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Cover Page Footnote

A CALL TO CONTEXT: THE PROFESSIONAL CHALLENGES OF CAUSE LAWYERING AT THE INTERSECTION OF RACE, SPACE, AND POVERTY

*John O. Calmore**

If we are to fashion remedies for black poverty, we need to understand the origins and dynamics of inequality in the African-American community. Without disavowing the accomplishments of the civil rights movement, black leaders and policymakers now need to give more attention to remedies that will make a concrete difference in the lives of the poor.[1]

INTRODUCTION

TRADITIONAL legal analysis and advocacy are too often plagued by the tendency to extrapolate issues from their history and the broader social and normative contexts that bear so heavily on them. Seldom will a client's legal problem be just a legal problem.[2] By issuing a call to context, I am directing attention to the inner-city poor's lived experiences, including the interconnection of legal and non-legal issues they confront, the web of experiences within which they live,

1. William Julius Wilson, When Work Disappears: The World of the New Urban Poor 195 (1996).

2. *See* John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Auththentic Intellectual Life in a Multicultural World*, 65 S. Cal. L. Rev. 2129, 2210-19 (1992) [hereinafter Calmore, *Critical Race Theory*] (discussing the utility and strategic use of rights); John O. Calmore, *Exploring the Significance of Race and Class in Representing the Black Poor*, 61 Or. L. Rev. 201, 225-28 (1982) [hereinafter Calmore, *Exploring*] (discussing the use of law to influence public policy and effectuate rule change).

and what Michael Katz calls "their anchor in context."[3] This suggests that we cannot view their issues or the features of context as fixed and unchanging. Instead, we must view them as historically evolving, relational, changing in meaning, and, as Katz says, "to be interpreted in terms of time and place."[4]

In considering why we describe law as a "profession," many focus on the practice of law as a "public calling."[5] From this perspective, perhaps, the most profound issue in providing effective legal services to the poor is whether legal advocacy on their behalf can maintain a positive, operational connection between rights and justice. With or without lawyers, for the inner-city poor, justice is hard to find. In the quest for justice, representing the poor has generally attracted "cause lawyers."[6] Broadly speaking, cause lawyering encompasses various law-related activities, from rights assertion to legal counseling, that relies on law-related means to achieve social justice for individuals and subordinated or disadvantaged groups.[7] Whether representing individuals or groups, cause-oriented poverty lawyers often adopt an orientation of antisubordination advocacy. This requires legal advocates, especially attorneys, to cross traditional boundaries where "the practice of law primarily consists of the hermeneutic reproduction of that which already exists."[8] This lawyering, moreover, must confront the difficulties and contradictions that are part of working for social change within and outside of the legal system's conventional framework.[9]

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3. Michael B. Katz, *The Urban "Underclass" as a Metaphor of Social Transformation, in* The "Underclass" Debate: Views from History 3, 23 (Michel B. Katz ed., 1993).

4. *Id.; see also* Ruth Margaret Buchanan, *Context, Continuity, and Difference in Poverty Law Scholarship,* 48 U. Miami L. Rev. 999, 1051-59 (1994) (discussing different theories on the practice of poverty law).

5. Phoebe A. Haddon, *Education for a Public Calling in the 21st Century,* 69 Wash. L. Rev. 573, 573-74 (1994). Anthony Kronman observes that "it *is* a part of the lawyer's job to be directly concerned with the public good—with the integrity of the legal system . . . with the health and well-being of the community the laws in part establish and in part aspire to create." Anthony T. Kronman, *Chapman University School of Law Groundbreaking Ceremony,* 1 Chapman L. Rev. 1, 3 (1998).

6. I adopt the theme of cause lawyering from Cause Lawyering: Political Commitments and Professional Responsibilities (Austin Sarat & Stuart Scheingold eds., 1998) [hereinafter Cause Lawyering].

