
Volume 13 | Issue 2

Summer 2010

Whose Survival? Environmental Justice as a Civil Rights Issue

Majora Carter
Majora Carter Group

Miranda Massie
New York Lawyers for the Public Interest

David Palmer
Center for Working Families

Elizabeth Yeampierre
United Puerto Rican Association of Sunset Park

Carmen Huertas-Noble
CUNY School of Law

Follow this and additional works at: <https://academicworks.cuny.edu/clr>

 Part of the [Law Commons](#)

Recommended Citation

Majora Carter, Miranda Massie, David Palmer, Elizabeth Yeampierre & Carmen Huertas-Noble, *Whose Survival? Environmental Justice as a Civil Rights Issue*, 13 N.Y. City L. Rev. 257 (2010).
Available at: 10.31641/clr130202

The CUNY Law Review is published by the Office of Library Services at the City University of New York. For more information please contact cunylr@law.cuny.edu.

WHOSE SURVIVAL? ENVIRONMENTAL JUSTICE AS A CIVIL RIGHTS ISSUE

*A panel discussion with Majora Carter, Majora Carter Group;
Miranda Massie, New York Lawyers for the Public Interest;
David Palmer, Center for Working Families; and Elizabeth Yeampierre,
United Puerto Rican Association of Sunset Park. Moderated by
Carmen Huertas-Noble, City University of New York School of Law*
February 18, 2010*

PROFESSOR CARMEN HUERTAS-NOBLE: Environmental justice is a very timely and important topic facing our communities. Like communities of color all across the country, pockets of the Bronx, Brooklyn, Queens, Manhattan, and Staten Island battle high rates of asthma, cancer and lead-related illnesses.¹

Some of our panelists have worked in the South Bronx and East Brooklyn communities that face some of the highest rates of asthma in the city.² It's not a coincidence that these communities are mainly communities of color and poor working-class communities³ and that they bear a disproportionate share of environmental burdens.

Tonight we have a distinguished panel of speakers who are lawyers, activists and activist lawyers and who I am sure will inspire us with a rich and dynamic presentation of their work and their role in the environmental justice movement. Their area of expertise includes groundswell legislation, litigating environmental justice, and ensuring responsible remediation of contaminated sites in our communities by providing access to the benefits of a growing and clean economy.

* Associate Professor of Law and founding director of the Community & Economic Development Clinic, City University of New York School of Law.

¹ See Lawrie Mott, *The Disproportionate Impact of Environmental Health Threats on Children of Color*, 103 ENVTL. HEALTH PERSPECTIVES 33, 34 (1995) (explaining how communities of color face greater risks and exposure levels to air and water pollution leading to higher rates of asthma and lead-poisoning); see also Roberto Suro, *Pollution-Wearied Minorities Try Civil Rights Tack*, N.Y. TIMES, Jan. 11, 1993, at A1; Linda R. Prout, *The Toxic Avengers*, 18 EPA J., no. 1, 1992 at 48 (discussing the prevalence of toxic sites in minority communities and organized efforts to rid these neighborhoods of hazardous pollution).

² See RENU GARG ET AL., NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, ASTHMA FACTS (2d ed. 2003) (showing statistical distribution of asthma hospitalization by median income of zip codes within New York City).

³ See U.S. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, COUNTY AND CITY DATA BOOK: 2007, at 184 (14th ed. 2007).

Upon reflecting on tonight's event, it struck me that the title makes clear that environmental justice is about people as well as the ecological environment. While many have criticized this movement for being too "people-centric,"⁴ these same critics have not appropriately acknowledged that the movement grew in part as a response to the lack of concern for people that was evident in traditional environmental activism.

Undoubtedly, we need to be concerned with ecological concerns and non-human populations as well as the people who are part of these environments. While not everyone adheres to the same definition of environmental justice, at times the term is co-opted. From my work with environmental justice organizations, I have learned that core to this movement is grassroots participation, and providing environmental benefits alone does not constitute the type of transformative justice that environmental justice organizations seek. Tonight it's important to note that the core of the environmental justice movement is organizing against environmental racism⁵ and advocating for environmental health, protection, and policies that enhance the health, safety, and well-being of our communities.

One of the movement's main objectives is to empower residents of a community to gain greater control over the use of land and resources in their neighborhoods. Another is to provide opportunities to benefit from the environment such as access to healthy food, clean air, parks, and jobs in the growing green economy that will help communities survive our deepening economic crisis.

We will continue to have this discussion with the people on the panel who are really the environmental justice experts, and we'll start with Majora Carter speaking about her role and work with environmental justice.

MAJORA CARTER: Thank you so much, Carmen, and thank you all for being here. I am Majora Carter, President of the Majora

⁴ See, e.g., Alicia Kaswan, *Environmental Justice: Bridging the Gap between Environmental Laws and Justice*, 47 AM. U. L. REV. 221, 257, 260 (1997) (explaining that historically the mainstream environmental movement has been primarily concerned with conservation issues, at times to the detriment of poor communities).

⁵ Benjamin Chavis, *Preface* to UNEQUAL PROTECTION: ENVIRONMENTAL JUSTICE AND COMMUNITIES OF COLOR xi (Robert D. Bullard ed., 1994) (defining environmental racism as "racial discrimination in environmental policy-making and enforcement of regulations and laws, the deliberate targeting of communities of color for toxic waste facilities, the official sanctioning of the presence of life threatening poisons and pollutants for communities of color, and the history of excluding people of color from leadership of the environmental movement.").

Carter Group.⁶ We are a green economic development consulting firm whose goal is to unlock the potential of places: a rather lofty goal, but one that needs to be reconciled with reality.

Here is a little background about me. Growing up, I always believed in the promise of America, even though those were the dog days of the South Bronx burning. It was a tough thing to be in a place where on the nightly news you'd see landlords torching their own buildings to collect insurance money.⁷ However, seeing that occur around me definitely left me with an understanding that the environment was something that was elsewhere. I had two brothers who lived in Connecticut. I had family down South. These are places where one would find clean air, which didn't exist in our communities. The concept that one could find clean air in my community never occurred to me. I was at a point in my life where being from the South Bronx was not something that I wanted attached to me at all. I tried my best to make sure that people didn't even know that I was from there. I remember moving back home in the late-nineties to my parents' house, only because I was broke and needed a cheap place to stay while I went to graduate school. If my film career had taken off, I would not be sitting here with you today. But it didn't work out that way. For that I am eternally grateful to all the forces in the universe.

Moving home at that time affected me greatly. First of all, I discovered my community and saw it with very different eyes. It was no longer just this dirty place that sometimes smelled funny. It was filled with lots of people that were just trying to do the best that they could. The way that I got interested in understanding people in my neighborhood was actually through people like Elizabeth Yeampierre, who you will hear from later, and her fabulous husband, Eddie Bautista. They were part of a group called the Organization for Waterfront Neighborhoods.⁸ At the time, our city was at the point where our mayor, Rudy Giuliani, and governor, George Pataki, were planning on opening waste facilities or waste transfer

⁶ See *Our Story*, MAJORA CARTER GROUP, <http://www.majoracartergroup.com/our-story/> (last visited Sept. 10, 2010). Majora Carter founded the for-profit consultancy The Majora Carter Group LLC in 2008. *Id.*

⁷ See JIM ROONEY, ORGANIZING THE SOUTH BRONX 36 (1995) (describing the illegal ways in which South Bronx landlords of the 1970s attempted to maximize their profits while simultaneously contributing to the neighborhood's rapid decay).

⁸ *Our Community Partners*, NEW YORK LAWYERS FOR THE PUBLIC INTEREST, <http://www.nylpi.org> (follow "About NYLPI" hyperlink) (last visited Sept. 23, 2010). The Organization for Waterfront Neighborhoods is "a citywide community-based coalition formed to address the common threat to NYC neighborhoods presented by waste transfer stations." *Id.*

stations in some of the poorest communities around the city, including the South Bronx and places in Brooklyn.⁹ This was in addition to the huge amounts of waste that we already handled.

Working to build a more sustainable solid waste management plan made me realize that problematic environmental issues don't "just happen" to these communities because the people within the communities don't care about what's happening. It happens because there are huge regulatory issues, and the business community does not want to become involved in addressing these environmental problems. The business community looks at poor people, and particularly poor people of color, and considers whether these communities will notice that yet another problem is being dumped on them.

That infuriated me and made me really ashamed on multiple levels because I realized that, even though I was from this area, I worked really hard to distance myself from it, so I decided to stay a part of it. I wanted nothing more than to be a part of the solution in my community. Part of the solution for me was continuing to work on advocacy with my esteemed colleagues around the city, but specifically I wanted to be a part of green open space development that gave people something different to look at.

In 2001, I founded Sustainable South Bronx,¹⁰ an environmental justice solutions organization.¹¹ Our goal was to provide project-based economic and environmentally sustainable development in ways that people could perceive. We started by turning abandoned lots used as dumps into restored parks. We wanted physical manifestations of alternatives for what could happen in our community.

One day, I came across what appeared to be an illegal garbage dump, and it turned out that this dump ended at a river. That particular piece of land helped spark some of the most notable waterfront revitalization ever in the City of New York. We were able to transform that tiny piece of land into one of the most gorgeous parks in New York City today.¹² This transformation has paved the

⁹ See Press Release, Mayor's Press Office, Mayor Giuliani Releases Long-Term Waste Management Plan for New York City (Dec. 2, 1998), available at <http://www.nyc.gov/html/om/html/98b/pr546-98.html> (last visited Sept. 24, 2010); see also Douglas Martin & Dan Barry, *Giuliani Stirs Up Border Tensions with Trash Plan*, N.Y. TIMES, Dec. 3, 1998, at B10.

¹⁰ MAJORA CARTER GROUP, *supra* note 6.

¹¹ *About Us*, SUSTAINABLE SOUTH BRONX, <http://www.ssbx.org/index.php?link=2#history> (last visited Sept. 10, 2010).

