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Law Reform and Transformative Change: A Panel at CUNY Law

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LAW REFORM AND TRANSFORMATIVE CHANGE: A PANEL AT CUNY LAW

*A panel discussion with Rickke Mananzala, Soniya Munshi,
Nadia Qurashi, Elana Redfield, and Dean Spade.
April 1, 2010*

INTRODUCTION BY DEAN SPADE

During the Spring Semester of 2010, I served as the Haywood Burns Chair¹ at the City University of New York School of Law and had the opportunity to teach Poverty Law to a class of passionate, brilliant students who came to law school from social movement work in many sectors hoping to gain new tools for making transformative change.² In the course, I aimed to create a critical dialogue about the role of law in structuring wealth inequality and remedying such inequality. The interdisciplinary course materials were selected to assist students in engaging in critical analysis about the roles of capitalism, white supremacy, settler colonialism, patriarchy, and ablism in structuring law, as well as law's role in structuring those systemic conditions. The course explored specific questions and histories concerning public benefits, disaster relief, housing, imprisonment, immigration, and other legal issues facing poor people as well as broad questions about how we might conceptualize governance and the role of law reform in social movements aimed at redistributing wealth and life chances. Because most students came to the class with experience working in non-profits, unions or other movement organizations, our conversations were often deeply engaged with some of the key contradictions facing lawyers working for transformative change. We read many chapters of the provocative and influential volume *The Revolution Will Not Be Funded: Beyond the Non-Profit Industrial Complex* edited by INCITE! Women of Color Against Violence,³ and had

¹ *Haywood Burns Chair in Civil Rights*, CITY UNIVERSITY OF NEW YORK SCHOOL OF LAW, <http://www.law.cuny.edu/faculty-staff/HBChair.html> (last visited Jan. 5, 2012); Press Release, City University of New York School of Law, Dean Spade Joins CUNY School of Law as the 2009-2010 Haywood Burns Chair (Feb. 18, 2010), <http://www1.cuny.edu/mu/law/2010/02/18/dean-spade-joins-cuny-school-of-law-as-the-2009-2010-haywood-burns-chair/>.

² Poverty Law Syllabus, DEAN SPADE: SELECTED COURSES AND SYLLABI, http://www.deanspade.net/wp-content/uploads/2010/07/povlawsyllabus-cuny-l_11_10.pdf (last visited Jan. 5, 2012).

³ INCITE! WOMEN OF COLOR AGAINST VIOLENCE, *THE REVOLUTION WILL NOT BE*

passionate conversations about how the non-profitization of social movements has impacted the demands and strategies of social movements and what role lawyers have had in that change. We also talked extensively about the limitations of legal reform, and the tendency of law, when faced with demands for transformative change by organized resistance formations, to transform just enough to preserve the status quo.⁴ Through our readings of key texts like *Welfare Racism: Playing the Race Card Against America's Poor*⁵ by Kenneth J. Neubeck and Noel A. Cazenave, *Are Prisons Obsolete?*⁶ by Angela Davis, "Heteropatriarchy and the Three Pillars of White Supremacy"⁷ by Andrea Smith, *Regulating the Poor*⁸ by Francis Fox Piven and Richard Cloward, "Society Must Be Defended"⁹ by Michel Foucault, "Whiteness as Property"¹⁰ by Cheryl Harris, and others, we reached significant dilemmas. If the welfare system exists to stabilize capitalist economic arrangements, what is the role of welfare lawyers seeking to maintain or expand benefits in a strategy for dismantling capitalism? If the prison industrial complex is an extension of chattel slavery and reform efforts tend to expand its work of racial violence, how should lawyers seeking to alleviate harms facing imprisoned people do our work? If we want to end immigration enforcement, and reforms that adjust immigration policies for certain sympathetic subgroups tend to justify or legitimize immigration enforcement even though they provide desperately needed relief to a few, should we engage with them? We asked many questions that brought up these tensions about legal strategy, reform and social movement demands. Toward the end of the semester we were lucky to have a panel of innovative and talented activists working at the cutting edge of these issues join us for a

FUNDED: BEYOND THE NON-PROFIT INDUSTRIAL COMPLEX (INCITE! Women of Color Against Violence ed., 2007).

⁴ See Angela P. Harris, *From Stonewall to the Suburbs? Toward a Political Economy of Sexuality*, 14 WM. & MARY BILL RTS. J. 1539, 1540 (2006) (quoting Reva Seigel, *Why Equal Protection No Longer Protects: The Evolving Forms of Status-Enforcing State Action*, 49 STAN. L. REV. 1111, 1113 (1997)).

⁵ KENNETH J. NEUBECK & NOEL A. CAZENAVE, *WELFARE RACISM: PLAYING THE RACE CARD AGAINST AMERICA'S POOR* (Routledge 2001).

⁶ ANGELA DAVIS, *ARE PRISONS OBSOLETE?* (Seven Stories Press 2003).

⁷ Andrea Smith, *Heteropatriarchy and the Three Pillars of White Supremacy: Rethinking Women of Color Organizing*, in COLOR OF VIOLENCE: THE INCITE! ANTHOLOGY 66-73 (INCITE! Women of Color Against Violence ed., South End Press, 2006).

⁸ FRANCIS FOX PIVEN & RICHARD CLOWARD, *REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE* (Vintage 1993).

⁹ MICHEL FOUCAULT, *SOCIETY MUST BE DEFENDED: LECTURES AT THE COLLEGE DE FRANCE, 1975-76*, (David Macey trans., Picador 2003).

¹⁰ Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707 (1993).

discussion on these themes. The edited transcript of the proceedings is below.

DEAN SPADE: Thank you all so much for coming. I want to especially thank CLORE, Natasha Bannan, and Professor Jenny Rivera for helping make this program possible today. This panel is an important addition to the conversation we have been having in Poverty Law all semester. I have tentatively called this panel Law Reform and Transformative Change. It reflects a significant theme of our discussions in Poverty Law this semester as we explore the role of lawyers in struggles to end poverty. The panel discussion aims to bring together lawyers and organizers working at the intersection of queer and trans politics, prison abolition, economic justice and opposition to immigration enforcement. We want to ask questions about how movements with demands that exceed the limitations of legal equality and legal recognition use legal services and law and policy reform along with other kinds of services and strategies to do their work. What are their concerns about reform work and how do they address reform work in the day-to-day? How do the aims and demands of these movements relate to organizing strategies that put people affected by racism, poverty, criminalization, homophobia, and transphobia at the center of their work? How have these activists and organizations dealt with the pressures related to funding that often push organizations toward system-stabilizing goals? I'm hoping our panelists will share reflections of their work, their victories, defeats, and different kinds of lessons they have learned in their work, as well as visions of larger-scale interventions that they are working towards.

RICKKE MANANZALA:¹¹ Thanks, Dean. Thanks for having me. We are all going to talk about different themes in the panel today, but what I'm going to talk about is the big picture and the other panelists will be drawing more on their specific work. So, while I will be talking a little bit about FIERCE's work to preserve the Christopher Street Piers as a safe place for lesbian, gay, bisexual, trans, and queer youth of color, I'll also be talking big picture.

¹¹ Rickke Mananzala served as campaign coordinator and then co-director of FIERCE (Fabulous Independent Educated Radicals for Community Empowerment) for almost four years before he became the Executive Director in January 2008. As a New Voices fellow at the Sylvia Rivera Law Project, he worked to develop methods for legal work to increase support for organizing efforts in trans communities. Rickke currently serves on the national steering committee on the Right to the City Alliance as the New York City regional representative. He also served on the Board of the Third Wave Foundation where he helped to create grant-making strategies to support organizing work led by young women and transgender youth.

Most of our work has focused on community organizing campaigns led by LGBT queer youth of color to preserve safe spaces, to stop and curtail police brutality, and to increase resources for social services for our community.¹² Our work is a strategy for change and we consider most of our work to be reform work. I will refer to our reform work, as a strategy for change, as *organizing*. Organizing as a strategy for change means bringing people together who are directly affected by a problem, who believe that they actually have the solution for the problem, and that they should be leading the actions that lead to change and improvements in their lives.

I want to talk about reform, and I'd like to get really clear about what we are talking about before throwing out terms and assuming we are all on the same page. "Reform" is making something bad about the system a little bit better without changing the power relations or transforming the system altogether. So when I'm talking about reform work today I'm going to be talking about different strategies for reforming systems. Today it's either about legal reform, or about organizing as a strategy for reform work, but I hope we can do both.

I would like to talk a little bit about legal work as a strategy for change in the absence of organizing. With community organizing for FIERCE, reform work is important, and like I said, our communities are leading the solutions to the problems they are facing. That's largely reforming aspects of the system while still believing in longer term transformative change or an entirely new system that meets people's need at a more humane level. But I want to ask, why reform work anyway? Is reform work just dangerous and bad, and something we just shouldn't touch? Inherently, does doing reform work mean you're a reformist? Is there a difference between someone engaged in reform work and a reformist? Reform work can be towards longer term transformative change, meaning "I see this change as incremental but not the end-all, be-all as far as change goes."¹³ Whereas reformist takes the attitude "I think we can improve the system by making these changes, but we don't need to change the system altogether."¹⁴ So does anyone here believe that engaging in reform work is inherently reformist? History has told us that reform doesn't actually lead to transformation. I

¹² *Campaigns*, FIERCE, <http://www.fiercenyc.org/index.php?s=94> (last visited Jan. 5, 2012).

¹³ See *Radical Approaches to Reform Struggles*, ORGANIZING UPGRADE (Sept. 1, 2010), <http://www.organizingupgrade.com/2010/09/radical-approaches-to-reform-struggles/>.

¹⁴ *Id.*

may or may not agree with that statement, but here are my top four reasons for engaging in reform work as a strategy for change. My primary reform work is community organizing, not necessarily legal reform work, but all four of these reasons assume that legal work can be done and should be done in collaboration with community organizing as a strategy for reform and change.

Number one, reform builds the capacity of people to fight in general, meaning they can fight the system and generally *believe* that they can. More specifically, reform allows them to make demands on the system itself.¹⁵ Even if it's not transforming the system, it's important that people believe in their capacity to fight. And that can be built through reform work.

