara Bezdek adds: "Urban land is being reclaimed from low-wealth residents by local governments smitten with the entrepreneurial spirit. Augmenting their traditional land use powers with new means of collaboration and exchange with private developers, local governments seek to reap the benefits of increased investment, ownership and profit in land deals with those private developers." Bezdek, *supra* note 3, at 39. Bezdek also remarks: "Local officials feel the heat of global competition for corporate location and are mindful that judging cities by their appearance and social climate has become a major assessment tool for

competition between and among metropolitan areas in "limited cities," such as Pittsburgh, "to attract and retain capital investment" enabled business groups to reassert their "dominance" in the political economy of urban centers.[54]

Research shows that these business-dominated "[g]rowth coalitions" push the creation of "jobs, services, leisure activities, and cultural institutions" shrewdly remolded to "attract middle-class professionals back to central cities."[55] To that end, the coalitions make "harsh calculations" concerning the "needs" of past, present, and future residents.[56] Basic to postindustrial redevelopment models, these interstitial, block-by-block calculations generate widespread inner-city disparities "characterized by an ever-deepening inequality among urban residents and uneven development within metropolitan areas."[57] Attributable to "the ability of local political and civic leaders to form partnerships" unencumbered by economic or social justice considerations and to supply "a broad range of public subsidies for private development," postindustrial urban policy increasingly tilts toward "private consumption and corporate gain."[58] Rationalized by an overarching "culture of privatism,"[59] postindustrial disparities of power over place and space plague both Rust Belt[60] and Sun Belt[61] cities.

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the economic development professions. They engage in energetic 'image management' in which the city's land and buildings are assets and 'presentation features.'" *Id.* (footnote omitted) (quoting EDWARD J. BLAKELY, PLANNING LOCAL ECONOMIC DEVELOPMENT: THEORY AND PRACTICE 155 (2d ed. 1994)).

54. Bezdek, *supra* note 3, at 90–91 ("Since cities are limited in their ability to control capital and labor for production, they focus on land-related development activities, which are more popular than redistributive policies because development appears to bring additional revenues to the city and can be argued to pay for themselves.").

55. Neumann, *supra* note 51, at 7.

56. *Id.*

57. *Id.* ("Pittsburgh's postindustrial transformation between the late 1960s and turn of the twenty-first century benefitted corporations and middle-class and elite residents, but the region's economic transition was not kind to blue-collar workers or the urban poor.").

58. *Id.* at 8; *see also* Bezdek, *supra* note 3, at 39 ("[C]ities are being remade through increasingly intricate and opaque 'public/private partnerships' ('PPPs'), by which local government agencies trade essential infrastructure at low or no cost in exchange for a profit-sharing stake or other return on the city's investment.").

59. Neumann, *supra* note 51, at 8.

60. *See id.* ("In Pittsburgh, entrepreneurial mayors and university presidents, corporate elites, state government officials, local foundations, and community development corporations formed a public-private partnership to pursue a shared vision for an expansive postindustrial transformation that was facilitated by state and federal policy."); *see also* John Kilwein, *Still Trying: Cause Lawyering for the Poor and Disadvantaged in Pittsburgh, Pennsylvania*, *in* CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES 181 (Austin Sarat & Stuart

Further, urban research demonstrates that this "privatis[t]" vision of postindustrial development informs the policies of civic leaders and public officials in local and regional planning.[62] In Pittsburgh, for example, a municipal growth coalition espoused federal, state, and local policies fostering "corporate welfare" and "mayoral entrepreneurialism" to attract "imagined new residents" and regional, national, or international clients, rather than to aid existing residents.[63] Similarly, in Pittsburgh, Milwaukee, St. Louis, Memphis, Miami, and other municipalities undergoing socioeconomic transition, policies promoting "new economy" postindustrial development of labor markets, such as technology and finance, and service sectors, such as the arts, entertainment, and sports, persistently marginalize unskilled, low-wage workers and deprive their neighborhoods of public resources. In Pittsburgh, for example, postindustrial growth policies "exacerbated inequality and sacrificed the well-being of certain groups of residents in order to 'save' the city."[64] Such inner-city and outer-ring racial sacrifice zones bear the social cost of postindustrial urban development.

B. Poverty: Milwaukee, Wisconsin

Moreover, research tracking postindustrial urban development confirms the continuing economic vulnerability experienced by unskilled, low-wage workers and the growing impoverishment of their neighborhoods in not only Pittsburgh and Miami, but also St. Louis, Memphis, and Milwaukee.[65] Consider, for example, the work of the sociologist Matthew Desmond and his recent study of inner-city poverty, inequality, and racial segregation in Milwaukee. Desmond's ethnographic study of displacement, specifically "the prevalence, causes, and consequences of eviction,"[66] links the current nationwide "eviction epidemic"[67] to

Scheingold eds., 1998) (discussing institutional obstacles to cause lawyering and anti-poverty advocacy in Pittsburgh).

61. *See* ROBERT D. BULLARD, DUMPING IN DIXIE: RACE, CLASS, AND ENVIRONMENTAL QUALITY 21–73 (3d ed. 2000); *see also* Ronald H. Bayor, *Race, Ethnicity, and Political Change in the Urban Sunbelt South*, *in* SHADES OF THE SUNBELT: ESSAYS ON ETHNICITY, RACE, AND THE URBAN SOUTH 127, 127–42 (Randall M. Miller & George E. Pozzetta eds., 1988).

62. Neumann, *supra* note 51, at 8; *see* Laura A. Reese & Raymond A. Rosenfeld, *Reconsidering Private Sector Power: Business Input and Local Development Policy*, 37 URB. AFF. REV. 642 (2002).

63. Neumann, *supra* note 51, at 10.

64. *Id.* at 10–11 ("Yet from the perspective of mayors and civic leaders, Pittsburgh became—and remains today—an international model for postindustrial cities: it was a success story.").

65. On community vulnerability, see J. William Callison, *Lady Gaga and Liberty, Vulnerability, and Community*, 24 J. AFFORDABLE HOUSING & COMMUNITY DEV. L., at ix (2016).

66. MATTHEW DESMOND, EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY 333 (2016). For an earlier discussion of Desmond's work, see Alfieri, *Rebellious Pedagogy and Practice*, *supra* note 17, at 16–18.

the "problems endemic to poverty—residential instability, severe deprivation, concentrated neighborhood disadvantage, health disparities, even joblessness"—and to "the rapidly shrinking supply of affordable housing."[68]

To Desmond, eviction constitutes "a cause, not just a condition, of poverty."[69] Contextualizing eviction as a "process"[70] of involuntary displacement and urban removal spanning formal and informal evictions, landlord foreclosures, and building condemnations and demolitions illuminates the traumatic experience of inner-city tenants in predominantly black and poor neighborhoods like Miami's West Grove, an experience shared intimately by families and communities in the form of "heightened residential instability, substandard housing, declines in neighborhood quality, and even job loss."[71] Eviction, Desmond explains and the West Grove daily illustrates, "sends families to shelters, abandoned houses, and the street."[72] Equally distressing, Desmond notes, eviction induces "depression and illness, compels families to move into degrading housing in dangerous neighborhoods, uproots communities, and harms children."[73] In this way, the exploitative and extractive dynamics of the private rental housing markets Desmond documents in Milwaukee and elsewhere adversely affect "the lives of poor American families and their communities"[74] who collectively suffer the racialized "violence of displacement" and the loss of local cohesion and investment in the shared geography of urban space.[75]

67. DESMOND, *supra* note 66, at 305.
68. *Id.* at 333, 305.
69. *Id.* at 299.
70. *Id.* at 5, 317.
71. *Id.* at 331; *see id.* at 4–5, 33, 296, 330–31.
72. *Id.* at 5; *see also* David Smiley, *Evictions, Profits and Slum: The Slow Fade of Grand Avenue*, MIAMI HERALD (Dec. 2, 2016, 4:11 PM), http://www.miamiherald.com/news/local/community/miami-dade/article118514978.html [http://perma.cc/WAV8-WP8M].
73. DESMOND, *supra* note 66, at 5; *see also* Bezdek, *supra* note 3, at 69 ("[C]onstituents of the old neighborhood who are involuntarily displaced may experience significant hardships in economic terms, and in emotional and psychological distress as well.").
74. DESMOND, *supra* note 66, at 333; *see also* Marc Fried, *Grieving for a Lost Home: Psychological Costs of Relocation*, *in* URBAN RENEWAL: THE RECORD AND THE CONTROVERSY 359 (James Q. Wilson ed., 1966); AUDREY T. MCCOLLUM, THE TRAUMA OF MOVING: PSYCHOLOGICAL ISSUES FOR WOMEN 63–92 (1990); Mindy Thompson Fullilove, *Psychiatric Implications of Displacement: Contributions From the Psychology of Place*, 153 AM. J. PSYCHIATRY 1516 (1996).
75. DESMOND, *supra* note 66, at 298–300.

C. Segregation: St. Louis, Missouri

Furthermore, research on postindustrial urban development and racialized space[76] tracks the causes of metropolitan segregation nationwide, including the impact of economic, housing, and transportation policies.[77] Consider the racial segregation of St. Louis, and the suburban outer ring of municipalities like Ferguson.[78] Research shows that the confluence of municipal zoning,[79] public housing,[80] restrictive covenants,[81] government-subsidized suburban development,[82] boundary designation, annexation, and municipal incorporation policies,[83] inadequate services,[84] urban renewal and redevelopment programs,[85]

76. On racialized space and geography, see Keith Aoki, *Race, Space, and Place: The Relation Between Architectural Modernism, Post-Modernism, Urban Planning, and Gentrification*, 20 FORDHAM URB. L.J. 699 (1993); John O. Calmore, *Racialized Space and the Culture of Segregation: "Hewing a Stone of Hope From a Mountain of Despair"*, 143 U. PA. L. REV. 1233 (1995); and Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1841 (1994).

77. *See* GORDON, *supra* note 50; ARNOLD R. HIRSCH, MAKING THE SECOND GHETTO: RACE AND HOUSING IN CHICAGO, 1940–1960 (1983); RAYMOND A. MOHL, POVERTY & RACE RESEARCH ACTION COUNCIL, THE INTERSTATES AND THE CITIES: HIGHWAYS, HOUSING, AND THE FREEWAY REVOLT, (2002), http://www.prac.org/pdf/mohl.pdf [http://perma.cc/3WUU-BUU9]; BERYL SATTER, FAMILY PROPERTIES: RACE, REAL ESTATE, AND THE EXPLOITATION OF BLACK URBAN AMERICA (2009); SUGRUE, *supra* note 50.

78. *See* Rigel C. Oliveri, *Setting the Stage for Ferguson: Housing Discrimination and Segregation in St. Louis*, 80 MO. L. REV. 1053, 1066–70 (2015).

79. *See* Richard Rothstein, *The Making of Ferguson*, POVERTY & RACE, Nov./Dec. 2014, at 4 ("In 1916, St. Louis voters adopted an ordinance prohibiting black families from moving onto blocks with whites. When the U.S. Supreme Court prohibited such ordinances, the city's Plan Commission developed zoning policies that protected exclusive white neighborhoods from commercial and industrial uses, but assigned polluting industries, taverns and houses of prostitution to black neighborhoods, all with open racial justification.").

80. *Id.* ("The St. Louis and federal governments used public housing to undermine working-class integration in the central city by razing integrated neighborhoods and placing housing for blacks-only in the city's north side and for whites-only in the city's south side.").

81. *See id.* ("The Federal Housing Administration (FHA) issued mortgages in St. Louis and its suburbs to whites conditional on the adoption of pacts that imposed mutual obligations on neighbors never to sell a home to blacks; the St. Louis Real Estate Exchange used model language provided by the FHA for these covenants.").

82. *See id.* ("The FHA financed builders throughout St. Louis County to construct subdivisions to draw white lower- and middle-class families from the city, on explicit condition that no black families be permitted to participate in this suburban expansion."); *see also* Kevin Douglas Kuswa, *Suburbification, Segregation, and the Consolidation of the Highway Machine*, 3 J.L. SOC'Y 31 (2002); William E. Nelson & Norman R. Williams, *Suburbanization and Market Failure: An Analysis of Government Policies Promoting Suburban Growth and Ethnic Assimilation*, 27 FORDHAM URB. L.J. 197 (1999).

83. *See* Rothstein, *supra* note 79, at 4 ("Several St. Louis suburbs reacted to attempts of African Americans to purchase homes by condemning their properties (for example, for park use) or by adopting sudden zoning rules to make construction of integrated housing impossible.").

real estate and financial sector regulation,[86] and segmented labor markets[87] engendered deep-seated residential segregation in St. Louis. The research also shows that facially race-neutral public policies, such as federal home mortgage rules[88] and federal transportation subsidies,[89] fueled white suburban flight, disparately impacting black neighborhoods and reinforcing residential segregation. By exposing "interlocking and racially explicit public policies of zoning, public housing and suburban finance," and uncovering "publicly endorsed segregation policies of the real estate, banking and insurance industries," urban studies research clarifies how "governmental policies interacted with public labor market and employment policies" to deny inner-city black residents equal access to residential housing and skilled labor markets.[90]

As in Miami, the intersection of racialized federal, state, and local public policies in St. Louis resulted in the displacement of black residents from gentrifying urban neighborhoods and the subsequent resegregation of those residents into outer-ring, crime-ridden,[91] and associated debt-burdened[92]

84. *See id.* ("Because few neighborhoods in St. Louis were open to black residence, neighborhoods where African Americans were permitted became so overcrowded that slum conditions became inevitable.").

85. *See id.* ("The famed Gateway Arch was built on a razed neighborhood of African-American families, many of whom were forced to relocate to other segregated neighborhoods or inner-ring suburbs like Ferguson.").

86. *See id.* at 4, 11 ("As for so-called 'private' discrimination—the Missouri state agency responsible for regulation of real estate agents deemed selling a home in a white neighborhood to a black family to be professional misconduct that could lead to loss of license.").

87. *Id.* at 11.

88. *See* Raymond H. Brescia, *Subprime Communities: Reverse Redlining, the Fair Housing Act and Emerging Issues in Litigation Regarding the Subprime Mortgage Crisis*, 2 ALB. GOV'T L. REV. 164, 167 (2009); Alan M. White, *Borrowing While Black: Applying Fair Lending Laws to Risk-Based Mortgage Pricing*, 60 S.C. L. REV. 677, 693 (2009).

89. In his work on federal transportation subsidies and the expansion of the federal highway system into urban areas, Richard Rothstein points to both racially explicit and racially implicit kinds of impact. With respect to "explicit impact," Rothstein explains that "the routing of highways through urban areas was often designed to eliminate black neighborhoods that were close to downtowns." Rothstein, *supra* note 79, at 12. With respect to "implicit impact," he notes that "the generous financing of interstate highways relative to efficient public transportation facilitated the commutes of white suburbanites to office jobs in the city, while creating barriers to the access of urban dwellers (disproportionately black) to good industrial jobs in the suburbs." *Id.*

90. *Id.*

91. *See* Michael Pinard, *Poor, Black and "Wanted": Criminal Justice in Ferguson and Baltimore*, 58 HOW. L.J. 857 (2015).

92. *See* Neil L. Sobol, *Lessons Learned From Ferguson: Ending Abusive Collection of Criminal Justice Debt*, 15 U. MD. L.J. RACE RELIGION GENDER & CLASS 293 (2015).

suburbs like Ferguson, essentially reproducing the European model[93] of suburban segregation.[94] Like the urban redevelopment policy adopted by the City of Miami and Miami-Dade County, the policy of residential resegregation in St. Louis concentrated on "attracting middle and upper middle class residents back to city centers through a mix of housing types and amenities that appeal to young professionals and empty-nesters," in effect "restoring vibrancy and solvency to central cities through policies that inflict further harms on existing poor and working-poor residents."[95]

D. Deindustrialization: Memphis, Tennessee

By comparison, economic research culled from Memphis, Tennessee, documents "a vast racial divide" heightened by the "economic downturns and federal cutbacks" of the 1970s and the "factory closings" and deregulation of the 1980s.[96] During this period, Memphis suffered the "shut down" of "large industrial production" operations, including International Harvester, Firestone, and RCA, and witnessed the overseas migration of multinational corporations "to cheaper labor markets in Asia and Latin America."[97] As a direct and indirect consequence, unskilled black male factory workers "disproportionately lost jobs."[98] In fact, over four decades stretching from 1969 to 2008, manufacturing jobs declined and union membership plummeted across the Memphis region.[99] This twin deterioration reportedly "hit the black working poor the hardest and black communities the worst."[100]

Current research confirms that the postindustrial economy of Memphis is now dominated by "new service industries of logistics (transportation,

93. *See* PIETRO S. NIVOLA, LAWS OF THE LANDSCAPE: HOW POLICIES SHAPE CITIES IN EUROPE AND AMERICA 26–28 (1999).
94. *See* Rothstein, *supra* note 79, at 4; *see also* Ankur J. Goel et al., *Black Neighborhoods Becoming Black Cities: Group Empowerment, Local Control and the Implications of Being Darker Than* Brown, 23 HARV. C.R.-C.L. L. REV. 415, 419–22 (1988).
95. Bezdek, *supra* note 3, at 55.
96. MICHAEL K. HONEY, GOING DOWN JERICHO ROAD: THE MEMPHIS STRIKE, MARTIN LUTHER KING'S LAST CAMPAIGN 502–05 (2007); *see* Michael Honey & David Ciscel, *Memphis Since King: Race and Labor in the City*, POVERTY & RACE, Mar./Apr. 2009, at 8.
97. Honey & Ciscel, *supra* note 96, at 8.
98. *Id.* ("Black women remained the only breadwinner for many black families.").
99. *Id.* at 8–9 ("Those manufacturers that remained paid less: In 2007, the Memphis manufacturing sector averaged a mere $30,400 for full-time work—less than the per capita income in the region and barely enough for a living wage for a family of three.").
100. *Id.* at 9.

warehousing and wholesale trade) and medical services."[101] These largely unskilled service industries afford "new employment in logistics, medical services, gaming, hotels and restaurants" for low-wage "guards, clerks, orderlies, servers and other temporary workers" without the economic benefit of promotional opportunities, predictable working conditions, or income stability.[102] As a result, occupational segregation predominates within both the logistics and medical services industries, yielding "high poverty and inner-city crime rates, a weak educational system, and a population still separated by race and class."[103] The upshot in Memphis and in cities like Pittsburgh, Milwaukee, St. Louis, and Miami is the rise of "a sub-proletariat of permanently poor people."[104]

E. Disenfranchisement: Miami, Florida

Like much of Black Miami,[105] today the West Grove survives as an urban artifact of the Jim Crow South and its legacy of concentrated poverty and economic inequality, segregation, and political disenfranchisement. Settled in the 1870s and 1880s by black Bahamian immigrants hired as farmhands, laborers, and domestic servants, the West Grove (long known locally as "Colored Town") originated on Evangelist Street, now Charles Avenue, in a neighborhood called Kebo[106] and expanded west to Old Dixie Highway and north to Grand Avenue and later to the seven ramshackle streets beyond.[107] After 1900,

101. *Id.* ("Unions represent less than a quarter of transportation and warehouse workers in general, and the percentage is clearly less in the Memphis area, where only the airline pilots are consistently unionized.").
102. *Id.* ("For warehouse workers, for many transportation workers, for the multitude of guards and security personnel, for the 'customer associates' in retail trade, and for the army of new medical personnel, training and education were beside the point.").
103. *Id.* at 10 ("[B]oth industries have built employment conditions that emphasize: (1) 24/7 on-demand work from workers; (2) job control that is completely externalized from the worker; and (3) use of contract/temporary labor as a component of the labor market discipline.").
104. *Id.*; *cf.* SHERYLL CASHIN, THE FAILURES OF INTEGRATION: HOW RACE AND CLASS ARE UNDERMINING THE AMERICAN DREAM (2004); Sheryll D. Cashin, *Drifting Apart: How Wealth and Race Segregation are Reshaping the American Dream*, 47 VILL. L. REV. 595, 599 (2002).
105. *See* Andrew Boryga, *Life in the Black Miami of "Moonlight,"* NEW YORKER (Dec. 11, 2016), http://www.newyorker.com/culture/photo-booth/life-in-the-black-miami-of-moonlight [http://perma.cc/S7SN-KDJF] ("Coconut Grove was the first black settlement in Southern Florida, populated mostly by Bahamian immigrants, until, after the Second World War, homes were torn down and replaced with pricey apartment buildings, pushing working-class families farther west.").
106. DUNN, *supra* note 4, at 33–34.
107. *See* Alex Joseph Plasencia, A History of West Coconut Grove From 1925: Slum Clearance, Concrete Monsters, and the Dichotomy of East and West Coconut Grove 17, 24–25, 46–47 (May 2011) (unpublished M.A. thesis, Clemson University) (on file with Tiger Prints at Clemson University); *see also* Arva Moore Parks, *History of West Coconut Grove*, *in* REIMAGINING WEST

"Georgia negroes" attracted by "the coming of the [Florida East Coast] Railroad" migrated south to Coconut Grove.[108] The Georgia "railroad workers," according to the late West Grove activist Esther Mae Armbrister, "lived on the west side of Douglas and Bahamians lived on the east side."[109] Although black and white residents reportedly "coexisted" under the decree of Jim Crow segregation[110] and the threat of Ku Klux Klan violence,[111] Thelma Anderson Gibson, another long-time West Grove activist, recollects that such coexistence rested on psychological subordination and physical separation. Gibson recalls: "we sort of knew our place and our place was in West Coconut Grove in Colored Town."[112]

In 1925, the City of Miami annexed Coconut Grove, sparking a boom in the East Grove commercial and residential real estate markets on Biscayne Bay and consigning the West Grove to struggle with neglected "old houses" and "no infrastructure" for private investment and neighborhood improvement.[113] In 1946, the City of Miami municipal planning board approved the Miami Housing Authority's construction of "low-rent housing for blacks" on a twenty-four-acre tract in Coconut Grove "divided by a wall and a seventy-four-foot buffer strip between the white and black sections" to provide "'suitable protection' to white Grove residents."[114] In 1948, spurred by the inadequacy of "negro property" and an "acute shortage of negro housing" as well as a general lack of household electricity and adequate plumbing,[115] Father Theodore Gibson of the West

COCONUT GROVE 20, 24–25 (Samina Quraeshi ed., 2005); Arva Moore Parks, The History of Coconut Grove, Florida 1821–1925, at 38–42 (June 1971) (unpublished M.A. thesis, University of Miami) (on file with author).

108. George E. Merrick, *Pre-Flagler Influences on the Lower Florida East Coast*, 1 TEQUESTA 1, 5 (1941).

109. William Labbee, *Black Grove Feature*, MIAMI NEW TIMES (July 31, 1991, 4:00 AM), http://www.miaminewtimes.com/news/black-grove-feature-6365177 [http://perma.cc/6CPQ-MTEK]; *see also* Tomiko Brown-Nagin, *Race as Identity Caricature: A Local Legal History Lesson in the Salience of Intraracial Conflict*, 151 U. PA. L. REV. 1913, 1925–27 (2003).

110. Plasencia, *supra* note 107, at 7.

111. *See* CONNOLLY, *supra* note 46, at 133 ("In the wake of [Dade County] black in-migration, Brownsville became the site of repeated cross burnings, Klan marches, and other threats of white terrorism."); Plasencia, *supra* note 107, at 6 ("Certainly I used to hear the old people talk about the times when the Klan would parade through Coconut Grove." (quoting Greg Bush, *Oral Histories*, *in* REIMAGINING WEST COCONUT GROVE, *supra* note 107, at 64)).

112. Plasencia, *supra* note 107, at 3 (quoting Interview by Alex Joseph Plasencia with Thelma Anderson Gibson, Coconut Grove Resident (Mar. 2010)).

113. *See* MARINA NOVAES, CITY OF MIAMI HISTORIC & ENVTL. PRES. BD., EVANGELIST STREET/CHARLES AVENUE DESIGNATION REPORT 13 (2012), www.historicpreservation miami.com/pdfs/Evangelist%20Street%20-Charles%20Avenue.pdf [http://perma.cc/8NR9-PCZR].

114. DUNN, *supra* note 4, at 207 (footnote omitted).

115. Plasencia, *supra* note 107, at 27–28 (quoting *Vote 4 to 0 Against Grove Tract: Ruling by Planning Board Is Reversed*, MIAMI HERALD, Aug. 16, 1944)); *id.* at 32 ("[P]rivies . . . were built so close to

Grove's Christ Episcopal Church,[116] civic activist Elizabeth Virrick, and a racially integrated group of a dozen others organized the Coconut Grove Citizens' Committee for Slum Clearance.[117] Remarking on the post-war evolution of race relations and racial activism in the West Grove, Mrs. Armbrister stated: "[W]hen the younger black men returned from the military training camps and from fighting the war . . . it was a different kind of attitude, because they were not going to be treated like the older blacks had been treated."[118] She added: "The younger ones had seen how other people in other places were living and the blacks in those other places were not taking this kind of stuff off the whites that we were taking here."[119]

Despite having "no political power,"[120] the Citizens' Committee sought to remedy the most acute inner-city slum conditions afflicting the four thousand post-war black residents of the West Grove,[121] especially deficient indoor plumbing and household electricity, inadequate sanitation, rat infestation, and sparse home construction and ownership.[122] In the 1950s and early 1960s, the municipal improvement efforts of the Citizens' Committee succumbed to the forces of outside developers and absentee landlords who razed single-family homes and erected multi-family "concrete monsters" along Grand Avenue and adjoining side streets.[123] Notwithstanding the preservation efforts of the Coconut Grove Homeowners and Tenants Association during the mid-1960s, decades of "zero development"[124] ensued during which local "initiatives . . . taken to protect and save West Grove and Charles Avenue from being lost, all failed."[125] Since 2003, the widening incursion of real estate developers and speculators into

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the water pumps that families used for everyday life. Homes in West Coconut Grove were not connected to a water main. Each individual water pump was used by an estimated 20 to 25 homes . . . they were greatly outnumbered by the nearly five hundred privies.").

116. Father Gibson, the president of the Miami chapter of the National Association for the Advancement of Colored People (NAACP) from 1954–1964, publicly protested the slum housing conditions in the West Grove, complaining: "My people are living seven deep." *Id.* at 31 (quoting CARITA SWANSON VONK, THEODORE R. GIBSON: PRIEST, PROPHET AND POLITICIAN (1997)).
117. *Id.* at 31–34; *see also* CONNOLLY, *supra* note 46, at 153–59.
118. Labbee, *supra* note 109; *see also* DUNN, *supra* note 4, at 204–05.
119. Labbee, *supra* note 109.
120. Plasencia, *supra* note 107, at 29.
121. *Id.* at 49; *see also* SLUM CLEARANCE COMM., DADE CTY. HEALTH DEP'T, DWELLING CONDITIONS IN THE TWO PRINCIPAL BLIGHTED AREAS: MIAMI, FLORIDA 1–29 (1949) (surveying the "Coconut Grove negro area").
122. Plasencia, *supra* note 107, at 28, 36.
123. *Id.* at 36.
124. *Id.* at 49.
125. NOVAES, *supra* note 113, at 13.

the West Grove has accelerated,[126] escalating gentrification[127] and the attendant eviction and displacement of low-income tenants to segregated low-income, black enclaves in southwest Miami-Dade County such as Goulds and adjacent outer-ring suburbs like Perrine and Richmond Heights.[128] The confluence of structural inequality, gentrification,[129] and displacement[130] in Miami's inner city and in Pittsburgh, Milwaukee, St. Louis, and Memphis erases "stable poor neighborhoods entirely, depriving the poor of vital support structures, in the sense of social networks and of personal psychological ties, related to long-term physical location of one's home."[131] Further, the continuous removal and resegregation of low-income, inner-city black populations across Miami-Dade County and municipalities elsewhere diminishes the personal attachments indispensable to the formation of community and the exercise of civic governance.

126. *See* Labbee, *supra* note 109.