¹² See *Case Histories: Hunts Point Riverside Park*, MAJORA CARTER GROUP, <http://www.ssbx.org/case-histories>.

way to thinking about other types of public space projects that can support things like local economic development and stormwater management.

Greenway systems was another project we worked on. I worked to raise about \$1.25 million in federal transportation grants specifically to design the South Bronx Greenway, which has actually received about \$25 million worth of funding to date and is going to start breaking ground this year, notwithstanding the City's bureaucracy. What I am most proud of, though, is starting one of the country's first green jobs training and placement systems¹³ right in the Boogie Down Bronx.¹⁴ We started it because in doing waterfront restoration projects, we noticed that the city would employ people to do that work, but they weren't from our community even though we have a high unemployment rate here. This is the kind of work that, if training were provided, people in our community would be able to do. So we designed a program where community members received skills through green jobs training, whether for wetland restoration or forestry management, like learning brown-field restoration or how to clean up contaminated land, and green roof installation. The other piece of the program that I think made it so important was coupling it with a really intensive soft skills program.¹⁵ Most of the people that we worked with had significant barriers to employment; most were formerly incarcerated people and had experienced years of generational poverty.¹⁶ For people who did not have the experience of seeing their family with jobs, it is difficult for them to know exactly how they're supposed to act on a job site, let alone how to perform in an interview. Therefore, we were strategic at pushing for and making sure that this type of

majoracartergroup.com/services/case-histories/hunts-point-riverside-park (last visited Oct. 1, 2010).

¹³ See *Case Histories: BEST Green Job Training Program*, MAJORA CARTER GROUP, <http://www.majoracartergroup.com/services/case-histories/best-green-job-training-program> (last visited Oct. 1, 2010). In 1997, Majora Carter founded the Bronx River Working Group, which later became the Bronx River Alliance. *Id.* The main goal of the Bronx River Alliance was to provide local opportunities for employment. *Id.*

¹⁴ "Boogie Down" was hip-hop slang, which later became a common nickname for the South Bronx. See, e.g., MAN PARRISH, *BOOGIE DOWN (BRONX)* (Boiling Point Records 1984).

¹⁵ "Soft skills" refers to the combination of personality traits, communication skills, personal habits, flexibility, optimism, and similar attributes that characterize relationships with other people, and are viewed with increasing importance by employers in hiring for the workplace. See Philip Moss & Chris Tilly, "Soft" Skills and Race: An Investigation of Black Men's Employment Problems, 23 *WORK & OCCUPATIONS* 252 (1996).

¹⁶ For the relationship between incarceration and employment, see, e.g., *BARRIERS TO REENTRY? THE LABOR MARKET FOR RELEASED PRISONERS IN POST-INDUSTRIAL AMERICA* (Shawn Bushway et al. eds., 2007).

training was obtained. We were able to get about an 82 percent success rate of students that went through our program, with 15 percent of them going on to college.¹⁷

In 2008, the thing that was most important to me was realizing that I needed to grow as a person and as a professional. I realized that the work we were doing in the South Bronx also had serious potential to produce projects outside of our community and outside of New York City. I decided to step down from the leadership at Sustainable South Bronx to start my own green economic development consulting firm to really build on pioneering techniques, and to help people understand that their self-interest was served by supporting others across stakeholder lines, and using the green economy as a tool to achieve this goal. We want everybody to feel as though their full participation benefits everybody on the planet and that it is not exclusive to just a small group of people. The wonderful thing that came out of the jobs training program was that people actually started to see some value in it.

For example, northeastern North Carolina is the area of the country most impacted by rising sea levels, second only to the Mississippi Delta and the Florida Everglades.¹⁸ After hundred-year storms, which are happening every few years right now, pieces of the Atlantic seaboard are falling into the water there,¹⁹ which is something that people are really concerned about. They are also

¹⁷ *SSBx Making News*, SUSTAINABLE SOUTH BRONX, http://www.ssbx.org/e-news/SSBx-e-news_06-02-2009.html (last visited Dec. 29, 2010).

¹⁸ See, e.g., James G. Titus & Charlie Richman, *Maps of Lands Vulnerable to Sea Level Rise: Modeled Elevations along the U.S. Atlantic and Gulf Coasts*, CLIMATE RESEARCH (2000), available at <http://www.epa.gov/climatechange/effects/downloads/maps.pdf> (finding that Louisiana, Florida, Texas, and North Carolina contain more than 80 percent of the coastal land most vulnerable to sea-level rise); Joel B. Smith, *A Synthesis of Potential Climate Change Impacts on the United States*, PEW CTR. ON GLOBAL CLIMATE CHANGE 22 (2004), available at <http://www.pewclimate.org/publications/report/synthesis-potential-climate-change-impacts-us> (follow “Download Report (pdf)” hyperlink) (stating that the Southeast Region “is the most vulnerable to sea-level rise because of its low-lying coast and heavy development in many areas”); *Global Warming Basics: What It Is, How It’s Caused, and What Needs to be Done to Stop It*, NATURAL RESOURCES DEFENSE COUNCIL, <http://www.nrdc.org/globalwarming/fl01.asp> (follow “Is there really cause for serious concern?” hyperlink) (last visited Sept. 3, 2010) (stating that “[r]ising sea levels will lead to coastal flooding on the Eastern seaboard, in Florida, and in other areas, such as the Gulf of Mexico”).

¹⁹ A “hundred-year storm” is rainfall that statistically has a one-percent chance of occurring in a given year. See *Hurricanes and Global Warming FAQs*, PEW CTR. ON GLOBAL CLIMATE CHANGE, <http://www.pewclimate.org/hurricanes.cfm> (follow “Is the frequency of hurricanes increasing?” hyperlink) (last visited Sept. 3, 2010) (stating that during the period 1998–2007, the average number of tropical storms in the North Atlantic increased to fifteen per year, up from ten per year in the period 1850–1990).

really concerned about the fact that these small towns in the rural areas, whose budgets are not going up as the sea level rises, are dealing with the decline of the manufacturing industry in the area.²⁰ Additionally, there are increases in crime²¹ and rising public health costs, along with the systemic costs of having higher rates of unemployment. We're trying to help them see the links between developing climate adaptation strategies and becoming one of the country's leaders in wetland storm bank restoration, and dealing with the agricultural runoff that is really plaguing many of those towns.

One of the things that I'm most proud of right now is developing a green investment fund²² where we can make investments in environmental justice communities of color around the country. Specifically, the first project we're working on now is a national brand for urban grown produce called American City Farms.²³ The goal is to aggregate local urban farm produce and create aquaponic greenhouse systems within cities around the entire country and distribute that produce within a hundred miles of where it is grown.²⁴ We want to bring about the end of the 3,000-mile salad²⁵ and create opportunities for local agriculture everywhere around this country. This will in turn create local opportunities for ownership through employee stock ownership programs. We are looking to launch first in the South Bronx and Detroit.²⁶ Thank you very much.

²⁰ DARIA KARETNIKOV ET AL., CENTER FOR INTEGRATIVE ENVIRONMENTAL RESEARCH, ECONOMIC IMPACTS OF CLIMATE CHANGE ON NORTH CAROLINA 11 (2008).

²¹ See, e.g., Avi Brisman, *Crime-Environment Relationships and Environmental Justice*, 6 SEATTLE J. SOC. JUST. 727 (2008).

²² See, e.g., *About Winslow: History*, WINSLOW MGMT. CO., <http://www.winslowgreen.com/about/default.aspx> (last visited Sept. 3, 2010) (example of an investment fund that integrates financial and environmental analysis, often in green markets such as renewable energy, energy efficiency, and green infrastructure).

²³ Lauren Ivey, *Farming on American Roofs*, THE IVEY VINE (June 30, 2010, 9:38 PM), <http://laureniveysvine.blogspot.com>.

²⁴ See, e.g., Alex Wilson, *Growing Food Locally: Integrating Agriculture Into the Built Environment*, BUILDINGGREEN.COM (Feb. 1, 2009), <http://www.buildinggreen.com/auth/article.cfm/2009/1/29/Growing-Food-Locally-Integrating-Agriculture-Into-the-Built-Environment/> (describing farming and gardening on vacant lands in urban landscapes across the U.S.).

²⁵ See JAMES HOWARD KUNSTLER, *THE LONG EMERGENCY: SURVIVING THE END OF OIL, CLIMATE CHANGE AND OTHER CONVERGING CATASTROPHES OF THE TWENTY-FIRST CENTURY* 242 (2005) (stating that fruits and vegetables that were once locally grown now travel thousands of miles before landing in grocery stores).

²⁶ See John Gallagher, *Activist Sows Seeds for Farm Co-op Owned by Workers, Venture Could Reap Profits for Detroit*, DETROIT FREE PRESS, Dec. 26, 2009, at A2 (discussing Carter's plan to develop an agricultural grower's cooperative in Detroit); see generally Sarah Wali, *Urban Gardener Looks for a New Dream to Plant*, THE BRONX INK (Dec. 12,

MIRANDA MASSIE: I came to Environmental Justice two years ago after having a half-career doing more traditional civil rights litigation: racial justice in employment and education.²⁷ The reason for my change in focus was that I became convinced that environmental justice issues are the most fundamental issues of racial and social justice that we face. They're the most essential issues of equality because what's at stake is the right to thrive as a human being and even as an organism. It's hard to think of what could be more urgent and basic than that. I was only gradually and reluctantly convinced of that because I had previously—and, it now seems to me, very superficially—thought of environmental concerns as the province of well-off white people who were blind to their own privilege and didn't have too much else to worry about. It was somewhat uncomfortable to be pushed off of that view, but over time I became convinced that environmental justice was where I wanted to focus my energy and my work. I hope some of you will consider joining these efforts as well. It's tremendously satisfying. It's a job in which you feel that you can make a difference on basic questions of equality in our society and, at the same time, help address the developing ecological crisis we face due to climate change,²⁸ the level of toxins in the environment,²⁹ and a number of other problems.

New York Lawyers for the Public Interest (“NYLPI”) is a great organization within which to do environmental justice advocacy, from my perspective, because it operates on a community lawyering model.³⁰ We undertake to represent people in a way that places

2009), <http://bronxink.org/2009/12/12/2294-an-urban-gardener-looks-for-a-new-dream-to-plant>.