Number two, at the same time as engaging in that reform work, reform exposes the nature of the system itself, causes people to ask whether reform leads to transformation, and exposes the limitations of only engaging in reform work. This also creates opportunities to develop a consciousness around whatever kind of change you believe is transformative. Some may say "revolutionary change," others may say "radical change," "progressive change," whatever your beliefs or ideologies are. It creates opportunities and space for that consciousness-building process. To say "here are the limits of the system and here is an alternative" creates that space for what I would say is building revolutionary consciousness, a transformation of the system, as well as the possibility for building alternatives to the system. I'm going to come back to that point in a second.

Number three, successful reform fights provide immediate relief during crisis. I think this is taken really seriously, but sometimes not seriously by the folks that don't think reform work ultimately leads to transformation. Even if that were true, does anybody here believe that we should not provide food or housing, or stop the police from beating people up? If you had the opportunity to change how police treat the people on the Christopher Street piers, would you do it knowing that it's not going to change the police department altogether in New York? So successful reform meets people's needs, right? By meeting their basic needs, it allows them to more meaningfully participate in the kind of community

¹⁵ See, e.g., *Roadmap to Power: 2009–2012 Strategic Plan*, FIERCE (2010), <http://www.fiercenyc.org/uploadeddocuments/AnnualReports/FIERCE2009AnnualReport.pdf> (highlighting FIERCE's growing membership base and leadership development efforts).

organizing work that is going to address the underlying reasons as to why our communities are in crisis.

I want to talk a little bit here about alternatives. Many people believe we can provide services outside of the system, that we can meet people's needs that the system won't meet by creating alternatives. You know the debate—do we engage in reform work or do we build alternatives to the system? For example, we believe that the state, the government, and the city should be giving people free childcare while they are in school, free education, and other things. You make either a choice to force the state to do that through reform, or you say “you know what, that's a losing battle, let's create our own schools, let's create our own child care cooperatives, let's create our own healthy gardens,” those things. That's the difference I want to draw out, providing those services through either reform work or alternatives. I will talk more about that, and the dangers of both.

My last one, number four, is specific to community organizing. When we are doing door knocking and doing outreach, we are getting people involved in the fights that matter to them, and letting them determine the fights that matter to them. We not only bring people into these reform fights, we meet them where they are at.

For example, I'll talk a little bit about gay marriage. Did anyone go to any mobilizations around Prop 8? I wish I had gone. There was one in Union Square and while I don't agree that gay marriage is a fight that the gay movement should engage in,¹⁶ a lot of FIERCE's members do. So we not only bring people into fights, we meet them where they're at. A lot of FIERCE's members can't get married because of age, immigration status, gender identity, all sorts of things that prevent them from getting married despite their desire to do so. Or they don't want to and don't think it's a priority. They were at Union Square and asked, “Where were you guys? There were so many young people, more people of color than we've ever seen. Why wasn't FIERCE there?” We said, “well, we believe that gay marriage is reinforcing gender binary roles and

¹⁶ For a more lengthy discussion of the critiques of the focus on same-sex marriage in contemporary gay and lesbian politics, see Marlon M. Bailey, Priya Kandaswamy & Mattie Udora Richardson, *Is Gay Marriage Racist?*, in *THAT'S REVOLTING! GAY STRATEGIES FOR RESISTING ASSIMILATION* 87 (Matilda Bernstein Sycamore ed., 2008); Paula Ettelbrick, *Since When Is Marriage a Path to Liberation?*, in *LESBIANS, GAY MEN, AND THE LAW* 401 (William B. Rubenstein ed., 1993); Katherine M. Franke, *The Politics of Same-Sex Marriage Politics*, 15 COLUM. J. GENDER AND L. 236 (2006); Hartis, *supra* note 4; Craig Willse & Dean Spade, *Freedom in a Regulatory State?: Lawrence, Marriage and Biopolitics*, 11 WIDENER L. REV. 309 (2005); “Is Gay Marriage Anti-Black?” KENYON FARROW (June 14, 2005), <http://kenyonfarrow.com/2005/06/14/is-gay-marriage-anti-black/>.

heteronormativity,” all critiques that I believe are correct. But we meet people in reform fights too, and in our role as people who believe in reform as a longer term strategy for change or transformation we need to move people. We are not just preaching to the choir—we need to move people from liberal ideas of what transformation looks like, like formal access to legal institutions that are actually harmful and discriminatory like marriage, to more radical or revolutionary ones. So we need to move those reform fights, both the people in them, and the fights themselves to the left. That means that if right now queer and trans people have gotten a strong cultural message that marriage is important, and we think that such a message is missing a racial and economic justice analysis and we want to offer an alternative queer and trans politics that we think will deliver more change for FIERCE members, we need to show up where they are protesting and have those conversations and make that other political resistance visible and appealing.

Despite the reasons I have offered for why reform work has benefits, I also want to suggest some of the concerns that come up. There are some dangers in reform work: what types of alliances do we form to win these reforms? Are we going to work with the Democratic party? Are we going to work with the more mainstream gay organizations to win certain types of reforms? There are a lot of questions on “inside/outside” strategy here, who are we going to work with, and what compromises are we going to make to win that reform work. Those calculations are very mathematical, and eventually, at the end of the day, someone is going to get screwed. So *who* is going to get screwed? Being aware of that danger is not only important, but helps us mobilize against exclusion as status quo in reform movements.

Another danger is when we are trying to win immediate reforms that we can get right away—do they undermine our long-term vision for change? In the LGBT movement a classic example would be some legal work being done around the hate crimes legislation. We know that a lot of that work is symbolic and meaningful to many in the LGBT movement—“I’m seen in the law, the law names my sexual orientation and gender identity in crimes of bigotry and hate,” and stiffer penalties result from those crimes (although not from the federal legislation, but there is still much in the state-based and local ones). Do those immediate victories for the movement undermine our long-term vision for social change? In that case I would say absolutely. We are further criminalizing people in our community. We are sending people who are

transphobic and homophobic to prison as a way to stop them from being transphobic and homophobic. And I would argue that prisons are some of the most transphobic and homophobic places to be, so the opportunity for rehabilitation there is very unlikely.¹⁷

Of course, there are also dangers in not doing reform work. I see a trend right now in our movement of people arguing that reform work is ultimately negative even if you believe you are doing it with a revolutionary or transformative perspective. In response, I would argue that there is a danger also in building alternatives. To me, the question is whether alternatives can be done at a scale that really meets people's needs at a systemic level. For example, are you offering community gardens to the millions of people who need food stamps right now? That need housing? Are you able to provide that at a scale that's creating a change that's necessary? So I think it's not one or the other, it's both.

I want to close by sharing an article with you all. We talked a little bit about the dangers of reform work, and now I want to talk to you all a little about the dangers of law and legal work as a reform strategy. What I have with me right now is an article by Eric Mann, "Taking the Law into Our Own Hands."¹⁸ Eric Mann is a staff person at the Labor Community Strategy Center and Bus Riders Union in Los Angeles, and this article is his interpretation of both the book *On the Limits of the Law: The Ironic Legacy of Title VI of the 1964 Civil Rights Act* by Steven Halpern, and his experience on their campaign work and reform work for communities of color using the transit system and city buses in Los Angeles.¹⁹ The main thrust of *On the Limits of the Law* was on how much emphasis was put on the Civil Rights Act, Title VI, which allowed federal funding to be withdrawn from social programs that still discriminate or have segregationist elements.²⁰ I want to just pull out one section of [Mann's article]:

Relying on legal measures to combat racial inequalities . . . has had profound negative consequences. First, the legal approach transformed the educational questions raised in the struggle for equal educational opportunity, displacing them with "legal"

¹⁷ See Dean Spade, *Methodologies of Trans Resistance*, in A COMPANION TO LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER STUDIES (George E. Haggerty & Molly McGarry eds., 2007).

¹⁸ Eric Mann, *Taking the Law into Our Own Hands*, AHORANOW, http://www.ahorainow.org/take_law.html (last visited Jan. 5, 2012).

¹⁹ *Id.*

²⁰ STEPHEN C. HALPERN, *ON THE LIMITS OF THE LAW: THE IRONIC LEGACY OF TITLE VI OF THE 1964 CIVIL RIGHTS ACT* 1, 81, 283 (1995).

questions often unrelated to educational issues. Second, [it] conceived of the hardships visited upon African-Americans in narrow conceptual and remedial terms—as violations of their “legal rights” best remedied by creating and enforcing new legal protections. Third, [it] divorced the black struggle . . . from its historical roots and objectives. . . . Finally, [it] failed to respond to new . . . inequalities caused by the transformation of American cities in the post World-War II era.²¹

Mann goes on later to explain their attempt to use Title VI, knowing its limitations on the transit system in L.A., basically stating that bus riders, who are primarily people of color, don’t have enough buses, were crowded, they were destroying the environment, and really in poor shape.²² So they were going to use Title VI to say, “we’re going to ask the federal government to withdraw funding for the MTA in L.A.,” arguing that since we know who uses public transportation, this was basically segregation.²³ They were using legal work as a tool to expose a problem, knowing full well that it would take organizing and mass mobilization to enforce these changes.²⁴ Did Title VI end segregation? Did *Brown v. Board of Education* end segregation in public schooling? No, we could argue now that it’s even worse, many years later.

So I want to close by stating that legal victories alone mean nothing in the absence of community organizing and mass, sustained mobilization. So when you are considering your work, I hope you are going to become legal professionals who are not just excellent litigators, but who see that law and legal reform strategy must be done in connection with community organizing in order to be truly connected to what people want and desperately need.

ELANA REDFIELD:²⁵ Sylvia River Law Project (“SRLP”) provides legal services to transgender, gender non-conforming and in-

²¹ See Mann, *supra* note 18.

²² See *id.*; *About, Bus Riders Union*, THE LABOR/COMMUNITY STRATEGY CENTER, <http://www.thestrategycenter.org/project/bus-riders-union/about> (last visited Jan. 5, 2012).

²³ See Mann, *supra* note 18.

²⁴ *Id.* (“We understand full well the limits of the law and expect the final determination of the class action to be won over decades by the organizing work of the class itself—on the buses, in the communities, and in the streets.”).