7. *See* Carrie Menkel-Meadow, *The Causes of Cause Lawyering: Toward an Understanding of the Motivation and Commitment of Social Justice Lawyers, in* Cause Lawyering, *supra* note 6, at 31, 37.

8. Thomas C. Heller, *Legal Discourse in the Positive State: A Post-Structualist Account, in* Dilemmas of Law in the Welfare State 173, 186 (Gunther Teubner ed., 1986); *see also* Lois H. Johnson, *The New Public Interest Law: From Old Theories to a New Agenda,* 1 B.U. Pub. Int. L.J. 169, 184 (1991) ("[A] new public interest lawyer would not invoke abstract legal theories; rather, she would appeal to concrete needs and community values.").

9. *See* Louise G. Trubek, *Critical Lawyering: Toward a New Public Interest Practice,* 1 B.U. Pub. Int. L.J. 49, 49 (1991) [hereinafter Trubek, *Critical Lawyering*]. According to Trubek, some of the insights derived from "revisionist scholarship and

In light of these considerations, this Article examines the political commitments and professional responsibilities that I associate with cause lawyering on behalf of the inner-city poor. These commitments and responsibilities are particularly difficult, especially in attempting to render effective legal representation to those who are similarly situated by virtue of the intersecting features of race, space, and poverty. In this line of work, we must appreciate that poverty has multiple dimensions. In terms of time, there is persistent poverty; in terms of space, there is neighborhood poverty; and in terms of behavior, there is underclass poverty.[10] Sometimes, these dimensions coalesce and those in poverty experience both stigmatizing and oppressive constraints. This predicament is worsened by societal imposition of negative racial characteristics as an overlay. In other words, poverty and space become *racialized* to the detriment of these poor.[11] This marks the intersection of race, space, and poverty.

It is at this tripartite intersection that we find the client community that is the subject of this Article. The intersection of race, space, and poverty necessarily directs our attention to the significance of the neighborhood aspects of poverty and its concentration effects. Although the word "intersection" suggests a site where lines cross in a way that intrudes or marks, I would not limit intersection to designating a static fixation. As I am using the term, intersection also connotes a dynamic process that extends beyond identity formation. More than that, intersectionality additionally constitutes context: framing the interconnection of issues and the web of experiences that

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practice" on poverty law include "the importance of discourse, the need to understand gender and race . . . the critique of many of the laws . . . the reinvention of arenas for practice, the need for community-based projects . . . and the revision of our understanding of the role of lawyers and the nature of professionalism." Louise G. Trubek, *Lawyering for Poor People: Revisionist Scholarship and Practice,* 48 U. Miami L. Rev. 983, 986 (1994) [hereinafter Trubek, *Lawyering for Poor People*].

10. *See* Paul A. Jargowsky & Mary Jo Bane, *Ghetto Poverty in the United States, 1970-1980, in* The Urban Underclass 235, 235-36 (Christopher Jencks & Paul E. Peterson eds., 1991).

11. "Racialization" is a dialectical process of signification that reaches to the societal processes in which people participate and to the structures and institutions that people produce. More specifically, racialization signifies the spread of racial meanings to a relationship, social practice, or a group that was previously unclassified in racial terms. *See* Michael Omi & Howard Winant, Racial Formation in the United States: From the 1960s to the 1980s 64-66 (1986). Today, racialization is coded and covert, sometimes reducing race to ethnicity or class. Even colorblindness is racialized. Although they do not expressly mention race, terms such as "cultures of poverty," "welfare cheats," "inner-city," and "underclass poverty" generally refer to black, and often brown, people. The "racialization of space" refers to "the process by which residential location is taken as an index of the attitudes, values, behavioral inclinations and social norms of the kinds of people who are assumed to live [there] . . . ." Susan J. Smith, *Residential Segregation and the Politics of Racialization, in* Racism, the City, and the State 128, 133 (Malcolm Cross & Michael Keith eds., 1993).