²⁷ Ms. Massie was lead counsel for the student intervenors in *Grutter v. Bollinger*, 539 U.S. 306 (2003).

²⁸ See, e.g., Kristie L. Ebi et al., *Effects of Global Change on Human Health*, in ANALYSES OF THE EFFECTS OF GLOBAL CHANGE ON HUMAN HEALTH AND WELFARE AND HUMAN SYSTEMS 39, 39 (J.L. Gamble et al. eds., 2008), available at <http://downloads.climate.science.gov/sap/sap4-6/sap4-6-final-report-all.pdf> (updated comprehensive assessment of the potential impacts of climate change on human health in the United States).

²⁹ See Satvinder Juss, *Global Environmental Change: Health and the Challenge for Human Rights*, 5 IND. J. GLOBAL LEGAL STUD. 121, 150 (1997) (describing severe urban health problems caused by the annual release of a million tons of air toxins into the atmosphere by industrial plants in the United States).

³⁰ The hallmarks of community lawyering are lawyers “working collaboratively with clients, communities, and activist groups to pursue collective, multi-faceted approaches to fighting subordination and effecting social change.” Sameer Ashar, *Law Clinics and Collective Mobilization*, 14 CLINICAL L. REV. 355, 358 (2008) (citing Gerald P. López, *REBELLIOUS LAWYERING: ONE CHICANO’S VERSION OF PROGRESSIVE LAW PRACTICE* (1992), and Lucie E. White, *Mobilization on the Margins of the Lawsuit: Making Space for*

the rights and the interests of the community into the foreground. It's a model that developed in opposition to more traditional impact-litigation approaches to doing progressive legal work. On that older model, which has often been extremely useful, lawyers don't usually have an organic connection to community-based organizations or to community residents; they define a problem from the outside, litigate over it, and leave.

What we do at NYLPI is different. We build lasting relationships with community leaders, community-based organizations, and residents of communities suffering from environmental racism—for example, communities with an excessive number of power plants and garbage processing facilities, or with inadequate access to parks. We always struggle with ourselves to carry out our work in a way that maximizes democracy. What I mean by that is something well beyond formalities and procedures; instead, I am talking about the equality of the relationships in the room. We accept a tremendous amount of leadership from our clients. In fact, the word “client” feels too clinical and conventional to capture the nature of the relationship, which is more of a partnership than it is like a traditional lawyer-client relationship.

Our environmental justice team has had the privilege of working in this manner with environmental justice organizations across New York City. We've done a tremendous amount of work with Elizabeth's organization, UPROSE,³¹ on solid waste and power plant siting issues, and have also have worked with the group Majora founded, Sustainable South Bronx,³² as well as other community based organizations. We've also undertaken campaigns where we end up building coalitions from the ground up because there was no organizational infrastructure in the affected community. In those situations, staff attorneys work with staff community

Clients to Speak, 16 N.Y.U. REV. L. & SOC. CHANGE 535, 546–63 (1987–88)). See also Barbara L. Bezdek, *Alinsky's Prescription: Democracy Alongside Law*, 42 J. MARSHALL L. REV. 723 (2009) (examining how lawyers can work with communities of subordinated people and work effectively with organized and organizing communities); Ascanio Piomelli, *The Challenge of Democratic Lawyering*, 77 FORDHAM L. REV. 1383, 1384 n.1 (2009) (extensive summary of the literature that stresses the importance of lawyers working collaboratively with, not simply on behalf of, low-income and working-class people, people of color, and their groups and communities to collectively push for social change); Shauna I. Marshall, *Mission Impossible?: Ethical Community Lawyering*, 7 CLINICAL L. REV. 147, 147–48 (2000) (discussing the friction between the multifaceted community lawyering approach and the ethical obligations of a lawyer).

³¹ UNITED PUERTO RICAN ORGANIZATION OF SUNSET PARK, <http://www.uprose.org> (last visited Dec. 27, 2010).

³² SUSTAINABLE SOUTH BRONX, *supra* note 11.

organizers to build up that infrastructure so that an issue can be effectively tackled.

Another thing that should be emphasized about community lawyering is that, in contrast to more traditional models of legal services, much of what we do is neither impact litigation nor direct legal services. For example, we also conduct legislative lobbying, community organizing, public outreach, and educational campaigns. Sometimes these activities come back around to feed litigation, but we don't start from the perspective of whether we can litigate. This gives us the opportunity for a broader analysis of, and engagement with, the range of environmental justice issues people face. The social and environmental problems of New York City communities are not limited to or defined by currently actionable claims. Because the law, in isolation, is a distorting and narrowing lens through which to view society, we can better address community priorities if we set the lens aside in understanding the priorities and consider it only later, instrumentally, as we consider different options for action and assistance.

An example of NYLPI's community lawyering approach involves an ongoing campaign to identify and eliminate polychlorinated biphenyls, or PCBs, in public schools.³³ The campaign started when the *New York Daily News*,³⁴ following up on work done by Bob Herrick at the Harvard School of Public Health and Daniel Lefkowitz in Yorktown, New York, ran a series of stories demonstrating the presence of this potent toxin in schools across New York City.³⁵ Studies have shown that PCBs can contribute to the risk of acquiring serious health conditions, including asthma, diabetes, childhood leukemia, neurological problems, and immune system damage.³⁶

The PCBs campaign has involved building a coalition of par-

³³ See New York Lawyers for the Public Interest, *Progress on Toxic Schools: City to Address Toxic Caulk Following Suit by Bronx Mother*, PRO BONO MATTERS, Winter 2010, at 3, available at NEW YORK LAWYERS FOR THE PUBLIC INTEREST, *supra* note 8 (follow "Press & Publications" hyperlink; then scroll down the page and follow "Pro Bono Matters: Winter 2010" hyperlink).

³⁴ Bill Egbert, *Toxic Fight Over Schools In Bronx*, NEW YORK DAILY NEWS, April 13, 2009, http://www.nydailynews.com/ny_local/bronx/2009/04/14/2009-04-14_toxic_fight_over_schools_in_bronx.html.

³⁵ See Robert F. Herrick, *PCBs in School—Persistent Chemicals, Persistent Problems*, 20 NEW SOLUTIONS, no. 1, 2010 at 115; Dr. Daniel Lefkowitz, *PCBs: MANDATORY TESTING IN SCHOOLS*, <http://www.pcbinschools.org> (last visited Dec. 29, 2010). See also Valerie Watnick, *PCBs in Schools and Corporate Responsibility for Remediation: Yorktown Central School District v. Monsanto Corporation*, 33 ENVIRONS ENVTL. L. & POL'Y J. 231 (2010).

³⁶ See *Polychlorinated Biphenyls (PCBs): Health Effects of PCBs*, U.S. ENVIRONMENTAL

ents in the Bronx, the New York City Coalition for PCB-Free Schools; lobbying Congress, the New York State Legislature, and the New York City Council; conducting outreach to local education officials and Parents' Associations; and working to connect the New York City Coalition for PCB-Free Schools with parents and advocates across the City and with technical experts.³⁷ The Coalition's organizing efforts, together with the first litigation nationwide challenging the presence of PCBs in schools, filed on behalf of one of the Coalition's leaders, led the Department of Education, notorious among parents for its unresponsiveness to their concerns, to enter into a consent agreement with the Environmental Protection Agency.³⁸ The DOE is now conducting a pilot study to devise a city-wide plan to identify and redress PCB contamination in schools.³⁹ When doing community lawyering campaigns, which are by definition locally based, it's important to think expansively and ambitiously about larger community impacts and the effects such campaigns can have on institutions like the DOE and EPA.

It's also important to anticipate how difficult it can be to build campaign momentum from the ground up. First, when you are in that position, it's usually because there is no existing community-based organization or community advocacy infrastructure that's oriented toward the problem you're being asked to help address. Second, and in turn, that absence itself often expresses the inherent difficulty of organizing around a particular issue.

In the case of emerging environmental health threats like PCBs in schools, it's very hard for people to grapple with health risks that are serious but not immediate. Environmental health effects are compounded and combined over the course of childhood and adolescence and into adulthood.⁴⁰ So you're talking about latent impact and risk, which can be very difficult to organize

PROTECTION AGENCY, <http://www.epa.gov/osw/hazard/tsd/pcbs/pubs/effects.htm> (last visited Dec. 29, 2010).

³⁷ Dr. Daniel Lefkowitz, *Coalition for PCB-Free Schools*, PCBs: MANDATORY TESTING IN SCHOOLS, <http://www.pcbinschools.org/Coalition%20for%20PCB-Free%20Schools.htm> (last visited Dec. 29, 2010).

³⁸ Consent Decree and Final Order, Matter of City of New York, No. TSCA-02-2010-9201 (EPA Reg. II, Jan. 13, 2010).

³⁹ Mireya Navarro, *City Agrees to Conduct a Study on the Risks of PCBs in Schools*, N.Y. TIMES, Jan. 20, 2010, at A19. The EPA has since stated that it would inspect New York City public schools for PCB contamination and would direct the City to conduct PCB abatement for any fixtures or construction materials found to leak the toxin. See Mireya Navarro, *City Sparring with E.P.A. Over a Plan to Check Schools for PCBs*, N.Y. TIMES, Dec. 21, 2010, at A28.

⁴⁰ See generally Kim N. Dietrich et al., *Principles and Practices of Neurodevelopmental Assessment in Children: Lessons Learned from the Centers for Children's Environmental Health*

around, given that the communities with which we work face immediate and harrowing problems, particularly in this economy. Environmental health risks can seem abstract—like luxury issues. And at the same time, paradoxically, there is parents' terror, and sometimes consequent denial, about the impact of environmental toxins on their children.