127. On gentrification, Bezdek comments:

> Since the "back to the city" movement in the 1970s, gentrification has been welcomed by local governments as a cure for the ills of central city pockets of poverty. Many cities' economic development strategies are premised on the rationale that attracting capital investment to low-wealth city neighborhoods will mitigate the decline in their industrial base. Local governments believe they have direct economic incentives for pursuing revitalization strategies that attract middle class and higher-earning residents.

Bezdek, *supra* note 3, at 64–65 (footnote omitted) ("Increased property values may lead to increased property tax revenues, which local governments sorely need as they bear growing portions of the burdens of government, from street-sweeping to homeland security.").

128. *Hearing Before Planning, Zoning and Appeals Board, City of Miami* (Oct. 21, 2015) (statement of Anthony V. Alfieri).

129. For class and racial histories of urban gentrification, see LANCE FREEMAN, THERE GOES THE 'HOOD: VIEWS OF GENTRIFICATION FROM THE GROUND UP (2006); D.W. GIBSON, THE EDGE BECOMES THE CENTER: AN ORAL HISTORY OF GENTRIFICATION IN THE TWENTY-FIRST CENTURY 155–65 (2015); LORETTA LEES ET AL., GENTRIFICATION (2008); NEIL SMITH, THE NEW URBAN FRONTIER: GENTRIFICATION AND THE REVANCHIST CITY (1996); UPROOTING URBAN AMERICA: MULTIDISCIPLINARY PERSPECTIVES ON RACE, CLASS AND GENTRIFICATION 158–63 (Horace R. Hall, Cynthia Cole Robinson & Amor Kohli eds., 2014); Jon C. Dubin, *From Junkyards to Gentrification: Explicating a Right to Protective Zoning in Low-Income Communities of Color*, 77 MINN. L. REV. 739 (1993); Jonathan Glick, *Gentrification and the Racialized Geography of Home Equity*, 44 URB. AFF. REV. 280 (2008); Emily Ponder, *Gentrification and the Right to Housing: How Hip Becomes a Human Rights Violation*, 22 SW. J. INT'L L. 359 (2016); and Heather Smith & William Graves, *Gentrification as Corporate Growth Strategy: The Strange Case of Charlotte, North Carolina and the Bank of America*, 27 J. URB. AFF. 403 (2005).

130. *See* Bethany Y. Li, *Now Is the Time!: Challenging Resegregation and Displacement in the Age of Hypergentrification*, 85 FORDHAM L. REV. 1189 (2016); John A. Powell & Marguerite L. Spencer, *Giving Them the Old "One-Two": Gentrification and the K.O. of Impoverished Urban Dwellers of Color*, 46 HOW. L.J. 433 (2003).

131. Bezdek, *supra* note 3, at 70 (footnote omitted).

Surprisingly given the local and state history of partisan gerrymandering in Florida,[132] Goulds and many of the other low-income, black neighborhoods located in inner-city Miami, for example Little Haiti and Overtown, and in South Miami-Dade County, for example Florida City and Naranja, experiencing "uneven and unequal"[133] economic redevelopment triggered by unchecked gentrification and displacement are represented by black city and county commissioners.[134] Yet, Mr. Pastor and other Goulds residents openly express skepticism toward local black politicians and their claimed commitment to fair representation and municipal equity. Likewise, many black churches operate outreach ministries within inner-city Miami and the outer-ring suburbs of unincorporated Miami-Dade County, yet Mr. Pastor and others in Goulds and the West Grove voice misgivings about the civic contributions and political motivations of local ministers and their churches. Similarly, many tenants and homeowners living in Goulds and the other black enclaves of Miami-Dade County deplore the condition of their neighborhoods and denounce the quality of their municipal services, yet many remain reluctant to become involved in civic or political activities when such activities demand public dissent or organized opposition. Their reluctance stems in part from earlier government-sponsored efforts "to *demobilize* tenant organizing across the state" during the 1960s War on Poverty, politically calculated efforts "to weaken tenants' legal protections and affirm instead a paternalistic relationship between black tenants and their rental agency" landlords.[135] In point of fact, many of Miami-Dade County's urban and suburban areas lack the basic institutional capacity—including resources, volunteers, and training—to build and to sustain church ministries, neighborhood associations, and nonprofit organizations dedicated to civic engagement, political participation, and community self-governance. As Mr. Pastor remarked, inside

132. *See* Devon Ombres, *The Recent History of Gerrymandering in Florida: Revitalizing* Davis v. Bandemer *and Florida's Constitutional Requirements on Redistricting*, 20 WASH. & LEE J. C.R. & SOC. JUST. 297, 307–14 (2014); Jordan Lewis, Note, *Fair Districts Florida: A Meaningful Redistricting Reform?*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 189, 197–99 (2015).

133. On the uneven redevelopment of South Miami-Dade, see Andres Viglucci, *How an Area Destroyed by Hurricane Andrew 25 Years Ago Underwent a Radical Change*, MIAMI HERALD (Aug. 20, 2017, 2:37 PM), http://www.miamiherald.com/news/local/community/miami-dade/homestead/article 168213702.html [https://perma.cc/Z7L4-MNAG].

134. For example, District 5 of the City of Miami, represented by Commissioner Keon Hardemon, includes Little Haiti and Overtown. CITY MIAMI DISTRICT 5, http://www.miamigov.com/district5/index.html [https://perma.cc/HPJ9-ECK7]. Similarly, District 9 of Miami-Dade County, represented by Commissioner Dennis Moss, includes Goulds, Florida City, and Naranja. *See Welcome to District 9*, MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS: DENNIS C. MOSS, DISTRICT 9, http://www.miamidade.gov/district09/ [https://perma.cc/7F2J-9BK8].

135. CONNOLLY, *supra* note 46, at 225, 226 (emphasis added).

many of the urban and suburban black neighborhoods of Miami-Dade County, civic community is effectively gone.[136]

Nonetheless, today these and other historically segregated, impoverished communities are beginning the early labor of building a municipal equity movement of civic fairness[137] and new governance[138] in metropolitan Miami. Now in its nascent stages, the Miami municipal equity campaign is slowly assembling a coalition of inner-city black churches, homeowner and tenant associations, nonprofit organizations, and civic groups in a partnership with the Historic Black Church Program and other legal, financial, and social services providers to advance anti-poverty, civil rights, and environmental justice campaigns in South Florida. The partnership comes at a moment of renewed academic interest in the inner city[139] and resurgent activism in inner cities across the nation.[140] For advocates waging rights-centered law reform campaigns,[141] for

136. *See* D. Benjamin Barros, *Home as a Legal Concept*, 46 SANTA CLARA L. REV. 255, 270–76 (2006).

137. On municipal equity strategies to combat discrimination, see Scott A. Bollens, *Concentrated Poverty and Metropolitan Equity Strategies*, 8 STAN. L. & POL'Y REV. 11 (1997); Laurie Reynolds, *Intergovernmental Cooperation, Metropolitan Equity, and the New Regionalism*, 78 WASH. L. REV. 93 (2003); Robert G. Schwemm, Cox, Halprin, *and Discriminatory Municipal Services Under the Fair Housing Act*, 41 IND. L. REV. 717 (2008); and David D. Troutt, *Inclusion Imagined: Fair Housing as Metropolitan Equity*, 65 BUFF. L. REV. 5 (2017).

138. For application of public sector models of new governance, see Douglas NeJaime, *When New Governance Fails*, 70 OHIO ST. L.J. 323, 347, 363 (2009); Charles F. Sabel & William H. Simon, *Destabilization Rights: How Public Law Litigation Succeeds*, 117 HARV. L. REV. 1015, 1033–42 (2004); Charles F. Sabel & William H. Simon, *The Duty of Responsible Administration and the Problem of Police Accountability*, 33 YALE J. ON REG. 165, 200–09 (2016); and William H. Simon, *Solving Problems vs. Claiming Rights: The Pragmatist Challenge to Legal Liberalism*, 46 WM. & MARY L. REV. 127, 156 (2004). On experimentalism in local and state governance, see Kathleen G. Noonan, Charles F. Sabel & William H. Simon, *Legal Accountability in the Service-Based Welfare State: Lessons From Child Welfare Reform*, 34 L. & SOC. INQUIRY 523, 553–64 (2009); Charles F. Sabel & William H. Simon, *Minimalism and Experimentalism in the Administrative State*, 100 GEO. L.J. 53, 78–82 (2011); and David A. Super, *Laboratories of Destitution: Democratic Experimentalism and the Failure of Antipoverty Law*, 157 U. PA. L. REV. 541, 589–91 (2008).

139. For studies of the inner city, see MITCHELL DUNEIER, GHETTO: THE INVENTION OF A PLACE, THE HISTORY OF AN IDEA (2016), and THE GHETTO: CONTEMPORARY GLOBAL ISSUES AND CONTROVERSIES (Ray Hutchison & Bruce D. Haynes eds., 2012). Also see KENNETH B. CLARK, DARK GHETTO: DILEMMAS OF SOCIAL POWER (1965); ST. CLAIR DRAKE & HORACE R. CAYTON, BLACK METROPOLIS: A STUDY OF NEGRO LIFE IN A NORTHERN CITY (1945); and GUNNAR MYRDAL, AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY (1944).

140. *See, e.g.*, Amna A. Akbar, *Law's Exposure: The Movement and the Legal Academy*, 65 J. LEGAL EDUC. 352 (2015); Scott L. Cummings, *Teaching Movements*, 65 J. LEGAL EDUC. 374 (2015); Purvi Shah et al., *RadTalks: What Could Be Possible if the Law Really Stood for Black Lives?*, 19 CUNY L. REV. 91 (2015).

141. *See, e.g.*, ELLEN ANN ANDERSEN, OUT OF THE CLOSETS AND INTO THE COURTS: LEGAL OPPORTUNITY STRUCTURE AND GAY RIGHTS LITIGATION (2006); KENJI YOSHINO, SPEAK NOW: MARRIAGE EQUALITY ON TRIAL (2015).

academics studying the history of social justice movements,[142] and for activists struggling to mobilize low-income communities of color,[143] the inner city continues to be a focal point of progressive[144] legal-political work in the fields of civil[145] and criminal justice.[146] The next Part traces the progress of First Wave anti-poverty campaigns in their legal-political efforts to organize and to mobilize low-income communities in the inner city.

II. FIRST WAVE ANTI-POVERTY CAMPAIGNS

> Staff attorneys should regard local problems of neighborhood groups as being of major importance.
>
> —Burt W. Griffin[147]

This Part examines the First Wave of anti-poverty campaigns spearheaded by Edgar and Jean Cahn, Gary Bellow, and others in the service of economically and politically subordinated communities in municipalities like Pittsburgh,

142. *See, e.g.*, Scott L. Cummings & Douglas NeJaime, *Lawyering for Marriage Equality*, 57 UCLA L. REV. 1235 (2010); Douglas NeJaime, *The Legal Mobilization Dilemma*, 61 EMORY L.J. 663 (2012); Douglas NeJaime, *Winning Through Losing*, 96 IOWA L. REV. 941 (2011); *cf.* Catherine Albiston, *The Dark Side of Litigation as a Social Movement Strategy*, 96 IOWA L. REV. BULL. 61 (2011) (discussing demobilization risk in litigation-driven social movement strategy).

143. *See* Scott L. Cummings, *Mobilization Lawyering: Community Economic Development in the Figueroa Corridor*, 17 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 59 (2008); Richard C. Schragger, *Is a Progressive City Possible? Reviving Urban Liberalism for the Twenty-First Century*, 7 HARV. L. & POL'Y REV. 231, 252 (2013).

144. Scott Cummings links the term "progressive" to a wide "range of views generally associated with the political left in the United States beginning in the Progressive Era, which are directed at shifting power and resources to those at the bottom of social hierarchies, including the poor, racial and ethnic minorities, women, LGBT people, and political dissidents." Scott L. Cummings, *The Puzzle of Social Movements in American Legal Theory*, 64 UCLA L. REV. (published concurrently in this Symposium issue 2017) (manuscript at 3 n.6). To Cummings, the "basic tilt" of progressive work "is toward the achievement of greater equality as opposed to individual liberty (although it is often linked with civil libertarianism)." *Id.*

145. *See* Susan D. Carle, *Progressive Lawyering in Politically Depressing Times: Can New Models for Institutional Self-Reform Achieve More Effective Structural Change?*, 30 HARV. J.L. & GENDER 323, 330–34 (2007).

146. *See* MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS 97–140 (rev. ed. 2012); NOEL A. CAZENAVE, THE URBAN RACIAL STATE: MANAGING RACE RELATIONS IN AMERICAN CITIES (2011); KEEANGA-YAMAHTTA TAYLOR, FROM #BLACKLIVESMATTER TO BLACK LIBERATION (2016); Jessica A. Rose, Comment, *Rebellious or Regnant: Police Brutality Lawyering in New York City*, 28 FORDHAM URB. L.J. 619, 660 (2000).

147. Daniel H. Lowenstein & Michael J. Waggoner, Note, *Neighborhood Law Offices: The New Wave in Legal Services for the Poor*, 80 HARV. L. REV. 805, 817 n.71 (1967) (quoting Memorandum from Burt W. Griffin to Staff of the Legal Aid Society of Cleveland 4 (Apr. 25, 1966)).

Milwaukee, St. Louis, Memphis, and Miami's West Grove and Goulds, communities where residents are both politically disorganized and economically vulnerable. Together the foundational efforts of the Cahns, Bellow, and many of their contemporaries laid the groundwork for the modern pedagogy and scholarship of the lawyering process in clinical[148] and storefront settings,[149] and erected the framework for the institutional delivery of legal services and the organizational structure of legal services systems.[150] The institutional delivery of legal services pertains to the form, scope, and substance of representation, for example the provision of individual, class-wide, or group assistance by case type, client population, or neighborhood impact, and the division of lawyer and paralegal labor by advocacy forum, special expertise, and outcome metric. The organizational structure of legal services systems refers to internal matters of recruitment and retention, promotion and leadership, practice area specialization and training, and technology and innovation, as well as to external matters of field office geography, for-profit and nonprofit partnership, and private and public sector funding.

The First Wave of inner-city anti-poverty work led by the Cahns,[151] Bellow,[152] and other "new public interest lawyers"[153] departed from earlier models

148. *See* GARY BELLOW & BEA MOULTON, THE LAWYERING PROCESS: MATERIALS FOR CLINICAL INSTRUCTION IN ADVOCACY (1978); *see also* Susan Bryant & Elliott S. Milstein, *Reflections Upon the 25th Anniversary of the Lawyering Process: An Introduction to the Symposium*, 10 CLINICAL L. REV. 1, 11–19 (2003).

149. *See* Peter Edelman, *Responding to the Wake-Up Call: A New Agenda for Poverty Lawyers*, 24 N.Y.U. REV. L. & SOC. CHANGE 547, 561 (1998); Deborah M. Weissman, *Law as Largess: Shifting Paradigms of Law for the Poor*, 44 WM. & MARY L. REV. 737, 739 (2002).

150. *See* Edgar S. Cahn, *Reinventing Poverty Law*, 103 YALE L.J. 2133, 2155 (1994); Edgar S. Cahn & Jean Camper Cahn, *What Price Justice: The Civilian Perspective Revisited*, 41 NOTRE DAME L. REV. 927 (1966); Marc Feldman, *Political Lessons: Legal Services for the Poor*, 83 GEO. L.J. 1529 (1995).

151. *See* Edgar S. Cahn & Jean Camper Cahn, *Power to the People or the Profession?—The Public Interest in Public Interest Law*, 79 YALE L.J. 1005 (1970); Edgar S. Cahn & Jean C. Cahn, *The War on Poverty: A Civilian Perspective*, 73 YALE L.J. 1317 (1964) [hereinafter Cahn & Cahn, *The War on Poverty*].

152. *See* Gary Bellow, *Legal Services in Comparative Perspective*, 5 MD. J. CONTEMP. LEGAL ISSUES 371 (1994); Gary Bellow, *On Talking Tough to Each Other: Comments on Condlin*, 33 J. LEGAL EDUC. 619 (1983); *see also* Oral History Interview by Zona Hostetler with Gary Bellow (Mar. 17, 1999), https://repository.library.georgetown.edu/bitstream/handle/10822/709332/nejl009_g_bellow.pdf [http://perma.cc/6K5G-7WGK].

153. *See* Comment, *The New Public Interest Lawyers*, 79 YALE L.J. 1069, 1070 (1970). *See generally* Charles R. Halpern & John M. Cunningham, *Reflections on the New Public Interest Law: Theory and Practice at the Center for Law and Social Policy*, 59 GEO. L.J. 1095, 1103–05 (1971); James Lorenz, *Lawyers, Law, and the Poor*, 27 GUILD PRAC. 192, 194–95 (1968); Francis B. Stevens & John L. Maxey, II, *Representing the Unrepresented: A Decennial Report on Public-Interest Litigation in Mississippi*, 44 MISS. L.J. 333, 337 (1973).

of political lawyering[154] to focus on the multiple needs of low-income clients struggling to negotiate welfare bureaucracies, public housing systems, and urban renewal programs in the 1960s.[155] Molded by civil rights[156] and legal aid practice traditions,[157] but wary of unpredictable judicial outcomes[158] and watchful of institutional deficiencies,[159] First Wave anti-poverty campaigns embraced the neighborhood law office model[160] as an innovative institutional vehicle for the delivery of "comprehensive, integrated" legal services to clients,[161] groups,[162] and

154. *See* ARTHUR KINOY, RIGHTS ON TRIAL: THE ODYSSEY OF A PEOPLE'S LAWYER 39 (1983); RADICAL LAWYERS: THEIR ROLE IN THE MOVEMENT AND IN THE COURTS 51 (Jonathan Black ed., 1971); THE RELEVANT LAWYERS 18–39 (Ann Fagan Ginger ed., 1972); Richard L. Abel, *Lawyers and the Power to Change*, 7 L. & POL'Y 5, 5–12 (1985); Steve Bachmann, *Lawyers, Law, and Social Change*, 13 N.Y.U. REV. L. & SOC. CHANGE 1, 21–26 (1984–85); Paul Harris, *The San Francisco Community Law Collective*, 7 L. & POL'Y 19, 19–23 (1985).

155. *See* MARTHA F. DAVIS, BRUTAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960–1973 (1993); COREY S. SHDAIMAH, NEGOTIATING JUSTICE: PROGRESSIVE LAWYERING, LOW-INCOME CLIENTS, AND THE QUEST FOR SOCIAL CHANGE (2009).

156. *See generally* SUSAN CARLE, DEFINING THE STRUGGLE: NATIONAL ORGANIZING FOR RACIAL JUSTICE, 1880–1915, at 260–65 (2013); GENNA RAE MCNEIL, GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS 76–82 (1983); Kenneth W. Mack, *Rethinking Civil Rights Lawyering and Politics in the Era Before* Brown, 115 YALE L.J. 256, 273 (2005).

157. *See generally* EMERY A. BROWNELL, LEGAL AID IN THE UNITED STATES 1–17 (Greenwood Press. Publishers 1971) (1951); EARL JOHNSON, JR., JUSTICE AND REFORM: THE FORMATIVE YEARS OF THE OEO LEGAL SERVICES PROGRAM 37–71 (1974) [hereinafter JOHNSON, JUSTICE AND REFORM]; I EARL JOHNSON JR., TO ESTABLISH JUSTICE FOR ALL: THE PAST AND FUTURE OF CIVIL LEGAL AID IN THE UNITED STATES (2014) [hereinafter JOHNSON, TO ESTABLISH JUSTICE FOR ALL]; JACK KATZ, POOR PEOPLE'S LAWYERS IN TRANSITION 34 (1982); HARRY P. STUMPF, COMMUNITY POLITICS AND LEGAL SERVICES: THE OTHER SIDE OF THE LAW (1975); E. Clinton Bamberger, Jr., *The Legal Services Program of the Office of Economic Opportunity*, 41 NOTRE DAME L. REV. 847, 847–49 (1966); Jerome E. Carlin & Jan Howard, *Legal Representation and Class Justice*, 12 UCLA L. REV. 381, 408 (1965); A. Kenneth Pye, *The Role of Legal Services in the Antipoverty Program*, 31 L. & CONTEMP. PROBS. 211, 212 (1966).

158. *See* SUSAN E. LAWRENCE, THE POOR IN COURT: THE LEGAL SERVICES PROGRAM AND SUPREME COURT DECISION MAKING 16–39 (1990).

159. *See* Leroy D. Clark, *The Lawyer in the Civil Rights Movement—Catalytic Agent or Counter-Revolutionary?*, 19 U. KAN. L. REV. 459, 468 (1971); Philip J. Hannon, *The Leadership Problem in the Legal Services Program*, 4 L. & SOC'Y REV. 235, 235–36 (1970); Geoffrey C. Hazard, Jr., *Social Justice Through Civil Justice*, 36 U. CHI. L. REV. 699, 704 (1969).

160. Lowenstein & Waggoner, *supra* note 147, at 809 ("The aspect of the New Wave in legal services that has probably been most universally accepted is the neighborhood concept, the idea that legal assistance offices should be geographically decentralized.").

161. Cahn & Cahn, *The War on Poverty*, *supra* note 151, at 1320 ("By service programs, we mean the rendering of assistance to persons in whatever form the professional deems appropriate: *e.g.*, advice, medical care, financial aid, education, training, or material goods."). The Cahns point to New Haven's comprehensive program to illustrate the "attempt to deal simultaneously with education, recreation, delinquency, housing, unemployment, and the problems of the aged. Its designers' and sponsors' appreciation of the interrelatedness of these social problems was coupled

communities.[163] To apportion services efficiently, First Wave campaigns experimented with various case and client triage selection methods. On close inspection, these initial selection methods functioned as crude sorts of multivariable theorems, albeit undeveloped in theory and unverifiable in practice. In addition to, and sometimes in place of, customary income and subject matter eligibility rules, the theorems relied on a collection of legal and political factors haphazardly balanced to determine appropriate case and client selection outcomes. Jurisprudentially amorphous and empirically unsubstantiated, these selection standards or theorems have proven to be an unshakable feature of the lawyering process in anti-poverty campaigns. Consider, for example, the Cahns' original democratic integrity theorem.

A. The Democratic Integrity Theorem

From the outset, the Cahns and other First Wave scholars acknowledged that the traditional service-oriented legal aid programs spawned by the War on Poverty[164] reinforced a hierarchical "donor-donee" relationship inimical to grassroots, community leadership development, political engagement, and group

with an awareness of the frustrations and shortcomings experienced in social welfare programs which invariably encountered problems broader than their artificially defined jurisdictions." *Id.* at 1319. The Cahns cite the New Haven program as "the logical outcome of developments toward increased coordination and communication among varying social service and related agencies;" and as "the product of a growing consensus amongst persons working in education, juvenile delinquency, urban renewal, and related fields that the only enduring solution to urban ills would result from a program that viewed the city as a whole and had the capacity to restore health to the entire organism." *Id.*

162. *See* Lowenstein & Waggoner, *supra* note 147, at 818–19 ("That neighborhood lawyers can help local groups assert their power and win a greater share of public facilities is already becoming apparent. . . . Neighborhood lawyers can also be useful to neighborhood groups seeking to assert economic power. Rent strikes have received the most attention, but buyers' strikes and other methods of asserting economic power seem likely to become increasingly common." (footnote omitted)).

163. Daniel Lowenstein and Michael Waggoner point to "the short-changing of many slum neighborhoods in the distribution of public facilities" as one of the "the most visible manifestation of injustice caused by the inability of the poor to assert power" as well as "the generally low quality of slum schools" and "the occasional failure of cities to build or repair sidewalks" and even "the reduced number of mail deliveries and pickups in poor neighborhoods." *Id.* at 818 (footnote omitted).

164. *See generally* DAVIS, *supra* note 155; JOHNSON, JUSTICE AND REFORM, *supra* note 157; JOHNSON, TO ESTABLISH JUSTICE FOR ALL, *supra* note 157; SAR A. LEVITAN , THE GREAT SOCIETY'S POOR LAW: A NEW APPROACH TO POVERTY (1969); JAMES T. PATTERSON, AMERICA'S STRUGGLE AGAINST POVERTY, 1900–1994 (1994); Peter Edelman, *The War on Poverty and Subsequent Federal Programs: What Worked, What Didn't Work, and Why? Lessons for Future Programs*, 40 CLEARINGHOUSE REV. 7 (2006).

independence.[165] Hierarchical relationships, they argued, perpetuated "dependency,"[166] confirmed status "subserviency,"[167] and insulated legal services providers from the "democratic market place."[168] They also cautioned that mechanical or rote consultation with client constituents in the design and implementation of case or client triage strategies, when such constituents "are not equipped to analyze or criticize" planned strategies due to a "lack of information, expertise, articulateness and resources," or a "sense of futility, fear, or apathy,"[169] badly undercuts the community-based, democratic integrity of triage decision plans and processes.[170]

Under the most exacting account of the Cahns' First Wave democratic integrity theorem, the decision to engage in outsider legal-political intervention comes as the pragmatic result of an open and inclusive process of community triage deliberation. The content of that process and the form of the intervention derive legitimacy from the active participation of constituent client groups or partners, rather than from their simple acquiescence or implied consent.[171] Maintaining interventionist legitimacy in inner-city neighborhoods like the West Grove or outer-ring neighborhoods like Goulds requires a sustained mutual lawyer and client commitment to certain *normative* and *strategic* principles. For the Cahns, normative principles relevant to the West Grove and Goulds encompass client dignity, full citizenship, democratic participation, and civic self-sufficiency. Further, for the Cahns, strategic principles apposite to the West Grove and Goulds include resource maximization, cost efficiency, risk management, alliance building and solidarity, unified client-lawyer decision-making authority and responsibility, mobilization and planning, and leadership recruitment[172] and retention.[173] For lawyers and

165. Cahn & Cahn, *The War on Poverty*, *supra* note 151, at 1321.
166. *Id.*
167. *Id.* at 1322.
168. *Id.*
169. *Id.* at 1325.
170. *See* Lani Guinier, *Beyond Legislatures: Social Movements, Social Change, and the Possibilities of Demosprudence*, 89 B.U. L. REV. 539, 547–49 (2009); Lani Guinier, *The Supreme Court, 2007 Term—Foreword: Demosprudence Through Dissent*, 122 HARV. L. REV. 4, 115 (2008).
171. For the purposes of comprehensive strategic planning and legal-political mobilization, the Cahns highlight the importance of community-wide consultation and participation in both the design and implementation process. Cahn & Cahn, *The War on Poverty*, *supra* note 151, at 1323–25.
172. *See id.* at 1325–29. Lowenstein and Waggoner comment:

> The poor who participate may gain important organizational skills and experience in exercising power, as well as psychological benefits. In addition successful participation can be of great value to the legal services program itself. Those who participate can be conduits of information; they can help communicate the program's ideas to the community, and they can also keep the lawyers and

clients engaged in case or community triage deliberations under the conditions of neighborhood social disorganization prevalent in Pittsburgh, Milwaukee, St. Louis, Memphis, and Miami, these normative and strategic considerations dictate a participatory and transparent triage selection process aimed at the revitalization of local democratic self-governance and the political enfranchisement of subordinated populations.[174]

Both the normative and strategic principles of First Wave anti-poverty triage campaigns come under strain when tested by the conditions of "disorganized" neighborhoods[175] like Goulds, the West Grove, and numerous other low-income, black urban and suburban enclaves of Miami-Dade County. By disorganized neighborhood, I mean a neighborhood that the Cahns describe as "lacking in stable, energetic citizens groups to advance demands" or a neighborhood "unable and unwilling to expend energy for anything other than the most immediate needs and incapable of organizing except around specific short-term grievances."[176] In spite of these debilitating constraints, the Cahns point out that neighborhoods bereft of such accumulated political and socioeconomic resources may nevertheless benefit from outside interventionist "legal activity" ranging from direct legal assistance to systemic law reform even "where the law appears contrary to the interests" of a community and "where no judicially cognizable right can be asserted."[177] Precisely in such "non-legal" circumstances, the Cahns note, untested reform-oriented legal theories may sometimes provide a "form of discourse" useful in stimulating the organization and growth of civic groups in an otherwise disorganized neighborhood.[178]

> administrators informed as to community sentiment and protect the program from inadvertent blunders that might lead to antagonism and hostility.