live at and within the intersection of race, space, and poverty. In some instances, the intersection is the primary defining feature of context.[12]

Within this intersection, or context, I focus on high-poverty neighborhoods—that is, those with poverty rates of at least forty percent. I also focus on people who experience the effects of concentrated poverty.[13] Concentrated poverty sharpens our focus in considering the constraints and social isolation that these poor people face. As Paul Jargowsky notes, it is very important that we take into account that those in concentrated poverty situations represent "the percentage of poor who not only have to cope with their own poverty, but also that of those around them."[14] He adds, "the concentration of poverty is *not* simply about minorities' probabilities of interclass contact, but rather about the degree to which minorities inhabit areas of extreme deprivation, with the attendant possibility that the social milieu is qualitatively different from that of the rest of society."[15]

Almost beyond the purview of legal advocates and policy makers, the existence of neighborhood poverty has grown dramatically since the 1970s. From 1970 to 1990, the number of neighborhoods with at least forty percent poor people more than doubled and the total number of persons residing in such neighborhoods grew from 4.1 million to eight million people.[16] The number of African Americans in such neighborhoods increased from 2.4 million to 4.2 million, with most of them living in highly segregated, ghetto neighborhoods.[17] Latinos living in barrios, or high-poverty areas, rose from 729,000 to two million.[18] This increase was primarily driven by population growth largely fueled by immigration, however, so in spite of this population

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12. By "context" I mean literally "the interrelated conditions in which something exists or occurs." Webster's Ninth New Collegiate Dictionary 283 (1990). Context is also used to reflect the parts of a discourse that surround doctrine, policy, and practice and throw light on the discourse's meaning. *Id.*

13. For a discussion of the effects of concentrated poverty, see Paul A. Jargowsky, Poverty and Place: Ghettos, Barrios, and the American City 30 (1996).

14. *Id.* at 21.

15. *Id.* at 23. The early significant focus on concentrated poverty is found in William Julius Wilson, The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy 58 (1987). According to Wilson:

> If I had to use one term to capture the differences in the experiences of low-income families who live in the inner-city areas from the experiences of those who live in other areas in the central city today, that term would be *concentration effects.* The social transformation of the inner city [from the 1970s through the 1980s] has resulted in a disproportionate concentration of the most disadvantaged segments of the urban black population, creating a social milieu significantly different from the environment that existed in these communities several decades ago.

Id.

16. Jargowsky, *supra* note 13, at 30.

17. *See id.*

18. *See id.*

growth, there was insignificant change in the Latino neighborhood poverty rate.[19]

In commenting on the racial and ethnic composition of high-poverty neighborhoods, Jargowsky states: "One common impression of poor neighborhoods is correct: they are predominantly inhabited by members of minority groups."[20] In 1990, nearly 75% of those residing in high-poverty neighborhoods were black or Latino: whites were 22.5%; blacks 49.7%; Mexicans 14.3%; Puerto Ricans 6%; Cubans 0.4%; other "Hispanics" comprised 3.6%; and other "non-Hispanics" comprised 3.5%.[21] In 1990, while one in seven blacks—fourteen percent—lived in ghettos or high-poverty neighborhoods, only one percent of all (non-Hispanic) whites lived in neighborhood poverty. Among Latinos, nineteen percent of Puerto Ricans, nine percent of Mexicans, and three percent of Cubans lived in barrios or high-poverty neighborhoods.[22]