These anxieties are well-placed: such impacts can be irreversible and profound, expressed over decades. In addition, we confront a reactionary body of law and policy that fundamentally fails to protect against these harms. These failures of U.S. toxics law and policy truly threaten the health of human residents of North America, and in a familiar, disturbing manner, the distribution of harm is sharply unequal along the lines of race and class. Environmental health problems affect wealthier and whiter communities as well, but the connection of race and class to the distribution of harm is wholly unacceptable in a society that purports to be democratic and egalitarian.

In sum, while various factors combine to make organizing around children's environmental health a challenge, the urgency of the issues provides jolts of motivation, as do the profound rewards of working in partnership with community members engaged in struggle with those same challenges. I hope the PCBs campaign has provided a concrete example of how community lawyering and environmental justice can work in practice.⁴¹

My time is just about up but I just want to say again how wonderful it is to see so many of you here and to encourage people to consider this as a path. It's profoundly rewarding and satisfying, and I hope that we'll be able to talk about it more after the panel. Thank you.

DAVID PALMER: I thought I would start by giving my per-

and Disease Prevention Research, 113 ENVTL. HEALTH PERSPECTIVES 1437 (2005) (discussing long-term neurodevelopmental consequences of children exposed to PCBs).

⁴¹ For an overview of law and policy on school siting as it relates to environmental harms and a brief survey of state siting legislation, see Sandra Sutak, *Green Schools, Brown Fields: School Siting Legislation Provides a Weak Foundation*, 21 TUL. ENVTL. L. J. 427 (2008). For examples of unsuccessful constitutional law claims brought by parents of children who were to be placed in schools sited on former industrial sites that contained various contaminants, see *Lucero v. Detroit Public Schools*, 160 F. Supp. 2d 767 (E.D. Mich. 2001) and *Hartford Park Tenants Ass'n v. R.I. Dep't. of Env'tl. Mgmt.*, No. 99-3748, 2005 WL 2436227 (R.I. Super. Ct. Providence Cty. 2005). For a discussion of the *Hartford Park* case and a brief showing of the national breadth of the school siting problem, see Michelle A. Westcoat, *Once a Landfill, Now a Neighborhood School, and That's OK: Hartford Park Tenants Association v. Rhode Island Department of Environmental Protection*, 39 RUTGERS L.J. 739 (2008).

sonal definition of what environmental justice is and explain how it has evolved over time. I'll also talk about some of the work that I've been involved with so it'll make sense when I talk about the issues of lawyering and community lawyering and environmental justice and what that means to me.

I started my career at the New York Public Interest Research Group as an organizer. It's a bit of a white-led organization—and, I think, a great organization. At the time I thought of environmental justice simply as working to help communities of color that were disproportionately burdened. Our efforts focused on childhood lead poisoning and working to pass a law in New York City that would address high rates of childhood lead poisoning.⁴² It's something that should have been eradicated a long time ago, but thousands of children were still being lead-poisoned and roughly 95 percent of those children were black, Latino and Asian.⁴³ The disproportionate impact of lead poisoning on communities of color reinforced the idea that environmental hazards target certain communities.

The community organizing campaign had legislative and legal components. Ultimately the litigation strategy was successful in getting the old lead law repealed.⁴⁴ And the organizing work we had done set us up to pass legislation considered the most progressive lead law in the country.⁴⁵ It was very exciting. And it probably couldn't have happened without that dual strategy.

I went to law school after that year and following law school went to work at New York Lawyers for the Public Interest, where I worked with Miranda and was inspired by NYLPI's community-lawyering model. The work involved law and organizing and I studied law and organizing here at CUNY Law under Sameer Ashar⁴⁶, so I had thought a lot about those issues. And for those who don't

⁴² New York City Childhood Lead Poisoning Prevention Act of 2003, NEW YORK, N.Y., CITY ADMIN. CODE, tit. 27, ch. 2, §§ 27-2056.1–27-2056.18 (2004 N.Y. Leg. Publishing Co. Supp. 2009), available at <http://www.nyc.gov/html/hpd/downloads/pdf/lead-local-local1-2004.pdf>.

⁴³ See Bruce P. Lanphear et al., *Racial Differences in Urban Children's Environmental Exposures to Lead*, 86 AM. J. PUB. HEALTH 1460 (1996) (finding that differences in housing conditions and exposures to lead-contaminated house dust contributed strongly to racial disparities among urban children's lead levels). For general statistics on childhood lead poisoning in New York City, see *Childhood Lead Poisoning*, NEW YORK CITY DEP'T OF HEALTH AND MENTAL HYGIENE, <http://www.nyc.gov/html/doh/html/stats/lead.html> (last visited Sept. 3, 2010).

⁴⁴ NEW YORK, N.Y., Local Law No. 38 (1999), repealed by NEW YORK, N.Y., Local Law No. 1 (2004).

⁴⁵ See *supra* note 42.

⁴⁶ Sameer Ashar is Associate Dean for Clinical Programs and Associate Professor of

know, Sam Sue⁴⁷ and Eddie Bautista⁴⁸ were the founders of that model at NYLPI, so it was very exciting to be a part of that. I called Eddie when I was heading over there but he took off maybe a week before I started working there, which was disappointing. We never had a chance to work together but he's a legend in many ways, in terms of his successes in New York City and also for founding this model that I love, Miranda loves, and which is a good model for law and organizing work.⁴⁹

Now, I'm the Interim Director of the Center for Working Families, which is a not-for-profit think-and-do tank that puts together policies, convenes people to help craft policies, and then serves as a transmission belt to connect those issues with powerful political players and elected officials.⁵⁰ So we're not just writing reports and placing them on a shelf, but working to be responsive to the political climate and enact real, positive change.

At NYLPI, I focused on the siting of schools on contaminated properties.⁵¹ At the Center for Working Families, the big project that I focus on is called Green Jobs/Green New York.⁵² This policy offers money for homeowners to retrofit their homes to improve energy efficiency, reduce home energy costs, combat climate change, and create jobs.⁵³ This policy is especially important be-

Law at CUNY School of Law. *See Faculty & Staff*, CUNY SCHOOL OF LAW, <http://www.law.cuny.edu/faculty-staff/SAshar.html> (last visited Oct. 29, 2010).

⁴⁷ Sam Sue is Director of Career Planning and Adjunct Professor at CUNY School of Law. *See Career Planning*, CUNY SCHOOL OF LAW, <http://www.law.cuny.edu/career/sue.html> (last visited Oct. 29, 2010).

⁴⁸ *See Leadership Talks Archive: Eddie Bautista, New York Lawyers for the Public Interest, LEADERSHIP FOR A CHANGING WORLD* (May 21, 2004), <http://www.leadershipforchange.org/talks/archive.php3?ForumID=26> (describing the philosophy behind NYLPI's community lawyering model).

⁴⁹ *See A People's Organizer Fights to Prevent Community Dumping, LEADERSHIP FOR A CHANGING WORLD*, <http://www.leadershipforchange.org/awardees/awardee.php3?ID=103> (last visited Sept. 3, 2010) (granting awards to Eddie Bautista and NYLPI).

⁵⁰ CENTER FOR WORKING FAMILIES, <http://www.cwfny.org> (last visited Sept. 10, 2010).

⁵¹ *See Equal Justice Works Fellow, Class of 2006, EQUAL JUSTICE WORKS*, <http://www.equaljusticeworks.org/communities/alumni/profiles?q=node/14&pid=15079> (last visited Sept. 24, 2010).

⁵² *Green Jobs*, CENTER FOR WORKING FAMILIES, <http://www.cwfny.org/issues/green-jobs/> (last visited Sept. 24, 2010).

⁵³ CENTER FOR AMERICAN PROGRESS, CENTER FOR WORKING FAMILIES & HALF IN TEN, GREEN JOBS/GREEN HOMES NEW YORK: EXPANDING HOME ENERGY EFFICIENCY AND CREATING GOOD JOBS IN A CLEAN ENERGY ECONOMY (Emmaia Gelman ed., 2009), *available at* http://www.americanprogress.org/issues/2009/05/pdf/ghgjny_v10.pdf. One avenue for financing these programs was through the PACE (Property-Assessed Clean Energy) program. *See* Letter from Emmaia Gelman, Policy Director, Center for Working Families et al., to Frank Murray, President, NYSERDA (New York State Energy Research and Development Authority) et al., at 4 (July 13, 2010), *available at* <http://>

cause a huge barrier to folks interested in making energy efficiency improvements is lack of upfront capital.⁵⁴ So we created a state program through legislation whereby private investors provide homeowners with the money to retrofit their homes, and this investment allows homeowners to lower energy costs over time.⁵⁵ The savings on homeowners' monthly utility bills are recaptured in part; some of that savings is returned to the homeowners while another portion goes to pay back the investors⁵⁶—so they're making a little bit of money, but hopefully not too much! This program creates jobs for the people who perform the retrofitting work, and allows communities that have been traditionally shut out of the building trades to access these jobs.⁵⁷

I was asked to speak on whether in my work I've identified inadequacies in environmental regulations that impact the communities we've organized. The answer is yes. After being approached by a community with a need, we'd ask ourselves, Is someone breaking the law? And oftentimes we'd find that the state

www.greenforall.org/what-we-do/building-a-movement/community-of-practice/city-wide-retrofitting-resources (click on the "Common Agreements on Green Jobs-Green NY Job & Contracting Standards" hyperlink) (last visited Nov. 5, 2010). The PACE program "seek[s] to foster lending for retrofits of residential or commercial properties through a county or city's tax assessment regime." Statement, Federal Housing Finance Agency, FHFA Statement on Certain Energy Retrofit Loan Programs (July 6, 2010), *available at* <http://www.fhfa.gov/webfiles/15884/PACESTMT7610.pdf> (last visited Nov. 5, 2010). It operates by placing a first lien on a property, meaning that if a borrower defaults, the lien is paid off before the mortgage. *See id.* Subsequent to this panel discussion, the Federal Housing Finance Agency (FHFA), which oversees government-chartered mortgage finance companies Fannie Mae and Freddie Mac, restricted the use of PACE because the liens that the program placed on properties "raise[] significant safety and soundness concerns that mortgage lenders and investors must consider." *Id.* Now, to mitigate the risk posed by the PACE liens that take priority of payment over mortgages, the FHFA requires that borrowers have sufficient equity in order to pay off a PACE obligation before obtaining a mortgage. *See* Bulletin, Freddie Mac, Mortgages Secured by Properties with an Outstanding Property Assessed Clean Energy (PACE) Obligation, No. 2010-20 (Aug. 31, 2010), *available at* <http://www.freddie.com/sell/guide/bulletins/pdf/bl11020.pdf> (last visited Nov. 5, 2010).