Lowenstein & Waggoner, *supra* note 147, at 828.

173. *See* Cahn & Cahn, *The War on Poverty*, *supra* note 151, at 1325–32; *see also* Lowenstein & Waggoner, *supra* note 147, at 828 ("Effective participation of the poor can be an important protection against the devitalization of the program that is likely to accompany the passage of time. The presence of poor people, working in or helping to direct the program, can remind the lawyers in the program that they must not get so caught up in their own goals and pursuits that they forget the feelings and needs of their clients.").

174. *See* Cahn & Cahn, *War on Poverty*, *supra* note 151, at 1333–34.

175. *Id.* at 1335.

176. *Id.*

177. *Id.* at 1335, 1336.

178. *Id.* at 1345. The Cahns further note:

> Where what is sought is a change of conduct or perception, the legal theory used as a form of discourse need not have the relative impregnability or authority required to obtain a court judgment for damages or specific performance. Consequently, even novel theories, where they effectively communicate the equities, can be of significant use in remedying situations characterized by excess of authority, abuse of

Like the institutionally regulated procedures of case or client triage,[179] the calibrated interventions of community triage under the Cahns' democratic integrity theorem warrant more than conventional "legal" activity and "non-legal" discourse and more than lawyer "intuition, empathy, and hunch."[180] Consider Goulds, for example, a disorganized, impoverished neighborhood currently undergoing a preliminary needs assessment by the Historic Black Church Program and its community-based partners for inclusion in the emerging Miami municipal equity campaign.[181] For the Historic Black Church Program and its more than 60 community partners, Goulds and other similarly disenfranchised neighborhoods present difficult normative and strategic challenges in utilizing the Cahns' triage theorem.[182]

In formulating their triage theorem, the Cahns enumerate a set of case selection considerations and procedures strikingly applicable to the evolving neighborhood assessment and intervention protocols of the Miami municipal equity campaign. Those normative and strategic considerations include: (1) the "larger social ills" in controversy; (2) the capacity of "existing facilities," including nonprofit or for-profit legal services providers, to "adequately handle the situation"; (3) the urgency of the matter; (4) the "opportunity to establish or strengthen a functional relationship with other legal and social agencies" in the region; (5) the "symbolic" importance of the matter to the wider public; (6) the underserved character of the area or underinvestigated nature of the issue; and (7) the "potential" to trigger civic "leadership" activity around the controversy.[183]

The Cahns' battery of prescribed normative and strategic considerations offers a multivariable method to assess the logic of community intervention in Goulds, particularly pertaining to the Karis Village housing project. The Cahns' first variable assays the larger social ills in controversy. Here the county's siting of Karis Village, an undesirable land use, in Goulds without direct and meaningful notice to, or the participation of, community stakeholders ranging from

> discretion, abuse of a confidential relationship, or omission amounting to negligence.
>
> *Id.*

179. For useful accounts of legal services rationing and triage systems, see I. Glenn Cohen, *Rationing Legal Services*, 5 J. LEGAL ANALYSIS 221 (2013), and D. James Greiner, *What We Know and Need to Know About Outreach and Intake by Legal Services Providers*, 67 S.C. L. REV. 287 (2016).

180. Cahn & Cahn, *The War on Poverty*, *supra* note 151, at 1346.

181. *See infra* notes 434–495 and accompanying text.

182. *See* Cahn & Cahn, *The War on Poverty*, *supra* note 151, at 1346 ("The single most important consideration will be that of the civilian perspective, of the avowed purpose of effectively articulating the grievances of a community and thereby increasing the responsiveness of officials and private parties to the equitable demands of that community's members.").

183. *Id.* at 1347–48.

homeowners and tenants to small businesses and nonprofit entities raises important overlooked issues of civic governance, distributive fairness, and political representation. In this way, the first variable tilts toward intervention.

The Cahns' second variable gauges the capacity of existing city- or county-wide legal services providers to handle the Karis Village situation. In South Florida, the nonprofit bar lacks the capacity and expertise, and the pro bono bar lacks the economic incentive and political motivation, to investigate or litigate the procedural and substantive issues implicated by the Karis Village project. The South Florida nonprofit bar, including legal services, legal aid, and public interest organizations, lacks the capacity to intervene because of the increasing demand for legal services in the already high volume areas of consumer, family, housing, immigration, and public benefits law, and because of the decreasing levels of federal and state funding available to underwrite indigent civil legal assistance. The nonprofit bar lacks the expertise to intervene because the field of municipal equity, especially the components of land use and local government law, stand outside the conventional province of poverty lawyers in terms of both legal education and technical training. By contrast, the South Florida pro bono bar lacks the economic incentive to intervene because municipal equity clients, whether group or organizational, are unlikely to generate attorneys' fees and advance or reimburse litigation costs. The pro bono bar also lacks the political motivation to intervene because law firms often are reluctant to enter into an adversary relationship with "repeat player" government entities or risk unrelated soft "business" conflicts of interest with banking or commercial and residential real estate development clients, whether former, current, or prospective. Thus, the second variable in the same way tilts toward intervention.

The Cahns' third variable evaluates the legal and political urgency of the matter in dispute. Here the Karis Village matter, though a clear exemplar of an undesirable land use designation and a twin deprivation of due process and equal protection, lacks the urgency of more compelling community needs, for instance the mass eviction of low-income tenants or the environmental contamination of public parks in the West Grove. For this reason, the third variable tips against intervention.

The Cahns' fourth variable estimates the opportunity to establish or strengthen civic, legal, and social services relationships in Goulds and Miami-Dade County. Here the Karis Village matter presents a strategic opportunity to establish and strengthen relationships with local churches and civic associations, for example the Goulds Coalition of Ministers and Lay People, Inc. and the Goulds Community Advisory Committee, as well as civil rights and

environmental groups in the hurriedly redeveloping southwest agricultural region of the county. Hence, the fourth variable also tilts toward intervention.

The Cahns' fifth variable weighs the symbolic importance of the Karis Village matter to the wider public arena of Miami-Dade County and South Florida. Here the Karis Village matter carries the potential to educate the public and the media about the repeated municipal siting of undesirable land uses, such as bus depots, homeless shelters, and trash incinerators, in low-income communities of color throughout the county. Accordingly, the fifth variable tilts as well toward intervention.

The Cahns' sixth variable appraises the underserved character of the geographic area and the underinvestigated nature of the civic issue at hand. Here Goulds constitutes, by any legal services baseline, an underserved area and client population. Moreover, by any environmental justice benchmark, the racially discriminatory land use siting patterns and practices carried out by the county constitute an underinvestigated civic issue. Therefore, the sixth variable also tilts toward intervention.

The Cahns' seventh and final variable calculates the local potential to trigger individual leadership and group mobilization around the matter in controversy. Here the pronounced political and social disorganization of East and West Goulds, and the cooptation and control of the Goulds Community Advisory Committee by local "political bosses" and "ward machines," limits the likelihood of activating robust civic leadership or mobilization around the Karis Village controversy. In this respect, the seventh variable tips against intervention.

In sum, under the Cahns' democratic integrity theorem, five variables tilt in favor of, and two tilt against, community triage intervention in Goulds over the Karis Village controversy. Resolution of this divided outcome demands an effort to rank order and balance the Cahns' seven discrete triage variables. Before attempting to order and scale those competing variables, however, it is important to recall that the Cahns' theorem contains no balancing formula or ranking procedure for its seven variables. Devised in part to curtail hierarchical relationships of dependency and subserviency, the theorem requires legal services providers only to engage in, and stand accountable to, the democratic marketplace of constituent (client and community) consultation. The Cahns' theorem nowhere dictates a legal-political balancing or ranking formula for its multiple variables. For example, there is no indication that the larger social ills of the first variable overrides the issue urgency of the third variable or that the symbolic value of the fifth variable overcomes the mobilization potential of the seventh variable. The theorem instead rests on client and, by extension, community consultation as a means of ensuring democratic accountability and

solidarity. For such consultation to be meaningful, client and community constituents must possess the previously referenced "information, expertise, articulateness and resources"[184] necessary to participate critically in the design and implementation of triage strategies.

Although the constituents of East and West Goulds may lack the immediate information, expertise, articulateness, and resources necessary to participate fully in a democratic dialogue of civic self-governance regarding the merits of Karis Village and other complex municipal equity issues, the countervailing variables of issue urgency and mobilization potential seem plainly susceptible to community consultation in the form of joint client-lawyer, community-based research, analysis, and deliberation. For example, the Goulds Coalition of Ministers and Lay People may feasibly convene a joint meeting or a series of meetings of civic groups to consider and assess the issue urgency and mobilization potential posed by Karis Village and other suburban development projects. The Cahns' commitment to democratic integrity turns on the participatory quality of that joint research, analysis, and deliberation in collectively determining the legal-political "urgency" and mobilization "potential" posed by the Karis Village dispute in East and West Goulds. Absent substantial constituent client and community participation in such cooperative civic activities, the democratic integrity of the triage selection process put forward by the Cahns erodes. That erosion casts doubt on the legitimacy of triage intervention and nonintervention judgments about Karis Village and like developments especially when, as here, more urgent needs and more ample opportunities for grassroots mobilization may be found outside Goulds in other impoverished inner-city and outer-ring neighborhoods of Miami-Dade County. To resolve this crucial legitimacy problem, consider Bellow's alternative legal-political alliance theorem of triage planning and process.

B. The Legal-Political Alliance Theorem

In the wake of early First Wave scholarship, Bellow and others clarified and expanded the Cahns' triage democratic integrity theorem in framing anti-poverty campaigns.[185] Like the Cahns, Bellow set forth an oppositionist social vision of legal-political work "in service to both individuals and larger, more collectively oriented goals."[186] Under this transformative vision, the goals of advocacy target

184. *Id.* at 1325.

185. *See* Gary Bellow & Jeanne Kettleson, *From Ethics to Politics: Confronting Scarcity and Fairness in Public Interest Practice*, 58 B.U. L. REV. 337, 342–58 (1978).

186. *See* Gary Bellow, *Steady Work: A Practitioner's Reflections on Political Lawyering*, 31 HARV. C.R.-C.L. L. REV. 297, 300 (1996).

"deep-seated, structural, and cultural change" through multiple tactics and strategies including class-wide injunctive litigation, individual case aggregation, bureaucratic maneuvering, and community and union organizing.[187] This integrated vision of advocacy and organizing, Bellow admits, lays "greater emphasis on mobilizing and educating clients, or strengthening the entities and organizations that represented them, than on judicial outcomes."[188] That democratic or political emphasis denominates litigation "as a vehicle for gathering information, positioning adversaries, asserting bargaining leverage, and adding to the continuing process of definition and designation that occurs in any conflict."[189]

To Bellow, both case and community triage form part of the politicized, law-oriented interventions of anti-poverty campaigns.[190] In long-term anti-poverty campaigns like the Miami municipal equity campaign, this change-oriented focus links legal strategies to oppositional politics in a wide array of economic, cultural, and social contexts. Those contexts, Bellow explains, frequently give rise to new political formations. In the West Grove, for example, five grassroots organizations—Housing for All, People Organizing with Empowered Residents, West Grove Vote, the Old Smokey Environmental Justice Steering Committee, and the Grove United Environmental Health Coalition—emerged in part from the decade-long anti-poverty and civil rights campaign partnership between the Historic Black Church Program and the Coconut Grove Ministerial Alliance of Black Churches. The partnership forged a consortium of civic, historic preservation, and homeowner and tenant associations coalesced around a broad campaign composed of distinctly politicized, law-oriented local interventions in the fields of environmental justice, fair housing, public health, and municipal equity.

Continuous adaptation to such new political configurations, Bellow observes, requires lawyers to make self-conscious, "hard-headed assessments of what works and why" at a street level and "to relinquish strategies and goals born of different possibilities and particularities" in local neighborhoods, agency bureaucracies, legislative bodies, and court systems.[191] Bellow envisions strategic

187. *Id.*; *see also* Scott L. Cummings, *Hemmed In: Legal Mobilization in the Los Angeles Anti-Sweatshop Movement*, 30 BERKELEY J. EMP. & LAB. L. 1, 10 (2009); Scott L. Cummings, *Litigation at Work: Defending Day Labor in Los Angeles*, 58 UCLA L. REV. 1617, 167 (2011); Scott L. Cummings, *Preemptive Strike: Law in the Campaign for Clean Trucks*, 4 U.C. IRVINE L. REV. 939, 1130 (2014).
188. Bellow, *supra* note 186, at 300.
189. *Id.*
190. *Id.*
191. *Id.* at 306.

assessments of this kind as a form of "political practice."[192] Concrete aspects of that practice include "information-gathering, problem-defining, and remedy-forming" investigative and strategic planning exercises.[193] Additional aspects of the same practice involve "the embrace of a highly localized and incremental form of political activism" as well as "a general willingness to build connections and community around tentative commitments and action in the face of uncertainty."[194] Commitments, whether tentative or full-fledged, may materialize through the negotiation of an informal partnership memorialized by a memorandum of understanding or the formation of a formal client-lawyer relationship confirmed by a letter of engagement or a retention agreement. Such commitments may change in the face of shifting municipal policies and uncertain disparate consequences.

For Bellow, legal action, and its variable systemic consequences, "always involves exercising power."[195] But he forewarns that neither the presence of lawyer power, even when asymmetrical toward client and community, nor the exercise of lawyer power, even when exploitative of client identity and interest, conclusively determines or condemns the nature of a lawyer's advisory influence and counseling authority in politicized legal work.[196] Influence, on Bellow's highly contextualized valence, "is a fundamental element of respect and mutuality, not its adversary."[197] As such, like power itself, it is constantly negotiated and renegotiated within the lawyer-client and lawyer-community relationship. To his credit, Bellow underlines the dynamic, reciprocal, and transitory properties of lawyer-client and lawyer-community negotiated power. However negotiated, he cautions, client and community power must be sufficient to check, counter, and overrule lawyer power in the context of counseling with respect to both the means and ends of representation. Bellow remarks: "I surely influenced and argued with those I served, often loudly and long. But I, in turn, was influenced and argued with as well, and felt justified in asserting my views only because I also felt open to being overruled or outvoted."[198]

Bellow's vision of negotiated or relational lawyer, client, and community power in legal-political advocacy rests on the aspiration of equality and the

192. *Id.*
193. *Id.*
194. *Id.*
195. *Id.* at 301, 302 ("Power is always a heady experience, even, or especially, for those who serve the 'greater good.'").
196. *Id.* at 302 ("Any animating social vision held by a lawyer inevitably shapes and influences relations with those whom she serves.").
197. *Id.* at 303.
198. *Id.* at 302–03.

experience of cross-cultural alliance.[199] From the aspiration of equality comes an openness to democratic deliberation and collective action. From the experiences of cross-cultural alliance flow the bonds and dependencies of mutuality and respect. Indeed, Bellow maintains that it is the reciprocal, egalitarian bonds of lawyer-client and lawyer-community alliance that permit the purposive legal-political judgments of community triage, in particular the judgment "when and whether to intervene or to seek influence" in individual and collective situations of disorganized neighborhood need.[200]

Like the Cahns' democratic integrity theorem, Bellow's legal-political alliance theorem offers no balancing formula or ranking procedure to resolve competing interventionist and noninterventionist alignments or outcomes among its multiple triage variables in situations like Goulds and the Karis Village controversy. Recall that Bellow's triage variables comprise an oppositionist social vision of group oriented legal-political work targeting deep-rooted structural and cultural change through class-wide litigation, individual case aggregation, bureaucratic maneuvering, and community- and union-based organizing.[201] That transformative vision stresses mobilizing individual clients to engage in legal-political action as well as bolstering the capacity of client entities and organizations to support collective action. Intervention, for example in the form of litigation enjoining the construction of the Karis Village housing project for due process deficiencies or law reform legislation remedying notice and hearing deficiencies in county zoning regulations, reinforces Bellow's legal-political vision when it facilitates the gathering of valuable information, the advantageous positioning of adversaries, the expedient assertion of bargaining leverage, and the publicly beneficial definition of conflict.

Under Bellow's legal-political alliance theorem, triage is an information-gathering, problem-defining, and remedy-forming *political practice*. To accommodate uncertainty, that practice is extremely localized, incremental, and tentative in its commitments. Both contextual and politicized, it is a negotiated, reciprocal practice of mutual lawyer-client and lawyer-community cross-cultural alliance. Despite their marked disorganization, East and West Goulds may very well furnish a municipal equity locus point for structural and cultural change

199. *Id.* at 303 ("The ideal of alliance avoids oversentimentalized and categorical attitudes—my client, the victims, the hero—toward clients.").

200. *Id.* at 303 ("Such an orientation seems necessary in any honestly mutual relationship and is especially important when working with groups in which issues of which faction one serves constantly arise, and where humor, patience, and a genuine fondness for and realism about the individuals involved are often all one has to maintain one's bearings until some particular storm subsides.").

201. *Id.* at 300.

through litigation, bureaucratic maneuvering, and community and low-wage labor organizing. Goulds may also provide an opportunity for mobilizing and educating clients, as well as a chance to fortify or spark the start-up of client-led entities and organizations. As a result, Bellow's alliance theorem appears to tilt toward intervention in the Karis Village controversy. Bellow's interventionist tilt persists in circumstances of ambiguity and uncertainty, as here, even if the legal and political result merely augments information, repositions adversaries, achieves bargaining leverage, or crystallizes public conflict.

Like other First Wave scholars, Bellow accepts that the purposive legal-political judgments of community triage risk excessive lawyer influence and paternalism in mapping, or helping to map, anti-poverty campaigns. Notwithstanding the counter weight of the Cahns' democratic integrity precepts and Bellow's legal-political alliance norms, at bottom community triage constitutes a lawyer-weighted discretionary practice of moral and political judgment integral to the distribution and rationing of legal services. In spite of the mitigating factors of democratic accountability and reciprocal alliance, community triage remains a purposive exercise of discretionary judgment closely akin to lawyer-engineered gatekeeping.[202] For the Cahns and Bellow, that instrumental function and its democratic rationale pivot on strong claims of lawyer autonomy, lawyer-client mutuality, and lawyering practicality, and correspondingly weak claims of lawyer neutrality, lawyer-client hierarchy, and legal determinacy.[203] Strong claims of autonomy, mutuality, and practicality imply that a lawyer may freely deviate from professional role differentiated behavior, engage in political or moral dialogue, and exercise pragmatic judgment. Weak claims of neutrality, hierarchy, and determinacy imply that a lawyer may openly stake out a normative position, yield tactical power, and concede legal-political outcome ambiguity. This mix of strong and weak functional claims links the Cahns and Bellow to an instrumentalist vision of the lawyering process sympathetic to William Simon's First Wave notions of lawyer discretion and gatekeeping. Borrowing in part from Bellow, Simon refines the First Wave vision into a legal merit- and justice-based theorem of community triage

202. For background on lawyer-engineered gatekeeping, see Melanie Garcia, Note, *The Lawyer as Gatekeeper: Ethical Guidelines for Representing a Client With a Social Change Agenda*, 24 GEO. J. LEGAL ETHICS 551 (2011).

203. *See* Anthony V. Alfieri, *Impoverished Practices*, 81 GEO. L J. 2567, 2616 (1993) ("The formalist claim to determinacy rises from the assumption of juridical stability. This assumption accords predictability and regularity to legal discourse, institutions, and relations. The poverty lawyer emphasizes the discursive stability of legal rules and reasoning. In this regard, stability is characterized by immanent rationality, determinacy, and apolitical decisionmaking.").

applicable to postindustrial inner cities like Pittsburgh, Milwaukee, St. Louis, Memphis, and Miami.

C. The Legal Merit and Justice Theorem

Distilling Bellow's triage theory of oppositional legal-political intervention into an ethical axiom, Simon argues that lawyers categorically "should have ethical discretion to refuse to assist in the pursuit of legally permissible courses of action and in the assertion of potentially enforceable legal claims."[204] That discretion, Simon insists, derives from a lawyer's professional duty of reflective judgment,[205] rather than from a situated political alliance of lawyer, client, and community interests. To Simon, discretionary judgment entails "assessment of the relative merits of the client's goals and claims and those of other people who might benefit from the lawyer's services."[206] Unlike Bellow's alliance-informed assessment, that justice-guided assessment is conducted solely by the lawyer "independent of both client and state" in order to "vindicate" identifiable norms of "legal merit and justice."[207] Put simply, Simon's ethical precept directs that a "lawyer should take those actions that, considering the relevant circumstances of the particular case, seem most likely to promote justice."[208]

Under Simon's "seek justice" mandate, lawyer-directed case and community triage assessments of legal services representation hinge on three variables.[209] The first variable considers the extent to which client or community "claims and goals are grounded in the law."[210] The second variable weighs the "importance" of the client or community "interests involved."[211] The third variable evaluates the extent to which the representation may "contribute" to the "equalization" of client or community "access to the legal system."[212]

Simon deploys these three considerations—law, legal interest, and equal access—in an attempt to discern a "shared" client or community "commitment" to specific norms of legality and justice.[213] Evidence of such a shared commitment may come from interrelated constitutional, statutory, or common

204. William H. Simon, *Ethical Discretion in Lawyering*, 101 HARV. L. REV. 1083, 1083 (1988); *see also* Alfieri, *supra* note 203, at 2620–26.
205. Simon, *supra* note 204, at 1083.
206. *Id.*
207. *Id.* at 1144.
208. *Id.* at 1090.
209. *Id.* at 1091.
210. *Id.* at 1093.
211. *Id.*
212. *Id.*
213. *Id.* at 1138; *see also* Alfieri, *supra* note 203, at 2623.

law claims, significant overlapping legal interests, or collective equal access goals among clients and community groups. For an alternative source of evidence of shared commitment, Simon employs the same three considerations to establish a minimum "coincidence" of client or community goals with the norms of legality and justice.[214] Both versions of normative consensus undergirding Simon's legal merit- and justice-based theorem of community triage presume noncoercive forms of lawyer-client and lawyer-community discourse in communication, consultation, and negotiation.

Simon's notion of consensus echoes the work of the German philosopher and sociologist Jürgen Habermas.[215] Like Habermas, Simon posits that human understanding and mutual agreement may be reached through speech under certain contingent conditions, even if that understanding is distorted by strategic interaction and strategic rationality.[216] Lawyer-client communication, consultation, and negotiation are all forms of strategic interaction peculiar to professional roles and relationships. The case and community triage theorems set forth by the Cahns, Bellow, and Simon are all forms of strategic rationality deployed to advance individual or institutional legal-political interests.

For Habermas, intersubjective understanding and unforced agreement occur in an ideal speech situation,[217] a situation "cleansed of domination, coercion, and other distortions arising from material forces and strategic rationality."[218] Engrafting this ideal view on Simon's theorem, the intervention- or nonintervention-specific consensus that emerges from the democratic alliances of lawyers, clients, and neighborhood groups in Goulds, the West Grove, and other Miami municipal equity campaign-member communities renders triage-driven anti-poverty campaigns defensible on equal grounds of justice and legal

214. Simon, *supra* note 204, at 1138.

215. *See* JÜRGEN HABERMAS, BETWEEN FACTS AND NORMS: CONTRIBUTIONS TO A DISCOURSE THEORY OF LAW AND DEMOCRACY (William Rehg trans., 1996); JÜRGEN HABERMAS, KNOWLEDGE AND HUMAN INTERESTS (Jeremy J. Shapiro trans., 1971) [hereinafter HABERMAS, KNOWLEDGE]; JÜRGEN HABERMAS, LEGITIMATION CRISIS (Thomas McCarthy trans., 1975); JÜRGEN HABERMAS, MORAL CONSCIOUSNESS AND COMMUNICATIVE ACTION (Christian Lenhardt & Shierry Weber Nicholsen trans., 1990); *see also* JÜRGEN HABERMAS, THE PHILOSOPHICAL DISCOURSE OF MODERNITY (Frederick Lawrence trans., 1987); 1 JÜRGEN HABERMAS, THE THEORY OF COMMUNICATIVE ACTION: REASON AND THE RATIONALIZATION OF SOCIETY (Thomas McCarthy trans., 1984); 2 JÜRGEN HABERMAS, THE THEORY OF COMMUNICATIVE ACTION: LIFEWORLD AND SYSTEM: A CRITIQUE OF FUNCTIONALIST REASON (Thomas McCarthy trans., 1987).

216. Simon, *supra* note 204, at 1106.

217. HABERMAS, KNOWLEDGE, *supra* note 215, at 314.

218. Stephen M. Feldman, *How to Be Critical*, 76 CHI.-KENT L. REV. 893, 903 (2000).

merit. At its best, the participatory nature of this First Wave ideal of situational consensus nurtures local self-governance[219] and supplies normative legitimacy.[220]

Like Simon, many First Wave practitioners and scholars strive to implement a participatory vision of client- and community-empowering, self-governing consensus. Consider, for example, the work of Stephen Wexler.[221] Drawing on his advocacy and organizing for the National Welfare Rights Organization[222] in the 1960s, Wexler argues that "the traditional model of legal practice for private clients is not what poor people need; in many ways, it is exactly what they do not need."[223] The "touchstones of traditional legal practice," such as "the solving of legal problems and the one-to-one relationship between attorney and client," he explains, "are either not relevant to poor people or harmful to them."[224] Wexler, for instance, points to the harm of "isolating" poor people from each other and individualizing their common legal problems.[225]

Contrary to the conventional "perception" of "proper" lawyer roles and concerns,[226] Wexler asserts that the poverty of neighborhoods in municipalities like Pittsburgh, Milwaukee, St. Louis, Memphis, and Miami "will not be stopped by people who are not poor."[227] If neighborhood poverty is to be stopped, he maintains, "it will be stopped by poor people."[228] And poor people, he adds, "can stop poverty only if they work at it together."[229] Thus, he concludes, a "lawyer who wants to serve poor people must put his skills to the task of helping poor people organize themselves" in places like Goulds and the West

219. *See* William Rehg, *Against Subordination: Morality, Discourse, and Decision in the Legal Theory of Jürgen Habermas*, 17 CARDOZO L. REV. 1147, 1155 (1996) ("Only by virtue of rights of political participation, which empower privately autonomous citizens to engage in collective self-governance, can legal subjects reflexively interpret and elaborate their civil rights, thereby becoming authors as well as addressees of law."); *see also* Hugh Baxter, *Habermas's Discourse Theory of Law and Democracy*, 50 BUFF. L. REV. 205, 329 (2002); Stephen M. Feldman, *The Persistence of Power and the Struggle for Dialogic Standards in Postmodern Constitutional Jurisprudence: Michelman, Habermas, and Civic Republicanism*, 81 GEO. L.J. 2243, 2257 (1993); Francis J. Mootz, III, *The Ontological Basis of Legal Hermeneutics: A Proposed Model of Inquiry Based on the Work of Gadamer, Habermas, and Ricoeur*, 68 B.U. L. REV. 523, 579 (1988).

220. Feldman, *supra* note 218, at 903.

221. *See* Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049 (1970).

222. *See* FRANCES FOX PIVEN & RICHARD CLOWARD, POOR PEOPLE'S MOVEMENTS: WHY THEY SUCCEED, HOW THEY FAIL 264–361 (1977); LAWRENCE BAILIS, BREAD OR JUSTICE: GRASSROOTS ORGANIZING IN THE WELFARE RIGHTS MOVEMENT (1974).

223. Wexler, *supra* note 221, at 1049.

224. *Id.* at 1053.

225. *Id.*

226. *Id.* at 1050.

227. *Id.* at 1053.