This Article is no blue-print. I attempt, simply, to develop perspective, insight, and strategic concerns that will aid in representing the inner-city poor who are trapped within the intersection of race, space, and poverty. In what follows, I examine the nature of cause lawyering as it may be practiced specifically on behalf of the inner-city poor—clients who are, synergistically and simultaneously, racially and economically subordinated within the spatially constrained and the opportunity-denying circumstances of ghetto and barrio life. In light of these features, I argue that effective representation must collaborate with these clients not only to represent them, but also to represent their place and communities as well. Part I conceptualizes a vision of cause lawering that responds in a left-activist way to redress the conditions of racialized, inner-city poverty. The racialized, inner-city poor experience poverty that is concentrated and community-based rather than merely a personal trouble. Thus, part II elaborates on the context and situatedness of the inner-city poor. Part III then suggests that one response to the oppression of the inner-city poor is to adopt Edward Soja's "thirdspace" perspective to develop inner-city poor neighborhoods as sites of resistance and places of radical possibility and openness.[23] Perhaps in this way we can help to develop two, almost contradictory, types of social capital: one that is concerned with support within inner-city communities and the other with leveraging opportunity beyond these communities.[24]

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19. *See id.*

20. *See id.* at 61.

21. *See id.* at 64.

22. *See id.* at 70.

23. *See* Edward W. Soja, Thirdspace: Journeys to Los Angeles and Other Real-and-Imagined Places 22-23 (1996).

24. *See* Xavier de Souza Briggs, *Brown Kids in White Suburbs: Housing Mobility and the Many Faces of Social Capital,* 9 Housing Pol'y Debate 177, 178 (1998).

I. The Challenges and Opportunities of Cause Lawyering

This part introduces the concept of "cause lawyering," comparing it to other models of lawyering and explaining how it can benefit inner-city client communities. It examines the meaning of cause lawyering, with its associated attributes and threats to the legal profession. This part then addresses the forces that drive and direct cause lawyering in various contexts.

A. *The Concept of Cause Lawyering in Context*

According to Austin Sarat and Stuart Scheingold, our legal profession both needs and at the same time is threatened by cause lawyering.[25] On the one hand, the profession needs lawyers who commit themselves and their legal skills to furthering a vision of the good society so that "moral activism" can put a humane face on lawyering and "provide[ ] an appealing alternative to the value-neutral, 'hired-gun' imagery that often dogs the legal profession."[26] On the other hand, however, cause lawyers are not simply a minority of the bar, but they represent "a deviant strain within the legal profession."[27] Cause lawyering presents a profound professional threat to the dominant bar and its forms of legal practice:

> [Cause lawyers] threaten the profession by destabilizing the dominant understanding of lawyering as properly wedded to moral neutrality and technical competence . . . . By rejecting nonaccountability, if not partisanship, cause lawyers establish a point from which to criticize the dominant understanding from inside the profession itself. They denaturalize and politicize that understanding. Cause lawyering exposes the fact that it is contingent and constructed and, in so doing, raises the political question of whose interests the dominant understanding serves. The result is a threat to ongoing professional projects and the political immunity of the legal profession and the legal process.[28]

As a deviant strain of the legal profession, cause lawyers must continually threaten and challenge dominant understandings of the professional role and the larger process within which that role is performed. Nowhere is this more crucial than in representing the inner-city poor.

All cause lawyers appear to focus primarily on the broad stakes involved in representing their client community. Sometimes the cause

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25. *See* Austin Sarat & Stuart Scheingold, *Cause Lawyering and the Reproduction of Professional Authority: An Introduction, in* Cause Lawyering, *supra* note 6, at 3, 3.

26. *Id.*

27. *Id.*

28. *Id.* at 3-4. *But see generally* Robert MacCrate, *"The Lost Lawyer" Regained: The Abiding Values of the Legal Profession,* 100 Dick. L. Rev. 587, 603-06 (1996) (analyzing the devolution of values in the legal profession).