⁵⁴ *See* 2009 N.Y. Sess. Laws 1251 (McKinney) (stating legislative findings that a "lack of affordable and accessible financing for many owners of residential properties, small businesses and non-profit organizations has hindered progress in fully realizing the promise of [clean energy] technologies.").

⁵⁵ N.Y. PUB. AUTH. LAW § 1892 (McKinney 2007).

⁵⁶ *See id.* § 1892(6).

⁵⁷ *See id.* § 1894(2)(b) (stating that authorities shall "give preference in awards to applicants that include significant participation by minority and women owned business enterprises and/or to applications to serve economically distressed communities").

or city government was not breaking the law, but that the law was itself problematic.

An example of this is exhibited by New York City's ability to lease buildings for city schools on contaminated property and circumvent statutory processes that apply to new school construction.⁵⁸ If the city built a school on a toxic site, it would be subject to regulatory processes and checks.⁵⁹ When they lease a building, however, they don't have to give any notice to the community, they don't have to go before the City Council, and they don't have to submit to the state's environmental review process.⁶⁰

We came upon this due to our representation of a client from Soundview in the Bronx who discovered this problem when she saw a school being built across the street on what she knew was a contaminated property—a factory that was being rehabbed on a contaminated property. The client went across the street and said, “What’s going on here?” They replied, “We’re building a school.” And so she went to the local community board and said, “I can’t believe you didn’t tell us about this. How come you didn’t hold a hearing? You’re supposed to do that!” It turned out that the community board had no idea that it was happening. When she came to NYLPI, we looked into the legality of the school’s siting and found the School Construction Authority was generally in compliance with existing regulations. Essentially, the Authority said, “We don’t have to. There’s a loophole in the law.” I won’t get into what that loophole is⁶¹ but closing this loophole is very important to the community.⁶² We responded by drafting legislation to close that loophole and advocating before the State Legislature with a number of communities around the city that were facing similar problems. Unfortunately, it failed, mainly because of complicated politics. We’re still working on it.⁶³

⁵⁸ Assemblywoman Catherine Nolan & Councilman Eric Gioia, *Contaminated Factory Last Place to Put a New School*, N.Y. DAILY NEWS, Oct. 2, 2007, at 6.

⁵⁹ N.Y. COMP. CODES R. & REGS. tit. 8, § 155.5 (2008).

⁶⁰ N.Y. PUB. AUTH. LAW § 1730 (McKinney 2007).

⁶¹ *Park S. Tenants Corp. v. Bd. of Educ. of the City of N.Y.*, 208 A.D.2d 394 (1st Dep’t 1994) (renovating of premises is neither new construction nor an addition to an education facility, thus requirements for notice, public hearings and site plan filings pursuant to New York Public Authorities Law § 1731 are inapplicable).

⁶² Oversight Hearing on Mayoral Control and School Governance, N.Y.C. Council Comm. on Education, Mar. 3, 2008 (statement of David Palmer on behalf of New York Lawyers for the Public Interest), available at http://www.nylpi.org/images/FE/chain234siteType8/site203/client/EJ - 03.03.08_NYLPI Testimony on Leasing.pdf.

⁶³ For documents relating to NYLPI’s work on school siting, see NEW YORK LAWYERS FOR THE PUBLIC INTEREST, *supra* note 8 (follow “Legislative and Court Papers” hyperlink; then follow “Environmental Justice” hyperlink) (last visited Sept. 10, 2010).

On a similarly contaminated site, the city was required only to clean up one portion of the site, but not the remainder. Nor did the city adequately explain how it would monitor the remaining contamination before siting a school on that location. And even where clean-up was required, the technical details of what would be a sufficient “clean-up” required special knowledge, often available only by hiring expensive consultants. Communities don’t often have that luxury. So once again, the law was lacking.

I actually spent a lot of time pushing City Hall to provide money to our clients so that they could hire consultants. Consultants could explain, “Here’s what the contaminants are, here’s where there’s a problem, here’s what the state and city are planning to do about it, and here’s why that’s not good enough.” Article 10 monies—an expired law⁶⁴ that provided funds for communities addressing local power plant siting concerns—don’t exist for school siting, so this money had to come from other sources. The lack of funding remains a keen problem in communities fighting school siting decisions.

On the issue of litigation in community lawyering: litigation is often seen as an incomplete remedy.⁶⁵ And it often is. For example, when the clients came to me in the Bronx regarding the Mott Haven⁶⁶ site, they simply expressed concern about a proposed school on contaminated property. So the first thing we had to do was figure out how to address the concern. And in that case there was a twenty-day school siting process with an upcoming vote in the City Council. The effort around the site approval didn’t involve litigation until much later on. And so it was extremely important to be able to engage in that political process. One can either connect with sophisticated community clients through community organizations or have an internal organizing and political operation to properly assist clients. The central point is that litigation will not solve everything because there are these holes in the current statutory and regulatory schemes.⁶⁷ It’s important to be able to engage

⁶⁴ N.Y. PUB. SERV. LAW § 164(16) (McKinney 2000) (repealed 2003).

⁶⁵ See Piomelli, *supra* note 30, at 1385-86 (describing community lawyers as “deeply skeptical of *isolated* litigation conducted as a stand-alone approach to social change, *unconnected to and uninformed by collective public action.*”).

⁶⁶ See Bill Egbert, *Just a Toxic Mixup—City Schools Site ‘Violated’ State Law*, N.Y. DAILY NEWS, Nov. 17, 2008, http://www.nydailynews.com/ny_local/bronx/2008/11/18/2008-11-18_just_a_toxic_mixup__city_schools_site_vi.html.

⁶⁷ See Rose Cuison Villazor, *Community Lawyering: An Approach to Addressing Inequalities in Access to Health Care for Poor, Of Color and Immigrant Communities*, 8 N.Y.U. J. LEGIS. & PUB. POL’Y 35 (2004) (discussing community lawyering as effort to “de-emphasize litigation as the primary tool for advancing social justice.”).

in the political process, to understand how the political process works, and to be able to organize people to actually influence that political process.

The other obvious thing about litigation being insufficient—if you're a community lawyer and concerned about building power in communities—is that litigation is non-participatory for a vast number of community members. And this brings up my evolving definition of environmental justice. I'm sure Elizabeth will talk about this, but it's not just about addressing a disproportionate environmental burden in certain communities. It's also about building power in those communities, having community-driven decision-making and meaningful community involvement. In litigation it's very difficult to do that due to the inherent power imbalance between attorney and the community, where the role of the attorney is perceived as “decision-maker,” and because the attorney is the one who directly interacts with the power—the courts. But nonetheless, I think litigation can also be a very real opportunity for community lawyers to teach clients about the law, to help organize clients and use the media and to just keep an issue alive so you can do further organizing.

In terms of the roles that community members, policy makers and activists play in identifying and framing environmental justice issues, I think what's essential is being closely connected to your clients because they will define the issues for you. Affected communities are uniquely positioned to tell you what the community's concerns are, as well as when it's time to negotiate and when it's time to keep fighting. When you're in the political world a lot of times you will go into a negotiating room and based on your experience—and the longer you're around the more cynical you are, by the way—you will unwittingly sell your clients' interests short. Or you may choose a path based on what you see as the strength or weakness of your negotiating position, as opposed to what the client actually wants to fight for based on their worldview and your counsel.

I had a powerful experience with a client that informs this point. We're all sitting around a table and the City had just offered us a number of concessions on a particular site. And it had been so difficult to squeeze those small concessions out of the City that my advice at the time was maybe we should just take the concessions. To me, they seemed pretty good. And no one looked particularly happy with my advice and we engaged in a conversation for a period of time and finally one client said, “No, no, we're not going to

do this.” She called her son over and she pulled up her son’s sleeve and she said, “You see this rash on my child?” She’s like, “This is unacceptable and we need to keep fighting. We’re going to turn this down and we’re going to keep going.” And it was like that. I agreed, and everyone kind of agreed to keep fighting. And the obvious point is that her child was attending that school and she lived with the fear of the potential danger, whereas I would go home every night and not be there. It was an extremely important lesson, and I think that’s a really important role that the community can play: keeping you in check as an attorney. They’re the ones who are experiencing it.

Finally, I can’t stress enough that I think it’s important to recognize that while the political process is often difficult and turns many people away, understanding how to navigate political processes is vital to strategic success. I had a mentor who used to say, “Politicians respond to two things: money and pain. And we don’t have any money.” So, if your clients have a need that requires engaging in a political process, you need to organize and use the media, because that’s the pain that we can bring.

The last question is one that I’d like to leave a little bit open, because I think it will be an interesting thing to discuss. What role should lawyering play in community-building? I have to tell you that answering this question has always been a real challenge. Miranda described community lawyering at NYLPI. She suggested that the process there is to build lasting relationships with communities. I think sometimes that works, but I also feel like sometimes that doesn’t work. When I worked at NYLPI, there were a ton of clients or potential clients coming to us who needed help and we had to make decisions sometimes about using our limited resources. At times, we had to step away from the community if we felt something had moved along enough. Elizabeth and I have had conversations over the years about what the appropriate role of a community lawyer is, and it’s tough. If you’re at a community-based organization like UPROSE,⁶⁸ for example, and your mission is to build leadership within a community, you need to go to that community to understand their issues and then stick around for the long haul; that mission is kind of clear. I think that when you’re an attorney, your mission is less clear.