228. *Id.*

229. *Id.*

Grove.[230] Those organizing-specific skills include: "(1) informing individuals and groups of their rights, (2) writing manuals and other materials, (3) training lay advocates, and (4) educating groups for confrontation."[231]

For Wexler, the main task of the lawyer is to "strengthen existing organizations of poor people, and to help poor people start organizations where none exist."[232] In pursuit of that task, he declares, the lawyer should "not do anything for his clients that they can do or be taught to do for themselves."[233] Yet, by casting the lawyer in the traditionally dominant posture of a *teacher*, Wexler risks quickly reproducing the hierarchical, subject-object roles and relationships that the Cahns and Bellow seek to check and reshape in the form of democratic alliances, and that Simon seeks to restructure through the means of a negotiated normative consensus about law and justice. To be sure, Lucie White concedes, "there is always going to be tension, in community-based work that aspires to be both participatory and emancipatory," a tension arising out of "the directive role that an organizer, lawyer, leader, or teacher, must play to get the work going and keep it on track," and the competing role-differentiated "aspiration to draw out, rather than dictate, the group's own voices.[234]

Wexler's open-ended endorsement of the role of the lawyer-as-teacher without reference to the particularized contexts and contingencies of clients and their communities presumes too much. Thinly sketched, his vision conjures an alliance of democratic politics, an idea of normative consensus, a relationship of mutual respect and reciprocal power, and a collective basis of legal-political legitimacy without contextual elaboration or evidence-based support. The next Part highlights the work of Second Wave anti-poverty scholars in the attempt to rebut those pivotal but overbroad presumptions.

230. *Id.* ("The proper job for a poor people's lawyer is helping poor people to organize themselves to change things so that either no one is poor or (less radically) so that poverty does not entail misery.").

231. *Id.* at 1056.

232. Wexler at 1053–54 ("Few can accept the organizer's model fully; but the more one is able to accept it, the more he can give poor people the wherewithal to change a world that hurts them.").

233. *Id.* at 1055 ("The standards of success for a poor people's lawyer are how well he can recognize all the things his clients can do with a little of his help, and how well he can teach them to do more.").

234. Lucie E. White, *Facing South: Lawyering for Poor Communities in the Twenty-First Century*, 25 FORDHAM URB. L.J. 813, 825 (1998).

III. SECOND WAVE ANTI-POVERTY CAMPAIGNS

> In some neighborhoods the existence of a legal services program appears to have encouraged poor people to speak and act more boldly in their own behalf.
>
> —Ralph D. Fertig[235]

This Part surveys Second Wave campaigns built by Gerald López, Lucie White, and others on the foundation laid by the Cahns and Bellow to ensure the inclusion of clients and community groups in the lawyering process and in the community-centered design of legal services delivery systems. In the 1980s, López introduced the notions of regnant and rebellious lawyering into the Second Wave literature, both to critique the standard conception of public interest practice[236] and to construct an alternative, community-regarding vision of lay and lawyer advocacy.[237] Although his critique departs from the constricted, standard conception of client-centered lawyering, López's expansive reconstructive vision gleans its content from grassroots advocacy and organizing practices long developed in the fields of civil rights and poverty law yet often abandoned under the structural strain of litigation and institutional stress of legal services practice.[238] From civil rights movements, for example, López glimpses opportunities to broaden "relations between those working against subordination

235. Lowenstein & Waggoner, *supra* note 147, at 810 n.41 (quoting Interview with Ralph D. Fertig, Dir., Se. Neighborhood Dev. Program D.C. (Sept. 8, 1966)).

236. *See* Alfieri, *supra* note 23, at 824 ("Under the standard conception of advocacy, the norms of zealous representation of the client's interests and moral nonaccountability in the adversarial process guide lawyers' decisionmaking. Adversarial norms emphasize individual client interests and outcomes obtained in isolation from third party, group, or community considerations." (footnote omitted)).

237. For the progression of López's community-regarding vision of lay and lawyer advocacy, see GERALD P. LÓPEZ, REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE (1992). Also see Gerald P. López, *A Rebellious Philosophy Born in East LA*, *in* A COMPANION TO LATINA/O STUDIES 240 (Juan Flores & Renato Rosaldo eds., 2007); Gerald P. López, *An Aversion to Clients: Loving Humanity and Hating Human Beings*, 31 HARV. C.R.-C.L. L. REV. 315 (1996); Gerald P. López, *A Declaration of War by Other Means*, 98 HARV. L. REV. 1667 (1985) (book review); Gerald P. López, *Lay Lawyering*, 32 UCLA L. REV. 1 (1984); Gerald P. López, Keynote Address, *Living and Lawyering Rebelliously*, 73 FORDHAM L. REV. 2041 (2005) [hereinafter López, *Living and Lawyering Rebelliously*]; Gerald P. López, *Training Future Lawyers to Work With the Politically and Socially Subordinated: Anti-Generic Legal Education*, 91 W. VA. L. REV. 305 (1989); and Gerald P. López, *The Work We Know So Little About*, 42 STAN. L. REV. 1 (1989).

238. *See, e.g.*, Anthony V. Alfieri, *Practicing Community*, 107 HARV. L. REV. 1747 (1994) (reviewing LÓPEZ, *supra* note 237); Angelo N. Ancheta, *Community Lawyering*, 81 CALIF. L. REV. 1363 (1993) (reviewing LÓPEZ, *supra* note 237); Ann Southworth, *Taking the Lawyer Out of Progressive Lawyering*, 46 STAN. L. REV. 213 (1993) (reviewing LÓPEZ, *supra* note 237).

and those strategies available to wage the fight," and moreover, "to experience others as part of a working team."[239] This relational and collaborative focus signals a break from the formal pedagogy and instrumental practice of conventional civil rights advocacy. Relational opportunities, he notes, stand apart from the "often remote and even illusory" possibilities of standard, lawyer-engineered civil rights litigation to "reshape certain institutional arrangements and routines that influence everyday life."[240] From poor people's movements, López spots opportunities "to draw on marginalized experiences, neglected intuitions and dormant imaginations to redefine what clients, lawyers, and others can do to change their lives," including "the opportunity for people to practice power strategies—to learn to draw on their individual and collective resources in dealing with day-to-day struggles—and to exercise considerably more clout than they might otherwise when acting alone."[241] Those redefinitional and strategic opportunities remain distinct from the triage methods and procedural tactics of poverty lawyers bent on "'solving' poor peoples' problems" in "isolation" from community.[242] Both sets of grassroots movement opportunities give shape to a rebellious collaboration theorem of community triage.

A. The Rebellious Collaboration Theorem

López's normative and empirical starting points for rebellious lawyering are client agency and dignity.[243] Agency describes a client's volitional powers of decision-making, self-direction, and self-elaboration in the public and private spheres of law and society. Dignity, exemplified in word, deed, or role, expresses a client's status as a moral agent and a subject entitled to participate in the public and private spheres of law and society as a right of personhood. López reimagines subordinated people as autonomous, self-determining agents naturally endowed with dignity interests and as potential democratic allies politically empowered by constitutionally conferred participatory rights. In large and small settings, López depicts recurring demonstrations of individual and group competence, collaboration, and solidarity in the commonplace sociolegal world of poor clients and their communities, a world of evictions, food deserts, low-wage labor abuses, and segregated spaces.[244]

239. LÓPEZ, *supra* note 237, at 29.
240. *Id.* at 171.
241. *Id.* at 29, 335.
242. *Id.* at 20–22, 55.
243. *See* Anthony V. Alfieri, *supra* note 238.
244. *See id.* at 1750–51; Gerald P. López, *Economic Development in the "Murder Capital of the Nation,"* 60 TENN. L. REV. 685, 687–89 (1993); *cf.* William H. Simon, *The Dark Secret of Progressive*

The legal historian Tomiko Brown-Nagin detects the same client and community capacity for agency and alliance within the legal-political work of the National Welfare Rights Organization during the 1970s, especially in the activities of its Atlanta chapter in organizing local housing projects, protesting government budget cuts, and demanding affordable housing and school desegregation.[245] Brown-Nagin documents the emergence of welfare rights activists in Atlanta and their sustained attack on the structural, economic, and political inequality inherited from Jim Crow racialized poverty.[246] To Brown-Nagin, the Atlanta welfare rights activists of the late 1960s and 1970s symbolize "forgotten citizens who still seek a political voice and political power."[247] The activists, she remarks, show "that people from all walks of life can be law shapers—if given the chance."[248]

Historical evidence of client and community agency in anti-poverty and civil rights struggles informs López's criticism of conventional rights discourse and litigation-driven social policy,[249] as well as his commitment to client self-

Lawyering: A Comment on Poverty Law Scholarship in the Post-Modern, Post-Reagan Era, 48 U. MIAMI L. REV. 1099, 1108 (1994) (disputing accounts of impoverished clients and communities).

245. Tomiko Brown-Nagin, *Local People as Law Shapers: Lessons From Atlanta's Civil Rights Movement*, POVERTY & RACE, May/June 2011, at 1 [hereinafter Brown-Nagin, *Local People as Law Shapers*]; *see also* TOMIKO BROWN-NAGIN, COURAGE TO DISSENT: ATLANTA AND THE LONG HISTORY OF THE CIVIL RIGHTS MOVEMENT (2011); Tomiko Brown-Nagin, *Does Protest Work?*, 56 HOW. L.J. 721 (2013).

246. Brown-Nagin, *Local People as Law Shapers*, *supra* note 245, at 2.

247. *Id.* at 2–3 ("This lesson—about the power of human agency—sometimes seems lost on lawyers who favor court-based forms of advocacy."); *see also* JOHN DITTMER, LOCAL PEOPLE: THE STRUGGLE FOR CIVIL RIGHTS IN MISSISSIPPI (1994); CHANA KAI LEE, FOR FREEDOM'S SAKE: THE LIFE OF FANNIE LOU HAMER (1999); BARBARA RANSBY, ELLA BAKER AND THE BLACK FREEDOM MOVEMENT: A RADICAL DEMOCRATIC VISION (2003).

248. Brown-Nagin, *Local People as Law Shapers*, *supra* note 245, at 2 ("[A] new generation of the civil rights bar—trailblazing lawyers Len Holt and Howard Moore, Jr. Holt introduced the Student Non-violent Coordinating Committee (SNCC) to 'movement lawyering'—a style of civil rights litigation supportive of direct action. Moore, SNCC's general counsel, litigated across a wide variety of cases—criminal, school desegregation and draft resistance actions, among others."); *see also* MARTHA BIONDI, TO STAND AND FIGHT: THE STRUGGLE FOR CIVIL RIGHTS IN POSTWAR NEW YORK CITY (2003); MATTHEW J. COUNTRYMAN, UP SOUTH: CIVIL RIGHTS AND BLACK POWER IN PHILADELPHIA (2006); ARCHON FUNG, EMPOWERED PARTICIPATION: REINVENTING URBAN DEMOCRACY (2004); CHARLES M. PAYNE, I'VE GOT THE LIGHT OF FREEDOM: THE ORGANIZING TRADITION AND THE MISSISSIPPI FREEDOM STRUGGLE (1995).

249. Rights discourse remains a deeply ingrained and integral part of progressive lawyering. *See* VICKI LENS, POOR JUSTICE: HOW THE POOR FARE IN THE COURTS (2016); Anthony V. Alfieri, *The Antinomies of Poverty Law and a Theory of Dialogic Empowerment*, 16 N.Y.U. REV. L. & SOC. CHANGE 659, 695–711 (1988); Cummings, *supra* note 143; Ann Southworth, *Lawyers and the "Myth of Rights" in Civil Rights and Poverty Practice*, 8 B.U. PUB. INT. L.J. 469 (1999).

determination and client-lawyer collaboration through rights education,[250] organization,[251] and mobilization.[252] That commitment prompts his repudiation of conventional or "regnant" styles of lawyering.[253] For López, "regnant" lawyering describes a style of legal advocacy that subordinates poor clients based on long held, stigmatizing perceptions of their marginal cultural and social status.[254] Imbued by implicit and explicit sociocultural bias,[255] López explains,

250. *See generally* Margaret Martin Barry et al., *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLINICAL L. REV. 401, 415–49 (2012); Ingrid V. Eagly, *Community Education: Creating a New Vision of Legal Services Practice*, 4 CLINICAL L. REV. 433, 441–46 (1998); Bill Ong Hing, *Legal Services Support Centers and Rebellious Advocacy: A Case Study of the Immigrant Legal Resource Center*, 28 WASH. U. J.L. & POL'Y 265, 268–69 (2008).

251. *See generally* Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443, 479 (2001); Loretta Price & Melinda Davis, *Seeds of Change: A Bibliographic Introduction to Law and Organizing*, 26 N.Y.U. REV. L. & SOC. CHANGE 615, 620 (2000–01); William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U. L. REV. 455, 457 (1995); Aaron Samsel, *Toward A Synthesis: Law as Organizing*, 18 CUNY L. REV. 375, 392 (2015).

252. *See* LÓPEZ, *supra* note 237, at 360; Gerald P. López, *Shaping Community Problem Solving Around Community Knowledge*, 79 N.Y.U. L. REV. 59, 60–64 (2004); *see also* MICHAEL W. MCCANN, RIGHTS AT WORK: PAY EQUITY REFORM AND THE POLITICS OF LEGAL MOBILIZATION (1994); Michael W. McCann, *Social Movements and the Mobilization of Law*, *in* SOCIAL MOVEMENTS AND AMERICAN POLITICAL INSTITUTIONS 201 (Anne N. Costain & Andrew S. McFarland eds., 1998); Michael W. McCann & Helena Silverstein, *Social Movements and the American State: Legal Mobilization as a Strategy for Democratization*, *in* A DIFFERENT KIND OF STATE? POPULAR POWER AND DEMOCRATIC ADMINISTRATION 131, (Gregory Albo, David Langille & Leo Panitch eds., 1993).

253. *See* LÓPEZ, *supra* note 237, at 24.

254. *Id.* at at 2, 24; Alfieri, *supra* note 238, at 1753; *see also* Alfieri, *supra* note 23, at 807 ("Stigma inhibits individual self-elaboration and group integration in the cultural and social spheres of civic life.").

255. *See* Ralph Richard Banks & Richard Thompson Ford, *(How) Does Unconscious Bias Matter?: Law, Politics, and Racial Inequality*, 58 EMORY L.J. 1053 (2009) (explaining how social desirability pressures make it difficult to measure bias accurately); Jerry Kang et al., *Implicit Bias in the Courtroom*, 59 UCLA L. REV. 1124 (2012) (discussing implicit bias, attitudes, and stereotypes); Cynthia Lee, *Making Race Salient: Trayvon Martin and Implicit Bias in a Not Yet Post-Racial Society*, 91 N.C. L. REV 1555 (2013) (suggesting ways to make race salient during different stages of trial to reduce the effects of implicit racial bias); Justin D. Levinson, *Forgotten Racial Equality: Implicit Bias, Decisionmaking, and Misremembering*, 57 DUKE L.J. 345 (2007) (illustrating the effect of implicit bias on recalling a memory); L. Song Richardson & Phillip Atiba Goff, *Implicit Racial Bias in Public Defender Triage*, 122 YALE L.J. 2626 (2013) (discussing implicit bias within the criminal justice system); Robert J. Smith & Justin D. Levinson, *The Impact of Implicit Racial Bias on the Exercise of Prosecutorial Discretion*, 35 SEATTLE U. L. REV. 795 (2012) (noting factors that could lead to implicit bias); Tanya Kateří Hernández, Note, *Bias Crimes: Unconscious Racism in the Prosecution of "Racially Motivated Violence,"* 99 YALE L.J. 845 (1990) (arguing that unconscious racism and prosecutorial discretion lead to discriminatory enforcement of criminal law). On the workings of implicit and explicit sociocultural bias, see Adjoa Artis Aiyetoro, *Can We Talk? How Triggers for Unconscious Racism Strengthen the Importance of Dialogue*, 22 NAT'L BLACK L.J. 1 (2009).

regnant lawyers regard themselves as "preeminent problem-solvers" and "political heroes" even when they know little of their clients, their clients' affinity groups, or their clients' communities.[256] López traces the regnant wisdom of lawyer leadership, and the corresponding objective logic of client dependency and helplessness, to a hierarchical vision of lawyer-client roles and relationships in advocacy.[257] Consistent with this regnant logic, he observes, "lawyers work for clients, almost always by formally representing them, through offices designed to facilitate if not compel a relationship where lawyers regularly (perhaps even ideally) dominate and where clients quite nearly vanish altogether, except when circumstances make their presence absolutely necessary."[258] This hierarchical conception of ingrained decisionmaking superiority, preemptive interpretive privilege, and untrammeled top-down leadership, López notes, strikes lawyers, bar associations, and courts as morally justified, ethically mandatory, and professionally appropriate.

To López, the natural quality of regnant leadership arises from lawyers' "privileged cultural stance, advantaged socio-economic status, and hierarchy-infused professional education and training."[259] The steadfast hierarchical privilege endowed by legal education and professional training, he warns, impairs lawyers' crossover[260] understanding of client and community difference,[261] for instance in interviewing[262] and counseling.[263] Without cross-

256. LÓPEZ, *supra* note 237, at 24; Alfieri, *supra* note 238, at 1753.

257. *See* LÓPEZ, *supra* note 237, at 24–26; Alfieri, *supra* note 238, at 1754–56.

258. Gerald P. López, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603, 1609–10 (1989) ("[L]awyers in the regnant idea typically understand themselves as working best when alone, in relative isolation from the know-how and problem-solving sensibilities of others.").

259. Alfieri, *Rebellious Pedagogy and Practice*, *supra* note 17, at 12; *see* LÓPEZ, *supra* note 237, at 24–26; Alfieri, *supra* note 238, at 1754–56.

260. LÓPEZ, *supra* note 237, at 375 ("[C]aution, skepticism, and opposition to coalition will frequently frame identity in terms that are, for many purposes, entirely too monolithic.").

261. *See* Alfieri, *supra* note 23, at 820 ("Differences of class, gender, and race all serve as identity markers and potential stereotypes. The more marginalizing differences a client presents, the more likely a lawyer will be to construct his or her identity in terms of stereotypes.").

262. In prior work, I argue that the "construction of client difference starts at the initial interview." *Id.* ("Construing a client as stereotypically inferior during the interviewing process inhibits the lawyer's understanding of a client's motivation in seeking legal assistance. It also interferes with active listening and reciprocal dialogue, narrows the scope of the lawyer's information gathering, and allows the lawyer to fill in informational gaps with stereotypical explanations.").

263. In the same way, in previous work, I argue that "difference infects the counseling process" by assigning a disabling or marginalizing form of identity that "excludes clients from meaningful participation in counseling and increases the risk of paternalistic lawyer intervention in client decisionmaking." *Id.* at 820–21 ("Effective client counseling requires eliciting information, clarifying objectives, identifying alternatives, and evaluating consequences. If the lawyer assigns the client a passive role in that process, the client may not volunteer information or assert the full

cultural understanding,[264] regnant lawyers deny clients and communities vital legal and political opportunities to exercise individual autonomy and collective self-determination.[265] That denial, López contends, risks the reproduction of client and community dependency in the lawyering process through "formulaic" advocacy practices reliant on technical, professional expertise instead of collaborative, "co-eminent" problem solving.[266]

To restrain regnant lawyer tendencies and to move toward more collaborative problem solving, López puts forth an alternative, community-regarding notion of "rebellious lawyering."[267] The rebellious style of lawyering diverges from the reflexive hierarchy of conventional client-centered lawyering,[268] and from the passive tradition of merely bearing witness,[269] to endorse active community and social movement building. Tangible, lawyer-facilitated movement building requires a community-informed, professional capacity for collaborative problem solving across an extensive range of anti-poverty

extent of particular objectives. Likewise, if the lawyer perceives the client to be incompetent, the client may not come forward to help identify alternative courses of action or evaluate nonlegal consequences.").

264. Cross-cultural advocacy training, when effective, "prepares lawyers to reach out to clients across the boundaries of cultural and racial difference" for purposes of "the identification of segregating differences, exploration of multiple explanations for client behavior, and elimination of lawyer bias and stereotype from client interviewing and counseling." *Id.* at 837. ("Together, these key habits establish an initial benchmark for lawyer cross-cultural and cross-racial competence in counseling uncovering.").

265. Confining cross-cultural training to the "acquisition of certain habits of thinking, speaking, and doing understates the deep-seated dimensions of difference-based identity." *Id.* ("These dimensions challenge the pretense of colorblind neutrality in counseling and the presupposition of cross-cultural competence as a neutral technique of case planning and management.").

266. LÓPEZ, *supra* note 237, at 144, 190, 213, 232; *see* Alfieri, *supra* note 238, at 1755 n.19.

267. LÓPEZ, *supra* note 237, at 11–82.

268. *See generally* DAVID A. BINDER, PAUL BERGMAN, PAUL R. TREMBLAY & IAN S. WEINSTEIN, LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH 8 (3d ed. 2012); Robert D. Dinerstein, *Client-Centered Counseling: Reappraisal and Refinement*, 32 ARIZ. L. REV. 501, 507 (1990); Stephen Ellmann, *Lawyers and Clients*, 34 UCLA L. REV. 717, 733 (1987); Michelle S. Jacobs, *People From the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U. L. REV. 345, 353 (1997); Katherine R. Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation*, 12 CLINICAL L. REV. 369, 375 (2006); Julie D. Lawton, *Who Is My Client? Client-Centered Lawyering With Multiple Clients*, 22 CLINICAL L. REV. 145, 147 (2015).

269. *See generally* Nancy Cook, *The Call to Witness: Historical Divides, Literary Narrative, and the Power of Oath*, 98 MARQ. L. REV. 1585, 1592 (2015); Herbert A. Eastman, *Speaking Truth to Power: The Language of Civil Rights Litigators*, 104 YALE L.J. 763, 768 (1995); Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 MICH. L. REV. 485, 490 (1994); Binny Miller, *Telling Stories About Cases and Clients: The Ethics of Narrative*, 14 GEO. J. LEGAL ETHICS 1, 8 (2000); Austin Sarat, *Bearing Witness and Writing History in the Struggle Against Capital Punishment*, 8 YALE J.L. & HUMAN. 451, 461 (1996).

and civil rights areas. The capacity to craft collaborative,[270] community-engaged,[271] and movement-oriented[272] rebellious advocacy practices in clinical and anti-poverty settings[273] turns on a lawyer's ability to accept, or at least to tolerate, a contingent or provisional sense of negotiated truth.[274] Acquired through joint legal-political labor in local collective contexts, this contingent truth comes out of the practical knowledge of collaborative problem solving, what López calls the "know-how inevitably at work in each and every person's effort to get by day to day," a functional knowledge frequently outside lawyers' detached professional "understanding of the social world."[275]

Wrested from the lawyering process by Second Wave scholars attentive to the problem-solving stories, practical knowledge storehouses, and powerful networks shared among subordinated clients and communities, a contingent style of legal-political analysis treats the everyday practice "ideals and discourses" of the law as "contestable visions" of the social world.[276] Under this style of analysis, the

270. *See generally* Ascanio Piomelli, *Appreciating Collaborative Lawyering*, 6 CLINICAL L. REV. 427, 436 (2000); Ascanio Piomelli, *Foucault's Approach to Power: Its Allure and Limits for Collaborative Lawyering*, 2004 UTAH L. REV. 395, 424; White, *supra* note 30. Piomelli approaches "the practice of collaboration as an invitation to lawyers to investigate the presumptive dependency of their clients more skeptically." Alfieri, *supra* note 24, at 1862. This approach sees "collaboration as an effort to push lawyers to search for a deeper, normative meaning in deciphering clients' stories, a sense of meaning that reveals clients to be the self-empowering subjects." *Id.* In this way, collaboration is "a call for lawyer-client co-equal participation in the telling of a law-driven story, participation that makes room for client voice in the public telling of client stories." *Id.* (discussing the social, economic, and political forces outside of the lawyer-client relationship and their adverse institutional and structural consequences).

271. *See generally* Juliet M. Brodie, *Little Cases on the Middle Ground: Teaching Social Justice Lawyering in Neighborhood-Based Community Lawyering Clinics*, 15 CLINICAL L. REV. 333, 339 (2009); John O. Calmore, *A Call to Context: The Professional Challenge of Cause Lawyering at the Intersection of Race, Space, and Poverty*, 67 FORDHAM L. REV. 1927, 1933 (1999); Christine Zuni Cruz, *[On the] Road Back In: Community Lawyering in Indigenous Communities*, 24 AM. INDIAN L. REV. 229, 231 (2000); Hina Shah, *Notes From the Field: The Role of the Lawyer in Grassroots Policy Advocacy*, 21 CLINICAL L. REV. 393, 402 (2015).

272. *See* Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLINICAL L. REV. 355, 389 (2008) [hereinafter Ashar, *Law Clinics and Collective Mobilization*]; Sameer M. Ashar, *Public Interest Lawyers and Resistance Movements*, 95 CALIF. L. REV. 1879, 1889 (2007) [hereinafter Ashar, *Public Interest Lawyers and Resistance Movements*]; Scott L. Cummings, *Mobilization Lawyering: Community Economic Development in the Figueroa Corridor*, *in* CAUSE LAWYERS AND SOCIAL MOVEMENTS 302 (Austin Sarat & Stuart A. Scheingold eds., 2006); Jennifer Gordon, *The Lawyer Is Not the Protagonist: Community Campaigns, Law, and Social Change*, 95 CALIF. L. REV. 2133, 2141 (2007).

273. *See* Jane Harris Aiken, *Striving to Teach "Justice, Fairness, and Morality"*, 4 CLINICAL L. REV. 1, 10 (1997); Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1478 (1998); Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 1003 (2004).

274. LÓPEZ, *supra* note 237, at 65.

275. *Id.* at 29, 65; Alfieri, *supra* note 238, at 1756.

276. Anthony V. Alfieri, *Disabled Clients, Disabling Lawyers*, 43 HASTINGS L.J. 769, 781 (1992).

lawyer's advocacy task is to "locate and dislodge momentarily fixed visions" of law, culture, and society bearing, for example, on the competence of a client, the organizational capacity of a group, or the rights-based mobilization potential of a community, and then "revise the contexts that they inform" by disruptive acts of intervention.[277] Dislodging purportedly fixed facts, standard causal hypotheses, received rights valuations, and settled practice patterns or sequences in the lawyering process renders advocacy traditions more tentative and mutable, and less determinative and permanent.[278]

Applied contextually in local, regional, and even international settings, contingent analysis furnishes a Second Wave method of gathering oppositional norms and narratives from the venues of culture, society, and politics outside law, and then inscribing those alternative norms and narratives inside the discursive practices of law, lawyers, courts, legislatures, and administrative agencies.[279] Context-binding structures, for example procedural rules, substantive laws, and ethics codes, and their attendant practice routines, for example direct service and law reform litigation, narrow the contingent analysis of rights claims, reinforcing the seemingly rigid separation of law from culture, society, and politics. In this way, context-binding structures and routines limit the scope of rights claims. By contrast, context-revising structures, for example community organization and mobilization, and their corresponding routines, for example community outreach and education, enlarge the contingent analysis of rights claims, reintegrating law into the multilayered context of culture, society, and politics, and reopening sociolegal space to maneuver.[280] In that way, context-revising structures and routines expand the scope of rights claims.

The reimagination of legal rights, and the corresponding reintegration of culture, society, and politics in the advocacy process,[281] signify emancipatory moments in rebellious lawyering, marking the renunciation of the stock subject-object roles and hierarchical dominant-subordinate relationships of conventional client-centered lawyering models. On this emancipatory view, the client is

277. *Id.*
278. *Id.* at 781–82.
279. *Id.*
280. *See* Alfieri, *supra* note 24, at 1851; *see also* GORDON SILVERSTEIN, LAW'S ALLURE: HOW LAW SHAPES, CONSTRAINS, SAVES, AND KILLS POLITICS 63 (2009).
281. *See* Sheila R. Foster & Brian Glick, *Integrative Lawyering: Navigating the Political Economy of Urban Redevelopment*, 95 CALIF. L. REV. 1999, 2057–61 (2007); *see also* Sheila Foster, *Justice From the Ground Up: Distributive Inequalities, Grassroots Resistance, and the Transformative Politics of the Environmental Justice Movement*, 86 CALIF. L. REV. 775, 838–40 (1998); Brian Glick & Matthew J. Rossman, *Neighborhood Legal Services as House Counsel to Community-Based Efforts to Achieve Economic Justice: The East Brooklyn Experience*, 23 N.Y.U. REV. L. & SOC. CHANGE 105, 157 (1997).

neither a "subordinate *object* controlled by the disciplining discourse and gaze of a dominant lawyer nor a sovereign *subject* controlling the means and ends of a purely instrumental lawyer agent."[282] Instead, the client stands multifaceted in identity, moving in and out of subject-object roles, and accommodating and resisting dominant-subordinate relationships, while negotiating the tensions of law, culture, society, and politics in collaboration with legal and lay advocates.