conflicts with representing narrower client interests.[29] Cases are primarily important for their significance to the cause: Is what is at stake something that the cause lawyer deems worth fighting for?[30] Although cause lawyering can be associated with causes of both the political left and right, this Article associates it with leftist progressive lawyering.[31] Progressive lawyering is a subject that began to receive scholarly attention during the 1980s as the viability of liberal legal advocacy diminished, within both antidiscrimination law[32] and poverty law.[33] Left-activist lawyering is driven by a conviction and commitment to oppose the forces of domination and to support activities of resistance. This lawyering is not motivated by a desire to defend and protect rights in the abstract. Instead, rights are means to political ends.[34] Far from asserting rights, the false legitimization function of the law is constantly challenged. This is important, because "[t]he law is a major vehicle for the maintenance of existing social and power relations by the consent or acquiescence of the lower and middle classes."[35] As a consequence, left-activists tend to push their professional role and their organizations into areas that are politically and professionally risky, confrontational, and controversial.[36]

In 1992, Gerald López wrote an important book that contrasted two modes of delivering legal services to the poor that he described as "regnant" and "rebellious."[37] As the name would suggest, regnant

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29. *See* Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation,* 85 Yale L.J. 470, 471 (1976).

30. *See* Stuart Sheingold, *The Struggle to Politicize Legal Practice: A Case Study of Left-Activist Lawyering in Seattle, in* Cause Lawyering, *supra* note 6, at 118, 118; *see also* Edgar S. Cahn, *Reinventing Poverty Law,* 103 Yale L.J. 2133, 2144-47 (1994) ("A moral dilemma is posed wherever the cost of amplifying the client's voice is incurred at the expense of securing remedy.").

31. For a discussion of cause lawyering as a leftist movement, see William E. Forbath, *Taking Lefts Seriously,* 92 Yale L.J. 1041 (1983).

32. *See* Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law,* 101 Harv. L. Rev. 1331, 1334 (1988). *See generally* Kevin R. Johnson, *Civil Rights and Immigration: Challenges for the Latino Community in the Twenty-First Century,* 8 La Raza L.J. 42, 45-56 (1995) (emphasizing the importance of political as opposed to legal strategies for Latinos in antidiscrimination cases).

33. *See, e.g.,* Gerald P. López, *The Work We Know So Little About,* 42 Stan. L. Rev. 1, 10 (1989) (discussing the problems with cause lawyering that were perceived during the 1980s).

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

35. David Kairys, The Politics of Law: A Progressive Critique 5 (David Kairys ed., 1982).

36. *See* Sheingold, *supra* note 6, at 148 n.91. Relatedly, we must often overcome our own biases toward nonwhite clients. *See* Paul E. Lee & Mary M. Lee, *Reflections from the Bottom of the Well: Racial Bias in the Provision of Legal Services to the Poor,* 27 Clearinghouse Rev. 311 (1993).

37. Gerald P. López, Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice 11-82 (1992). In reviewing the book, Angelo Anchetta, a community lawyer and past Executive Director of the Asian Law Caucus, writes:

lawyers tend to maintain a disassociated power over their clients, embracing the traditional lawyer-client paradigm. By contrast, "the rebellious idea of lawyering demands that lawyers (and those with whom they work) nurture sensibilities and skills compatible with a collective fight for social change."[38] In representing the inner-city poor, it is arguably more important that advocates disassociate themselves from regnant lawyering than it is that they adopt the latter mode. There may be other conceptions of effective representation that do not incorporate the wholesale features of rebellious lawyering. Indeed, effective representation stems from intervening and confronting the array of opportunity-denying circumstances that oppress the client community. There is no grand theory to instruct lawyers how to advocate. Thus, my focus is on what lawyers should not do, because regnant lawyering blocks efforts to recognize and develop alternative approaches that are more effective.[39]

Regnant lawyering is directly tied to the professional socialization and orientation of attorneys. Consider some of the characteristics of regnant lawyers:

- Lawyers "formally represent" others.
- Lawyers choose between "service" work (resolving individual problems) and "impact" work (advancing systemic reforms), largely dichotomous categories.

The book's importance lies in its ability to convey, through the use of detailed narratives, the experiences and problem-solving abilities that reside in and affect everyone. By challenging existing notions of progressive legal practice and community organizing, López demonstrates how all of us accommodate—and resist—change in our daily lives, and how, through working together and sharing power, we can bring about positive changes that improve our collective existence.