²⁵ Elana Redfield joined the Sylvia Rivera Law Project (“SRLP”) as a staff attorney in May of 2009. She assists SRLP community members with changing their names and identity documents, confronting discrimination in segregated foster care and homeless shelters, navigating immigration law issues, and accessing welfare, Medicaid, and other public benefits. Before she joined SRLP, Elana worked with defendants in the criminal punishment system, represented immigrants fighting deportation proceedings, and served as a long-time volunteer with the SRLP collective and development team. She attended the City University of New York School of Law.

tersex people who are either people of color or low income. We do all of our legal services work with a multiple-strategy approach model. We do legal services and policy work, but we do that with an eye on connecting it to community organizing to make sure that the leadership for any policy changes comes from our community and our clients.²⁶ One of the fundamental premises that SRLP takes is that our clients, who are just living their lives and may not be politicized or interested in larger social change, are all going to be impacted by administrative systems regardless of whether or not they have an interest in those systems. Our clients are constantly interacting with the welfare system, with homeless shelters, the prison system and police enforcement.²⁷ Our legal services are catered to the specific kinds of needs our clients have and the specific help they are asking for. So we work under a multiple-strategy approach. For example, we help people access homeless shelters even though we know that we're ultimately fighting for a world in which no one has to live in a homeless shelter. We work with people at fair hearings in welfare proceedings understanding that public benefits systems exist to control poor people and preserve capitalism.²⁸ We also help people with their immigration cases—we help people interact with the United States Customs and Immigration Service (“USCIS”) doing name change documentation, identity documentation and helping people to adjust status from asylee to lawful permanent resident—even though we understand that if you have any status other than U.S. citizen, you are vulnerable to deportation and enforcement efforts by Immigration and Customs Enforcement (“ICE”).²⁹ So we try to do all of our direct services work with this broader understanding of the violence of these administrative systems and our goals for their ultimate dismantling in mind.

We also do policy work that is connected to the work that is going on in our communities. I want to talk today about two specific policy campaigns that we are working on and some of the challenges and some of the successes that we have had. I'd like to start with a campaign we've been involved in that targets the

²⁶ *About*, SYLVIA RIVERA LAW PROJECT, <http://srlp.org/about> (last visited Jan. 5, 2012).

²⁷ *Id.*

²⁸ For an analysis on how the public benefit system regulates low-income people, see generally FRANCES FOX PIVEN & RICHARD A. CLOWARD, *REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE* (2nd ed. 1993).

²⁹ For a comprehensive list of SRLP's services, see *Legal Services*, SYLVIA RIVERA LAW PROJECT, <http://srlp.org/services/legal> (last visited Jan. 5, 2012).

Human Resources Administration (“HRA”), which is the welfare authority in New York City. How many of you are familiar with the HRA campaign? I’m referring to a campaign that has been going on for many years, I think since 2005. Many of our clients and a lot of the community members that are a part of FIERCE or the Audre Lorde Project were experiencing difficulties with HRA. HRA is the centralized organization that distributes Medicaid and public benefits, like cash assistance or food stamps in New York City.³⁰ Our clients have been told that they can’t be served because they are trans people. Some trans women have been kicked out and told not to come back unless they are dressed as a man. The HRA workers frequently call out people’s legal names knowing that is going to out them as trans people. They frequently deny people benefits that they are eligible for, and they won’t change the gender marker on identification cards, knowing full well that this causes trans people to experience discrimination in multiple forms.³¹ Additionally, New York State created a Medicaid Regulation in 1998 against providing transition-related health care.³² This regulation began to be enforced by HRA in the early 2000s.³³ So there is this long-term institutionalized transphobia and disrespect that made this place that people are forced to go to really unsafe and stigmatizing.

SRLP has for a long time been part of a campaign led by trans activists to change the policies at HRA. Prior to the campaign, SRLP had worked with a group of advocates, including Carrie Davis from the Center, and Paisley Currah from the Transgender Law and Policy Institute, to put together basic standards of practice that would improve treatment of trans people at HRA —use the right pronouns, don’t make people dress a certain way, don’t regulate the way that people have to present in order to access food stamps

³⁰ *About*, NYC HUMAN RESOURCES ADMINISTRATION—DEPARTMENT OF SOCIAL SERVICES, http://www.nyc.gov/html/hra/html/about/about_hra_dss.shtml (last visited Jan. 25, 2011).

³¹ See Press Release, TransJustice of the Audre Lorde Project, Housing Works, Queers for Economic Justice, and the Sylvia Rivera Law Project, Historic Victory: Welfare Procedure Approved to Address Discrimination Against Trans & Gender Non-Conforming People, Bringing NYC Closer to Being Inclusive for All New Yorkers (Feb. 17, 2010), available at <http://srlp.org/hrapress>. See also Pooja S. Gehi & Gabriel Arkles, *Unraveling Injustice: Race and Class Impact of Medicaid Exclusions of Transitions-Related Health Care for Transgender People*, 4 J. NAT’L. SEXUALITY RESOURCE CENTER 7 (2007).

³² N.Y. COMP. CODES R. & REGS. tit. 18, § 505.2(1) (2011) (denying “payment . . . for care, services, drugs, or supplies rendered for the purpose of gender reassignment, or any care, services, drugs, or supplies intended to promote such treatment.”).

³³ Dean Spade, *Medicaid Policy & Gender-Confirming Healthcare for Trans People: An Interview with Advocates*, 8 SEATTLE J. SOC. JUST. 497, 514 n.50 (2010).

and Medicaid.³⁴ These basic standards were submitted to HRA, but nothing really happened, nothing changed, and they were never formally adopted. It took a community response to make it happen. TransJustice from the Audre Lorde Project, Queers for Economic Justice, and activists from Housing Works, which is an HIV service provider that works with a lot of trans people, got together and started an organizing campaign to change the policy and get HRA workers to respect trans people and improve that space for them. So now there was a trans day of action where activists were coming to HRA and demanding respect. There was suddenly both media attention and community pressure, which are essentially the bottom line in making policy change. Various community organizations and community members got together in this really strong effort, and this year HRA agreed to adopt this policy that has essentially been kicking around for five years.

The HRA policy campaign emphasizes a couple of things. One, it emphasizes that law reform alone might not have any impact on these communities. Even if the HRA policy had been adopted at that time, nothing might have changed unless there was pressure on the organization to do that. Two, it also highlights the way that lawyers can work with community organizing projects. SRLP was involved in various ways. One way we were involved was in working on the language of the policy.³⁵ That is a standard lawyerly thing to do, to review the document and see what it says to ensure that it protects you under the law or allows you to sue under a particular law. There are other ways that SRLP was involved and I think these are equally or more important. One way that SRLP lawyers were involved was in showing up at demonstrations in case people got arrested. Our lawyers would use their privilege by showing up as legal observers to help support what was going on. If you have a legal observer hat, and you tell the cop you are a law stu-

³⁴ *The Welfare Justice Campaign*, AUDRE LORDE PROJECT, <http://alp.org/tj/hra> (last visited Feb. 1, 2011) (describing formation of the Welfare Justice Campaign in 2008). For background information on best practices for working with trans gender and gender non-conforming people in social services, see also *Pronoun Etiquette*, SYLVIA RIVERA LAW PROJECT, <http://srlp.org/resources/publications/pronoun-etiquette> (last visited Feb. 1, 2011); *Rights to Public Benefits for Trans People in NYC*, SYLVIA RIVERA LAW PROJECT, <http://srlp.org/node/381> (last visited Feb. 1, 2011).

³⁵ On February 5, 2010, after five years of organizing by the Audre Lorde Project, Housing Works, Queers for Economic Justice, and the Sylvia Rivera Law Project, the HRA adopted a procedure to prevent transphobic discrimination and harassment in New York City's welfare system. Press Release, Sylvia Rivera Law Project, Historic Victory: Welfare Procedure Approved to Address Discrimination Against Trans and Gender Non Conforming People, <http://srlp.org/hrapress> (last visited Oct. 13, 2011).

dent, they are like “oh great, have fun,” meanwhile they are arresting people down the street. In one case, one of the main activists in this project went to the HRA offices and served them with a list of demands. SRLP lawyers also went to the office, watching to make sure that if anything happened, they were there. That is one way that SRLP was supporting more direct action.

SRLP also works to try to make sure that if there is some kind of policy negotiation going on that we try our best to make sure that leadership from the community is there. SRLP is focused on making sure that our organization is led by people who are most directly affected by transphobia, by racism, by people who have lived in poverty and are subject to deportation or immigration enforcement—the people who are most vulnerable to the policies that we are working on.³⁶ So we try and make sure that in our policy negotiations with various agencies that we bring that voice by physically bringing people who want to be involved, by working to take leadership from those communities in our policies and our practices and our decisions as lawyers, and by gauging how our reformist strategies fit into our organizing work.

I will offer another campaign as an example of the complexities of SRLP’s policy reform work. SRLP has been a part of this process focused on the treatment of trans people by the NYPD. I would say that the NYPD is the number one predator of the communities that we work with. I rarely have worked with a client or spoken with someone who is part of the SRLP community and has never experienced police harassment, or has never been arrested, or never been incarcerated. We are working on a strategy. There is one NYPD group working on the search policy, which is a NYPD policy of searching trans people to feel out their genitals—a truly disturbing thing.³⁷ There are other kinds of ongoing work with the NYPD. For example, we are trying to get the NYPD to limit profiling and to adopt the policy of not arresting someone solely because they are trans.³⁸ We are also trying to establish lock-ups in jails and prisons that are less dangerous, which could mean allowing people to be held in prison by their gender identity or putting people in

³⁶ *What is Community Organizing Support?*, SYLVIA RIVERA LAW PROJECT, <http://srlp.org/communityorganizingsupport> (last visited Feb. 1, 2011).

³⁷ See AMNESTY INTERNATIONAL, *STONEWALLED: POLICE ABUSE AND MISCONDUCT AGAINST LESBIAN, GAY, BISEXUAL AND TRANSGENDER PEOPLE IN THE U.S.*, 82–83 (2005), <http://www.amnesty.org/en/library/asset/AMR51/122/2005/en/2200113d-d4bd-11dd-8a23-d58a49c0d652/amr511222005en.pdf>.

