

LOOKING FORWARD TO FORTY MORE YEARS OF MOVEMENT BUILDING: MEDITATIONS ON “FROM PAGE TO PRACTICE”

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As we come together to celebrate the fortieth anniversary of the *N.Y.U. Review of Law & Social Change*, I would like to take the opportunity to thank and recognize the efforts of the *Social Change* editorial board for organizing a fortieth anniversary event. I would also like to echo a sentiment that has already been expressed by some of my fellow panelists: as a young idealist entering law school, there were moments when I questioned how, or if, I would fit in. There were, thankfully, two places where I found a home: the Immigrant Rights Clinic and the *Review of Law & Social Change*. At *Social Change*, fellow students came together with varying interests—from criminal justice to reproductive rights or social and economic justice—but united by a set of shared values.

As a first-year law student, I was interested in immigrant worker rights and was swiftly drawn to *Social Change* because of its core commitment to ensuring that even those with the least societal power would one day receive their full share of rights, be treated with respect, and be accorded value. Clearly, I am not the first to have seen this light; for forty years, *Social Change* has been a place where progressive students and scholars come together to share the details of their diverse commitments. As a result, *Social Change* is bigger than us; it represents a community of shared values and diverse interests.

My fellow panelists have impressed all of us with their rich understanding of particularly specialized areas of law. I, too, have spent much of my career focusing on a very specific field. While at N.Y.U., I participated in the Immigrant Rights Clinic; ten years later, I head an organization, La Fuente, committed to this same cause. I join my fellow panelists in celebrating the *Social Change* community for its commitment to specific issues and for providing an intellectual and physical space for thinking with breadth and depth about both the meaning and the nuts and bolts of social justice action.

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At N.Y.U., *Social Change* provided me with a home base and a support system. Perhaps not surprisingly, I increasingly valued this foundation as I moved into the world of practice. As I became more involved in public interest litigation, I realized that I was operating within a changing legal and political framework. Due to the increasing politicization of judicial appointments, decreased funding for legal services programs, and the dismantling or reformulation of important legislative structures in which the public interest community had operated,¹ it became necessary to develop new approaches to advancing social justice. Much of this was already clear by my first year of law school, and many people had written extensively on this issue—often in the pages of *Social Change*. However, these changes hit home personally for me only when, as a NAPIL² fellow in Texas, I saw first-hand the limitations of litigation alone as a tool for advancing social justice.

As a young lawyer representing tree planters with guest worker visas, I learned how difficult it is to use class action litigation alone to change large corporate practices and structures designed to maximize profit without regard to the conditions of the least powerful workers in the system. Not only is it extremely difficult to legally challenge a company's responsibility with respect to labor conditions attributed to labor contractors, class action litigation unconnected to worker organizing is not empowering to the workers themselves. If you lose in court and the workers are not organized, their situation does not change. The experience of putting significant effort into class action litigation alone and then losing that litigation reinforced my belief in the importance of organizing workers and actively engaging as many participants as possible in a movement for a more just society.

As many of us in the public interest community began recognizing the magnitude of the changes to the political context, we used this restructuring as a chance to get back to fundamentals. We saw the moral and practical value of returning to a sorely neglected cause: increasing the political voice of the most disenfranchised. Thanks to this refocusing, we have worked with community members to build power bases among those people who have not traditionally held power to organize, leverage power, and influence policy outcomes. In the process, we have attempted to create a more equitable and more open political arena. A striking example

1. See, e.g., Antiterrorism and Effective Death Penalty Act, Pub. L. No. 104-132, 110 Stat. 1214 (1996) (limiting the power of federal judges to grant habeas corpus relief); Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104-208, 110 Stat. 3009 (1996) (significantly amending U.S. immigration laws); Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (severely limiting the availability of cash assistance for poor people).

2. Now Equal Justice Works.

of this approach is the proliferation of worker centers around the country that has taken place over the past decade. Worker centers vary in industry and approach but tend to combine worker organizing with political advocacy, direct representation, and strategic litigation to improve conditions for workers in specific industries, such as domestic work, or for particularly vulnerable workers, such as new immigrants.

Along with recognizing the power of collective action, we have rediscovered the value of institutions and institution building. Advocating for progressive policies is, without question, a noble endeavor; but, without authority and capacity, the endeavor becomes purely theoretical as one is unlikely to see even the most pragmatic policy solutions realized.