I’ve thought about, when do we move on to help the next person and leave this community? If I have a twenty-day political process to engage in and we need to put together a news conference,

⁶⁸ See *supra* note 31.

how much time can I put into working with the clients so they understand how to deal with a news conference and be prepared to take the lead? Or do I take the lead at the news conference to talk about the issues? The school siting process is just one little example that I think was challenging. We were working with a short political process and against a four-month statute of limitations. These things can happen very quickly. It would feel equally arrogant for me to suggest that the community slow down, and that what they really need is for me to help them build leadership within their community. I didn't see it that way; they came to me and asked for help to deal with a school that was being sited. So, I often thought about winning first, and community-building second. I'm painting it in black and white terms, but I actually think it's pretty complex. I've tried to find a balance but I think there is no clear answer and this question poses an interesting point for discussion.

In closing, in terms of advocacy, I'll say again: the more tools you have for social change, the better. The political system can be screwed up and lack integrity. The legal system can be screwed up and lack integrity—for example, *Bush v. Gore*⁶⁹ and *Citizens United*.⁷⁰ And organizing can be really hard at times. Learning how to use these tools can be consuming, but the more you know about each the more successful you'll be. And regarding community lawyering: stay community-minded and stay race conscious. Thanks.

ELIZABETH YEAMPIERRE: Thank you for inviting me. This is a very diverse panel. This panel has a consultant, two lawyers and an environmental justice activist, and everyone here plays a very different kind of role in trying to advance an environmental justice agenda. For this reason, I want to give you a little background about what I'm doing now, who we are as a movement, how we do it, and what your role can be.

I think you're here because you care deeply about how these issues affect the most vulnerable communities. I think Miranda had it right. One of the things that I say often is that you can't fight against police abuse; you can't fight for housing, for social services; you can't fight for a just education, unless you can breathe. There is nothing more fundamental than the right to breathe; that's how serious environmental justice is. We are now being asked to deal with issues as complex as putting together a climate adaptation plan and a community resilience effort that gives the community an opportunity to bounce back when that happens.

⁶⁹ *Bush v. Gore*, 531 U.S. 98 (2000).

⁷⁰ *Citizens United v. Fed. Election Comm'n*, 558 U.S.____, 130 S.Ct. 876 (2010).

The reason we are able to do this work is because of who we are historically. I'm dedicating this to Sojourner Truth⁷¹ because you really need to know the people who are doing this kind of work. The people in New York City, Detroit, L.A., the Southwest and all over the country who do this work are people with little or no resources. For years these people have been transforming their landscapes and their lives. They have been doing incredible things—everything from pushing policy to stopping the siting of power plants to doubling open space. Moreover, many of them are people without a formal education. That type of education on its own doesn't make you smart. We all know some knuckleheads who are really well-educated, and then we also know that there are some brilliant people out there in prison that are actually able to do circles around you in putting together a legal brief. So we've got some brilliant people in our community and as we always say at UPROSE, "Our people are not at risk, they are at potential." That's what you're dealing with in environmental justice and it's important that you understand that.

It is in your interest to say that environmental justice is about the disparate impact of environmental burdens on communities of color. We refer to them as low-income communities too, but we always say communities of color first because if you live in a community of color, chances are that there is an environmental burden living next to you regardless of income.⁷² Out in L.A. when you go by those oil rigs, that area is called Black Hollywood.⁷³ Even Black Hollywood isn't safe from the environmental burdens. So, environmental justice is an issue that affects both communities of color and low-income communities.

In addition, it's about this basic tenet of environmental justice:

⁷¹ Sojourner Truth was an abolitionist and former slave who spent her life organizing in support of African-American communities, as well as women's rights and prison reform, and against capital punishment. For leadership by women of color in environmental justice, see, e.g., Dorceta E. Taylor, *Women of Color, Environmental Justice, and Ecofeminism*, in *ECOFEMINISM: WOMEN, CULTURE, NATURE* 38 (Karen J. Warren ed., 1997).

⁷² See Robert D. Bullard, Paul Mohai, Robin Saha, & Beverly Wright, *Toxic Wastes and Race at Twenty: Why Race Still Matters After All of These Years*, 38 *ENVTL. L.* 371, 372 (2008) (finding that "[p]eople of color are particularly concentrated in neighborhoods and communities with the greatest number of facilities and racial disparities continue to be widespread throughout the country. Moreover, hazardous waste host neighborhoods are composed predominantly of people of color. Race continues to be the predominant explanatory factor in facility locations and clearly still matters.").

⁷³ See Roy Rivenburg, *Well, Well: Oil Rigs Return*, *L.A. TIMES*, Nov. 28, 2005, at B1 ("New technology and rising demand for petroleum are fueling a comeback of drills in the Southland, where they once numbered 33,000").

we speak for ourselves. We've got this. My husband and I are the sons and daughters of the civil rights movement. We are connected to the struggle for civil rights. We had opportunities, despite where we came from. We were both displaced as children. Recently at a conference in Seattle I was asked, "What happened to all of the people who were displaced?" What actually happened to some of the children of color who were displaced is that they came back to their communities with law degrees, planning degrees, and attitude. We could not believe that this sort of displacement had happened to our families. These are the very same families that are being displaced right now by a lot of our environmental successes, i.e., our greenways, our waterfront parks, et cetera. All these environmental amenities that we brought into our community are now being used by developers to displace our communities. That is the painful reality we are now in.

So, we're dealing with all of these really complex things. Lawyers play a very important and specialized role in this system. It is real easy to have this dream and say, "Oh my god, I wanted to go to law school to help these people." You may have these '70s ideas grounded in the civil rights movement. Nevertheless, our people cannot be passive recipients of your services. Our people are at the table doing the planning, the deciding, and affecting the legislation. They decide the goals and the really important role that lawyers can play. So, when you think about it, think about the role that attorneys played in New Orleans after Hurricane Katrina. They were dealing with that which had never happened before. People weren't just being displaced; there were same-sex couples that couldn't access their property or their partner's remains.⁷⁴ So, there is a tremendous importance for lawyers to develop skills that are going to address everything that will come out of climate change—things you might not even imagine—and as Katrina showed, these things will definitely come. Every state is now coming up with a climate action plan and New York State is well behind the curve.

I am going to stop and tell you about some of the different hats I wear because I want you to understand how complex the issues are. It requires people like you to think critically and creatively about how to best provide your services. I am chairing the

⁷⁴ See Mandy Carter, *Southerners on New Ground*, in *WHAT LIES BENEATH: KATRINA, RACE AND THE STATE OF THE NATION* 54, 56 (2007) (discussing response to Hurricane Katrina by the Lambda Legal Defense and Education Fund, the National Youth Advocacy Coalition and the National Center for Transgender Equality).

U.S. EPA National Environmental Justice Advisory Council and I'm also President of the New York City Environmental Justice Alliance. It's important that you know that because the environmental justice leadership met with the Obama Administration. We met with the White House Council on Environmental Quality; we met with Lisa Jackson, who appointed several assistant administrators from the environmental justice movement. The head of the CEQ comes out of the environmental justice movement, and Hilda Solis, the Secretary of the Department of Labor, comes from the environmental justice movement.⁷⁵ In other words, environmental justice is a priority in this administration. It is a priority because they want to make sure that they address the most vulnerable communities. You should know that all over the country there are these organizations that are not only driving a national transportation equity agenda, but are doing work on the ground that is powerful and transformative.

Those are going to be the places where you're going to be working and you're going to be providing services. And when you're privileged, it is so hard to do. I always compare it to giving up the cab. You know I hail the cab, but it stops in front of you, the cab wants to take you and not me and it's raining outside and for that split second you have to figure out whether you're going to give up the cab. That's what dealing with anti-racism is; that's what dealing with privilege is, and you have it. And you have to recognize that you have it and there are things that you bring to the table that are really important.

Remember that environmental remediation is the other side of environmental justice.⁷⁶ Environmental justice communities have all of the burdens and we lack a lot of the amenities. If you ever went on a toxic tour through any of our neighborhoods, you would know when you're in a privileged community and you would know when you are not because privileged communities have all the goodies, right?

If you actually come from that kind of a background, you

⁷⁵ Hilda Solis is the 25th United States Secretary of Labor, serving in the Obama Administration. *Meet Secretary of Labor Hilda L. Solis*, U.S. DEP'T OF LABOR, http://www.dol.gov/_sec/welcome.htm (last visited Sept. 3, 2010); *see also* Steven Greenhouse, *As Labor Secretary, Finding Influence in Her Past*, N.Y. TIMES, July 6, 2009, at A11.

⁷⁶ *See About the Office of Environmental Remediation*, NEW YORK CITY OFFICE OF ENVIRONMENTAL REMEDIATION, <http://www.nyc.gov/html/oer/html/about/about.shtml> (last visited April 14, 2010); *Division of Environmental Remediation*, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, <http://www.dec.ny.gov/about/627.html> (last visited Sept. 3, 2010).

know. It means that you are committed to environmental remediation. I think you are because you're in this room. There is no better way of building stakeholders and making sure that there's indigenous leadership. When I think of indigenous leadership I think of intergenerational indigenous leadership. We have young people on our Board and on our staff. We're having the first youth summit for young people of color on climate change this spring on April 16th and 17th.⁷⁷ This is really important because the conversation about climate change and all of the conferences on climate change have excluded young people of color.

You've got Power Shift and all of these different groups getting a lot of money.⁷⁸ These groups are speaking about environmental justice to young people in our communities who are actually the ones doing the work. So we decided we wanted to create a space for our young people, because our young people are going to be impacted by this. They have to exercise leadership and they don't have to wait. They can do that now.

All of this stuff is really difficult. It's also really hard to hear that you can only do it this way when you want to do something really good. But it can be really rewarding. I have had a lot of fights with Dave, but I think that as a result of those arguments we've come a long way towards our commitment to self-transformation and our commitment to just relationships. When you work with someone who has a good heart and really is committed, that person is going to reflect on their commitment and is going to say, "You know, these are some things that I have to change."

My job is to be a worrier. My job is to push the envelope and to be difficult, to get in people's faces sometimes. I have to sort of pull back, too. Sometimes I have to say, "You know, the brother is really trying to do the right thing. And I need to handle this differently." So it is a lesson for all of us about how we work with each other.