³⁸ For documentation of this practice in various cities including New York, see *Policy*, SYLVIA RIVERA LAW PROJECT, <http://srlp.org/policy> (last visited Jan. 25, 2011).

cells in lieu of cuffing them to rails and benches. We don't think these are our ultimate goals—we want to abolish policing, not help the cops figure out how to better arrest and imprison trans people—but we feel that this work is really important because the communities that we work with are experiencing this stuff and they don't want to be experiencing it. Before I end, I would say that with the NYPD it is a particularly tricky issue, because not all the organizations we work with are invited to the table or given the opportunity to participate with them. They go to us *because* we're lawyers, and we derive a lot of privilege as lawyers from the system that they are part of. So there's often a decision that we have to make whether we are going to negotiate with different organizations like the NYPD, but we don't want to be seen as the voice for our communities if we are not the people who are directly affected by the policies.

NADIA QURASHI:³⁹ I am really glad that I am following Elana from SRLP because I regularly compare the Peter Cicchino Youth Project (“PCYP”), where I work, to SRLP and their model. As a legal services attorney, I wrestle with how to effectively represent people in structurally oppressive systems while holding a long-term and accountable vision for change.

The Peter Cicchino Youth Project provides legal services to homeless, at-risk, and street-involved Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning (“LGBTQQ”) youth under the age of 24.⁴⁰ We are a four-attorney project housed within the Urban Justice Center—an umbrella non-profit legal services organization that has seven projects, all of which provide direct services and systemic advocacy on behalf of different low-income communities.⁴¹ At PCYP, we engage in several strategies to intervene in the cycles of violence that impact the lives of LGBTQQ young people. Specifically, we provide direct legal service, engage in systemic advocacy, provide community education, and we recently began a youth leadership development initiative. I want to talk about our

³⁹ Nadia Qurashi has been a staff attorney at the Peter Cicchino Youth Project of the Urban Justice Center since 2008. She graduated from the City University of New York School of Law. She has been an SRLP collective member since 2006. Before that, she worked at Manavi in New Jersey, which is a collective domestic violence organization. It is one of the places that SRLP models its collective governance model on. She worked there for three years as outreach coordinator and anti-sexual assault counselor. She also worked for a year in New Mexico as a child welfare advocate.

⁴⁰ *Peter Cicchino Youth Project*, URBAN JUSTICE CENTER, <http://www.urbanjustice.org/ujc/projects/peter.html> (last visited Jan. 25, 2011).

⁴¹ *About Us*, URBAN JUSTICE CENTER, <http://www.urbanjustice.org/ujc/about/hub.html> (last visited Jan. 25, 2011).

direct services, some of the tensions we're having around how we've been engaging in systemic advocacy, and how we're trying to shift that in our organization.

In our assessment of our organizational identity, PCYP retains a commitment to providing legal services to homeless and street-involved youth in a way that is responsive to people's survival needs and experiences with systemic oppression. We meet most of our clients at drop-in centers throughout New York City. These are centers where youth are able to congregate during the day, when homeless shelters are not available to them. These centers provide basic needs like showers, food, case management services, metro fare, and counseling.⁴² They are also places where youth can go to hang out and meet up with each other. As the availability of safe, public spaces shrinks for LGBTQ youth, these centers provide spaces for youth to go after their shelters ask them leave in the morning. During the hours between the shelters closing for the day and the centers opening up, the young people we work with are often arrested if they're outside, because they are heavily policed as queer youth of color, and they have no other place to go.⁴³ We place ourselves in these day centers weekly, and seek to meet the legal needs of these young people.

Many of the legal services we provide are similar to SRLP. For example, we represent clients in name changes, immigration cases, and document replacement. We also provide assistance to youth accessing shelters, housing, and public benefits. We do a lot around warrant and background checks as well to ensure the individuals we are working with have access to the information in their criminal backgrounds. While PCYP does not take on criminal cases, we provide support for the majority of our clients who have criminal cases pending, and that includes many of our clients, who are heavily surveilled by the police for "quality of life" crimes. We also provide "Know Your Rights" workshops to youth and we frequently update our "Know Your Rights" trainings. If we hear of new issues or new trends emerging, then we try to develop trainings based on the clients' changing experiences.

In terms of our systemic advocacy over the years, the attorneys

⁴² *NYC Resources for Homeless LGBT Youth*, THE CENTER, <http://www.gaycenter.org/nycresources/dropinmeals> (last visited Feb. 1, 2011).

⁴³ Albert Amateau, *Gay Youth Complain of Police Harassment in Village*, THE VILLAGER, Jul. 7–12, 2005, available at http://www.thevillager.com/villager_114/gayyouth.html (last visited Feb. 1, 2011). See e.g., Press Release, Sylvia Rivera Law Project, Police Brutality Strikes Fifth Anniversary of Sylvia Rivera Law Project (Sept. 27, 2007), available at <http://www.workingdirectory.net/posts/2007/461/>.

working at The Project identified emerging issues and sought to join coalitions that were mostly made up of other public interest attorneys, and sometimes other advocates, who provided services to homeless and runaway youth. We've worked in coalition with them, sitting at the table with agencies like Administration for Children's Services ("ACS"), the Department of Juvenile Justice and, Department of Health. We've tried to do some reform work and policy advocacy, such as, requesting trainings and trying to change agency protocols.

One of the big issues that I saw when I came in was that our coalition work was not led by the people most affected by these policy changes. Although we try to base our policy work on the information we gather from our clients, the way we are engaged in systemic advocacy does not shift power to the young people we work with—instead it expands our own power and the power of the institutions we wanted to change. For a number of the same reasons Elana stated, it's not the most accountable way to do systemic advocacy. We have been struggling with that tension and have been trying to figure out ways to expand the community education we provide into a leadership development program that could support to youth who may want to be involved in coalition-building and systemic-change work.

Some of our systemic change work has been really frustrating. We've been involved with trying to change policies at ACS, specifically around ACS's failure to meet the needs of young, queer, mostly youth of color who are kicked out of their homes when they're coming out. It's been frustrating to see ACS not recognizing these aspects of homophobia as abusive violence, and not taking youth in who are also between the ages of 16 and 18 because ACS tends to see them as runaways or problem youth.

In 2004 we worked with a coalition to develop an anti-discrimination policy, which ACS adopted. But ACS still has a long way to go in providing affirming care to its adolescent youth in foster care. Many of the LGBTQQ young people we work have been abused or neglected by the foster care families they have been placed with. Although we hoped that ACS would work to improve their Independent Living program for LGBTQ youth, they have instead focused on expanding their recruitment of LGBTQ foster families, which could be helpful, but it was not what our clients were saying that they wanted. Additionally, ACS said that it would take three years to change their computer system to be able to track foster families who are LGBTQ-affirming. They still haven't

been able to track these families and I'm not sure how they place and track young people within these families. We've used many resources to try to change ACS and it's notable that the coalition work we were doing was not led by folks in foster care or folks who had come out of foster care.

I think some reform work that we've been involved in more recently has been a lot more effective but has not been truly accountable to the communities we serve. For example, we were with the Department of Juvenile Justice ("DJJ") and the Office of Children and Family Services ("OCFS"), which oversees the DJJ as well as ACS. OCFS is more willing to change some of its policies,⁴⁴ due in large part to the Commissioner who is there now. DJJ has a new anti-discrimination policy and they have trained all their staff a couple times. While some of that came out of a lawsuit, there is some good reform happening.⁴⁵ I think reform work is moving and seems helpful, but it is also not being directly led by the communities we serve.

As an organization, we thought about whether it would make sense to start a youth leadership group within our organization, to help shift some of our own power. Since we have traditionally been a legal services organization, we wanted to be really conscious, conscientious and careful about it.

We started noticing that many youth at day centers were approaching us to ask about their legal rights concerning, for example, charges such as loitering for the purpose of prostitution and disorderly conduct. We were also approached by service providers concerned about the legal rights of youth engaged in sex work. We saw a need for a Know Your Rights curriculum to be developed for youth who are engaged in sex work or trading sex for survival needs.

Andrea Ritchie, who is a member of INCITE!, and was the former Director of the Sex Workers Project also at the Urban Justice Center, helped us create a 15 week curriculum for LGBTQ youth

⁴⁴ See Elizabeth Dwoskin, *Shutting Upstate Jails for City Kids Has Made a Fiery Bronx Bureaucrat a Host of Enemies: People Upstate Consider the Bronx's Gladys Carrion Satan Incarnate*, VILLAGE VOICE, Aug. 4, 2010, available at <http://www.villagevoice.com/2010-08-04/news/gladys-carrion-upstate-jails-for-city-kids-bronx/>.

⁴⁵ See *Doe v. Bell*, 754 N.Y.S.2d 846 (N.Y. Sup. Ct. 2003) (ruling that a transgender youth's Gender Identity Disorder constitutes a disability within the State Human Rights Law, and requiring ACS to make reasonable dress code accommodations for the youth); NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, POLICY PROCEDURE MANUAL § 3442.00, LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUESTIONING YOUTH (Mar. 17, 2008), available at <http://www.wcl.american.edu/nic/documents/NewYorkDepartmentofChildrenandFamilyServices.pdf>.

on issues of the policing of quality of life crimes in the context of sex work

In recognizing that young people are the experts in their own safety, we wanted to provide a safe space for them to share ideas and experiences but also be available to provide legal knowledge about their rights. We created this youth leadership development initiative specifically for LGBTQ youth of color who were exposed to abusive police practices in the context of quality of life policing and the policing of sex workers. To support the participation of homeless youth, we provided stipends, metro cards and dinner at each meeting. This group has been running for seven months so far, and they are now in the process of making a “Know Your Rights” video to be disseminated amongst their peers.

That is where we’re at now and the Peter Cicchino Youth Project is also working to restructure ourselves, so that graduates of the youth leadership program have space within our organization. We’re thinking about a policy advisory board, as well as a community education group that could help continue the community education and policy work.

SONIYA MUNSHI:⁴⁶ My comments will focus on some lessons I’ve learned working for over fifteen years in anti-domestic violence work, which I think illustrate some of Rickke’s discussion of the complications and/or dangers of legal reform work. I’m going to talk about a few trends that I experienced while working in different formal non-profit organizations as well as in groups that advanced community-based responses to domestic violence.