Situated in Goulds and the West Grove, López's rebellious collaboration calls for "constantly re-evaluating the likely interaction between legal and 'non-legal' approaches to problems" like fair housing, economic development, and municipal equity. It also calls for cultivating alliances "with others in brainstorming, designing, and executing strategies aimed immediately at responding to particular problems and, more generally, at fighting social and political subordination."[283] This twin focus on *particular problems* and *larger social ills*, López remarks, enables lawyers to "understand how to be part of, as well as how to build, coalitions, and not just for purposes of filing or 'proving up' a lawsuit," but for the purposes of political organizing and movement building.[284] For López, the transformative convergence of law, culture, society, and politics in the lawyering process, and the subsequent derivation of a rebellious triage theorem, hinge on multiple, experimental forms of lawyer, client, and community interaction, including inclusive issue framing, collaborative problem solving, client-generated interventions, community-erected monitoring and enforcement strategies, joint outcome or impact measures, and innovative organizational management and delivery system designs.[285]

Unlike his First Wave predecessors, López seeks greater three-pronged lawyer, client, and community interaction among "networks of co-eminent institutions and individuals" to build the sorts of democratic alliances and coalitions that the Cahns and Bellow encourage.[286] The "co-eminent collaborators" López searches out "routinely engage and learn from one another and all other pragmatic practitioners (bottom-up, top-down, and in every which direction at once)."[287] In the West Grove, these co-eminent collaborators assemble among the tenant organizers from Housing for All, the civic activists from People Organizing with Empowered Residents, the lay voting rights advocates from Grove Vote, and the environmental crusaders of the Old Smokey

282. Alfieri, *Rebellious Pedagogy and Practice*, *supra* note 17, at 14.
283. López, *supra* note 258, at 1608.
284. *Id.*
285. LÓPEZ, *supra* note 237, at 11–82.
286. López, *Living and Lawyering Rebelliously*, *supra* note 237, at 2043.
287. *Id.*

Environmental Justice Steering Committee and the Grove United Environmental Health Coalition,[288] together exhibiting "a profound commitment, time and again, to revising provisional goals and methods for achieving them."[289] That commitment entails not only "searching for how better to realize institutional and individual aspirations" and "monitoring and evaluating from diverse perspectives what's working and what's not," but also "picturing future possibilities that extend beyond (even as they take cues from) past events and current arrangements."[290]

The shared commitment of rebellious lawyers and co-eminent community-based institutions and individuals shapes López's rebellious collaboration theorem and its provisional, aspirational, evaluative, and imaginative elements. Alert to the daily contingencies of law, culture, society, and politics, the rebellious collaboration theorem approaches the triage selection process in the West Grove and Goulds as a joint opportunity for community-based issue framing and collaborative problem solving for housing justice, community-generated interventions and collective monitoring and enforcement strategies for environmental justice, community impact measures for transportation equity, and participatory organizational management and delivery system designs for municipal equity.

Further applying this rebellious theorem to make a triage intervention assessment of the Goulds' Karis Village controversy, and to make triage assessments in the Miami municipal equity campaign more generally, requires a number of critical determinations. First, rebellious lawyers must determine whether any of the co-eminent institutions and individuals residing in Goulds, for example the Goulds Coalition of Ministers and Lay People, Inc. and the Goulds Community Advisory Committee, share an interest in collaborative problem-solving, monitoring, and enforcement strategies regarding Karis Village and other economic development projects. Second, rebellious lawyers must determine whether the narrow issue of homeless veterans' housing may be reframed as a broader issue of environmental justice and land use discrimination, civic self-governance, democratic participation, and fair representation. Third, rebellious lawyers must determine whether intervention will beneficially impact the institutions and individuals, for example homeowners, tenants, and small

288. *See infra* notes 360–437 and accompanying text (discussing the secondary and tertiary mobilization of grassroots organizations in the fields of environmental justice, fair housing, public health, and municipal equity as an organic result of anti-poverty and civil rights initiatives mounted by a loose consortium of churches, civic groups, and homeowner and tenant associations).

289. López, *Living and Lawyering Rebelliously*, *supra* note 237, at 2043.

290. *Id.*

business owners, specific to Goulds in terms of measurable economic or political outcomes. And fourth, rebellious lawyers must determine whether the institutions and individuals of Goulds harbor any interest in participating in the organization, management, and delivery of legal services with respect to the Karis Village case and related matters of municipal equity. For Second Wave scholars, the rebellious commitment to legal-political collaboration with local, co-eminent institutions and individuals may be insufficient to make such difficult triage determinations. Standing alone, commitment itself may be inadequate to overcome the interpretive and material obstacles confronting lawyers in communicating, consulting, and negotiating with the politically disenfranchised and economically disadvantaged communities in Pittsburgh, Milwaukee, St. Louis, Memphis, and Miami.

B. The Transformative Disruption Theorem

To Lucie White, the transformative convergence of law and grassroots or movement politics must overcome higher interpretive, material, and relational barriers encoded in the lawyering process when conducted on behalf of politically disenfranchised and economically disadvantaged communities.[291] Like López, White recognizes the often exerted power of the lawyer-subject in advocacy and counseling. For White, the lawyer-subject, by virtue of education, training, and institutional or structural privilege, holds "the power to speak, to negotiate, and to dominate."[292] Skeptical of lawyers' interpretive ability to break free of top-down decisionmaking hierarchy and to comprehend the interwoven cultural, economic, and sociolegal experience of subordination, White recommends "situated micro-descriptions of lawyering practice"[293] documenting the multiple dimensions of power in lawyer-client roles and relationships and the potential disruptions of client and community empowerment campaigns.[294] By "situated micro-descriptions of lawyering practice," White means the careful observation and documentation of lawyers and clients in action, for example at courthouses, public meetings, or welfare

291. Lucie E. White, *Mobilization on the Margins of the Lawsuit: Making Space for Clients to Speak*, 16 N.Y.U. REV. L & SOC. CHANGE 535, 539–42 (1987–88).
292. Anthony V. Alfieri, *Stances*, 77 CORNELL L. REV. 1233, 1248 (1992).
293. Lucie E. White, *Seeking "... The Faces of Otherness ...": A Response to Professors Sarat, Felstiner, and Cahn*, 77 CORNELL L. REV. 1499, 1502 (1992).
294. *See* James J. Kelly, Jr., *Refreshing the Heart of the City: Vacant Building Receivership as a Tool for Neighborhood Revitalization and Community Empowerment*, 13 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 210, 224–30 (2004).

hearings.[295] The currents of empowerment,[296] she notes, are "visible only in the microdynamics of everyday life" and in the "self-directed, democratic politics among subordinated groups."[297]

In Goulds and the West Grove, the self-direction of democratic politics and local self-governance rely upon on human agency and emancipatory citizenship. Elsewhere I argue that emancipation requires "the political enfranchisement and economic integration of subordinated groups into the governing structures of society."[298] White points to the tension this sense of emancipatory citizenship may cause "at the point when the project starts to work, and the individual participants feel a new sense of voice and power."[299] Predictably, the form of the project, for example fair housing canvassing in the West Grove or environmental rights education in Goulds, and the substance of the tension, for example class or race, will vary by locale. Yet, White observes, such tension seems endemic to local projects dedicated to the "dual goal of community improvement and participant empowerment," a duality from which "internal conflict will inevitably erupt within the group as the empowerment agenda begins to succeed."[300] Internal conflict may divide dissenting groups or communities along a variety of axis points, including race, class, ethnicity, and religious faith. Scott Cummings cites such conflict in the LGBT and low-wage labor movements, mentioning that "how, and how well, public interest lawyers manage dissent may be less a function of their relative location within movements—at the top or bottom—and more one of how thickly the field is developed with other types of movement actors and how lawyers choose to engage with them."[301]

Progress toward community-wide political inclusion and economic integration depends in part on addressing and resolving internal conflict between and among clients and movement actors, especially identity- and faith-based conflict. In the West Grove, for example, identity- and faith-based conflict

295. *See* Lucie E. White, Goldberg v. Kelly *on the Paradox of Lawyering for the Poor*, 56 BROOK. L. REV. 861, 872 (1990); Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1, 39–40 (1990).

296. *See* Peter Hoffman, Commentary, *Legal Aid of Western Missouri's Economic Development Project: Bringing Self-Empowered Revitalization to Distressed Neighborhoods*, 24 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 403, 404–05 (2016); Shekar Krishnan, *Advocacy for Tenant and Community Empowerment: Reflections on My First Year in Practice*, 14 CUNY L. REV. 215, 218–23 (2010).

297. White, *supra* note 293, at 1504.

298. Alfieri, *supra* note 23, at 825.

299. White, *supra* note 234, at 826.

300. *Id.* at 826–27.

301. Scott L. Cummings, *How Lawyers Manage Intragroup Dissent*, 89 CHI.-KENT L. REV. 547, 549 (2014).

divides Afro-Caribbean and African American residents by culture, tenants and homeowners by class, and "saved" and "unsaved" congregations by theology. Addressing and resolving internal community conflicts based on culture, class, or religious faith requires multicultural, multiclass, and multifaith dialogue and solidarity.

To begin and to be effective, community dialogue must turn inward and outward simultaneously. The turn inward hinges on community interest convergence across culture, politics, and economics. The turn outward pivots on community consciousness of the politically disenfranchising, economically impoverishing, and racially segregating policies and practices of private, public, and nonprofit agents and entities. Typically, private and public sector policies and practices that disenfranchise, impoverish, and segregate or resegregate low-income communities are veiled in coded forms of status-based social animus, bias, or prejudice. Uncovering individual acts or institutional policies that exhibit (or could be reasonably inferred to exhibit) bias or associated types of status-based social animus, either directly or through proxies,[302] involves interpretive strategies of naming.[303] Publicly naming sociocultural animus, bias, or prejudice redescribes speech and conduct by "investing meaning" in discriminatory "acts and omissions" and by explicating discriminatory "motives and needs."[304] Because exposing and naming internal community identity conflict risks dissension and infighting, the double task of Second Wave lawyers is to contain and to convert identity conflict into a larger dialogue about investigating and disrupting external, identity-based policies and practices of discrimination, for example, the racially-coded discrimination infecting the housing, economic development, and municipal services in Goulds and the West Grove.[305]

Again, like López, White maintains that the lawyering process may be reconfigured to promote an identity-conscious, disruptive style of grassroots politics by establishing an "alliance and collaboration between professionals and subordinated groups" even if that alliance fails to gain complete access to, or fully comprehend, the cultural, economic, and sociolegal experience of those groups and their diverse members.[306] From a lawyering process standpoint, White comments, this cognitive or empathic failure may be acceptable insofar as allied groups and their members retain "the power to bring [the group's] subjective

302. *See* Alfieri, *supra* note 23, at 825.
303. Alfieri, *supra* note 32, at 2124–25.
304. Alfieri, *supra* note 276, at 778.
305. *See supra* Part I.E.
306. White, *supra* note 293, at 1504; *see also* Ruth Margaret Buchanan, *Context, Continuity, and* Difference *in Poverty Law Scholarship*, 48 U. MIAMI L. REV. 999, 1024 (1994).

experience, intuition, and judgment into a collective process of describing, and thereby shaping, a social and political landscape in which the perspectives of all persons will be taken with equal seriousness."[307]

White's thoroughgoing, ethnographic analysis gives rise to a transformative disruption theorem of community triage assessment and intervention applicable to Karis Village specifically and to the Miami municipal equity campaign more generally. Under this theorem, the central determination to be made in conducting a community-based triage assessment pertains to the disruptive and transformative potential of the intervention and its aftermath. Disruption occurs when local subordinated groups, for example homeowners and tenants, challenge, in a variety of legal and political forums, municipal policies and practices that intentionally discriminate against, or disparately impact, a protected class of their own group members. Transformative impact occurs when such subordinated groups and their protected class members realize the interrelated goals of local community improvement and participant empowerment by forging grassroots political alliances and legal collaborations. Against this yardstick, the Karis Village project presents an unlikely case for intervention. Even a sympathetic community triage assessment suggests little potential for transformative impact measured in terms of community improvement and participant empowerment in Goulds. As the historian N. D. B. Connolly observes: "Over Greater Miami's long history . . . it proved politically impossible to empower poor black tenants with civic authority and consistent means for self-determination."[308] To reexamine that potential, consider an additional Second Wave community triage assessment and intervention theorem linked to empowerment.

C. The Community Empowerment Theorem

Later scholarship expanding upon the work of López and White highlights the fact that dominant poverty law traditions and anti-poverty campaigns often neither empower subordinated communities nor address the underlying causes or conditions of powerlessness.[309] This sympathetic, parallel work calls for the recasting of standard conceptual and methodological understandings of poverty law.[310] It defines recasting as an ideological project devoted to the investigation of the "political object of poverty law and the strategic methods of achieving that

307. White, *supra* 295, at 862 n.6.
308. CONNOLLY, *supra* note 46, at 279.
309. Alfieri, *supra* note 249, at 661.
310. *Id.*

goal."[311] That investigation centers on the "habits of perception and interpretation dominant in the practice of poverty law," especially the ways in which those habits reify and reproduce twin myths of legal efficacy and inherent indigent isolation and passivity.[312]

In prior work critiquing the dominant traditions of poverty law, I contend that the remedial activities of direct service and law reform litigation[313] should be mounted only in coordination with the political organization and mobilization of indigent clients and their impoverished communities.[314] Adopting an alternative view of indigent clients as historical agents grappling in a day-to-day struggle to assert control over their lives and communities, and denoting the tendency of poverty lawyers to decontextualize, atomize, and depoliticize that struggle, I reject the assumption of natural indigent isolation and passivity and substitute individual and community empowerment as the dual political objects of poverty law.[315] A political theory of empowerment, I explain, combines "the strategic methods of direct service and law reform litigation, and the collective force of clients acting together in local, state, and national political alliances."[316] Empowerment in this respect is an active, reciprocal process of mutual learning both relational and remedial in nature.[317]

Positing empowerment as an active, transformative process experienced in everyday legal, political, and sociocultural contexts alters traditional beliefs in the efficacy of poverty law and in the natural or necessary partition and powerlessness of client communities in Pittsburgh, Milwaukee, St. Louis, Memphis, Miami, and elsewhere.[318] In the practice of poverty law, the notion of efficacy is bound up in the dominant conventions, language, and institutional structures of direct

311. *Id.* at 663.
312. *Id.*
313. Identity-making practices, to be sure, "may infuse stereotypical imagery and language into pleadings, motions, and memoranda, and portray clients as powerless victims of discrimination or depict people of different sexualities as disabled." Alfieri, *supra* note 23, at 825–26. "Stereotypical rendering[s]" allow lawyers to "draw an almost natural inference of client incompetence regarding joint consultation on litigation tactics and goals." *Id.* at 826. That "enfeebling inference" also allows lawyers to "physically exclude their clients from litigation forums such as hearings or trials." *Id.*
314. Lawyer-directed litigation "practices operate to gain tactical advantage with the trier of fact, an adversary, or the media." *Id.* Such practices also "function to accommodate burdens of proof imposed by statute and doctrine" and to "furnish rallying points of injury and injustice for the organization and mobilization of communities." *Id.*
315. Alfieri, *supra* note 249, at 665.
316. *Id.*
317. *See id.* at 666.
318. *See id.* at 671–72.

service and law reform litigation.[319] On this dominant conception, efficacy is measured by lawyer caseloads and court dockets, or perhaps income and wealth transfer metrics, but not the frequently opaque moments of individual or group civic empowerment.

In the context of impoverished communities, the notion of neighborhood partition is entangled in divisions of class, ethnicity, gender, race, religion, and sexuality. At the same time, it is intertwined in the geographies of segregated urban and suburban space. Within that space, the capacity for ethnic, racial, gender, or urban/suburban cross-over alliances among clients and communities is hampered by identity conflict, incompatible history, and physical separation.[320] Cross-over counseling that uncovers the shared capacity for collective action in the distant neighborhoods of Goulds and the West Grove as a main objective of advocacy deviates from dominant notions of efficacy and partition.[321]

Altering dominant notions of legal efficacy and natural or necessary partition to move beyond caseload counts and geographic demarcations opens up room for transformational lawyer-client dialogue about the law and politics of empowerment. Transformational dialogue depends on a reciprocal commitment to mutual respect, practical wisdom, sympathy, and other-regarding faith.[322] Dialogic faith imports a spiritual[323] or a moral[324] dimension to the collaborative ecumenical and interreligious work of lawyering,[325] for example in the decade-long education, research, and policy work of the Historic Black Church Program among the churches of the West Grove. Unlike the Religious

319. *Id.* at 683.

320. *Id.* at 695–96; *see also* Alfieri, *supra* note 23, at 819 ("Meaningful social dialogue among marginalized and hypermarginalized client groups inevitably will incite conflicts over the ordering of self-elaboration and group solidarity preferences. These conflicts may involve litigation tactics, campaign strategy, resource allocation, or other issues.").

321. Alfieri, *supra* note 23, at 809 (explaining that counseling uncovering "affords clients a potentially beneficial opportunity to engage in authentic self-elaboration, to obtain equal treatment, and to exercise the liberty of full participation in cultural and social environments" and "gives clients a useful chance to collaborate in grassroots, interest group mobilization in support of economic justice").

322. Alfieri, *supra* note 249, at 698.

323. *See* Deborah J. Cantrell, *What's Love Got to Do With It?: Contemporary Lessons on Lawyerly Advocacy From the Preacher Martin Luther King, Jr.*, 22 ST. THOMAS L. REV. 296 (2010); Peter Gabel, *The Spiritual Dimension of Social Justice*, 63 J. LEGAL EDUC. 673 (2014); Amelia J. Uelmen, *Reconciling Evangelization and Dialogue Through Love of Neighbor*, 52 VILL. L. REV. 303 (2007).

324. *See* Thomas L. Shaffer, *A Lesson From Trollope for Counselors at Law*, 35 WASH. & LEE L. REV. 727 (1978); Thomas L. Shaffer, *The Practice of Law as Moral Discourse*, 55 NOTRE DAME L. REV. 231 (1979).

325. Isabelle R. Gunning, *Lawyers of All Faiths: Constructing Professional Identity and Finding Common Ground*, 39 J. LEGAL PROF. 231, 246 (2015).

Lawyering Movement,[326] Second Wave scholarship devotes meager attention to the role of faith in establishing an alternative *client-lawyer* relationship and in building unconventional forms of support for that realigned sociolegal relationship. Yet, the literature of ethics and professionalism highlights the frequent centrality of faith to the lawyering process.[327] Both strong and weak notions of faith imply a client-lawyer relationship of fidelity and trust[328] and link the practical wisdom of clients to everyday experience.[329] Respect for the practical wisdom derived from everyday experience warrants lawyer "deference to independent decisionmaking and an honoring of individual client choice and preference" expressed in dialogue.[330] Sympathy guides client-lawyer dialogue with "an ethic and ideal of shared ends" for clients, groups, and communities.[331]

Demonstrating faith, practical wisdom, respect, and sympathy in ordinary advocacy situations allows "multiple identity narratives, layered contextual descriptions, and silenced community histories" to enter clinical classrooms, judicial and legislative forums, and neighborhood assemblies.[332] These accumulated narratives, descriptions, and histories are more than the individual and collective self-elaboration of liberty and equality interests propounded by the neutral rights rationality of "race liberalism" and aimed at "enhancing social mobility and democratic participation."[333] Deeper and foundational, they are the suppressed narratives, descriptions, and histories of caste, subordination, and stigma.[334] As such, they hold the potential to reshape client-lawyer roles and relationships and to transform legal-political advocacy.[335]

326. For background on the Religious Lawyering Movement, see Russell G. Pearce & Amelia J. Uelmen, *Religious Lawyering's Second Wave*, 21 J.L. & RELIGION 269 (2005–06), and Symposium, *The Religious Lawyering Movement: An Emerging Force in Legal Ethics and Professionalism*, 66 FORDHAM L. REV. 1075 (1998).

327. *See* JOSEPH G. ALLEGRETTI, THE LAWYER'S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE (1996); MILNER S. BALL, THE WORD & THE LAW (1993); THOMAS L. SHAFFER, ON BEING A CHRISTIAN AND A LAWYER: LAW FOR THE INNOCENT (1981); Howard Lesnick, *The Religious Lawyer in a Pluralist Society*, 66 FORDHAM L. REV. 1469, 1483 (1998); Russell G. Pearce, *Jewish Lawyering in a Multicultural Society: A Midrash on Levinson*, 14 CARDOZO L. REV. 1613, 1615 (1993).

328. Alfieri, *supra* note 249, at 698 ("[Faith] also connotes genuine and sincere belief, a kind of authenticity of motive.").

329. *Id.* ("[Practical wisdom] suggests considered judgment informed by the ordinary lessons of everyday life.").

330. *Id.* at 699 ("[R]espect follows from the cultivation of faith and practical wisdom.").

331. *Id.*

332. Alfieri, *supra* note 28, at 939.

333. *Id.*; Kimberlé Williams Crenshaw, *Race Liberalism and the Deradicalization of Racial Reform*, 130 HARV. L. REV. 2298, 2298 (2017).

334. Alfieri, *supra* note 28, at 939.

335. *Id.*

In Goulds, the West Grove, and other neighborhoods participating in the Miami municipal equity campaign, empowerment-directed dialogue inevitably "must branch off into straightforward political discourse."[336] In so doing, the discursive parts of faith, practical wisdom, respect, and sympathy merge into political dialogues of civic self-governance, democratic participation, and a more inclusive and robust version of interest group pluralism. Dialogues of this kind "assign[] a tactical role to the traditional methods of direct service and law reform litigation."[337] Committed to "democratic renewal" and active participation at local, state, and national levels, the dialogues of grassroots politics seek to raise the level of client and community rights consciousness[338] and to mobilize "independent, locally-based client/community empowerment groups."[339]

For a decade in the West Grove, the Historic Black Church Program and its law student fellows and interns have worked in close partnership with the black churches of the Coconut Grove Ministerial Alliance, nonprofit organizations like the St. Paul Community Development Corporation, and civic groups like the Coconut Grove Village West Homeowners and Tenants Association on matters of community economic development, environmental justice, fair housing, and municipal equity. Prior to this partnership, the only significant recent "outside intervention" by local nonprofit or university entities in the West Grove consisted of a five-year pilot project launched in 2000 by the Initiative for Urban and Social Ecology (INUSE) at the University of Miami.[340] The now dormant INUSE program, then described as an "an innovative, interdisciplinary effort to serve as catalyst for physical and social change," attempted to strengthen the "distressed" inner-city neighborhoods of the West Grove by "establishing effective university-community partnerships, encouraging creative collaborative programs, incorporating education into community development, and enlisting the assistance of funders who support these aims."[341] Although INUSE pursued a "community-centered mission" of "broad-based interdisciplinary collaboration" with numerous university and community partners,[342] it failed to design, build, or fund a legal services provider mechanism to serve the needs of West Grove

336. Alfieri, *supra* note 249, at 704.
337. *Id.* at 705.
338. *Id.*; *see* Orly Lobel, *The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics*, 120 HARV. L. REV. 937, 939–56 (2007).
339. Alfieri, *supra* note 249, at 706.
340. Samina Quraeshi, *Introduction: Interdisciplinary Community Building—Strengthening a Neighborhood*, *in* REIMAGINING WEST COCONUT GROVE, *supra* note 107, at 14.
341. *Id.* at 14.
342. *Id.* at 16.

institutions and individuals.[343] Aside from limited and sporadic "small business counseling" and economic development "training" workshops provided by the law student-staffed Community Economic Development and Design Project, a precursor of the Historic Black Church Program, previously housed at the Center for Ethics and Public Service,[344] the INUSE outreach programs disregarded the legal needs of the West Grove. During the same five-year period, due to a lack of federal, state, and local funds, neither Legal Services of Greater Miami[345] nor Florida Legal Services[346] nor Dade Legal Aid[347] established an alternative neighborhood-based legal services provider mechanism in the West Grove. Likewise, neither The Florida Bar[348] nor the Dade County Bar Association[349] supplied systemic or sustained neighborhood-based pro bono volunteer resources to the West Grove.

Despite the expanded inroads of legal aid providers and the increased ranks of pro bono volunteers in the West Grove during the ten-year period subsequent to the shuttering of the INUSE outreach programs, to meet the standard for continued triage intervention under the Second Wave community empowerment theorem, both these provider relationships and the collaborations between the Historic Black Church Program and its church and nonprofit partners must evince an actual, measurable realignment of traditional lawyer-client and citizen-state roles and relationships of power in the West Grove. Measured by the increased *quantity* or the heightened *quality* of client-lawyer relationships formed between West Grove individuals and entities and joint clinic and pro

343. *Id.* at 17.
344. *Id.*
345. *Who We Are*, LEGAL SERVS. GREATER MIAMI, INC., http://legalservicesmiami.org/who-we-are [https://perma.cc/P6G3-V2AM] ("Legal Services [of Greater Miami, Inc.] is the largest provide[r] of broad-based civil legal services for the poor in Miami-Dade and Monroe Counties, and is recognized in the state and in the nation as a model legal services program.").
346. FLA. LEGAL SERVS., http://floridalegal.org [https://perma.cc/C6WT-3G8J] ("Florida Legal Services is a statewide leader in advancing economic, social, and racial justice. We advocate for poor, vulnerable, and hard to reach people through impact litigation, legislative and administrative advocacy, education, and strategic partnerships.").
347. DADE LEGAL AID, http://www.dadelegalaid.org [https://perma.cc/J67E-Z6PV] ("Dade Legal Aid is a nonprofit law firm dedicated to providing greater access to justice to low income individuals, children, teens, women and families."). Dade Legal Aid provides assistance in the following areas: child advocacy, domestic violence, bankruptcy, guardianship, foreclosure, human trafficking, guardian ad litem, immigration, nonprofits, housing, benefits, patents, probate, startups, taxation, veterans, and wills. *Id.*
348. *What We Do*, FLA. BAR, http://www.floridabar.org/about/faq/history/what-we-do [https://perma.cc/29KG-YWPU]. The Florida Bar provides "a virtual legal advice clinic" and sponsors Low Cost Lawyer Referral Service Panels to assist the elderly and the disabled. *Id.*
349. *About the DCBA*, DADE COUNTY BAR ASS'N, http://www.dadecountybar.org/page/about [https://perma.cc/DH4T-XVGC].

bono law firm counsel, there is scant evidence of realignment. Notwithstanding the greater quantity and higher quality of West Grove individual and entity representation by clinic and pro bono counsel in matters associated with the Historic Black Church Program, both the roles and relationships of client-lawyer power appear stubbornly conventional and hierarchically static. In fact, due in part to an overreliance on pro bono law firm counsel, those relationships have reproduced the traditional dynamics and dependencies of client-centered lawyering, often to the detriment of anti-poverty and civil rights movement building efforts.