This may sound like really soft stuff, but it's actually hard. You can get into law books, you can figure out what rules, what regulations, what codes; you can crank out all kinds of legal briefs that are going to benefit our community. But if you can't work in the community in a way that is respectful, and help to facilitate local leadership instead of supplanting it, then you're not going to be

⁷⁷ UproseSummit, *Volunteers needed. Great way for adults and youth to get involved!*, NYC CLIMATE JUSTICE YOUTH SUMMIT (April 6, 2010, 9:30 AM), <http://uproseyouthsummit.blogspot.com>.

⁷⁸ *See About*, ENERGY ACTION COALITION, <http://energyactioncoalition.org/about> (last visited Oct. 1, 2010). Power Shift was a series of youth environmental summits held in 2007 and 2009 by the Energy Action Coalition. *Id.*

able to do meaningful work in the environmental justice movement

It's not as easy as you think. Think about who you are as law students. Think about how you get selected. It means you have a certain sense of who you are. You're not suffering from low self-esteem, right? So for you to go into a room and be told by community members, "We got this," must be really difficult. I can tell you that as an attorney myself—and I'm a Puerto Rican attorney—when I walk into a room, people give me tremendous deference, but it's still my responsibility to listen actively with all my senses.

When we worked to try to take down the Gowanus Expressway and to challenge the State Department of Transportation, the best recommendations about what the alignment on the corridor was going to look like came from people in the community. We would never have thought of some of the things they recommended. They understood it because they lived there, they worked there, they send their children to school there, they work there in the manufacturing zone. Those are things that are important.

So what's coming down? What kinds of things are we dealing with? We're dealing with the issue of green jobs, which you hear about a lot. The issue of green jobs is really being defined for us. It's being defined by groups like the Apollo Alliance⁷⁹ and the mainstream environmentalists and they're focusing really on energy. They're focusing on how to reduce carbon.⁸⁰

For our communities, it's really important for us to reduce noxious co-pollutants. The focus on reducing carbon is really taking attention and resources away from looking at the co-pollutants that get trapped in the narrow air passages. These co-pollutants are actually killing our people.

The environmental justice movement does not support cap and trade.⁸¹ I have information on the Environmental Justice Lead-

⁷⁹ See *About*, APOLLO ALLIANCE, <http://apolloalliance.org/about/> (last visited Oct. 1, 2010). The Apollo Alliance is a coalition of labor, business, environmental, and community leaders working to develop a clean energy movement that will create millions of high-quality, green collar jobs. *Id.*

⁸⁰ See, e.g., *Global Warming Solutions*, NATURAL RESOURCES DEFENSE COUNCIL, <http://www.nrdc.org/globalwarming/solutions/default.asp> (last visited Oct. 1, 2010) (promoting a five-step plan to "repower, refuel and rebuild America" and stating that "[s]olving global warming means investing in clean energy, green jobs and smart energy solutions.").

⁸¹ While it may be argued that the environmental justice movement is not a discernible monolith that supports or does not support cap and trade, there have been significant criticisms leveled against cap and trade as a solution to climate change. See, e.g., STATEMENT FROM THE ENVIRONMENTAL JUSTICE FORUM ON CLIMATE CHANGE (June

ership Forum on Climate Change. It describes what our position is. You can get a copy of it. I also brought with me the HEMIS Principles for Democratic Organizing so you can better understand what I'm talking about.

But we also support cap and trade. In New York City or in New York State where they have the Regional Greenhouse Gas Initiative,⁸² we're saying that since that's already in place, that money has to be used for environmental remediation in the most vulnerable communities in New York City. And not the kind of offsets that they talk about, like planting trees in front of power plants, but really using the technology that's necessary to reduce emissions because we're talking about environmental justice and more and more we have to be concerned about climate change.

In the community that my organization is in, there's a 90 percent chance that in the next 10 years there's going to be a storm surge. Forty communities in New York City are at risk of a potential storm surge in the next 10 years.⁸³ That's big. And the waterfront is where you've got the most vulnerable communities. It's also where our infrastructure is, where the power plants are, where the sewage waste management is, where all of that stuff is. So what that means for us is really disastrous unless we, in a very localized way, start coming up with community resilience plans that address issues of climate adaptation.

So that's extremely important. But it's not just in New York City where we're dealing with these issues. Detroit is working for environmental justice and has the oldest and most successful green jobs project in the entire United States,⁸⁴ in a city where they're surrounded by brownfields.

And so the Apollo Alliance Project's view of cap and trade is a problem because it really doesn't address the issue of siting. Power

2, 2008), http://www.precaution.org/lib/climate_justice_forum_statement.080602.htm (declaring a "lack of faith that trading mechanisms can address the present and impending climate change crisis," and that "implementing a international, federal, regional or local cap and trade carbon reduction system is a waste of precious time and resources.").

⁸² See *Program Design*, REGIONAL GREENHOUSE GAS INITIATIVE, <http://www.rggi.org/design> (last visited Oct. 15, 2010).

⁸³ The many areas in New York City where residents face high risk of flooding from a storm surge following a hurricane can be found through tools provided by the New York City Office of Emergency Management. See *NYC Hazards: Storm Surge*, NEW YORK CITY OFFICE OF EMERGENCY MGMT., http://www.nyc.gov/html/oem/html/hazards/storms_stormsurge.shtml (last visited Oct. 1, 2010).

⁸⁴ See, e.g., DETROITERS WORKING FOR ENVIRONMENTAL JUSTICE, <http://www.dwej.org/facts.htm> (last visited Dec. 29, 2010).

plants continue to be sited in our community regardless of cap and trade. It doesn't stop that. It turns pollution into a commodity and it doesn't address issues of siting and disparate impact.

We've got people in Moscow, Tennessee who are surrounded by refineries. And testimony from parents whose children are losing their teeth and hair. It's really serious stuff and that's what's happening right now in environmental justice. Climate change really amps it up and defines the nature of the challenge for you.

So we're talking about organizing, how to work respectfully with communities of color. We're talking about legislation and how to address that these climate action plans are moving really quickly, at such a pace that we can't even keep up, and that we need environmental justice representation in all of those.

And so your goal really is to make sure that you are not only doing research, but that you can pair up with organizations that really need your services. We have law students from all over the country who have done research for us on a number of areas that are really important. So it's really exciting, it's really time-sensitive, and it's really urgent, and you can do this really well if you're willing to give up the cab.

So I would invite you to do that with us because the need is there, the creativity is there and it's not only one of the most exciting things that's happening and the more cutting edge things that's happening, but it's also one of the scariest things that we're facing. We work on everything from open space to brownfields, energy, transportation, all of it while still developing indigenous leadership committed to environmental justice. There's a lot and I think that maybe through your questions and answers we'll be able to address those. Gracias.

PROFESSOR HUERTAS-NOBLE: We said these would be powerful presentations, right? At this point we'd like to allow you to ask questions of our panelists.

Question: My background is in economics, and I'm thinking about toxins: not only the supply, but also the demand that's driving the manufacturing processes that create these poisons. I was wondering if you're doing any work to address purchasing in the more affluent communities that are creating these problems, and trying to bring both sides of that together, so that there can be some communication between the people who are creating the burden and the people who are bearing it.

MIRANDA MASSIE: Yes. There's a big-tent movement afoot to

reform the Toxic Substances Control Act,⁸⁵ which is the wholly ineffective federal statute that is supposed to function as a filter for what chemicals are allowed to be released into the environment. To give you some sad idea of TSCA's limitations, while 80,000 man-made compounds have been introduced into the environment and into our bodies since World War II,⁸⁶ only 200 of these have been tested, and only five have been banned.⁸⁷ TSCA must be improved dramatically, it's clear. Even industry has started to see that, which is unfortunately essential in practical terms in the current political environment.⁸⁸

To get to your question, while there are several reasons why TSCA reform has gained traction with manufacturers—that is, why it is becoming politically viable—one of the biggest is the growing public consciousness, increasingly across class and race demographics, about toxins as a serious problem. There are undeclared boycotts that trickle up into what amounts to retailer regulation, for example. So the chemicals industry is starting to worry about consumers who are not buying their products and who want a government stamp of approval that actually means something. These changes are taking place because people have been organizing around these issues.⁸⁹

Question: I want to ask about using social media to mobilize communities. I was just in New Orleans, and went to a meeting about green jobs and new proposals for some of the neighborhoods in the Lower Ninth. Unfortunately, the same people, from the same organizations, always come to all of the meetings in New Orleans, but getting a lot of people from certain parts of the neighborhood is impossible. I think that reaching out especially to young people would require communicating through things like Facebook and text messaging. Do you have people using these

⁸⁵ Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 (2006).

⁸⁶ Katherine M. Shea, Editorial, *Protecting Our Children from Environmental Hazards in the Face of Limited Data – A Precautionary Approach is Needed*, J. PEDIATRICS, Aug. 2004, at 146–48.

⁸⁷ Laura LeBlanc, *Babies are Polluted at Birth, New Report Says*, NEED TO KNOW ON PBS (May 13, 2010), <http://www.pbs.org/wnet/need-to-know/health/babies-are-polluted-at-birth-new-report-says>.

⁸⁸ Richard Denison, *States Unite to Support TSCA Overhaul; Chemical Industry Is Increasingly Odd One Out*, CHEMICALS & NANOMATERIALS (Aug. 31, 2010), <http://blogs.edf.org/nanotechnology/2010/08/31/states-unite-to-support-tsca-overhaul-chemical-industry-is-increasingly-odd-one-out/>.

⁸⁹ *The Health Case for Reforming the Toxic Substances Control Act*, SAFER CHEMICALS, HEALTHY FAMILIES COALITION, <http://healthreport.saferchemicals.org> (last visited Oct. 8, 2010).

tools to get people to come to meetings like this one, or about the Youth Summit, and bring younger people into the debate?