The mainstream domestic violence movement in the U.S. offers us an excellent example of the consequences of the institutionalization of social problems including what this process does to our understanding of possible responses to these issues. This itself is a big part of the problem. For example, what happens when domestic violence, or violence that is enacted within an intimate relationship, is extracted out from a larger context of violence, including state violence, that may affect a survivor on an everyday level? What

⁴⁶ Soniya Munshi is a doctoral candidate in Sociology and Women’s Studies at the CUNY Graduate Center. Her dissertation examines state, medical institutional, and community-based responses to domestic violence in South Asian immigrant communities in New York City primarily during the post-9/11 “War on Terror,” to interrogate relationships between race, gender/sexuality, migration, health, national/domestic security, and prison/policing. Her work centralizes possibilities for transformational justice that transcend state-driven responses to community violence. Soniya’s academic work is informed by over fifteen years with anti-domestic violence efforts as well as her participation in immigrant rights and queer/trans justice organizing work in communities of color.

does this enable as potential responses to domestic violence, specifically with respect to legal system responses?

The example of legal system responses to domestic violence needs to be situated within an understanding of the neoliberal context within which there has been a growth in attention to this specific form of violence. Neoliberalism, characterized by deregulated economies, privatization, and state withdrawal from social provisions, has been the dominant economic mode, globally, since the early 1970s. One of the trends within neoliberalism has been, due to the shrinking of state-offered social services, efforts to supplement support activities for people who are in crisis.⁴⁷ People in who are in violent relationships are often in crisis moments because of acts of interpersonal violence; this is something that can be attributed to a dynamic between two people.⁴⁸ This analytical framework enables a response from the state that requires an isolation of the dynamics of interpersonal violence, and refuses attention to the *conditions* that have produced that interpersonal violence. As a result, many of the strategies that have emerged from the mainstream domestic violence movement have specifically addressed crisis moments and the supportive services that are required or helpful after those crisis moments.

The critiques of anti-domestic violence legal responses are similar to the critiques articulated earlier of hate crimes laws—much of the state/institutional response to domestic violence has been through a framework of criminalization, meaning that domestic violence is a crime and most regulated through mandatory- or pro-arrest and prosecution policies⁴⁹ So, here is a consideration when thinking about the usefulness of different types of reform strategies: the criminalization of domestic violence is not about merely managing violence but about facilitating the growth of violent structures (e.g., the prison industrial complex) and processes

⁴⁷ See generally DAVID HARVEY, A BRIEF HISTORY OF NEOLIBERALISM (2005). For a fuller discussion of the growth of anti-domestic violence work in a political economic context, see *supra* note 3; COLOR OF VIOLENCE: THE INCITE! ANTHOLOGY (INCITE! Women of Color Against Violence ed., 2007).

⁴⁸ See NEW YORK STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, DOMESTIC VIOLENCE: FINDING SAFETY & SUPPORT—UNDERSTANDING THE PROBLEM, available at <http://www.opdv.state.ny.us/help/fss/theproblem.html#whatisdv>.

⁴⁹ See generally Emily J. Sack, *Battered Women and the State: The Struggle for the Future of Domestic Violence Policy*, 2004 WIS. L. REV. 1657, 1668–75 (2004) (discussing the legislation enacted requiring changes to arrest policies, documentation of all domestic violence incidents by police, and the policies adapted by prosecutors to ensure more prosecution of batterers).

(increased policing and prosecution).⁵⁰

I want to think about the alliances that are formed to address different social problems and what those alliances produce. One of the clearest illustrations of these complexities is the Violence Against Women Act, which was first authorized in 1994, then 2000, then 2005, and will be reauthorized again in 2011. VAWA⁵¹ was originally part of the Violent Crime Control and Law Enforcement Act of 1994, so from the beginning the way that the state has been thinking about domestic violence has been in collaboration with law enforcement, medical authorities, activists, and academics; i.e. experts who produce knowledge. Although these entities have been working together since the mid-1970s, but it was not until VAWA was first passed in 1994 that domestic violence really became institutionalized as a criminal issue. This is because VAWA institutionalized funding for the criminalization of domestic violence which gives material support to this process. Through VAWA there is money to fund social services, but there is also substantive funding for prosecution and the policing of domestic violence.⁵² And, the allocated funding for these activities continues to grow, in percentages of overall VAWA budgets as well as the overall dollar amounts. For example, the most recent version of VAWA (2005) grew the funding allocations for the Grants to Encourage Arrest Policies program to \$75 million per year (2007–2011), which is a growth from VAWA 2000 (\$65 million per year, 2001–2005). The original VAWA allowed an average of \$40 million per year (1996–1998). VAWA STOP block grants, which are given out to states who then administer the funds locally, consistently require over 50% of funds to be distributed to policing/prosecutorial efforts.⁵³ VAWA also funds collaborative efforts between law enforce-

⁵⁰ See Dorothy Roberts, *Feminism, Race and Adoption Policy*, in COLOR OF VIOLENCE: THE INCITE! ANTHOLOGY 49 (INCITE! Women of Color Against Violence ed., 2006) (discussing increased criminalization of low-income and minority men due to approaches adopted by law enforcement and prosecutors like mandatory arrest and no-drop policies).

⁵¹ Violence Against Women Act of 1994, 42 U.S.C. §§ 13931–14040 (2010). Latest USC supplement is 2010.

⁵² See, e.g., *id.* § 13975(a)-(b) (granting money for transitional housing to child victims of domestic violence, sexual assault or stalking and allowing the funds to be used for transportation, counseling, child care services, employment training and other assistance); *id.* § 13971(b) (giving funds for programs which implement collaborations between law enforcement agencies and other related parties in rural areas for investigating and prosecuting of domestic violence); *FY 2010 Performance Budget, Congressional Submission*, U.S. DEP'T OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN 6–9 (2010), <http://www.justice.gov/jmd/2010justification/pdf/fy10-ovw.pdf>.

⁵³ GARRINE P. LANEY, CONG. RESEARCH SERV., RL 30871, VIOLENCE AGAINST WOMEN

ment and non-profit organizations, for activities such as supportive services that are housed in law enforcement agencies, or training of volunteers by domestic violence advocates to work with the police department.⁵⁴ The money that is distributed through VAWA grows in the direction of criminalization, which is not a surprise, but important to recognize and to articulate.⁵⁵

Another aspect of VAWA that is important to look at is its creation of the category of “domestic violence victim,”⁵⁶ which is really interesting with respect to the rule of the law. What has happened with domestic violence, and increasingly with hate crimes—and I’m sure we could think of other examples of recognition from the state through forms of victimization that happen at the interpersonal level—is that recognition by the state as a victim of this specific form of violence becomes an identity that is then seen in the law.⁵⁷ So then, what happens is that this identity becomes legible in different settings. For people who have experienced domestic violence—and, here, I’ll use the phrase “domestic violence victims” because that is what is used in legislation—being understood as a “domestic violence victim” through something like the social service framework that is made possible through the Violence Against Women Act, facilitates the ability to utilize this identity, or category, in different arenas.⁵⁸ What this means in social/legal service

ACT: HISTORY AND FUNDING 10 (2010), available at <http://www.ilw.com/immigration/daily/news/2010,0525-crs.pdf> (table illustrating the increase in funding for the Services Training Officer Prosecutors (“STOP”) program).

⁵⁴ See Violence Against Women Act, *supra* note 51, § 13947 (\$5 million was appropriated for each fiscal year 2007 through 2011 to “establish criteria and develop training programs to assist probation and parole officers and other personnel . . .”).

⁵⁵ See *FY 2010 Performance Budget*, *supra* note 52 (citing that President Obama’s FY 2011 budget request for violence against women programs is \$649.36 million of which \$457 million is for programs administered by DOJ and \$192.36 million is for programs administered by HHS).

⁵⁶ Bess Rothenberg, *Movement Advocates As Battered Women’s Storytellers: From Varied Experiences, One Message*, in *STORIES OF CHANGE: NARRATIVE AND SOCIAL MOVEMENTS* 203, 208 (Joseph E. Davis ed., 2002) (“From the outset, movement activists typified domestic violence victims as women who are severely beaten and abused by their husbands or male partners.”).

⁵⁷ See Carl Hulse, *House Votes to Expand Hate Crimes Definition*, N.Y. TIMES, Oct. 8, 2009, at A1 (noting that hate crime legislation like the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, 18 U.S.C. § 249 (2010), expanded the definition of a hate crime to include those motivated by sexual orientation and gave the federal government authority to prosecute violent antigay crimes).

⁵⁸ See HUD Programs: Violence Against Women Act Conforming Amendments, 75 Fed. Reg. 66246 (Oct. 27, 2010) (to be codified at 24 CFR pts. 5, 91, 880, 882, 883, 884, 886, 891, 903, 960, 966, 982, and 983) (implementing the 2006 VAWA provisions as applicable to HUD such as protections for domestic violence victims in Section 8 housing).

contexts is that there is a separation produced of who is considered a domestic violence victim and who is not. However, this criterion is based on a legal criterion, and not necessarily the criteria of our everyday language and analysis of violence. As a result there are resources for some “victims” of domestic violence made available, but a continued exclusion and limited resources for people who, because of marginalization and oppression, cannot fit into that category despite experiencing violence in their intimate relationships.

To give a concrete example, the category of “battered immigrant women” is something that was instituted in the first Violence Against Women Act.⁵⁹ In order to be considered a “battered immigrant woman” a survivor has to meet a vast amount of criteria. For example, the survivor has to be married to someone who’s a U.S. citizen and has to have experienced specific kinds of abuse that can be substantiated with proof. A person’s knowledge of their experience of domestic violence is verified if it can be supported by expert witnesses (e.g., police officers, doctors, cultural anthropologists/sociologists) and/or visual documentation (e.g., of bodily injury, property damage).⁶⁰ Sometimes affidavits from advocates are taken in as evidence, especially if they are part of an established non-profit organization. If the advocate has a Ph.D. after their name, that helps.

Survivors who are eligible to be recognized through the category of “battered immigrant women” can access certain provisions that have been made possible through the Violence Against Women Act.⁶¹ For example, there are mechanisms to protect a survivor’s immigration status if it is at risk due to an abusive partner’s exploitation of a vulnerable position. But, the survivors who are protected within VAWA are limited to those people who are married and are being sponsored, or could be sponsored, for a Green Card by their spouses. But, of course, there are immigrant survivors of domestic violence who are not included in this category of recognition (e.g., visa holders, undocumented people, survivors who

⁵⁹ The Violence Against Women Act of 1994, § 40701, amending 8 U.S.C. § 1154(a)(1) (2010) (alien petitioning rights for immediate relative or second preference status).