Angelo N. Ancheta, *Community Lawyering*, 81 Cal. L. Rev. 1363, 1367 (1993). Other reviews include Anthony V. Alfieri, *Practicing Community*, 107 Harv. L. Rev. 1747 (1994); and Ann Southworth, *Taking the Lawyer out of Progressive Lawyering*, 46 Stan. L. Rev. 213 (1993). *See also* Paul R. Tremblay, *Rebellious Lawyering, Regnant Lawyering, and Street-Level Bureaucracy*, 43 Hastings L.J. 947, 951-54 (1992) (examining the notions of rebellious and regnant lawyering).

    38. López, *supra* note 37, at 38.

    39. In warning of the danger of even cause lawyers associating with the regnant style of practice, I am not suggesting that civil rights lawyers or poverty lawyers have become the tools of oppression. In resistance to versions of critical scholarship, Gary Blasi sounds a cautionary note that I am trying to heed. As he observes, "The critical gaze rarely falls on the mirror: it is about the practice of *others*. This may explain a bit of why this scholarship has had little impact beyond law schools." Gary L. Blasi, *What's a Theory For?: Notes on Reconstructing Poverty Law Scholarship*, 48 U. Miami L. Rev. 1063, 1088 (1994) (emphasis added). I agree with Blasi that our critical scholarship must acknowledge many voices and points of view, including those of the practicing advocates. I thus hope that this Article falls outside that scholarship which "sometimes devalues and silences the voices and experiences of the human beings who are trying to function as progressive lawyers quite as thoroughly as those lawyers sometimes devalue and silence the voices of their clients." *Id.* at 1089.

- Lawyers set up their offices to facilitate formal representation in service or impact work.
- Lawyers litigate more than they do anything else.
- Lawyers understand "community education" as a label for diffuse, marginal, and uncritical work (variations on the canned "after-dinner talk about law"), and "organizing" as a catchword for sporadic, supplemental mobilization (variations on sit-ins, sit-downs, and protests).
- Lawyers consider themselves the preeminent problem-solvers in most situations they find themselves trying to alter.
- Lawyers connect only loosely to other institutions or groups in their communities, and these connections almost always focus on lawyers' use of institutions or groups for some aspect of the case in which they serve as formal representatives.
- Lawyers have only a modest grasp on how large structures—regional, national, and international, political, economic, and cultural—shape and respond to the status quo.
- Lawyers suspect that subordination of all sorts cyclically recreates itself in certain subcultures, thereby preventing people from helping themselves and taking advantage of many social services and educational opportunities.
- Lawyers believe that subordination can be successfully fought if professionals, particularly lawyers, assume leadership in pro-active campaigns that sometimes "involve" the subordinated.
- Lawyers do not know and try little to learn whether and how formal changes in law penetrate the lives of subordinated people.
- Lawyers understand their profession as an honorable calling and see themselves as aesthetic if not political heroes, working largely alone to make statements through *their (*more than their clients') cases about society's injustices.[40]

Leftist cause lawyers are inclined to smugly dismiss these features as foreign to their personal and professional orientation, values, and commitment. But a genuine, good-faith commitment to antisubordination work does not necessarily insulate one from regnant lawyering. Indeed, the regnant mode of lawyering is cultivated under the pressing circumstances of practice. Those circumstances include the social and cultural distance between lawyers and clients, the occasional but significant mutual distrust and disrespect between lawyers and clients, the overwhelming crush of client demand, the burn-out of practice, the differing, sometimes contradictory worldviews of lawyers and clients, and lawyers' self-righteous arrogance. Moreover, its cultivation takes place regardless of whether the practice emphasizes individual client cases, group or institutional impact cases, or mobilization

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40. López, *supra* note 37, at 24.

advocacy. It takes place whether the lawyer is non-white or white, male or female, gay or straight, or a stranger to the community or a former resident who has now moved on.