But how does the theme of partnering legal innovation, organizing, and strategic movement building connect with the question of moving from the page to practice in the context of *Social Change*? An experience from my personal life provides an illustration of much of what is good about *Social Change* and how these themes fit together. While at the National Employment Law Project, I co-published an article in *Social Change* with my colleagues, Luna Yasui and Rebecca Smith, entitled *Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights*.³ The article provided a survey of diverse local campaigns and initiatives meant to ensure that workers received fair wages, had access to interpretation services, and were not subjected to retaliation or abuse due to their immigration status.

Initially, we chose to self-publish the article, handing out photocopies and posting it on our organization's website. At the time, of course, this seemed like the best way to accomplish our goals. We wanted to ensure that groups organizing for local-level change had access to information about what their counterparts were doing in other areas of the country, as well as legal authorities to cite, and thus could easily reference best practices. At the same time, we hoped to create a forum for cross-fertilization of creative ideas and movement building.

As experts in our field, Luna, Rebecca, and I were called to testify before various state legislatures and to use our research and models in briefings to appellate courts. It soon became clear to us that it would be significantly more persuasive to be able to cite an authoritative source. Not surprisingly, rather than waving a stack of papers in front of policymakers in order to demonstrate that we had the research and information to back up the propositions we were promoting, we found that it was significantly more effective to say, "as published in the *Review of*

3. Luna Yasui, Rebecca Smith & Amy Sugimori, *Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights*, 28 N.Y.U. REV. L. & SOC. CHANGE 597 (2003-04).

Law & Social Change, I have extensive research on the approaches different localities have adopted to address this problem, and models that can be adopted.”

This example brings me to my central point: the importance of recognizing the value and the sheer magnitude of our collective work. Over the past forty years, all of us who celebrate *Social Change*'s fortieth anniversary⁴ have built an authoritative resource for research, innovation, and essential information on pressing issues of law and social justice. All of us here today put in hour after hour checking citations for accuracy and style and ensuring that our publication met the highest standards of quality and integrity. We spent our weekends in our basement offices Bluebooking. We may not have realized it at the time, but by producing quality work we were building an institution that has legitimacy, that has power.

True change comes through collective efforts. In the labor movement and the civil rights movements and, later, in farmworkers, women's rights, and LGBT rights movements, we have seen how collective action can create profound, positive changes in legal and social norms. Since its inception, *Social Change* has been a quiet part of many of these struggles—it has been a forum in which academics and practitioners can share strategies, innovations, and ideas. *Social Change* is the result of the work of many contributors and stewards, united by shared values and common commitments. Again, while the creation and promotion of our journal did not, alone, bring about social justice, it would be a mistake not to recognize the full and varied roles that *Social Change* has played in helping us to get us where we are.

We no longer exist in the socio-political reality of 1969, the year of *Social Change*'s founding. Since then we have witnessed and weathered the profound post-Warren Court, post-Reagan changes to the practice and place of public interest law within the courts. Given recent changes in the presidential administration, Congress, and even the Supreme Court, we may have new opportunities for shaping the political context in which we operate in the coming years. Over the course of the next forty years, we can build on the movement of which we have been a part. Over the past forty years, many of us have toiled quietly and often outside the limelight. We have learned through trial and error. We may not have won every case we took on, we may not have enacted every policy we drafted, but we kept a piece of the movement alive and moving forward.

As we look forward and think about preserving and building on the foundations we have constructed, we must continue to be vigilant. While

4. I, of course, include in this term the countless other N.Y.U. law students who have worked on the journal and practitioners and academics who have published in it.

we may have made some progress, we must never forget the important role we play in questioning and tempering the inevitable overreaches of power and balancing against interests that have historically wielded power. As we learn from the past, I believe this new role will better integrate the important pillars of political organizing, legislative advocacy, strategic legislation, and legal academia. Institutions like *Social Change* can play an important role in this—providing a forum for sharing ideas and strategies, questioning prevailing wisdom, and reminding us of the importance of bringing the ideas on the page to practice. As Cesar Chavez famously said, “We do not need perfect political systems; we need perfect participation.”⁵

5. RANDY SHAW, *BEYOND THE FIELDS: CESAR CHAVEZ, THE UFW, AND THE STRUGGLE FOR JUSTICE IN THE 21ST CENTURY* 220 (2008).