⁶⁰ *Id.*

⁶¹ See 8 U.S.C. § 1154(a)(1)(A)(iii) (2010) (immigration relief self-petitions by abused spouses and their children); 8 U.S.C. § 1254, repealed by IIRIRA, Pub. L. No. 104-208, 110 Stat. 3009 (suspension of deportation, the form of relief available under the Immigration and Nationality Act (“INA”) as it existed prior to the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRIRA”)); 8 U.S.C. § 1229a(b) (2010) (cancellation of removal, the reform of relief replacing suspension of deportation after the IIRIRA).

are not married). Not only are these survivors unable to access some of the provisions available through VAWA, such as immigration status relief, but this lack of recognition can then also extend to other arenas.⁶²

We can see that these dynamics operate in the public assistance/welfare systems. For example, through the implementation of the Family Violence Option, which made exceptions to welfare reform for domestic violence victims.⁶³ The Personal Responsibility and Work Opportunity Act (1996) introduced new restrictions to public benefits, including work requirements and time limits on how long people could access cash assistance.⁶⁴ The mainstream feminist movement was concerned that people who are in situations where they may face obstacles in obtaining employment, or may otherwise need to access public benefits for more than sixty months would find these changes problematic. So, in response—and I think this raises the question of when do we pursue winnable goals and when do we use certain kinds of reform strategies—they argued to make an exception for people who had experienced domestic violence. So, survivors that could prove that they were domestic violence victims would be exempt from certain restriction such as the work requirements and the running of the 60-month clock.

Survivors who are recognized—if they are seen as a “battered immigrant woman” via the Violence Against Women Act—can

⁶² See Indira K. Balram, *The Evolving, Yet Still Inadequate, Legal Protections Afforded Battered Immigrant Women*, 5 U. MD. L. J. RACE, RELIGION, GENDER & CLASS 387, 407 (2005) (describing how VAWA II poses an unrealistically high burden for unmarried and undocumented women leaving many excluded from immigration remedies like U-Visas); Lindsay Kelly, *Stories from the Front: Seeking Refuge for Battered Immigrants in the Violence Against Women Act*, 92 NW. U. L. REV. 665, 675–80 (1998) (discussing how the social and economic realities of battered immigrant women limit their ability to obtain police assistance and other essential services); Katerina Shaw, *Barriers to Freedom: Continued Failure of U.S. Immigration Laws to Offer Equal Protection to Immigrant Battered Women*, 15 CARDOZO J. L. & GENDER 663, 680–83 (2009) (noting that battered immigrant women convicted of crimes do not meet good moral character requirement and may be denied a U-Visa even when they acted in self-defense toward their abusers).

⁶³ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. § 602(a)(7) (2010) (Family Violence Option), and 42 U.S.C. § 608(a)(7)(c)(iii) (2010) (Hardship Exception). See also Brief for Sixty-Six Organizations Serving Domestic Violence Survivors as Amici Curiae Supporting Respondents, *Anderson v. Roe*, 524 U.S. 982 (1998) (No. 98–97).

⁶⁴ See TIMOTHY CASEY ET AL., LEGAL MOMENTUM: THE WOMEN’S LEGAL DEFENSE AND EDUCATION FUND AND THE NATIONAL RESOURCE CENTER ON DOMESTIC VIOLENCE, NOT ENOUGH: WHAT TANF OFFERS FAMILY VIOLENCE VICTIMS (2010) (describing impact of the Temporary Assistance for Needy Families program, Family Violence Option, and related child support enforcement provisions on victims of family violence), available at <http://www.legalmomentum.org/assets/pdfs/not-enough-what-tanf-offers.pdf>.

carry over that status to access the Family Violence Option.⁶⁵ What happens is that the same legal criteria get used over and over in different arenas. Another, slightly different example: the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) legislation made several changes to the immigration system,⁶⁶ and was also connected to anti-terrorism legislation.⁶⁷ Under IIRIRA, for survivors who were considered to be battered immigrant women, there were certain kinds of clauses that were put into place such as confidentiality clauses to allow that someone experiencing violence could feel free to call the police without being worried about immigration consequences, such as detention or deportation which has since changed.⁶⁸ Although this exception doesn't rely on a strict definition of battered immigrant women (i.e., anyone who calls the police for assistance in a situation of intimate violence could be eligible), this approach advances the idea that there are some people who need to be protected from some forms of violence, while other people do not. This logic is beneficial to the state. It works at the individual level by purporting to protect people who are victimized by known perpetrators whereas the activities that the state implements (e.g., passing legislation that criminalizes immigrants) to *produce* conditions that may create violence is unaddressed.

I'll end by saying this: I've been thinking a lot about the ways that the anti-domestic violence movement, overall, did not use community-organizing strategies in its social change work. I'm making a general statement, as there have been lots of different kinds of disruptions and other projects that have worked within and without the mainstream domestic violence movement to further transformational justice approaches, and so I don't want to say that other approaches have not and do not exist. Yet, there has been a dominance of the reform work, which has been fueled by its compatibility with the state's interest in criminalization, and then

⁶⁵ See Timothy Casey, Soraya Fata, Leslye Orloff & Maya Raghu, *TANF Reauthorization Round II—An Opportunity to Improve the Safety Net for Women and Children*, 14 DOMESTIC VIOLENCE REPORT 65 (June/July 2009) (for general information about the Family Violence Option).

⁶⁶ See Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1101 (2010) and § 1229b(b)(2) (2010) for the special rule for a battered spouse or child.

⁶⁷ See Linda Greenhouse, *How Congress Curtailed the Courts' Jurisdiction*, N.Y. TIMES, Oct. 27, 1996 (noting that the IIRIRA eliminated Attorney General's authority to grant relief from deportation for any alien who had committed a drug offense).

⁶⁸ Illegal Immigration Reform and Immigrant Responsibility Reform Act of 1996, 8 U.S.C. § 1229b(b)(2) (2010).

supported through the available funds that have enabled the institutionalization of social services agencies for women and children in crisis through a rubric of domestic violence.⁶⁹

When I think about models of community organizing that I really believe in, and that so many of us believe in, I know that these efforts should always be led by the people who are most affected by the issues that are being challenged. But, the issue of domestic violence is complicated this way: the mainstream anti-violence movement *was* historically driven by people for whom intimate violence was the most critical issue, but these survivors were able to isolate out this kind of violence as they were perhaps less affected by other forms of oppression and violence, like racism, classism, anti-immigrant xenophobia. And this has enabled the anti-violence movement's alliance with the state, because the state has been seen as a site for protection and not as a potential site of violence.⁷⁰ The creation of domestic violence as a single issue that is detached from all the other different conditions of violence that we experience in our lives necessarily produces a movement that looks for solutions that specifically respond to these dynamics. This means that the dominant approaches to domestic violence have not historically included organizing around different kinds issues like housing, poverty, and claims to public space. This happens, but not enough. What is needed is a reframing of domestic violence as it interacts with other conditions of violence in order for the anti-violence movement to be able to engage creative and liberatory strategies that move away from criminal legal/reform approaches.

I'll stop there. [Applause]

DEAN SPADE: I want to start out by saying that I thought it was interesting, Elana, to hear your take on the HRA campaign. I would like to share my own blunders within this campaign, as a white lawyer, because I think it can be helpful for law students to hear some of the lessons I've learned from this work.

I became involved with these issues directly in the year 2004. There was an HRA committee—a Citizen Action Committee—

⁶⁹ *Community Programs and Services: Domestic Violence Intervention, Education, and Prevention Program*, NEW YORK HOUSING AUTHORITY, http://www.nyc.gov/html/nycha/html/community/social_serv.shtml#dviep (last visited Jan. 5, 2012).

⁷⁰ Puneet Kaur Chawla Sahota, *The Personal Is the Private Is the Cultural: South Asian Women Organizing Against Domestic Violence*, in "COLOR OF VIOLENCE" THE INCITE! ANTHOLOGY 227–42 (INCITE! Women of Color Against Violence ed., 2006) (discussing the dissatisfaction women of color have with the mainstream Western, white women's movement).

mostly made up of Executive Directors of many different poverty organizations in New York City. Someone on that committee was interested in trans issues and brought that to the committee's attention. That committee asked me, and two other white trans people, to write a document setting model standards regarding HRA treatment of trans people.⁷¹ The document proposed many alterations to HRA policies and practices that would have had significant impacts on issues such as how HRA clients can change gender on their records which impacts what medications they are eligible to have covered, and where trans people should be placed in HRA housing facilities of various kinds. Sadly, the document just sat in the law department and never got implemented in HRA. This was during the time period where I was being asked by government agencies to do a lot of this kind of work, to write policies, attend meetings with bureaucrats, and consult on the range of issues trans people faced in various city agencies and offices.

At this time, there was even less of an organized trans political community in NYC than there is now, which meant there was very little capacity to respond to the enormous violence and discrimination facing trans people, and SRLP was filling some of that gap and getting requests to do a lot of work with city agencies. However, we were doing this policy work like typical lawyers—meeting in closed rooms with bureaucrats, not connecting the work to direct community organizing strategies. SRLP was working on making our organization accountable and governed by the people who come to us to seek services, but we didn't yet have a strategy around how to make this kind of work, which is mired in expertise and deeply undemocratic, actually become a site of community organizing, leadership development, and mobilization. There were so many policy reform efforts being undertaken by SRLP and a few others without a deep community organizing strategy.

Not surprisingly, these policy efforts ran into a lot of problems and were very hard to get implemented because the only real way to win meaningful victories is to have an organized community behind the demands. Bureaucrats and complicated administrative systems don't usually just agree to start doing this differently and actually do things differently, when the same racist, transphobic thinking and culture are still in place. Years later, when ALP, SRLP,

⁷¹ *The Welfare Justice Campaign*, THE AUDRE LORDE PROJECT, <http://alp.org/tj/hra> (last visited Jan. 5, 2012) (noting that in 2005 NYCHA and the Citizen Advisory Transgender Sub Committee developed the Best Practice Protocols for Working with and Serving Trans and Gender Non Conforming Employees and Clients on which the subsequent HRA policy was based).