By comparison, measured by the increased number of local grassroots entities formed in the West Grove as a direct or an indirect offshoot of the decade-long partnership projects of the Historic Black Church Program, there is noteworthy proof of realignment. Consider, for example, the emergence of Housing for All, People Organizing with Empowered Residents, West Grove Vote, Coconut Grove Drug-Free Community Coalition, the Old Smokey Environmental Justice Steering Committee, and the Grove United Environmental Health Coalition in the brief span of four to five years. Further evidence of realignment includes expanded local individual and entity participation in electoral politics, increased civic engagement in housing and environmental justice campaigns, enlarged media coverage, and improved municipal accountability and responsiveness in the allocation of public funds and the provision of public services. Given the level of social disorganization in East and West Goulds, the promise of a similar realignment of power unfolding around the Karis Village controversy seems unlikely, rendering triage intervention under the Second Wave community empowerment theorem improvident.

Nevertheless, as the West Grove partnerships of the Historic Black Church Program demonstrate, collaborating with individuals and entities to raise community rights consciousness across localities and regions and to mobilize grassroots interest groups extends the goal of poverty law representation "from the protection and expansion of individual or group entitlement claims to the establishment of client/client and client/community organization."[350] This shift converts traditional litigation methods into tactical organizing techniques and relegates poverty lawyers to secondary roles facilitating client- and community-led organizing campaigns. Without that tactical reorientation and professional role distinction, legal-political

350. Alfieri, *supra* note 249, at 706.

organizing campaigns revert to narrow, lawyer-engineered strategies of direct service and law reform litigation.[351]

Citing this recurrent reversion tendency, in previous work I mention the difficulty of ensuring client- and community-centered decisionmaking related to "the content and direction of group policy."[352] I also note that the emergence of community empowerment groups inside and outside litigation arenas enables "poverty lawyers to deconstruct more effectively the myths of legal efficacy and inherent indigent isolation and passivity in transformational client/community settings."[353] Community-based lay advocacy training and rights education may serve to insulate client group policy deliberations from lawyer domination and encourage client groups to communicate and to share their common grievances with a community of others in like situations. Even so, the simple commonality of grievances affords no guarantee of community coherence. White mentions "that a sense of community among low-income actors can most readily be created by emphasizing common racial or ethnic identities, common life histories, or common language or cultural practice among people who reside in the same geographically defined neighborhoods or who work for the same boss."[354] Regrettably, she adds, the same "strategies of building coherence within a community bind some people together by closing others out."[355] For Second Wave scholars, it is the experience of a shared and inclusive client community that works to invigorate political organization and to rouse mobilization around basic, generally held grievances.[356] Organization and mobilization are preconditions for civic self-governance and democratic enfranchisement. The next Part establishes such preconditions as dual guideposts for Third Wave anti-poverty campaigns in Pittsburgh, Milwaukee, St. Louis, Memphis, Miami, and elsewhere.

351. *Id.*; *see also* Alfieri, *supra* note 23, at 806–07 ("[Law reform] litigation fails . . . without political support. It fails when courts reject needed remedies. It fails when legislatures rebuff funding mandates or supersede court decrees. It fails when administrative agencies refuse to compel regulatory compliance. And it fails when street-level enforcement ebbs.").

352. Alfieri, *supra* note 249, at 707.

353. *Id.*

354. White, *supra* note 234, at 825–26.

355. *Id.* ("Whether it is language, ethnic identity, religion, cultural commonality, or the accident of neighborhood residence alone, the practices that will most easily motivate people to work together have the unwanted side-effect of setting up boundaries between that group and wider realms of community.").

356. *See* Alfieri, *supra* note 249, at 708 ("Poverty lawyers can stimulate client organization and community mobilization by drafting self-help advocacy materials, such as legal handbooks and manuals, which translate the law into a more intelligible and less intimidating medium.").

IV. THIRD WAVE ANTI-POVERTY CAMPAIGNS

> Organizing is done on pain . . . .
>
> —Stephen Wexler[357]

This Part assesses the Third Wave of anti-poverty campaigns facilitated by a new generation of legal services and public interest lawyers in the fields of community economic development,[358] environmental justice,[359] low-wage labor,[360] immigration,[361] and municipal equity.[362] Stirred by the leading work of Scott Cummings, Sameer Ashar, and others, Third Wave campaigns attempt to reintegrate the politics of client and community movement-building into the lawyering process and into the structure of legal services delivery systems. Third Wave scholars range widely across decades of public interest[363] and social justice

357. Stephen Wexler, *How NOT to Practice Law for Poor People*, 1 QUAERE 15, 16 (1971).

358. Alfieri, *supra* note 24, at 1847–49 ("Allied with public and private reinvestment strategies, the economic self-sufficiency goals of community development practice help redefine the roles and skills of lawyers advocating for inner-city socio-economic needs ranging from child care to transportation. The skills call for cooperative enterprises and partnerships to assist small business development and to spur egalitarian economic growth." (footnotes omitted)).

359. *See generally* LUKE W. COLE & SHEILA R. FOSTER, FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT (2001); Steven A. Light & Kathryn R.L. Rand, *Is Title VI a Magic Bullet? Environmental Racism in the Context of Political-Economic Processes and Imperatives*, 2 MICH. J. RACE & L. 1, 6–14 (1996).

360. *See* Sameer M. Ashar, Fernando Flores & Sara Feldman, *Advancing Low-Wage Worker Organizing Through Legal Representation*, 47 CLEARINGHOUSE REV. J. 313 (2013); Charles F. Elsesser, Jr., *Changing Legal Services to Serve Low-Wage Clients Better*, 34 CLEARINGHOUSE REV. J. POVERTY L. & POL'Y 626 (2001).

361. *See* JANICE FINE, WORKER CENTERS: ORGANIZING COMMUNITIES AT THE EDGE OF THE DREAM 180 (2006); JENNIFER GORDON, SUBURBAN SWEATSHOPS: THE FIGHT FOR IMMIGRANT RIGHTS 185 (2005); Jennifer Gordon, *A Movement in the Wake of a New Law: The United Farm Workers and the California Agricultural Labor Relations Act*, *in* CAUSE LAWYERS AND SOCIAL MOVEMENTS, *supra* note 272, at 277; Jayanth K. Krishnan, *Mobilizing Immigrants*, 11 GEO. MASON L. REV. 695, 723–29 (2003); Irene Sharf, *Nourishing Justice and the Continuum: Implementing a Blended Model in an Immigration Law Clinic*, 12 CLINICAL L. REV. 243, 252 (2005).

362. *See* R.A. Lenhardt, *Race Audits*, 62 HASTINGS L.J. 1527 (2011); Charles Lord & Keaton Norquist, *Cities as Emergent Systems: Race as a Rule in Organized Complexity*, 40 ENVTL. L. 551 (2010).

363. *See, e.g.*, NAN ARON, LIBERTY AND JUSTICE FOR ALL: PUBLIC INTEREST LAW IN THE 1980S AND BEYOND 115–19 (1989); ALAN K. CHEN & SCOTT L. CUMMINGS, PUBLIC INTEREST LAWYERING: A CONTEMPORARY PERSPECTIVE (2013); 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, 688–92 (1992); Scott L. Cummings, *Public Interest Law: The United States and Beyond*, *in* INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL AND BEHAVIOURAL SCIENCES 555 (James D. Wright ed., 2d ed. 2015); Scott L. Cummings, *The Pursuit of Legal Rights—and Beyond*, 59 UCLA L. REV. 506, 543 (2012); Scott L. Cummings &

movements[364] in order to collect and to synthesize the chief lessons of legal-political advocacy and organizing. Although well-grounded in critical theory,[365] critical jurisprudence (Critical Race Theory[366] and LatCrit Theory[367]), and clinical pedagogy,[368] and well-versed in ethics[369] and the history of anti-poverty[370]

Ingrid V. Eagly, *After Public Interest Law*, 100 NW. U. L. REV. 1251, 1283–91 (2006) (book review); Harold A. McDougall, *Lawyering and the Public Interest in the 1990s*, 60 FORDHAM L. REV. 1, 11 (1991); Laura Beth Nielsen & Catherine R. Albiston, *The Organization of Public Interest Practice: 1975–2004*, 84 N.C. L. REV. 1591, 1605 (2006); Deborah L. Rhode, *Public Interest Law: The Movement at Midlife*, 60 STAN. L. REV. 2027, 2064 (2008).

364. *See, e.g.*, CHARLES TILLY, SOCIAL MOVEMENTS, 1768–2004 (2004); Jo Freeman, *On the Origins of Social Movements*, *in* WAVES OF PROTEST: SOCIAL MOVEMENTS SINCE THE SIXTIES 7 (Jo Freeman & Victoria Johnson eds., 1999); John D. McCarthy & Mayer N. Zald, *Social Movement Organizations*, *in* THE SOCIAL MOVEMENTS READER: CASES AND CONCEPTS 159 (Jeff Goodwin & James M. Jasper eds., 3d ed. 2015); *see also* DAVID COLE, ENGINES OF LIBERTY: THE POWER OF CITIZEN ACTIVISTS TO MAKE CONSTITUTIONAL LAW (2016).

365. *See* Peter Gabel & Paul Harris, *Building Power and Breaking Images: Critical Legal Theory and the Practice of Law*, 11 N.Y.U. REV. L. & SOC. CHANGE 369 (1982–83); *see also* Alfieri, *supra* note 23, at 835 ("By situating identity in law, culture, and society, critical theory supplies a range of insights and interventions to law students striving to meet individual, group, and community needs. For critical theorists, client or group identity is neither natural nor necessary. Rather, it is constructed by advocacy, adjudication, and regulation." (footnote omitted)).

366. *See* CRITICAL RACE THEORY: THE CUTTING EDGE (Richard Delgado & Jean Stefancic eds., 2d ed. 2000); CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al. eds., 1995); MARI J. MATSUDA ET AL., WORDS THAT WOUND: CRITICAL RACE THEORY, ASSAULTIVE SPEECH, AND THE FIRST AMENDMENT (1993); *see also* CRITICAL RACE FEMINISM: A READER (Adrien Katherine Wing ed., 1997).

367. *See* RODOLFO ACUNA, OCCUPIED AMERICA: A HISTORY OF CHICANOS (4th ed. 2000); CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY (Francisco Valdes et al. eds., 2002); RICHARD DELGADO ET AL., LATINOS AND THE LAW: CASES AND MATERIALS (2008); IAN F. HANEY LÓPEZ, RACISM ON TRIAL: THE CHICANO FIGHT FOR JUSTICE (2003); THE LATINO/A CONDITION: A CRITICAL READER (Richard Delgado & Jean Stefancic eds., 2d ed. 2011).

368. *See* CLINICAL ANTHOLOGY: READINGS FOR LIVE-CLIENT CLINICS (Alex J. Hurder, Frank S. Bloch, Susan L. Brooks & Susan L. Kay eds., 1997); STEPHEN ELLMANN, ROBERT D. DINERSTEIN, ISABELLE R. GUNNING, KATHERINE R. KRUSE & ANN C. SHALLECK, LAWYERS AND CLIENTS: CRITICAL ISSUES IN INTERVIEWING AND COUNSELING (2009); DEBORAH EPSTEIN, JANE H. AIKEN & WALLACE J. MLYNIEC, THE CLINIC SEMINAR (2014); ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION (2007); THE NEW 1L: FIRST-YEAR LAWYERING WITH CLIENTS (Eduardo R.C. Capulong, Michael A. Millemann, Sara Rankin & Nantiya Ruan eds., 2015); TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY (Susan Bryant, Elliott S. Milstein & Ann C. Shalleck eds., 2014).

369. *See* Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 YALE L.J. 470, 493 (1976); Susan D. Carle, *From* Buchanan *to* Button*: Legal Ethics and the NAACP (Part II)*, 8 U. CHI. L. SCH. ROUNDTABLE 281, 299 (2001); Susan D. Carle, *Race, Class, and Legal Ethics in the Early NAACP (1910–1920)*, 20 L. & HIST. REV. 97, 131 (2002).

370. *See* PIVEN & CLOWARD, *supra* note 222, at181.

and civil rights[371] campaigns, Third Wave scholars eschew totalizing visions of practice.[372] Turning away from overly deterministic or structuralist frameworks, they experiment with varied, sometimes improvisational methods[373] of integrating law and politics into advocacy and counseling.[374] The range of these methods matches the breadth of movement lawyering, defined by Cummings as "the mobilization of law though deliberately planned and interconnected advocacy strategies, inside and outside of formal lawmaking spaces, by lawyers who are accountable to politically marginalized constituencies, to build the power of those constituencies to produce and sustain democratic social change goals that they define."[375] As current Third Wave experiments in the diverse localities of Pittsburgh, Milwaukee, St. Louis, Memphis, and Miami demonstrate, even the best of these methods may falter amid the persistent dilemmas of advocacy at the intersection of law, culture, and politics. Consider first the dilemmas of race.

A. Critical Pathways: Legal-Political Methods

Like their predecessors, Third Wave scholars carve new critical pathways to resolve the dilemmas of legal-political advocacy and to inculcate empowerment[376] into the lawyering and movement-building process within low-income

371. *See generally* TAYLOR BRANCH, PARTING THE WATERS: AMERICA IN THE KING YEARS, 1954–63, at 220 (1988); TAYLOR BRANCH, PILLAR OF FIRE: AMERICA IN THE KING YEARS, 1963–65, at 358 (1998); JOHN EGERTON, SPEAK NOW AGAINST THE DAY: THE GENERATION BEFORE THE CIVIL RIGHTS MOVEMENT IN THE SOUTH 513 (1994); MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY 344 (2004); RICHARD KLUGER, SIMPLE JUSTICE: THE HISTORY OF *BROWN V. BOARD OF EDUCATION* AND BLACK AMERICA'S STRUGGLE FOR EQUALITY 703 (spec. ed. 1994); THOMAS J. SUGRUE, SWEET LAND OF LIBERTY: THE FORGOTTEN STRUGGLE FOR CIVIL RIGHTS IN THE NORTH 265 (2008); MARK V. TUSHNET, THE NAACP'S LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925–1950 (1987).

372. For a critique of totalizing visions of practice in welfare advocacy and in legal advocacy more generally, see William H. Simon, *Legality, Bureaucracy, and Class in the Welfare System*, 92 YALE L.J. 1198 (1983); William H. Simon, Commentary, *The Ideology of Advocacy: Procedural Justice and Professional Ethics*, 1978 WIS. L. REV. 29, 34 (1978); and William H. Simon, *Visions of Practice in Legal Thought*, 36 STAN. L. REV. 469, 489 (1984).

373. Alfieri, *supra* note 28, at 937 ("[C]ollaborations must be improvisational to respond to fast-moving changes in individual, group, and community circumstances.").

374. *See* Martha Minow, *Political Lawyering: An Introduction*, 31 HARV. C.R.-C.L. L. REV. 287, 293 (1996); *see also* Florence Wagman Roisman, *The Lawyer as Abolitionist: Ending Homelessness and Poverty in Our Time*, 19 ST. LOUIS U. PUB. L. REV. 237, 248 (2000).

375. Cummings, *supra* note 144 (manuscript at 43).

376. *See* Alexi Nunn Freeman & Jim Freeman, *It's About Power, Not Policy: Movement Lawyering for Large-Scale Social Change*, 23 CLINICAL L. REV. 147, 155–60 (2016); Daniel S. Shah, *Lawyering for Empowerment: Community Development and Social Change*, 6 CLINICAL L. REV. 217, 249 (1999).

communities of color. At the outset, resolution must confront the threshold dilemmas of race. In Goulds, the West Grove, and across Miami-Dade County, Third Wave campaigns encounter the recurrent dilemmas of race-conscious intervention in institutionalized, sociolegal settings (civic, administrative, legislative, and judicial) saturated by race-coded discourse and race-neutral pretext.[377] At an April 2017 meeting of the Goulds Community Advisory Committee,[378] for example, debate over the Karis Village project and future district redevelopment veered between the formalist postures of race-neutral discourse and the instrumentalist appeals of race-coded discourse. This dynamic reoccurs in the dominant race-neutral and intermittently race-coded discourse employed by Karis Village proponents to justify the geographic siting of the project. On this account, the county and its public-private development partners purportedly acted in the best interests of Goulds residents and homeless veterans by alleviating urban/suburban blight, minimizing capital costs, and subsidizing affordable housing for a highly vulnerable population. Similarly, in the dominant race-neutral and alternatingly race-coded discourse deployed by bus depot proponents in the West Grove Trolley Garage case to rationalize the location of the project, the City of Coral Gables and its private development partner allegedly acted in the best interests of West Grove residents by combating urban blight, maximizing land use efficiency, and subsidizing acutely needed public transportation, even though the transit lines at issue would not actually serve the West Grove or the East Gables. Despite the neutral tropes of affordable housing, land use efficiency, mass transit, public investment, and blight alleviation, the public-private partnership groups promoting the Karis Village project and the West Grove Trolley Garage echo the race-coded logic of the 1960s urban renewal era, once again rationalizing "Negro removal"[379] from racial geographies of newly discovered, rising value to metropolitan Miami.

377. Alfieri, *supra* note 24, at 1850 ("Community lawyering is similarly enriched by models of law-and-organizing in both civil and criminal arenas. Organizing models press self-help skills and collaborative engagement to facilitate local, client- and group-participation in legal and political reform campaigns." (footnotes omitted)).

378. The creature of Miami-Dade County's Community Action and Human Services Department, Community Advisory Committees (CACs) are designed "to foster and sustain civic engagement in communities located in targeted [low-income] areas." *Community Advisory Committees*, MIAMIDADE.GOV, http://www.miamidade.gov/socialservices/community-advisory-committees.asp [https://perma.cc/M633-DJN4]. By policy and practice, CAC members are elected by the residents of their respective communities. *Id.*

379. CONNOLLY, *supra* note 46, at 144; *see also* Chanelle Nyree Rose, Neither Southern Nor Northern: Miami, Florida and the Black Freedom Struggle in America's Tourist Paradise, 1896–1968, at 400 (Dec. 2007) (unpublished Ph.D. thesis, University of Miami) (on file with author) ("Many [Miami] blacks began calling urban renewal 'Negro Removal' because of the large displacement of so many people . . . .").

Only a collaborative process of race-conscious discourse and decision-making, coupled with a coalition framework of cross-racial alliances, may be able to resolve the sociolegal tension spawned by competing race-neutral, race-coded, and race-conscious claims of blight eradication and prevention, environmental and land use discrimination, and municipal equity. Countering race-neutral and race-coded efficiency claims, and reinvigorating the race-conscious concepts of environmental justice and municipal equity, require advocacy methods that avoid the essentialist construction of racial identity, mitigate the stigma risk of race-conscious narrative, enlarge the group mobilization counseling competence of lawyers, mediate client and community goal dissonance, and challenge racialized visions of urban and suburban blight.[380]

Experimentation in the design of race-conscious advocacy models, and in the corresponding measurement of their social impact, marks the emergence of community-centered lawyering in local civil rights and poverty law contexts like Goulds and the West Grove. Their wider emergence elsewhere increasingly shapes the pedagogy of clinical education and the legal-political methodology of social movement building. Consider the various race-conscious, legal-political methods of rights education,[381] organization,[382] and mobilization[383] in support of movement building. Like their civil rights movement antecedents, race-conscious, legal-political methods of rights education, organization, and mobilization function as a purposive "form

380. Alfieri, *supra* note 24, at 1866–74.

381. *See* Derrick A. Bell, Jr., *The Community Role in the Education of Poor, Black Children*, 17 THEORY INTO PRAC. 115 (1978); Eagly, *supra* note 250.

382. *See* Jennifer Gordon, *Law, Lawyers, and Labor: The United Farm Workers' Legal Strategy in the 1960s and 1970s and the Role of Law in Union Organizing Today*, 8 U. PA. J. LAB. & EMP. L. 1 (2005); Reyna Ramolete Hayashi, *Empowering Domestic Workers Through Law and Organizing Initiatives*, 9 SEATTLE J. SOC. JUST. 487, 496 (2010); Manuel Pastor et al., *For What It's Worth: Regional Equity, Community Organizing, and Metropolitan America*, 42 J. COMMUNITY DEV. 437 (2011).

383. *See* Kathryn Abrams, *Emotions in the Mobilization of Rights*, 46 HARV. C.R.-C.L. L. REV. 551, 566 (2011); Ashar, *Law Clinics and Collective Mobilization*, *supra* note 272, at 355; Ashar, *Public Interest Lawyers and Resistance Movements*, *supra* note 272, at 1879; Anne Bloom, *Practice Style and Successful Legal Mobilization*, L. & CONTEMP. PROBS., Spring 2008, at 1, 5; Paul Burstein, *Legal Mobilization as a Social Movement Tactic: The Struggle for Equal Employment Opportunity*, 96 AM. J. SOC. 1201 (1991); Carmen Huertas-Noble, *Promoting Worker-Owned Cooperatives as a CED Empowerment Strategy: A Case Study of Colors and Lawyering in Support of Participatory Decision-Making and Meaningful Social Change*, 17 CLINICAL L. REV. 255, 258 (2010); George I. Lovell, Michael McCann & Kirstine Taylor, *Covering Legal Mobilization: A Bottom-Up Analysis of* Wards Cove v. Atonio, 41 L. & SOC. INQUIRY 61, 63 (2016); Michael Paris, *Legal Mobilization and the Politics of Reform: Lessons From School Finance Litigation in Kentucky, 1984–1995*, 26 L. & SOC. INQUIRY 631, 646 (2001); William Quigley, *Ten Questions for Social Change Lawyers*, 17PUB. INT. L. REP. 204, 205–09 (2012).

of politics to be used strategically to advance diverse movement objectives."[384] For Cummings, common movement objectives include "catalyzing direct action, imposing pressure on policy makers to change and enforce law, and equipping individuals with the power to assert rights in their day-to-day lives."[385] Cummings bundles legal-political advocacy methods into "problem-solving repertoires" or skill sets encompassing litigation, community education, direct action legal defense, policy research, organizational counseling, negotiation, and enforcement monitoring.[386] To Cummings, this style of "integrated advocacy" operates "to break down divisions associated with legal liberalism—between lawyers and nonlawyers, litigation and other forms of advocacy, and courts and other spaces of law making and norm generation—toward the end of producing more democratic and sustainable social change."[387]

In fostering the integration of law and organizing in social movement campaigns, both Cummings and Ingrid Eagly concede that "the contours of law and organizing practice remain fluid" in shaping new collaborations, implementing innovative tactics, encouraging direct client participation, and ultimately "shifting power to the poor."[388] That fluidity is well illustrated by the Old Smokey Cleanup campaign in the West Grove and in the environmental justice movement more generally. Like comparable challenges to the disproportionate placement of incinerator-related environmental hazards in low-income communities of color elsewhere, the Old Smokey campaign initially "downplay[ed] litigation and emphasize[d] grassroots efforts to empower community residents as political actors" through a county-wide steering committee and local direct action protest.[389] Although the campaign raised public awareness about the Jim Crow history of environmental discrimination and racism in Miami and instigated the cleanup of numerous municipal parks, it has struggled to make progress measured in terms of organization building, community mobilization, and legislative advocacy. Instead, the Old Smokey campaign gradually reverted to traditional legal interventions, disempowering clients and diminishing the social vision animating the emerging environmental justice movement in Miami.

384. Cummings, *supra* note 144 (manuscript at 44) (footnote omitted).
385. *Id.*
386. *Id.*
387. *Id.* (manuscript at 48–49).
388. Cummings & Eagly, *supra* note 251, at 468.
389. *Id.* at 473.

Sameer Ashar explicates the reversionist tendency to abandon client collaboration and community solidarity in favor of formalistic lawyering roles and tactics by reference to the sociology of path dependency and the psychology of professional socialization.[390] In the context of traditional anti-poverty campaigns, path dependency channels lawyers towards litigation strategies and judicial remedies, even when they prove misplaced or insufficient for purposes of institutional reform. Moreover, in the context of traditional legal education, professional socialization encourages the disaggregation of legal-political advocacy functions, for example the division of labor between advocates and organizers or between lawyers and clients, and the devaluation of professional legal-political intervention judgments, for example the democratic integrity or rebellious judgments of First and Second Wave anti-poverty lawyers.

Commonly grounded in democratic norms, Ashar extends the foundational continuity of First and Second Wave methods by urging lawyers and law students to "learn to collaborate with and nurture partners from the community, mediate complex decision-making within organizations and communities, frame social problems, and think carefully about power—how it is created, distributed, used, and lost."[391] By overcoming the divisions and allaying the tensions separating lawyers from nonlawyers, litigation from nonlitigation advocacy tactics, and courts from other juridical spaces, Third Wave democratic norms and methodologies alter the well-accepted leadership roles[392] and authoritarian relationships[393] of conventional public interest lawyering, enlarging the early First Wave partial embrace of, and strengthening the later Second Wave preference for, *client-lawyer* and *client-community* collaboration.[394] Rejection of settled roles and relationships in no way discards the needs of individual clients[395] or aligns transgressively[396] with their causes and commitments. Rather,

390. Sameer M. Ashar, *Deep Critique and Democratic Lawyering in Clinical Practice*, 104 CALIF. L. REV. 201, 223–24 (2016).
391. *Id.* at 223 (footnote omitted).
392. *See* Gordon, *supra* note 272, at 2140–45.
393. *See* Michael Haber, *CED After #OWS: From Community Economic Development to Anti-Authoritarian Community Counter-Institutions*, 43 FORDHAM URB. L.J. 295, 322 (2016).
394. *See* Susan Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 VT. L. REV. 459, 495–99 (1993); Robin S. Golden, *Collaborative as Client: Lawyering for Effective Change*, 56 N.Y. L. SCH. L. REV. 393, 399–404 (2011–12).
395. *See* April Land, *"Lawyering Beyond" Without Leaving Individual Clients Behind*, 18 CLINICAL L. REV. 47, 59 (2011); Alizabeth Newman, *Bridging the Justice Gap: Building Community by Responding to Individual Need*, 17 CLINICAL L. REV. 615, 636 (2011).

by building on the innovative practices of community lawyering,[397] it allows room for invention in service delivery,[398] clinical education,[399] and experiential learning.[400]

The key to Third Wave innovation in marshalling anti-poverty campaigns is acquiring an alternative discourse or vocabulary to describe the nature of community-based legal-political work and to prescribe collaborative methods of educating, organizing, and mobilizing communities in democratic movement-building. In previous work, I deduce an alternative vocabulary from the writings of Robert Cover on law's violence[401] in an attempt to describe the sociolegal experience of impoverished communities of color like Goulds and the West Grove. Elaborating upon Cover's vocabulary, I argue that poverty lawyers bring a pre-understanding of indigent dependency to their relationship with poor clients

396. *See* James Douglas, *The Distinction Between Lawyers as Advocates and Activists; and the Role of the Law School Dean in Facilitating the Justice Mission*, 40 CLEV. ST. L. REV. 405, 407 (1992); Madeleine C. Petrara, *Dangerous Identification: Confusing Lawyers With Their Clients*, 19 J. LEGAL PROF. 179, 182 (1994–95); Nancy D. Polikoff, *Am I My Client?: The Role Confusion of a Lawyer Activist*, 31 HARV. C.R.-C.L. L. REV. 443, 449 (1996).

397. Alfieri, *supra* note 23, at 831 ("Community lawyering entails the representation of community-based organizations and groups for purposes of empowerment, capacity-building, and political mobilization."); *see also* Stacy Brustin, *Expanding Our Vision of Legal Services Representation—The Hermanas Unidas Project*, 1 AM. U. J. GENDER & L. 39, 54 (1993); Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 COLUM. HUM. RTS. L. REV. 67, 75 (2000); Charles Elsesser, *Community Lawyering—The Role of Lawyers in the Social Justice Movement*, 14 LOY. J. PUB. INT. L. 375, 378 (2013); Angela Harris et al., *From "The Art of War" to "Being Peace": Mindfulness and Community Lawyering in a Neoliberal Age*, 95 CALIF. L. REV. 2073, 2128 (2007); Richard F. Klawiter, Note, *¡La Tierra es Nuestra! The Campesino Struggle in El Salvador and a Vision of Community-Based Lawyering*, 42 STAN. L. REV. 1625, 1667 (1990).