ELIZABETH YEAMPIERRE: Yes and no. It's much easier to organize in urban areas because we're so close to each other. But there's an uneven amount of capacity in different organizations throughout the country. It's harder to organize in communities that are really isolated. But we're trying to use all the social media. So for example with the Youth Summit, there's a blog that has been created,⁹⁰ and the young people create videos to educate people on what climate change is, and hope to make them go viral. But we're using Facebook and Twitter for organizing and they're very effective. Just recently there was a big demonstration against MTA that was organized by young people. They were all there, there were hundreds of them. It was the coolest thing. And they organized it using these social networks.

I think Dave mentioned about how complex information is and how you have to break it down. Even using the social networks, you have to remember to make your information accessible, that you can't talk long to people, that you have to break it down. Sometimes people in environmental justice talk in code. We talk about DEP and EG and EJ and DEC and no one knows what the hell we're talking about and it really makes the work inaccessible. So you have to break down the language. Those networks actually work for organizing, but you have to make it accessible. I think there are limitations when it comes to language, that there may be communities that are excluded because everything is being done in English, right? Our community is Spanish- and Chinese-speaking, so we speak all three languages at our organization. We are very intentional about making sure that our communications are multi-lingual and that even in our organizing, we provide child-care, translation, and food so that people can participate, and we find out from them what way of communicating works best for them.

So you can't just say, you know, I'm going to try Facebook. You need to find out from having the community in the room what is the best way of communicating with you. And with some people it's texting, with some people it's an e-blast, and some people it's old-school door-knocking and phone calls and sometimes, with our elders, you need to call them. And sometimes you need to even go get them.

⁹⁰ See NYC CLIMATE JUSTICE YOUTH SUMMIT, *supra* note 77.

So you really have to be in the community and have an organizing structure that is based on your knowledge of what works with that community. But things like Facebook shouldn't be excluded, because they really do work.

Question: I live in Brooklyn, and I'm an activist for the Fresh Creek Association. I got on board with this because I live right by a nature preserve that was being neglected for many years. I didn't get any support from the city—I was kicked around from one agency to the next. They said it was not city, it was federal; federal said it was the state because it was the water; and it took me two years to finally get any type of help. I had to organize a clean-up of over 150 volunteers to get any type of recognition, to make them understand that I meant business. And nobody knows about the Fresh Creek Nature Preserve in Canarsie, Brooklyn.⁹¹ It is a beautiful place. It overlooks the water. You can see Starrett City on the other side. Finally I got in contact with the NRG⁹² and they said that they are going to start restoring that area. So I just want to know if I'm going in the right direction. Do I need to get lawyers involved in this?

MAJORA CARTER: For those of you that don't know, NRG is a branch of the New York City Parks Department Natural Resources Group. You got yourself in with some good folks. I haven't worked with them that closely over the last few years but they really intrinsically understand natural resources and desperately want to protect them. I would advise you to speak with them about opportunities for job creation to support that area. That area is neglected, especially on that side, and it is tough to be a natural resource of any kind in this city. We have to provide some support for the kind of environmental services that those things provide, which means making sure that there are job opportunities associated with that redevelopment. So think about that and I'd be happy to talk to you more about it.

Question: International work seems to be such a huge part of real climate justice. I wonder how we deal with the complexity of the tar sands issues around expansion of the Chevron plant in

⁹¹ For more information about Fresh Creek Park, see *Fresh Creek Park*, NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION, <http://www.nycgovparks.org/parks/freshcreekpark> (last visited Oct. 1, 2010).

⁹² *Natural Resources Group*, NEW YORK CITY DEPARTMENT OF PARKS & RECREATION, http://www.nycgovparks.org/sub_about/parks_divisions/nrg/nrg_home.html (stating mission as “[t]o conserve New York City’s natural resources for the benefit of ecosystem and public health through acquisition, management, restoration, and advocacy using a scientifically supported and sustainable research.”).

Richmond, California. It's a complicated issue that is going to affect a lot of people both in Canada and internationally, but the community most impacted is in the Richmond area. That particular community will probably be given a deal that's going to benefit some of them and make sure that they're not completely devastated. But it's going to actually end up hurting folks internationally a lot worse. It seems really difficult to give anyone good advice about issues like this, or even to understand them myself. Has anyone had any experience doing community work that incorporates an international analysis into climate change? Do you have any ideas about using some of the rhetoric that came out of the Copenhagen Climate Conference in 2009 around climate data or climate reparations?

ELIZABETH YEAMPIERRE: I think there were a lot of frustrations that came out of Copenhagen. And there are certainly a lot of environmental justice groups out in California that are working on the Chevron issue,⁹³ for example, the Center on Race, Poverty & the Environment⁹⁴ and Physicians for Social Responsibility.⁹⁵

At the Youth Conference, we had a presentation from some folks from Brazil who are just doing a phenomenal job. They have a great model and they are working in a place that's incredibly diverse and has very few resources. Their community includes everything from the *favelas* to areas that are agricultural. They are coming up with real community ownership and doing amazing work.

We are reminding our young people, who keep wanting to go global on us, that environmental justice is about us speaking for ourselves and that they should work in solidarity with the people out in Bolivia and Brazil and all of these other places. We are also reminding them that they should try to work locally to try to figure out how you really can create a sustainable community on everything from food to urban forestry. We want to make sure that we create the spaces where they can actually interact with each other

⁹³ See, e.g., COMMUNITIES FOR A BETTER ENVIRONMENT, <http://www.cbecal.org/> (last visited Oct. 1, 2010).

⁹⁴ The Center provides "legal, organizing, and technical assistance to grassroots groups in low-income communities and communities of color fighting environmental hazards." CENTER ON RACE, POVERTY & THE ENVIRONMENT, <http://www.crpe-ej.org/crpe/> (last visited Oct. 1, 2010).

⁹⁵ Physicians for Social Responsibility is "a non-profit advocacy organization that is the medical and public health voice for policies to prevent nuclear war and proliferation and to slow, stop and reverse global warming and toxic degradation of the environment." *About*, PHYSICIANS FOR SOCIAL RESPONSIBILITY, <http://www.psr.org/about/> (last visited Oct. 1, 2010).

and share strategy in a way that can really elevate the discussion of climate and how that's going to affect particular environmental justice communities in developing nations.

Question: Elizabeth, you mentioned the need to coalition-build and be mindful of what other groups in other communities and other cities are doing. You also mentioned building indigenous leadership. Have you seen these two tactics connected, with the result that people of color and poor people are really leading the environmental justice movement as the people who are most affected?

ELIZABETH YEAMPIERRE: Those voices manifest themselves differently from place to place. Our responsibility is to take it back to our base and make sure that we create spaces for people of color and poor people to emerge as leaders. The priorities are different depending on where you're coming from, but the goals and the process are pretty much the same everywhere: we get our direction from the base.

In UPROSE, several years ago we had very limited resources and I wanted to fight for the development of a park because one-third of our community, over 30,000 people, was under the age of 19 and we only had a quarter-acre of open space for every thousand people.

While I was thinking that a park was a priority, there were plans to build a power plant that was the size of three football fields. Our young people felt that the power plant was the priority for organizing. And we followed them. We didn't neglect trying to get a park, but we put our energies into fighting the plant. The young people in our community felt very strongly that they wanted to stop the siting of the power plant. And they did. I think that was the first time that happened in New York City.

It was an entirely youth-led process. They testified at hearings; they mobilized; they educated; they learned about the grid. The average age of our organizers was about fifteen and they weren't the kids with the best grades in school; they were not the "cream of the crop." These were kids from around the block talking about reducing emissions locally. And a lot of them now are in college. They've grown up with the organization. As Executive Director, I could have said, "No, this is what we're going to do." But we chose to listen to the base and we did something that was really transformational. Once they stopped the siting of the power plant, there was no way of telling those young people that they couldn't change the whole power dynamic. It was a powerful thing.

Question: Majora, can you talk about the resources and strategies that you think are particularly key to mounting a successful green jobs initiative in light of your trajectory as you've moved from Sustainable South Bronx to your current consulting work?

MAJORA CARTER: I got involved in environmental justice fighting against the waste facility with the rest of my neighborhood in the Bronx. But what was really clear for folks in my neighborhood was that we needed jobs. The question was, What could we do? Where are people needed? There are opportunities all over this country around climate adaptation and increasing the amounts of horticultural infrastructure. In some cases—like in wetland restoration, green roof installation, forestry management, even rural forestry management—these jobs have lower barriers to entry. Those same opportunities are also doing tremendous things in terms of reducing our energy base load. There are lots of folks who are simply not going to be allowed to do a lot of work because of their records. We've taken some hits from folks who accuse us of making our people into field hands. I totally understand that but I think the reason why we're in this climate crisis right now is because we separated ourselves so much from the land. Most of us are only one or two generations from the land itself. And how do we restore that in terms of creating a whole new economy that actually recognizes that as human beings we are one with our land? We can't continue to do the same kind of awful, egregious things we have been doing, especially since now we know the things that are creating much of our climate crisis. Just imagine what kind of world this would be now if we had put all of the environmental justice burdens, whether they were waste facilities, power plants, refineries, mountaintop removal, whatever, in wealthy communities at the same rate that we did in poor ones. You know our economy would have been clean and green a long time ago. So we've got to move back in a way that actually allows us to embrace this planet in a way that's much more loving than it has been in the past.

PROFESSOR HUERTAS-NOBLE: I want to take the opportunity to thank the panelists again and also to invite you to join the environmental justice movement and to think about being part of the solution. Environmental justice takes many forms. We've heard about community-based organizations that are fighting to create access to the waterfront, in parks, and community-based organizations that are training folks to get access to green collar jobs. We also talked about lawyering on behalf of and with communities. I

encourage us to think about our role as lawyers and how we work with community groups. I think it's something that we need to be aware of throughout our practice, not just in the beginning.

We also think about what different forms that we could take, either through litigation, community education, or leveraging expert consultations. And I think also the thing that I heard echoed today that was really powerful was the concept of doing a power analysis and thinking about who we are in that relationship. Some of us actually may not see ourselves as privileged, even though we certainly are privileged as law students and lawyers. But the important message is to be deliberate and intentional and critical and constantly be thinking about these issues and how you're going to contribute to the different struggles.