Housing Works and others took up this issue again and created a vibrant organizing campaign led by trans HRA clients, they actually got the policy passed. Granted, the policy that passed is far less comprehensive than what was proposed in the original document, and it does not address some of the most important issues facing HRA clients, but I think it is still a much more important victory. The organizing around it did some of the things that Rickke was talking about: it politicized a group of people as organizers; it exposed the system in a way that the other, behind-the-scenes work never would have done; and it becomes more enforceable even though what is being enforced may not be as strong a demand as desired.

The only chance at enforcement that can exist for a policy like this—since we know that ultimately the welfare system exists to police, control and kill people of color and people who defy gender norms—is the fact that the community of people impacted fought for the policy, know about the policy, and know about their own power to demand change. All of the people who worked to win this also know that it is not good enough and do not plan on this as the end of their activism. Fighting for this policy, as imperfect as it is and as any reform to the welfare system can be, created mobilization in the community, deepened relationships and political capacity of a set of people who are targeted for death by New York City and U.S. government legal and administrative systems, and gave them the experience of victory and deepened their demand for further change.

This leads me to the question I want to ask this panel. There is a move to change NYPD policy around its policing of trans communities, and part of the reason why it is happening is because of a case that was brought by Andrea Ritchie⁷² and others on behalf of a woman who was gender-checked: the cops sexually assaulted her during her arrest by reaching inside her clothing to touch her genitals purportedly to determine her sex. This, of course, is a common experience for trans people who are arrested. I have been involved in this case as an expert witness and I have found myself puzzling over how this case fits into our strategies for dismantling policing and imprisonment. I do not believe the NYPD will ever implement a policy prohibiting such actions from police behavior, since policing is so often based on gender-policing and race-polic-

⁷² *Tikkun v. City of New York*, 265 F.R.D. 152 (S.D.N.Y. 2010) (No. 05 Civ. 9901) (denying motion to preclude expert testimony in pending litigation).

ing,⁷³ and I feel we will always have an NYPD that rapes, abuses and violates trans people of color. Because we understand the nature of policing and criminalization, we seek to abolish the prison industrial complex. I do not know what I am doing in this case and do not know what our community is doing in these meetings with the NYPD. And, yet, I'm not sure that we should *not* go to these meetings or *not* try to win these cases. It is difficult not to engage with any opportunity to make change on a front that is of such great significance to our communities. Yet, there is a strong danger of being co-opted into making policing appear more fair or legitimate while the violence continues unabated. We face the same struggle when we are asked to train the police. I think it is one of the more difficult dilemmas we face. This work is all very well meaning, and certainly it feels good to sue the cops and win and it's always a good idea to win money for someone who has been harmed and can use it to survive, but when you are dealing with something as hideously violent as policing in prisons, I'm not sure that suing for policy changes is the best approach, and trying to figure out the right approach is complicated. I would like to hear your thoughts on that.

I would also like to follow up on Rickke's discussion about inside-outside strategies. Rickke highlighted a tension that sometimes exists between activists focused on reforming existing systems and those focused on building alternatives to existing systems. It seems like sometimes within movements people are doing both in a coordinated strategy, and I wonder if any of you would share examples of that from your own work. Let's add some additional questions from the audience to the ones I have posed and then we can give our speakers a chance to answer.

QUESTION FROM STUDENT: Elana, you specifically talked about trying to have the organization be led by people of color and/or people experiencing poverty. I assume there is a push and pull, so I wondered how you made sure that happens and when it does not happen, what do you do?

⁷³ See, e.g., ANGELA DAVIS, ARE PRISONS OBSOLETE? (2003); AMNESTY INTERNATIONAL, STONEWALLED: STILL DEMANDING RESPECT: POLICE ABUSES AGAINST LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE IN THE U.S. (2006), *available at* <http://www.amnesty.org/en/library/asset/AMR51/001/2006/en/f420c754-d46f-11dd-8743d305bea2b2c7/amr510012006en.pdf>. See also JOEY L. MOGUL, ANDREA J. RITCHIE & KAY WHITLOCK, QUEER (IN)JUSTICE: THE CRIMINALIZATION OF LGBT PEOPLE IN THE UNITED STATES 45-68 (2011); ANDREA J. RITCHIE, POLICING RACE, POLICING GENDER, POLICING SEX: LAW ENFORCEMENT VIOLENCE AGAINST WOMEN AND TRANS PEOPLE OF COLOR (forthcoming April 2012) (exploring police brutality and racial profiling against women, girls, and transgender people of color).

QUESTION FROM STUDENT: Rickke, you talked about the fourth stage, specific to community organizing and how in order to have good reform work we need to meet folks where they are at, but how do we avoid getting stuck there? I think some NGO work is really amazing, but they tend to get stuck, for example, providing direct services, but then being unable to challenge the status quo. How do we keep our vision while still understanding the immediacy of all these issues?

QUESTION FROM STUDENT: How do you avoid being co-opted, when you are involved in some of these coalitions or policy negotiations and the coalition decides to just keep doing what they had been doing but can now say that they consulted your organization since you were at the table? Especially when the coalition is using your vulnerable membership to legitimize their policies.

QUESTION FROM STUDENT: Could you all talk a little bit about the work that a lawyer traditionally does and the work that a community-organizer does? Can it happen together, or sometimes does it happen better apart? Can you also speak on the energy of organizing versus the mundane tasks of lawyering and how all these things can interact?

QUESTION FROM STUDENT: Could you talk about how the people you serve are organized? A few people touched on membership-based projects and I find that really interesting.

QUESTION FROM STUDENT: I am listening to each of you and wondering how you are all funded? That is something that I struggled with in the non-profit world. Dealing with funders and funding guidelines can be just as creepy as dealing with the cops.

DEAN SPADE: I think I'm going to turn it over to the panelists now because there are a lot of really good questions. So maybe you all can go down the line so that you each have some time to touch on whatever questions you want. Nadia, do you want to start us off?

NADIA QURASHI: I wanted to talk briefly about the Department of Juvenile Justice ("DJJ") again because I said that we were involved in creating some policies with them. While we are hopeful, I just wanted to give an example of how taking direction from an organizing group could really change some of these conversations.

I think that one of the things that happened when we met with the commissioner yesterday⁷⁴ was that she talked a lot about wanting to be really affirming of adolescent sexual health and the sexu-

⁷⁴ March 31, 2010.

ality of folks who were detained in her facilities. She was having a tough time trying to be affirming and also dealing with the restrictions of the Prisoner Rape Elimination Act ("PREA"), which was created and intended to recognize that there is a huge problem of sexual abuse happening while people are incarcerated or in conditions of confinement.⁷⁵ But, PREA prosecutes or punishes those who have engaged in touching or other kinds of sexual conduct,⁷⁶ and there's this tension between being affirming of these youth in confinement, while also following the guidelines of PREA.

To address this question, we also have to understand issues of adolescent development in situations of confinement and I feel like that totally wasn't being addressed. Organizers consistently ask, "What are the conditions that allow violence to happen?" which prevents us from ignoring the fact that locking people up is itself an abusive, harmful practice and that DJJ's move towards closing facilities is the best option for young people.

RICKKE MANANZALA: Alright, I'm going to take a crack at a few of them. So Dean's inside-outside question, on working inside the system versus outside the system, and the question of how those have been done well at the same time. That presumes that they are not being done well now, which I would agree with. We should look at how not to get caught up just in reform strategies or just in building alternatives. There have been pretty important historical examples on more radical ways of building alternatives to the system for things the system won't meet *as well as* engaging the system in reform struggles. The most well-known ones come from the 1960s and 70s, obviously the Black Panther Party bringing cases against both the federal government and the state around lots of different legal issues,⁷⁷ as well as creating alternative programs like the free breakfast for kids programs and alternative education because the schools weren't teaching people about their own his-

⁷⁵ The Prison Rape Elimination Act of 2003, 42 U.S.C. § 15601(2) (2010) ("Experts have conservatively estimated that at least 13 percent of the inmates in the United States have been sexually assaulted in prison. Many inmates have suffered repeated assaults. Under this estimate, nearly 200,000 inmates now incarcerated have been or will be the victims of prison rape. The total number of inmates who have been sexually assaulted in the past 20 years likely exceeds 1,000,000.").

⁷⁶ 42 U.S.C. § 15609(9)(B) (2010).

⁷⁷ See, e.g., *Turco v. Allen*, 334 F. Supp. 209 (D. Md. 1971); *Hull v. Petrillo*, 315 F. Supp. 1158 (S.D.N.Y. 1970) *aff'd*, 439 F.2d 1184 (2d Cir. 1971); *Black Panther Party v. Kehoe*, 114 Cal. Rptr. 725 (Cal. Ct. App. 3d Dist. 1974) *vacated*, 117 Cal. Rptr. 106 (Cal. Ct. App. 3d Dist. 1974); *Black Panther Party v. Alexander*, No. C-74-1247 AJZ, 1975 WL 552 (N.D. Cal. Mar. 21, 1975).

tory.⁷⁸ So that's a really classic example. The same here is true in New York City with the Young Lords Party and the Puerto Rican movement.⁷⁹ The thing is, when people get stuck on that question now, they're like 'How do we do that again?' The reason why I think part of that was possible and why we need to apply some of it to the present is that the social conditions were a little bit different then, but the social movement *capacity* was really different. We're seeing millions of people mobilizing around anti-war protests actually coming from communities, and not being engaged by non-profits, right? We're seeing a level of social mobilization in general that is just very different now compared to then. So to answer these questions of 'Why are we instituting reform?' or 'Why are people doing these small pockets of alternatives here?', I think the bigger question is 'What is the state of our current movement? What is the state of social mobilization now and who's actually leading it?' That's the question. Then, I think, all of the other stuff falls into place around how to go back to doing reform work in the context of engaging the system *and* building alternatives to them. Unfortunately, I feel the trend right now is that they are being pitted against each other largely because our movement is so fractured.

And this funding question is a very important one around non-profits, which are the primary bodies and vehicles in which social mobilization is happening. There are strengths to that because a lot of the important work has moved, but there are also real limitations because of where the funding is coming from and the constrictions on the non-profit system, which I know you are probably plenty familiar with having Dean as your teacher. So, I'll say FIERCE is a non-profit and we get a lot of our funding from foundations and we are constricted by that.