398. *See* Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 12–13, 18–19 (2000); Brodie, *supra* note 271, at 339; Marcy L. Karin & Robin R. Runge, *Toward Integrated Law Clinics That Train Social Change Advocates*, 17 CLINICAL L. REV. 563, 570 (2011); Stephen Loffredo, *Poverty Law and Community Activism: Notes From a Law School Clinic*, 150 U. PA. L. REV. 173, 189 (2001).

399. *See* Richard L. Abel, *Choosing, Nurturing, Training and Placing Public Interest Law Students*, 70 FORDHAM L. REV. 1563, 1569 (2002); Barbara L. Bezdek, *Reflections on the Practice of a Theory: Law, Teaching, and Social Change*, 32 LOY. L.A. L. REV. 707, 716 (1999); John O. Calmore, "*Chasing the Wind*": *Pursuing Social Justice, Overcoming Legal Mis-Education, and Engaging in Professional Re-Socialization*, 37 LOY. L.A. L. REV 1167, 1196 (2004).

400. *See* Juliet M. Brodie, *Post-Welfare Lawyering: Clinical Legal Education and a New Poverty Law Agenda*, 20 WASH. U. J.L. & POL'Y 201, 226–38 (2006); Alexi Freeman, *Teaching for Change: How the Legal Academy Can Prepare the Next Generation of Social Justice Movement Lawyers*, 59 HOW. L.J. 99, 120 (2015); Andrea M. Seielstad, *Community Building as a Means of Teaching Creative, Cooperative, and Complex Problem Solving in Clinical Legal Education*, 8 CLINICAL L. REV. 445, 448–55 (2002); Karen Tokarz et al., *Conversations on "Community Lawyering": The Newest (Oldest) Wave in Clinical Legal Education*, 28 WASH. U. J.L. & POL'Y 359, 386–96 (2008).

401. Anthony V. Alfieri, *The Ethics of Violence: Necessity, Excess, and Opposition*, 94 COLUM. L. REV. 1721, 1724–25 (1994) (book review).

and employ methods of interpretive violence that reproduce sociocultural and political dependency by marginalizing, subordinating, and disciplining clients during the advocacy process appraised from the formation of the attorney-client relationship at case intake to the termination of the relationship at case closing.[402]

In construing the postindustrial violence of inner-city poverty and race in Pittsburgh, Milwaukee, St. Louis, Memphis, Miami, and elsewhere, White and others caution that "the violent interpretive practices of poverty advocates are themselves embedded in worlds where other violent practices . . . pervade people's lives."[403] Like Desmond, White points to the example of housing evictions and their pervasive violence, a form of violence experienced inside poor communities like Goulds and the West Grove yet "often invisible" outside their racially-contoured, Jim Crow historical boundaries.[404] Those physical, cognitive, and interpretive boundaries, White adds, enable state and private agents of violence to reinflict and suppress "the horror of past atrocities" in poor communities.[405]

Goulds and the West Grove are geographic sites of Jim Crow segregation and Ku Klux Klan violence no longer visible to outsiders. Understanding how Third Wave lawyers can make the daily incidents of past and present violence visible without reinflicting or suppressing histories of racial violence in representing client communities requires an alternative vocabulary describing, explaining, and justifying law's violence and an account of lawyers as agents of interpretive violence. Unsurprisingly, Third Wave scholars shun references to movement lawyers as jurispathic agents and to movement advocacy practices as discrete forms of normative violence. That posture ignores the historical pain experienced at emotional, physical, and psychological levels by the families of communities like Goulds and the West Grove. In the same way, it ignores the pain experienced by such families when poverty lawyers deliberately or inadvertently erase their identities and silence their narratives during legal-political advocacy and organizing campaigns.[406]

Cover's concept of jurispathic practice explicates how lawyers' implicit and explicit acts of knowing, interpreting, and speaking can inflict public and private pain on a community by demeaning its collective identities, narratives, and histories. The jurispathic violence of Third Wave lawyers occurs when they inflict "imperial"[407] narratives in advocacy that destroy the civic, democratic

402. *Id.*
403. Lucie White, *Paradox, Piece-Work, and Patience*, 43 HASTINGS L.J. 853, 856 (1992) (emphasis omitted).
404. *Id.* at 857.
405. *Id.*
406. Alfieri, *supra* note 401, at 1725–26.
407. *See id.* at 1728.

meaning and promise of disenfranchised and impoverished communities.[408] Pain-imposing acts of interpretive violence displace the role of client-communities as "original, nonsubstitutable speakers"[409] in advocacy and distort the relationship between lawyers and client-communities in negotiating the performative speech of legal texts inside and outside courtrooms, legislative halls, administrative hearings, and other local arenas of civic governance.[410] The challenge for Third Wave lawyers comes in learning how to collaborate with individuals and groups in "reopening the meaning-making practices of reading and speaking" community texts and in "recentering" community "identity, narrative, and history in the discourses of law and legal institutions."[411]

Consider the reopening and recentering of community texts in environmental justice advocacy, particularly in the Old Smokey incinerator cleanup campaign. Like many environmental justice campaigns, the Old Smokey campaign evolved roughly in three stages: (1) investigation, (2) outreach, education, and organizing, and (3) remedial action and enforcement. An initial investigative stage commenced when a former City of Miami employee informed the Historic Black Church Program of the existence of a previously undisclosed city-commissioned environmental impact study finding substantial contamination of the original incinerator site. That investigation quickly expanded when the Historic Black Church Program discovered, corroborated, and publicly disseminated the environmental impact study to its community partners and to media outlets, and, moreover, when the county subsequently learned of the widespread contamination of local parks as a result of the decades-long municipal practice of dumping incinerator-produced toxic ash in public landfills later converted to public park space.

A second, more lengthy outreach and education stage ensued during which the Historic Black Church Program collaborated with its community partners (1) to present environmental science and public health rights workshops, (2) to organize an environmental justice steering committee to coordinate a county-wide park cleanup strategy, and (3) to mobilize neighborhood associations in formulating and implementing local park cleanup tactics.

A third remedial action and enforcement stage followed in which the Historic Black Church Program monitored the municipal testing and

408. *Id.* at 1730.
409. *Id.* at 1741.
410. *Id.* ("Accurate performative speech acts involve client declared narratives that are exactly repeatable by lawyers, resistant to dismantlement by decision-makers, and enriched by the inlaying of community voices.").
411. *Id.* at 1745.

remediation of contaminated public parks, retained environmental science experts to conduct independent public health and park contamination studies, and recruited a team of for-profit law firms to prepare medical monitoring and tort litigation[412] on behalf of past and present West Grove residents potentially harmed by exposure to hazardous incinerator waste.

Strikingly, in the recent transition to this third monitoring, enforcement, and relief stage of the Old Smokey campaign, the West Grove voices of environmental suffering have been effectively silenced and the West Grove histories of environmental injustice have been nearly forgotten. Without discursive and performative acts of reopening and recentering, Third Wave advocacy lacks the capacity to give voice to, or to translate, the historical texts of a community into law and politics.

B. Critical Boundaries: Difference and Craft

Like their First Wave and Second Wave predecessors, Third Wave anti-poverty lawyers confront boundaries of understanding in their collaborative community-based work. In a prior work, I assert that lawyers "can partially decipher the meaning of people's acts, contingent on the epistemic, interpretive, and linguistic stance of both participants in and observers of those acts."[413] Because they "are both participants and observers," I note, lawyers' "acts of knowing, interpreting, reading, writing, and speaking construct as well as witness the construction of meaning."[414] Law, I also point out, in all its constitutional, statutory, and doctrinal forms, "inscribes fragments of this constructed meaning into its oral, written, and social texts, which in turn shape the roles and relations of lawyers, clients, and institutional decisionmakers."[415]

Third Wave lawyers negotiate their roles and relationships from the starting point of difference, especially race, ethnic, and class difference. The recognition and appreciation of community difference enables lawyers to begin to bridge the boundaries of "knowledge and education, cognition and interpretation, language

412. On medical monitoring litigation in Florida, see Ervin A. Gonzalez & Raymond W. Valori, *Medical Monitoring Claims Are Viable in Florida*, 75 FLA. BAR J. 66 (2001). Advocates employ medical monitoring as a means to assist individuals and communities "exposed to dangerous substances," specifically to "obtain physical examinations and testing necessary to diagnose or detect the early onset of a disease or injury caused by the exposure to, or ingestion of, dangerous, hazardous, or toxic products." *Id.* at 66 ("Medical monitoring may include chest X-rays, CT scans, MRIs, blood and urine tests, and other diagnostic examinations.").

413. Alfieri, *supra* note 238, at 1748.

414. *Id.* at 1748–49.

415. *Id.* at 1749.

and symbol"[416] and the categorical divisions of identity instilled by class, disability, education, gender, language, sexuality, ethnicity, and race. Bridging client and community difference requires the skill of craft, the pragmatism of contextual reason, and the understanding of sympathy or empathy buttressed by political, rather than traditional, canons of advocacy.[417] The political canons of Third Wave advocacy compel deference to the local knowledge, civic competence, and problem-solving capacity of subordinated communities. Deference to the bottom-up problem-solving skills embodied in community self-help and lay lawyering enables the collaborative alliances of Third Wave legal-political campaigns.

Affirming client and community difference by uncovering the salient aspects of identity in daily advocacy, and fostering client and community empowerment by integrating collaborative tactics and strategies into legal-political campaigns, erect the normative and practical scaffolding for a Third Wave conception of craft. By *craft*, I mean a formal, rather than merely an instrumental, vision of lawyering generalizable to a wide range of anti-poverty contexts—civic, legislative, administrative, and judicial. Both First and Second Wave norms, including faith, practical wisdom, mutual respect, and other-regarding sympathy, and practices including rights education, fact investigation, policy research, direct service, impact litigation, and law reform, mold this Third Wave conception.

For Anthony Kronman, craft implies not only technical virtuosity, but also civic virtue and good judgment.[418] To Kronman, the virtues of wisdom and prudence together determine the quality of a lawyer's judgment.[419] Good judgment, he maintains, is embodied in the classical figure of the lawyer-statesman and expressed through "'great' wisdom in counseling, 'exceptional' powers of advocacy, and an abiding commitment to the public good."[420] At their best, Kronman's lawyer-statesmen "exemplify the virtues of wisdom, excellence, and civic spirit, possessing a 'special talent' of judgment and leadership that coincides with the public good."[421]

416. *Id.*; Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEGAL EDUC. 313 (1995).
417. *See* Alfieri, *supra* note 292, at 1234.
418. Anthony V. Alfieri, *Denaturalizing the Lawyer-Statesman*, 93 MICH. L. REV. 1204, 1207 (1995) (reviewing ANTHONY T. KRONMAN, THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION (1993)).
419. *Id.*
420. *Id.* (quoting KRONMAN, *supra* note 418, at 12).
421. *Id.* at 1207–08 (quoting KRONMAN, *supra* note 418, at 45).

The Third Wave concept of craft expands the purpose of Kronman's lawyer-statesmen from narrow, directive counseling tailored "to 'help' their clients 'come to a better understanding of their own ambitions, interests, and ideals and to guide their choice among alternative goals'"[422] to broad, collaborative counseling devised to advance the public good of democratic participation and civic self-governance. Unlike Kronman's lawyer-statesmen, Third Wave anti-poverty lawyers acquire their qualities of character and their judgment of the public good from material, ongoing collaboration with clients in the context of community, not from an abstract, cultivated sense of connoisseurship.[423] On this Third Wave view, the qualities of prudence and public virtue are neither the outgrowth of exceptional wisdom and skill nor the consequence of a superior capacity for discerning the nature of the public good. To the extent that prudence and public devotion constitute special virtues, they follow from the hard, community-based work of other-directed sympathy or empathy.[424]

Rather than adopt an explicit politics of community mobilization or movement building to intervene in public causes, Kronman's prudentialist lawyers embrace the experientially acquired imaginative powers of craft in the service of handling cases and championing the public good of the extant legal order.[425] Borrowing from Karl Llewellyn,[426] Kronman defines craft in terms of "the ability of those who have mastered an activity to pursue it with subtlety and grace, employing powers of discernment irreducible to rules."[427] This definition instills craft with "a public-spirited concern for the good of the law as a whole," echoing the republican ideal of lawyer-engineered problem-solving and law reform.[428] Distinct from mere technical skill, Kronman and Llewellyn denote craft in terms of a cultivated subtlety of judgment intrinsically fastened to the

422. *Id.* at 1208 (quoting KRONMAN, *supra* note 418, at 15).

423. *See generally* KRONMAN, *supra* note 418. Kronman describes connoisseurs as "persons 'devoted' to the attainment of a certain 'good' regardless of 'form.'" Alfieri, *supra* note 418, at 1208 (quoting KRONMAN, *supra* note 418, at 139). He asserts that this "dispositional character . . . shapes professional judgment." *Id.* Good lawyers, in this sense, "are connoisseurs of the law; they care for 'the good of the law itself.'" *Id.* (quoting KRONMAN, *supra* note 418, at 139).

424. *Id.* at 1209.

425. *Id.* at 1222.

426. *See* KARL N. LLEWELLYN, THE COMMON LAW TRADITION: DECIDING APPEALS 214 (1960) (explaining that the "healthy" craft "elicits ideals, pride, and responsibility in its craftsman").

427. Alfieri, *supra* note 401, at 1223–24 (quoting KRONMAN, *supra* note 418, at 349).

428. *Id.* at 1224 (quoting KRONMAN, *supra* note 418, at 167); *see also* Robert W. Gordon, *The Independence of Lawyers*, 68 B.U. L. REV. 1 (1988); Roscoe Pound, *The Lawyer as a Social Engineer*, 3 J. PUB. L. 292, 297–98 (1954); William H. Simon, *Babbit v. Brandeis: The Decline of the Professional Ideal*, 37 STAN. L. REV. 565 (1985).

public good but conspicuously decontextualized from community collaboration, dialogue, and empowerment.[429] To be made useful in Third Wave anti-poverty campaigns, however, craft must be normatively refastened to an antisubordination politics of advocacy and practically regrounded in community collaboration.

Bound to a traditional posture of craft neutrality[430] and nonaccountability in legal representation, conventional, client-centered models of clinical practice and public interest lawyering oftentimes overlook the normative relevance of antisubordination politics to advocacy on behalf of disenfranchised and disadvantaged communities and to triage decision-making itself. By politics, I mean a transformative theory and practice of social change applicable to the public arenas of courts, legislatures, and administrative agencies, and to quasi-public sites of civic governance occupied by homeowners, tenants, congregations, parents, and the like.[431] Deliberately disruptive, an antisubordination stance rejects claims of lawyer craft neutrality and nonaccountability in favor of a transparent politics of bottom-up, grassroots collaboration[432] among lawyers, clients, and community groups[433] to enhance government distributive fairness and

429. Alfieri, *supra* note 418, at 1226–28.

430. In prior work, I link the formalist claim of neutrality "to the poverty lawyer's judgment of merit in case selection and strategy." Alfieri, *supra* note 203, at 2596. This claim construes lawyer judgment as "process-oriented and value-free." *Id.* On this construction, lawyer discretion is constrained at the "institutional level of case selection" because "judgment is purportedly guided by the demands of client access and eligibility," and at the interstitial level of case strategy because "judgment is professedly channeled by the routines and standards of practice." *Id.* at 2597. Additionally, I assert: "The formalist poverty lawyer's claim to the exercise of neutral, nondiscretionary judgments in selecting cases and plotting strategy is bound up in the tenets of liberal pluralism, especially the notion of evenhanded interest group representation," noting that "[t]he poverty lawyer embroiders these tenets to fashion the doctrine of 'equal access to law.'" *Id.* (quoting Richard L. Abel, *Law Without Politics: Legal Aid Under Advanced Captialism*, 32 UCLA L. REV. 474, 487 (1985)). Equal access doctrine treats the poor "as an interest group entitled to equal representation before the law." *Id.*

431. *See* STEVE BACHMANN, LAWYERS, LAW, AND SOCIAL CHANGE (2001); JOEL F. HANDLER, SOCIAL MOVEMENTS AND THE LEGAL SYSTEM: A THEORY OF LAW REFORM AND SOCIAL CHANGE (1978).

432. *See* Milner S. Ball, *Jurisprudence From Below: First Notes*, 61 TENN. L. REV. 747, 762 (1994); Milner S. Ball, *Power From the People*, 92 MICH. L. REV. 1725, 1732 (1994) (reviewing LÓPEZ, *supra* note 237).

433. In previous work, I contend: "Collaboration transforms the lawyer-client relationship by enlarging the scope of client participation in the lawyering process with respect to problem solving and strategic decisionmaking." Alfieri, *supra* note 23, at 838. Community-based collaboration, I maintain, "expands the substantive goals of representation beyond individual, case-specific interests to issue-focused, neighborhood-wide interests in legal advocacy and political organizing." *Id.* at 838–39. Moreover, it "facilitates the organization and mobilization of client groups in legal-political advocacy." *Id.* at 839.

public political participation. This foundational politics is both instrumental in its end goals and process oriented in its formal methods.

To be effective in Pittsburgh, Milwaukee, St. Louis, Memphis, Miami, and elsewhere, the Third Wave conception of craft must begin to develop a kind of methodological formalism, especially with respect to community triage. Only a type of *critical legal formalism* will ensure ongoing, collaborative interchange between clinics and other legal services providers and their local, regional, and national clients[434] or partners. Collaborative interchange is crucial to determining when and how to mobilize social change campaigns in neighborhoods lacking not only political representation and economic capital, but also the architecture and infrastructure of civic governance and democratic participation.[435] Too often clinics, providers, clients, and civic partners fail to coordinate their resources and services in aiding legal-political organizing campaigns. The inner-city and outer-ring neighborhoods of Miami-Dade County, for example the West Grove[436] and Goulds, suffer from this lack of coordination and from an internal lack of political, economic, and sociocultural self-governance and solidarity. That dual absence spurs the municipal equity movement in Miami.

C. Community Campaigns: Municipal Equity in Miami

Third Wave campaigns garner interventionist strategies and tactics from the labors of civil rights lawyers, cause lawyers, poverty lawyers, and movement lawyers.[437] Intervention may be sparked by a local protest such as a sit-in, an

434. *See* Charles Tilly, *Social Movements and National Politics*, *in* STATEMAKING AND SOCIAL MOVEMENTS 297, 306 (Charles Bright & Susan Harding eds., 1984).

435. *See* Barbara L. Bezdek, *Alinsky's Prescription: Democracy Alongside Law*, 42 J. MARSHALL L. REV. 723, 737–38 (2009); Robert Fisher & Eric Shragge, *Contextualizing Community Organizing: Lessons From the Past, Tensions in the Present, Opportunities for the Future*, *in* TRANSFORMING THE CITY: COMMUNITY ORGANIZING AND THE CHALLENGE OF POLITICAL CHANGE 193, 199 (Marion Orr ed., 2007).

436. *See* DUNN, *supra* note 4; NICHOLAS N. PATRICIOS, BUILDING MARVELOUS MIAMI (1994); Merrick, *supra* note 108; Donald H. Cave, *Grove's Charles Avenue*, MIAMI NEWS, Jan. 5, 1971, at A14; Arva Moore Parks, *History of West Coconut Grove*, *in* REIMAGINING WEST COCONUT GROVE, *supra* note 107, at 20; Roshan Nebhrajani, *Thelma Gibson Looks Back on 90 Years in West Grove*, NEW TROPIC (May 22, 2016, 11:30 PM), http://thenewtropic.com/thelma-gibson [http://perma.cc/56VD-MT7Q].

437. For examples of civil rights lawyer strategies and tactics, see JACK GREENBERG, CRUSADERS IN THE COURTS: LEGAL BATTLES OF THE CIVIL RIGHTS MOVEMENT (anniversary ed. 2004); KENNETH W. MACK, REPRESENTING THE RACE: THE CREATION OF THE CIVIL RIGHTS LAWYER (2012); and Susan D. Carle, *Conceptions of Agency in Social Movement Scholarship: Mack on African American Civil Rights Lawyers*, 39 L. & SOC. INQUIRY 522, 541 (2014) (reviewing MACK, *supra*).

For cause lawyer strategies and tactics, see Austin Sarat & Stuart Scheingold, *What Cause Lawyers Do for, and to, Social Movements: An Introduction*, *in* CAUSE LAWYERS AND SOCIAL

arrest, a labor strike, or a city-specific grassroots organizing initiative.[438] The intervention may be cast affirmatively or defensively in terms of faith- or rights-based discourse.[439]

MOVEMENTS, *supra* note 272, at 1, and Michael E. Waterstone, Michael Ashley Stein & David B. Wilkins, *Disability Cause Lawyers*, 53 WM. & MARY L. REV. 1287 (2012).

For more on poverty lawyer strategies and tactics, see Gary Bellow, *Turning Solutions Into Problems: The Legal Aid Experience*, 34 NLADA BRIEFCASE 106 (1977); Gary Bellow & Jeanne Charn, *Paths Not Yet Taken: Some Comments on Feldman's Critique of Legal Services Practice*, 83 GEO L.J. 1633 (1995); and Louise G. Trubek, *Embedded Practices: Lawyers, Clients, and Social Change*, 31 HARV. C.R.-C.L. L. REV. 415 (1996).

For examples of movement lawyer strategies and tactics, see Michael McCann & Jeffrey Dudas, *Retrenchment . . . and Resurgence? Mapping the Changing Context of Movement Lawyering in the United States*, *in* CAUSE LAWYERS AND SOCIAL MOVEMENTS, *supra* note 272, at 37–49; Jim Freeman, *Supporting Social Movements: A Brief Guide for Lawyers and Law Students*, 12 HASTINGS RACE & POVERTY L.J. 191 (2015); and Karen L. Loewy, Note, *Lawyering for Social Change*, 27 FORDHAM URB. L.J. 1869 (2000).

438. For more on interventions sparked by local protests, see DOUG MCADAM, POLITICAL PROCESS AND THE DEVELOPMENT OF BLACK INSURGENCY, 1930–1970, at 60 (2d ed. 1982); DAVID S. MEYER, THE POLITICS OF PROTEST: SOCIAL MOVEMENTS IN AMERICA 28 (2007); and Jules Lobel, *Courts as Forums for Protest*, 52 UCLA L. REV. 477, 489–90 (2004).

For more on sit-ins, see WILLIAM H. CHAFE, CIVILITIES AND CIVIL RIGHTS: GREENSBORO, NORTH CAROLINA, AND THE BLACK STRUGGLE FOR FREEDOM 98 (1981), and Christopher W. Schmidt, *The Sit-Ins and the State Action Doctrine*, 18 WM. & MARY BILL RTS. J. 767 (2010).

For examples of interventions triggered by arrests, see MARTIN LUTHER KING, JR., STRIDE TOWARD FREEDOM: THE MONTGOMERY STORY 81–88 (1958); Christopher Coleman, Laurence D. Nee & Leonard S. Rubinowitz, *Social Movements and Social-Change Litigation: Synergy in the Montgomery Bus Protest*, 30 L. & SOC. INQUIRY 663 (2005); Randall Kennedy, *Martin Luther King's Constitution: A Legal History of the Montgomery Bus Boycott*, 98 YALE L.J. 999, 1064 (1989); and John White, *Nixon* Was *the One: Edgar Daniel Nixon, the MIA and the Montgomery Bus Boycott*, *in* THE MAKING OF MARTIN LUTHER KING AND THE CIVIL RIGHTS MOVEMENT 45 (Brian Ward & Tony Badger eds., 1996).

For more on labor strike interventions, see HONEY, *supra* note 96, at 104–28; THE RADICAL KING: MARTIN LUTHER KING, JR. 245–51 (Cornel West ed., 2015); and Michael Honey, *The Memphis Strike: Martin Luther King's Last Campaign*, POVERTY & RACE, Mar./Apr. 2007, at 1.

For examples of interventions driven by grassroots initiatives, see THE AUTOBIOGRAPHY OF MARTIN LUTHER KING, JR. 297–313 (Clayborne Carson ed., 1998), and RHODA LOIS BLUMBERG, CIVIL RIGHTS: THE 1960S FREEDOM STRUGGLE 154–57 (1984).

439. For affirmative forms of invervention, see, for example, MARTIN DUPIUS, SAME-SEX MARRIAGE, LEGAL MOBILIZATION AND THE POLITICS OF RIGHTS 13 (2002), and Gwendolyn M. Leachman, *From Protest to* Perry*: How Litigation Shaped the LGBT Movement's Agenda*, 47 U.C. DAVIS L. REV. 1667, 1719 (2014).

For defensive forms of invervention, see, for example, JONATHAN D. CASPER, LAWYERS BEFORE THE WARREN COURT: CIVIL LIBERTIES AND CIVIL RIGHTS, 1957–66 (1972); SAMUEL WALKER, IN DEFENSE OF AMERICAN LIBERTIES: A HISTORY OF THE ACLU (2d ed. 1999); and LEIGH ANN WHEELER, HOW SEX BECAME A CIVIL LIBERTY (2013).

For examples of faith-based discourse, see ADAM FAIRCLOUGH, TO REDEEM THE SOUL OF AMERICA: THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE AND MARTIN LUTHER KING, JR. 14 (1987), and DAVID J. GARROW, BEARING THE CROSS: MARTIN LUTHER KING, JR., AND THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE 83 (1988).

The Miami municipal equity campaign is a city- and county-wide, race-conscious,[440] legal-political intervention effort to ensure the fair distribution of municipal resources and services to low-income communities of color.[441] Framed broadly,[442] the movement defines municipal fairness to encompass housing, economic development, education, health, and transportation equity, as well as climate justice and environmental equity,[443] including the discriminatory siting of polluting facilities,[444] toxic waste dumps,[445] and local undesirable uses.[446] The

On the catalytic political impact of rights-based discourse, see STUART A. SCHEINGOLD, THE POLITICS OF RIGHTS: LAWYERS, PUBLIC POLICY, AND POLITICAL CHANGE 21 (1974). For less sanguine assessments, see RISA L. GOLUBOFF, THE LOST PROMISE OF CIVIL RIGHTS (2007), and GERALD N. ROSENBERG, THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE? 42 (1991).

440. *See* Luke W. Cole, *Civil Rights, Environmental Justice and the EPA: The Brief History of Administrative Complaints Under Title VI of the Civil Rights Act of 1964*, 9 J. ENVTL. L. & LITIG. 309, 313 (1994); Jill E. Evans, *Challenging the Racism in Environmental Racism: Redefining the Concept of Intent*, 40 ARIZ. L. REV. 1219, 1228–32 (1998); Michael Fisher, *Environmental Racism Claims Brought Under Title VI of the Civil Rights Act*, 25 ENVTL. L. 285, 296–302 (1995).

441. *See* ROBERT L. LINEBERRY, EQUALITY AND URBAN POLICY: THE DISTRIBUTION OF MUNICIPAL PUBLIC SERVICES (1977); James W. Ely, Jr., *Extending Equality: The Right to Municipal Services*, 38 HASTINGS L.J. 1297 (1987) (book review); Robert L. Lineberry, *Mandating Urban Equality: The Distribution of Municipal Public Services*, 53 TEX. L. REV. 26 (1974).

442. *See* Robert D. Benford & David A. Snow, *Framing Processes and Social Movements: An Overview and Assessment*, 26 ANN. REV. SOC. 611 (2000); Gary Blasi, *Framing Access to Justice: Beyond Perceived Justice for Individuals*, 42 LOY. L.A. L. REV. 913, 929 (2009); Martha F. Davis, *Law, Issue Frames and Social Movements: Three Case Studies*, 14 U. PA. J.L. & SOC. CHANGE 363, 370 (2011); Douglas NeJaime, *Framing (In)Equality for Same-Sex Couples*, 60 UCLA L. REV. DISCOURSE 184, 195 (2013); Mary Ziegler, *Framing Change: Cause Lawyering, Constitutional Decisions, and Social Change*, 94 MARQ. L. REV. 263 (2010).

443. *See* EDWARDO LAO RHODES, ENVIRONMENTAL JUSTICE IN AMERICA: A NEW PARADIGM (2003); Robert W. Collin, *Environmental Equity: A Law and Planning Approach to Environmental Racism*, 11 VA. ENVTL. L.J. 495 (1992); Melinda Laituri & Andrew Kirby, *Finding Fairness in America's Cities? The Search for Environmental Equity in Everyday Life*, 50 J. SOC. ISSUES 121 (1994); Corina McKendry & Nik Janos, *Greening the Industrial City: Equity, Environment, and Economic Growth in Seattle and Chicago*, 15 INT'L ENVTL AGREEMENTS 45 (2015); K. David Pijawka et al., *Environmental Equity in Central Cities: Socioeconomic Dimensions and Planning Strategies*, 18 J. PLAN. EDUC. & RES. 113 (1998); Rae Zimmerman, *Issues of Classification in Environmental Equity: How We Manage Is How We Measure*, 21 FORDHAM URB. L.J. 633 (1994); Rachel D. Godsil, Note, *Remedying Environmental Racism*, 90 MICH. L. REV. 394 (1991).

444. *See* Deeohn Ferris, *Communities of Color and Hazardous Waste Cleanup: Expanding Public Participation in the Federal Superfund Program*, 21 FORDHAM URB. L.J. 671, 674 (1994).

445. *See* Naikang Tsao, *Ameliorating Environmental Racism: A Citizens' Guide to Combatting the Discriminatory Siting of Toxic Waste Dumps*, 67 N.Y.U. L. REV. 366 (1992).

446. *See* Vicki Been, *Locally Undesirable Land Uses in Minority Neighborhoods: Disproportionate Siting or Market Dynamics?*, 103 YALE L.J. 1383 (1994); Vicki Been, *Siting of Locally Undesirable Land Uses: Directions for Further Research*, 5 MD. J. CONTEMP. LEGAL ISSUES 105 (1994); Vicki Been, *What's Fairness Got to Do With It?: Environmental Justice and the Siting of Locally Undesirable Land Uses*, 78 CORNELL L. REV. 1001 (1993).

discourse of civic equity may be fashioned to appeal to both liberal[447] and conservative[448] constituencies, and to avoid the political interference[449] and backlash[450] encountered in municipal battles elsewhere.[451] The same civic, democratic discourse may be employed to help educate, organize, and mobilize inner-city residents to use the local knowledge of their own neighborhoods to solve street-level problems. In this way, municipal equity campaigns may serve as a legal-political method of community and social movement-building, and as a transferable form of clinical pedagogy and practice.

Working under the auspices of the Center for Ethics and Public Service in the West Grove, the Historic Black Church Program and the Environmental Justice Clinic have cumulatively labored for a decade in partnership with inner-city churches, nonprofit groups, and civic associations to establish sturdy footing for a municipal equity campaign. That foothold now consists of more than 60 churches, community development corporations, and affiliated entities. The campaign comprises the investigation of the environmental safety and public health risks related to the siting of a municipal bus depot[452] and the municipal incinerator contamination of public parks,[453] the drafting of local right-to-know

447. *See* Schragger, *supra* note 143.

448. *See* ANN SOUTHWORTH, LAWYERS OF THE RIGHT: PROFESSIONALIZING THE CONSERVATIVE COALITION (2008); STEVEN M. TELES, THE RISE OF THE CONSERVATIVE LEGAL MOVEMENT: THE BATTLE FOR CONTROL OF THE LAW (2008).

449. *See* Jerome B. Falk, Jr. & Stuart R. Pollak, *Political Interference With Publicly Funded Lawyers: The CRLA Controversy and the Future of Legal Services*, 24 HASTINGS L.J. 599, 601–04 (1973); David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 CALIF. L. REV. 209 (2003); Richard Pious, *Congress, the Organized Bar, and the Legal Services Program*, 1972 WIS. L. REV. 418; Harry P. Stumpf, Henry P. Schroerluke & Forrest D. Dill, *The Legal Profession and Legal Services: Explorations in Local Bar Politic*s, 6 L. & SOC'Y REV. 47 (1971).

450. *See generally* MICHAEL J. KLARMAN, FROM THE CLOSET TO THE ALTAR: COURTS, BACKLASH, AND THE STRUGGLE FOR SAME-SEX MARRIAGE 165 (2013); Linda Greenhouse & Reva B. Siegel, *Before (and After)* Roe v. Wade*: New Questions About Backlash*, 120 YALE L.J. 2028, 2071 (2011); Michael J. Klarman, *How* Brown *Changed Race Relations: The Backlash Thesis*, 81 J. AM. HIST. 81, 85 (1994).

451. *See, e.g.*, J. Douglas Allen-Taylor, *Democracy vs. Development: Oakland Wins a Round*, RACE POVERTY & ENV'T, Spring 2008, at 58; J. Tom Boer et al., *Is There Environmental Racism? The Demographics of Hazardous Waste in Los Angeles County*, 78 SOC. SCI. Q. 793 (1997); Bob Bolin, Sara Grineski & Timothy Collins, *The Geography of Despair: Environmental Racism and the Making of South Phoenix, Arizona, USA*, 12 HUM. ECOLOGY REV. 156 (2005); Jeremy Bryson, *Brownfields Gentrification: Redevelopment Planning and Environmental Justice in Spokane, Washington*, 5 ENVTL. JUST. 26 (2012); Craig E. Colten, *Basin Street Blues: Drainage and Environmental Equity in New Orleans, 1890–1930*, 28 J. HIST. GEOGRAPHY 237 (2002); Laura Pulido, *Rethinking Environmental Racism: White Privilege and Urban Development in Southern California*, 90 ANNALS ASS'N AM. GEOGRAPHERS 12 (2000).

452. Alfieri, *Rebellious Pedagogy and Practice*, *supra* note 17, at 32–36.

453. *Id.*; *see also* Nick Madigan, *In the Shadow of 'Old Smokey,' a Toxic Legacy*, N.Y. TIMES (Sept. 22, 2013), http://www.nytimes.com/2013/09/23/us/old-smokey-is-long-gone-from-miami-but-its-

environmental and community benefits legislation,[454] the investigation of fair housing, tenant displacement, and urban/suburban resegregation practices,[455] the investigation of disparate municipal transportation services,[456] and the investigation of tri-county municipal and regional resource allocation practices in communities of color.

The investigation of municipal services to inner-city communities of color makes racial inequity visible. Consider transportation equity[457] and transit-dependent[458] inner-city populations like the West Grove. Research shows that federal, state, and local "transportation policies have limited the life chances of minorities and other traditionally discriminated against people by preventing timely access to places and opportunities at an acceptable level of accessibility, service, quality and safety."[459] Municipal policies limiting transportation access and mobility opportunities, for example in the Jim Crow districts of East Coral Gables and the West Grove, consistently give rise to neighborhood "ghettos, de facto segregated schools and housing, and social and community isolation and lack of cohesion."[460] In the East Gables Trolley Access campaign, the Historic Black Church Program conducted investigative research and rights education workshops in cooperation with homeowner and tenant groups to challenge the

toxic-legacy-lingers.html; Rebeca Piccardo, *Urban Oasis Reopens at Merrie Christmas Park After Toxic Soil Contamination*, MIAMI HERALD (Apr. 9, 2015, 9:01 PM), http://www.miamiherald.com/news/local/community/miami-dade/coconut-grove/article18000965.html [https://perma.cc/N4C3-KE5B]; David Smiley, *Neighbors, City Officials Remain at Odds Over Merrie Christmas Park*, MIAMI HERALD (Oct. 16, 2014, 8:39 PM), http://www.miamiherald.com/news/local/community/miami-dade/article2923939.html [http://perma.cc/5QX4-WVB4]; David Villano, *City Quietly Labels Toxic Parks "Brownfield Sites," Limiting Neighborhood Input in Cleanup*, MIAMI NEW TIMES (Oct. 3, 2014, 8:00 AM), http://www.miaminewtimes.com/news/city-quietly-labels-toxic-parks-brownfield-sites-limiting-neighborhood-input-in-cleanup-6554885 [http://perma.cc/7WB8-CDR8].

454. Alfieri, *Rebellious Pedagogy and Practice*, *supra* note 17, at 34.

455. *Id.* at 35.

456. *Id.* at 32–36.

457. *See* THOMAS W. SANCHEZ, MARC BRENMAN, JACINTA S. MA & RICHARD H. STOLZ, THE RIGHT TO TRANSPORTATION: MOVING TO EQUITY 7 (2007); Thomas W. Sanchez & Marc Brenman, *Transportation and Civil Rights*, POVERTY & RACE, July/Aug. 2010, at 1, 8 ("The term *transportation equity* refers to a range of strategies and policies that address inequities in the nation's transportation planning and project delivery system.").

458. Sanchez & Brenman, *supra* note 457, at 1 ("The 'transit-dependent' rely on public transportation not only to travel to work but also to get to school, obtain medical care, attend religious services, and shop for basic necessities such as groceries.").

459. *Id.*; *see also* Robert Puentes & Elizabeth Roberto, *Commuting to Opportunity: The Working Poor and Commuting in the United States*, BROOKINGS (Mar. 14, 2008), http://www.brookings.edu/research/commuting-to-opportunity-the-working-poor-and-commuting-in-the-united-states [http://perma.cc/QV7J-LN3Y].

460. Sanchez & Brenman, *supra* note 457, at 8 ("Opportunities for civic participation and public involvement were physically cut off.").

half-century denial of transit service by the City of Coral Gables to black residents of the East Gables and to negotiate access to the current trolley line.[461] By any reasonable measure, transportation-related municipal equity should guarantee "opportunities for meaningful public involvement in the transportation planning process," particularly in adversely affected communities like the East Gables and the West Grove.[462]

Third Wave anti-poverty advocates see opportunities for legal-political lawyering campaigns in inner-city neighborhoods that others may mistake for a "culture of poverty."[463] Grasping opportunities for such community-based interventions requires innovative organizational designs[464] and positionalities[465] equally applicable to civil rights, environmental justice, and public health.[466] Doubtless, with opportunity comes the risk of lawyer domination and paternalism. In rights-centered, legal-political campaigns, Sameer Ashar points to political organizers as a countervailing force militating against lawyer domination.[467] Ashar also cites cross-modal advocacy—litigation, policy reform, community and public education, and media outreach—as a means of ensuring lawyer accountability to community-based campaign partners.[468] Echoing Second Wave scholars like López and White, Ashar urges a "more social, contextualized understanding" and "deep critique" of social problems in impoverished communities of color.[469] Yet, neither he nor other Third Wave scholars adequately formulate a clear-cut method of community triage applicable to Goulds, the West Grove, or the countless impoverished neighborhoods of Miami. Put simply, neither Ashar nor Cummings nor other contemporary leaders in the field have yet to fashion a coherent, generalizable, and transferable

461. Alfieri, *Rebellious Pedagogy and Practice*, *supra* note 17, at 33; *see* Sanchez & Brenman, *supra* note 457, at 8 ("Community-based organizations of low-income and minority residents, with the important involvement and leadership of faith-based organizations, are recognizing transportation's significant role in shaping local opportunities and disinvestment.").

462. Sanchez & Brenman, *supra* note 457, at 8.

463. *See* DESMOND, *supra* note 66, at 324–25, 376–77, 389 n.1.

464. *See* Lauren B. Edelman, Gwendolyn Leachman & Doug McAdam, *On Law, Organizations, and Social Movements*, 6 ANN. REV. L. & SOC. SCI. 653, 656 (2010).

465. *See* Douglas NeJaime, *Marriage, Cruising, and Life in Between: Clarifying Organizational Positionalities in Pursuit of Polyvocal Gay-Based Advocacy*, 38 HARV. C.R.-C.L. L. REV. 511 (2003).

466. *See* Susan D. Bennett, *Creating a Client Consortium: Building Social Capital, Bridging Structural Holes*, 13 CLINICAL L. REV. 67, 105 (2006); Shin Imai, *A Counter-Pedagogy for Social Justice: Core Skills for Community-Based Lawyering*, 9 CLINICAL L. REV. 195, 217–27 (2002).

467. Ashar, *Public Interest Lawyers and Resistance Movements*, *supra* note 272, at 1917–22. *But see* LÓPEZ, *supra* note 237, at 353–79 (assailing "orthodox organizing" practices).

468. Ashar, *Law Clinics and Collective Mobilization*, *supra* note 272, at 390–400.

469. Ashar, *supra* note 390, at 216–19.

clinical method or process that can reasonably and reliably determine how best to answer the threshold question posed by Mr. Pastor, namely "Will you be there?"

A central purpose of the Miami municipal equity campaign is to devise a set of analytic frameworks, governing principles, and implementing procedures sufficient to make and justify community triage judgments and, thus, muster a satisfactory answer to Mr. Pastor's question. Bellow rightly anticipates that such judgments and ultimate answers require pragmatic, hard-headed assessment of efficacy and impact, reconsideration of tactical possibilities and particularities, testing of alternative information-gathering, problem-defining, and remedy-forming methods, engagement in highly localized and incremental forms of political activism, and a renewed willingness to build grassroots connections and community around tentative commitments and provisional strategies, all in the face of daily uncertainty. For the most part, that assessment incorporates the Cahns' community-specific, multi-factor weighing of the larger social ills in controversy, the capacity of existing nonprofit or for-profit legal services providers to adequately handle the situation, the urgency of the matter, the opportunity to establish or strengthen a functional relationship with other legal and social agencies in the region, the symbolic importance of the matter to the wider public, the underserved character of the area or the underinvestigated nature of the issue, and the potential to trigger civic leadership and mobilization activity around the controversy.

To be defensible, the Bellow-Cahn community triage intervention assessment must occur in collaboration with an alliance of representative, community-based individuals, groups, and entities. Additionally, in order to be accurate and effective, that assessment must include the López principles of inclusive issue framing, collaborative problem-solving, client-generated interventions, community-erected monitoring and enforcement strategies, joint outcome or impact measures, and innovative organizational management and delivery system designs. López's "community problem solving" principles unite normative and empirical commitments to collaboration, local knowledge, information gathering and sharing, data analysis, formal research and informal exchange, public, private, and civic networks, resource partnerships, and coalition-building.[470] The transformational goal of the Miami municipal equity campaign and its disruptive interventions is not only to develop and distribute a toolkit for the enhancement of community self-governance and problem-solving in the short term,[471] but also to rally a tri-county, state-wide,

470. López, *Living and Lawyering Rebelliously*, *supra* note 237, at 2049–50.
471. *Id.* at 2050.

and regional campaign for the community re-enfranchisement of democratic citizenship and participation in the long term.

The interlocking crises of urban development, poverty, and segregation in the postindustrial inner cities of Pittsburgh, Milwaukee, St. Louis, and Memphis afford a useful material backdrop for the study of anti-poverty campaigns like the Miami municipal equity movement. The literature of postindustrial inner cities documents the demographics of racial segregation[472] and class (in terms of income and wealth) stratification[473] as well as the geography of neighborhood poverty[474] and urban decay.[475] It also records the influence of larger economic conditions—including the Great Recession of 2007–2009[476] and the subprime mortgage crisis of 2007–2010[477]—and the impact of natural disasters like Hurricane Katrina.[478] In contemporary Miami, both segregation and poverty are exacerbated by long-racialized municipal land use[479] and zoning[480] policies and urban renewal[481] practices.

472. *See* Zachary Schmook & Lauren Verseman, *Welcome to the Village: An Analysis of How St. Louis County Occupancy Permit Schemes Perpetuate Segregation and Violate the Constitution*, 24 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 211 (2015); Michelle Wilde Anderson, Comment, *Colorblind Segregation: Equal Protection as a Bar to Neighborhood Integration*, 92 CALIF. L. REV. 841 (2004).

473. *See* ERIC A. SCHUTZ, INEQUALITY AND POWER: THE ECONOMICS OF CLASS (2011); Joseph Erasto Jaramillo, *The Community-Building Project: Racial Justice Through Class Solidarity Within Communities of Color*, 9 LA RAZA L.J. 195 (1997).

474. *See* Cathy J. Cohen & Michael C. Dawson, *Neighborhood Poverty and African American Politics*, 87 AM. POL. SCI. REV. 286 (1993).

475. *See* HANS SKIFTER ANDERSEN, URBAN SORES: ON THE INTERACTION BETWEEN SEGREGATION, URBAN DECAY AND DEPRIVED NEIGHBOURHOODS (2003); Brent T. White et al., *Urban Decay, Austerity, and the Rule of Law*, 64 EMORY L.J. 1 (2014).

476. *See* Kalima Rose & Teddy Kỳ-Nam Miller, *Communities of Opportunity: Pursuing a Housing Policy Agenda to Achieve Equity and Opportunity in the Face of Post-Recession Challenges*, TROTTER REV., Sept. 2016, at 1.

477. *See* Nicholas Hartigan, Comment, *No One Leaves: Community Mobilization as a Response to the Foreclosure Crisis in Massachusetts*, 45 HARV. C.R.-C.L. L. REV. 181 (2010); Paul Kiel, *The Great American Foreclosure Story: The Struggle for Justice and a Place to Call Home*, PROPUBLICA (Apr. 10, 2012, 4:00 AM) https://www.propublica.org/article/the-great-american-foreclosure-story-the-struggle-for-justice-and-a-place-t/single [http://perma.cc/6YUR-RRUJ].

478. *See* TOM WOOTEN, WE SHALL NOT BE MOVED: REBUILDING HOME IN THE WAKE OF KATRINA (2012); Susan L. Waysdorf, *Returning to New Orleans: Reflections on the Post-Katrina Recovery, Disaster Relief, and the Struggle for Social Justice*, 12 UDC/ DCSL L. REV. 3 (2009); *see also* BROOKINGS INST., REBUILDING AFTER KATRINA: FORMING THE FEDERAL-STATE-LOCAL PARTNERSHIP FOR SOUTHERN LOUISIANA (2006), http://www.brookings.edu/comm/events/20060221.pdf [https://perma.cc/K895-HZJX].

479. *See* Michelle Wilde Anderson, *Cities Inside Out: Race, Poverty, and Exclusion at the Urban Fringe*, 55 UCLA L. REV. 1095, 1011 (2008); Michelle Wilde Anderson, *Mapped Out of Local Democracy*, 62 STAN. L. REV. 931, 937 (2010).

480. *See* Michael F. Potter, *Racial Diversity in Residential Communities: Societal Housing Patterns and a Proposal for a "Racial Inclusionary Ordinance*," 63 S. CAL. L. REV. 1151, 1167 (1990); James J. Hartnett, Note, *Affordable Housing, Exclusionary Zoning, and American Apartheid: Using Title VIII*

Urban studies scholars point to the tendency of municipal redevelopment policies and practices to instigate "the massive relocation of poor people and the destruction of poor people's neighborhoods with only token recognition of the costs and burdens imposed on the displaced."[482] Those policies and practices intensify conditions of racialized powerlessness[483] and neighborhood disadvantage[484] in the City of Miami and Miami-Dade County.

Despite prolonged debate over the meaning and language of power[485] (and powerlessness) within the context of inner-city legal and political advocacy—and the equally protracted struggle over the levers of municipal power[486]—the experience of separate and unequal treatment in housing[487] and urban space persists in Miami, Pittsburgh, Milwaukee, St. Louis, Memphis, and in cities across

to Foster Statewide Racial Integration, 68 N.Y.U. L. REV. 89 (1993); Janai S. Nelson, Comment, *Residential Zoning Regulations and the Perpetuation of Apartheid*, 43 UCLA L. REV. 1689 (1996).

481. *See* MINDY THOMPSON FULLILOVE, ROOT SHOCK: HOW TEARING UP CITY NEIGHBORHOODS HURTS AMERICA, AND WHAT WE CAN DO ABOUT IT 52 (2004); SCOTT GREER, URBAN RENEWAL AND AMERICAN CITIES: THE DILEMMA OF DEMOCRATIC INTERVENTION 35 (1965); Marc A. Weiss, *The Origins and Legacy of Urban Renewal*, *in* FEDERAL HOUSING POLICY & PROGRAMS: PAST AND PRESENT 253 (J. Paul Mitchell ed., 1985); Erick Trickey, *Will Urban Renewal Ever End?*, NEXT CITY (Aug. 1, 2016), http://nextcity.org/features/view/boston-city-hall-urban-renewal-redevelopment-authority [http://perma.cc/Z4VP-E4Z9].

482. Bezdek, *supra* note 3, at 38 ("The displacement of low-income communities accomplished by urban redevelopment law and practice in the U.S. continues the inequities of urban renewal and targets 'low-mobility populations'—those mostly poor and minority city residents . . . ."); *see also* PETER HALL, CITIES OF TOMORROW: AN INTELLECTUAL HISTORY OF URBAN PLANNING AND DESIGN IN THE TWENTIETH CENTURY 247–49 (3d ed. 2002).

483. *See* Karlyn J. Geis & Catherine E. Ross, *A New Look at Urban Alienation: The Effect of Neighborhood Disorder on Perceived Powerlessness*, 61 SOC. PSYCHOL. Q. 232 (1998); Catherine E. Ross et al., *Powerlessness and the Amplification of Threat: Neighborhood Disadvantage, Disorder, and Mistrust*, 66 AM. SOC. REV. 568 (2001).

484. *See* Timothy J. Haney, *"Broken Windows" and Self-Esteem: Subjective Understandings of Neighborhood Poverty and Disorder*, 36 SOC. SCI. RES. 968 (2007).

485. *See, e.g.*, William L.F. Felstiner & Austin Sarat, *Enactments of Power: Negotiating Reality and Responsibility in Lawyer-Client Interactions*, 77 CORNELL L. REV. 1447 (1992); Gerald E. Frug, *The Language of Power*, 84 COLUM. L. REV. 1881 (1984) (book review); Michael Grinthal, *Power With: Practice Models for Social Justice Lawyering*, 15 U. PA. J.L. & SOC. CHANGE 25 (2011); Lucie E. White, *To Learn and Teach: Lessons From Driefontein on Lawyering and Power*, 1988 WIS. L. REV. 699.

486. *See, e.g.*, Corey S. Shdaimah, *Lawyers and the Power of Community: The Story of South Ardmore*, 42 J. MARSHALL L. REV. 595, 608 (2009).

487. *See* Michelle Adams, *Separate and [Un]equal: Housing Choice, Mobility, and Equalization in the Federally Subsidized Housing Program*, 71 TUL. L. REV. 413, 424 (1996); Lisa T. Alexander, *Hip-Hop and Housing: Revisiting Culture, Urban Space, Power, and Law*, 63 HASTINGS L.J. 803, 819–21 (2012).

the nation.[488] Even equity-driven housing experiments implemented under new governance[489] and stakeholder participation[490] schemes falter without a broad municipal equity coalition and a deep commitment to public or joint public-private investment in inclusive forms of urban development and innovation.[491] When such experiments promote gentrification,[492] skew municipal services,[493] or prove bureaucratically inaccessible and unaccountable,[494] the geography of the city[495] and the experience of community[496] become partitioned by race and class.[497] Mr. Pastor bears witness to that experience every day on the West side of Goulds.

488. *See, e.g.*, WILLIAM JULIUS WILSON & RICHARD P. TAUB, THERE GOES THE NEIGHBORHOOD: RACIAL, ETHNIC, AND CLASS TENSIONS IN FOUR CHICAGO NEIGHBORHOODS AND THEIR MEANING FOR AMERICA (2006).

489. *See* Corinne Anne Carey, *The Need for Community-Based Housing Development in Integration Efforts*, 7 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 85, 92 (1997); Thurston James Hamlette, Comment, *The Affirmative Duty to Disintegrate Concentrations of Impoverished Communities*, 56 HOW. L.J. 287, 315 (2012); Katherine Hannah, Note, *Carrying Out the Promise: How Shared Equity Models Can Save Affordable Housing*, 23 GEO. J. ON POVERTY L. & POL'Y 521, 527–35 (2016).

490. *See* Lisa T. Alexander, *Stakeholder Participation in New Governance: Lessons From Chicago's Public Housing Reform Experiment*, 16 GEO. J. ON POVERTY L. & POL'Y 117, 127 (2009).

491. *See* GERALD E. FRUG & DAVID J. BARRON, CITY BOUND: HOW STATES STIFLE URBAN INNOVATION 99 (2008); J. William Callison, *Affordable Housing and Community Development Fifty Years After the 1968 Riots*, 24 J. AFFORDABLE HOUSING & COMMUNITY DEV. L., at ix (2015); Rene Ciria-Cruz, *Affordable Housing Hit Hard by Redevelopment Agency Closures*, 19 RACE POVERTY & ENV'T, no. 1, 2012, at 55.

492. *See* Melissa Checker, *Wiped Out by the "Greenwave": Environmental Gentrification and the Paradoxical Politics of Urban Sustainability*, 23 CITY & SOC'Y 210 (2011); Hamil Pearsall & Isabelle Anguelovski, *Contesting and Resisting Environmental Gentrification: Responses to New Paradoxes and Challenges for Urban Environmental Justice*, SOC. RES. ONLINE, Aug. 2016, at 1.

493. *See* Gerald E. Frug, *City Services*, 73 N.Y.U. L. REV. 23, 35–40 (1998); Marisa A. Zapata & Lisa K. Bates, *Equity Planning Revisited*, 35 J. PLAN. EDUC. & RES. 245, 247 (2015).

494. *See* JOEL F. HANDLER, THE CONDITIONS OF DISCRETION: AUTONOMY, COMMUNITY, BUREAUCRACY (1986); Jerry Frug, *Administrative Democracy*, 40 U. TORONTO L.J. 559 (1990); Gerald E. Frug, *The Ideology of Bureaucracy in American Law*, 97 HARV. L. REV. 1276 (1984).

495. *See* Michelle Wilde Anderson, *Dissolving Cities*, 121 YALE L.J. 1364, 1428–33 (2012); Gerald E. Frug, *The City as a Legal Concept*, 93 HARV. L. REV. 1057, 1144 (1980).

496. *See* Jerry Frug, *The Geography of Community*, 48 STAN. L. REV. 1047 (1996).

497. *See* Elise C. Boddie, *Racial Territoriality*, 58 UCLA L. REV. 401 (2010); John O. Calmore, *Race/ism Lost and Found: The Fair Housing Act at Thirty*, 52 U. MIAMI L. REV. 1067 (1998); Calmore, *supra* note 76; Priscilla A. Ocen, *The New Racially Restrictive Covenant: Race, Welfare, and the Policing of Black Women in Subsidized Housing*, 59 UCLA L. REV. 1540 (2012).

CONCLUSION

> Spirits come together.
>
> —Mr. Pastor[498]

By now familiar, the plain-spoken question—"Will you be there?"—is heard regularly by community-based political activists, legal advocates, and clinical teachers. Today I hear the question come from the clients of our Environmental Justice Clinic, from the ministers and parishioners affiliated with our Historic Black Church Program, and from our nonprofit and pro bono partners at the Center for Ethics and Public Service. Although commonplace, the question goes to the core ethical commitment and legal-political ideology of poverty lawyers in building campaigns for social change. The question is especially urgent when the community at stake—here Goulds and the West Grove—may now, or may soon be, *gone*.

Presented in a time of widespread inner-city social disorganization, public and private sector neglect, and nonprofit resource scarcity, Mr. Pastor's question challenges poverty lawyers working in law school clinics and legal services storefronts to answer the call for outsider legal-political intervention by revisiting the notion of community triage defined in terms of both the decision-making process and the ultimate judgment to provide, or not to provide, legal services and resources to politically and economically subordinated communities. That challenge carries the higher obligation of infusing an antisubordination politics into advocacy, a politics of civic and professional accountability dedicated to distributive fairness, economic justice, and political participation. This special obligation extends to advocates waging rights-centered law reform campaigns, to academics studying the history of social justice movements, and to activists struggling to mobilize low-income communities of color. It is the obligation of a new generation of legal services and public interest lawyers across diverse fields to reconstruct legal-political lessons of inner-city advocacy and organizing in alliance with the communities that they work so hard to serve.

498. Telephone Interview with Mr. Pastor, *supra* note 31.