I want to bleed into the question of 'How do we work on not getting stuck in reform work?' I think this is a really important question. I'm getting paid to do my political work at FIERCE, and because this is a non-profit job, my employment and my political work function at the same time. Well, this actually shouldn't be the

⁷⁸ PAUL ALKEBULAN, SURVIVAL PENDING REVOLUTION 30–31 (2007) (from a March 1969 interview with Bobby Seale, cofounder of the Black Panther Party: "The four key programs we are trying to implement are: the breakfast program, which is ongoing now; the petition campaign for the community control of police; free health clinics in the black community; and black liberation schools . . .").

⁷⁹ See VIRGINIA SANCHEZ KORROL & PEDRO JUAN HERNANDEZ, PIONEROS II: PUERTO RICANS IN NEW YORK CITY 1948–1998, 121 (2010) ("The key issues promoted by [the Young Lords Party] were health, food, housing and education."); MIGUEL "MICKEY" MELENDEZ, WE TOOK THE STREETS: FIGHTING FOR LATINO RIGHTS WITH THE YOUNG LORDS (2003).

case. My goal is to strive to build other forms of organization simultaneously using what I've learned in my work at FIERCE. FIERCE should, in my opinion, remain a reform organization. Whether or not it's going to be a non-profit is a different question. I think right now it's a system in which we're working, but I do think we need to be building alternative forms of organization that can engage in longer-term strategy and be thinking about what are the common threads of these different non-profit organizations and these issues. Soniya brings up that a lot of people who are working on single-issue areas are very siloed and, intentionally or unintentionally, are not thinking about other communities, strategies, or ways in which these systems are connected. We have some problems.

So to me, there are tons and tons of historical examples that we don't have time to talk about right now. But building alternative organizations, which are bigger-picture organizations, would help us to weave together these strategies for reform so that they actually lead to true transformation, rather than me feeling like FIERCE alone could be a revolutionary organization that leads to systemic transformation. It won't happen. And there's danger in trying to make FIERCE be that, which I wish we could talk about. I could talk about it forever—about why that's a problem.

Lastly, I won't answer this next question, but I hope Elana will. I learned a lot in my time at SRLP about this question of combining lawyering and community-organizing, and there are historical examples of this, which SRLP is actually trying to use. While I got to work there with Dean and a lot of other folks, I was thinking about why there is a divide between community organizing and lawyering when there didn't used to be. I think SRLP's model is so important and that it's what Elana said and more. It's not lawyers just doing important things like providing support and all of those things. My hope is that SRLP is maybe even going to transform itself into a membership-based organization, and into both a community place where community members are not only leading what the legal reform fight should be and working with lawyers to be there, but also leading the organization, whether he or she acts as a member, as part of staff, as a board member, or whatever is going to make sense. There are very few legal organizations in which that is true anymore. My hope is that maybe in the long term PCYP becomes a legal arm of LGBTQ youth work. If we agree that all of these strategies together are what form the bases or the pillars of social justice, strong social movements, then why are we al-

lowing them to be separate? We should be thinking at that level. I think SRLP is the most exciting example of that right now.

ELANA REDFIELD: I'll start there—where Rickke left off—with our structure. Basically, right now, SRLP is what's called a collective. Our goal as an organization is to take apart power structures and constantly work to try to give everyone equal decision-making power, equal information in order to make decisions, and equal participation in the direction and leadership of the organization,⁸⁰ particularly with an eye on improving and increasing the participation of people most directly affected by transphobia, racism, and things that we've been talking about. We're always in transition and I think a collective is a really cool process to be part of, because we start with an idea of the perfect model, but we're always moving and rearranging things.

One of the things that we've been finding is that our model isn't perfect, so we wanted to find a better way of doing our legal services work *and* meet our mission, finding a way to use membership strategies to make that happen in ways that we haven't been doing. For example, by taking some leadership from the past and also taking some ideas from our community members and also from different organizations. We did this by conducting sort of a survey. We talked to a bunch of different membership organizations across the country and tried to address some of the problems that are coming up in organizations, like burnout, developing people as leaders, and making sure our organizations are responsive to our communities. Using the information from the survey and the information from years of going over our collective structure and our experiences, we've actually been moving towards becoming a membership organization, moving towards a whole different way of looking at the work we do.

One thing we've recently created is a new team called the Movement Building Team. The purpose of this team is specifically to pick up where we left before when we had a team called the Organizing Support Team. That team was created with the idea that we had to have some sort of connection to community organiz-

⁸⁰ Rickke Mananzala & Dean Spade, *The Nonprofit Industrial Complex and Trans Resistance*, 5 SEXUALITY RES. & SOC. POL'Y 53, 65 (2008) ("SRLP operates on a collective governance model designed to maximize [the efficiency of] six equally important teams. . . . Unlike traditional nonprofits, in which decision making occurs from the top down and the direction of the organization or its specific programming is rarely decided by the workers carrying it out, in SRLP everyone doing the work helps shape that work."). See also *SRLP Collective Member Handbook*, SYLVIA RIVERA LAW PROJECT (2009), available at <http://srlp.org/files/collective%20handbook%202009.pdf>.

ing that is going on; that our work is going to support community organizing but not take over community organizing. Now that has transitioned into the Movement Building Team, which is about understanding the work that we're doing as part of the movement, and understanding that leadership development and interpersonal relationships and things like that are a huge part of making SRLP so successful. So our new team has actually . . . I don't want to leak too much, but one of the things that is coming out is that we want to have regular meeting spaces where people can actually talk about the issues that are specifically affecting them. A space where we can share skills amongst each other, where I, as a white lawyer with a lot of various kinds of privilege, might talk and do trainings in the first six months, but in a year, maybe I won't be the person who does that training—someone else will. This way, people who are a part of SRLP are all going to have as much of the knowledge as I have, and that everyone else has, and people will have that as part of their individual toolkit. It will help support their efforts in making decisions in community building and really improving their leadership. The idea is that we are going to intentionally try to create spaces where SRLP's work is not obscure, like a lot of law is obscure. This is not something that the lawyers do based on input from the communities, but that is happening because people are saying, 'This is what is going to happen. Let's do it.'

I want to touch a little bit on the funding issue. We are almost entirely foundation-funded, and foundations are interesting because they're always wanting to know what you are doing and wanting to direct it. We make a proposal and they pay us to do that, but it is always going to fit into their mission. And it is interesting that recently there have been not just one, but many funders who have been thinking more about movement-building, thinking more about membership and thinking more about how to shift policies and create fundamental change. But there still is this funny tension in doing that, and having this money that we can use to build liaisons with various organizations across the country that share our politics and develop points of unity and develop shared vision. But there's this weird thing about people with money overseeing it all and who have rigorous requirements for grantees to report back. It becomes a huge part of our work, even if we are given more freedom to represent our actual politics and not just pay lip service to funders or do weird reformist things. We still have to remember that because of the way we work we have to budget time. Forty percent of my time goes to satisfying funders and goes to making sure

that we do the things that we say we do to the people to whom we are accountable financially, which is not ideal.

Before I stop, I would like to highlight some other emerging projects, like the Transformative Justice Law Project in Illinois, which works on trans issues as intersectional with racism and poverty.⁸¹ It is still in its formative stage. None of the staff are paid, so they all have jobs, and do their work as lawyers pro bono. No funders have attached strings to the work they do. They have a lot more freedom. It might be useful for law students to think about creatively designing unfunded projects and using other work to get by in order to reduce the power of foundations to shape the work.

SONIYA MUNSHI: So, I am not here representing the Audre Lorde Project, but, as someone who has been in the ALP community for many years, I want to add a little bit about their current structure. In ALP's last strategic plan, they made decisions to internally restructure the organization in order to address some of the complicated issues that are being raised here. ALP used to be structured such that most of the organizing work has been carried out through different working groups that were issue-based and/or identity-based (e.g., Trans Justice is a working group led by Trans and Gender Non-Conforming people of color; the Safe Outside the System Collective works on anti-violence efforts in Bed-Stuy, Brooklyn, and the Immigrant Rights working group, led by immigrants).⁸² Each of these working groups has led different campaigns and programs, and has been led by people who are directly affected by the issues of the group. Since their strategic plan was completed last summer, they have moved towards a internal structure that responds to some of these questions: 'How does the organization respond to people in crisis, especially given that it is a community organizing center?; How do concerns about funding sources affect the work?; They are in the process of instituting something that will be a form of a "Survival Center."⁸³ It will function to help to separate out the campaign organizing activities

⁸¹ *Who We Are*, THE TRANSFORMATIVE JUSTICE LAW PROJECT OF ILLINOIS, <http://www.tjlp.org/aboutwho.html> (last visited Jan. 5, 2012). See also Stephan Benet-Weller, *Transformative Justice Law Project*, PLACEFORPEOPLE.COM, <http://placeforpeople.com/blog/transformational-justice-law-project> (last visited Jan. 5, 2012).

⁸² *Community*, THE AUDRE LORDE PROJECT, <http://alp.org/community> (last visited Jan. 5, 2012).

⁸³ In February 2011, the ALP program was implemented under the title "3rd Space Support." The program provides legal and employment services as well as holistic health and wellness services for free or reduced cost to ALP community members. See *Introducing ALP's Newest Program 3rd Space Support!*, THE AUDRE LORDE PROJECT, <http://alp.org/introducing-alps-newest-program-3rd-space-support> (last visited Jan. 5, 2012).

from the direct support work that is an inevitable part of base-building work. As one of ALP's goals is to grow their base, the Survival Center can provide direct support to community members who face immediate crisis, such as police brutality, an economic crisis, health concerns, or another issue where an organizational response would be helpful.⁸⁴ The organizing work will continue through the same working group structure. There will still be an overlap in how and where different members interact with ALP. I think it is a really strategic and thoughtful move to be transparent that the organization conducts different activities and that for the organization to build its base for its organizing work, it needs to engage with support needs in the community. This can also affect how money is directed. So, hypothetically, if ALP accesses money that is geared towards crisis response work, they would be able to put it into that program area and use unrestricted funds for other work, facilitating the working groups to conduct organizing work that that may be harder to fund

DEAN SPADE: Thank you all so much for sharing your brilliant insights and your inspiring work. We are unfortunately out of time.

⁸⁴ Although the Immigrant Rights working group has been dissolved, its activities have been transferred into different programs.