The first step for most of us in becoming effective advocates, then, is to break away from the regnant idea of lawyering. The client community, as well, must unequivocally indicate that regnant lawyers are not welcome. This strong client stand will not be made in the desperate cases of individual clients facing evictions, welfare cuts, consumer fraud, employment discrimination, and the like. It can and should be made, however, whenever lawyers attempt impact litigation, legislative or administrative advocacy, base-building and mobilization, or other aspects of lawyering that extend beyond resolving private disputes. In other words, at the cutting edges of practice, there is no room for regnant lawyering. It is out of place.

In contrast to regnant lawyers, rebellious lawyers connect with the community they serve and make collaborative advocacy a key premise: lawyers must know how to work *with* the client community, not just on its behalf.[41] There must be collaboration with professional and lay allies, including a willingness to be educated by them. Rebellious lawyers must "ground their work in the lives and in the communities of the subordinated themselves."[42] They must continually assess probable interaction between both legal and non-legal approaches to problems. They must adopt a problem-solving orientation, learning "how to work with others in brainstorming, designing, and executing strategies aimed at responding immediately to particular problems and, more generally, at fighting social and political subordination."[43] Finally, this orientation toward advocacy must nurture the appropriate sensibilities and skills that are "compatible with a collective fight for social change."[44]

B. *The Direction of Cause Lawyering in Context*

Left-activist, non-regnant cause lawyering must first be community-based, because the poverty we confront is primarily situated at the intersection of race, space, and poverty. Individuals, in this context, are poor primarily because their families and neighborhoods are poor. Although "community" is a problematical term,[45] it is nonetheless apt

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41. *See id.* at 37-38.

42. *Id.* at 38.

43. *Id.*

44. *Id.*; *see also* Louise G. Trubek, *Embedded Practices: Lawyers, Clients, and Social Change*, 31 Harv. C.R.-C.L. L. Rev. 415, 448 (1996) ("I want my clients to feel that we are all challenging the system together and that, although I have a distinct role, I am their comrade in a common struggle.").

45. As Regina Austin points out: "Though the ubiquitous experience of racism provides the basis for group solidarity, differences of gender, class, geography, and political affiliations keep blacks apart. These differences may be the best evidence that a single black community no longer exists." Regina Austin, *"The Black Commu-*

in the context of the client poverty to be addressed here. Community, here, is not a romantic abstraction, but rather the site of material deprivation and relations that are formed to cope with oppressive circumstances. It is not, however, simply an adaptation to a culture of poverty or a culture of segregation. It is homeplace.[46] As George Revill argues:

> The value of community as a concept in this context is that it throws into prominence the tensions between . . . peoples and places. It is not that it enables us to identify a stable or even dominant set of social and cultural characteristics by which a particular place or group of people might be identified. *Rather, community focuses interest on the processes that create a sense of stability from a contested terrain in which versions of place and notions of identity are supported by different groups and individuals with varying powers to articulate their positions.*[47]

The community-based notion of cause lawyering not only allows us to situate our clients as a social group, but also compels us to confront their problems as public issues that reflect systemic "contradictions" or "antagonisms" rather than as "personal troubles."[48] This in turn directs us to adopt a mission of social justice that redresses oppression. Thus, social justice furthers liberation and entails establishing freedom from the features of oppression. These features, as identified by Iris Young, are exploitation, marginalization, powerlessness, cultural imperialism, and violence.[49] David Harvey would add "a further dimension concerning freedom from the oppressive *ecological consequences* of others' actions."[50] Significantly, within the context of inner-city poverty, these multiple forms of oppression often coalesce in

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nity," Its Lawbreakers, and a Politics of Identification, 65 S. Cal. L. Rev. 1769, 1817 (1992) (footnote omitted).

46. Austin observes:
   Only blacks who are bound by shared economic, social, and political constraints, and who pursue their freedom through affective engagement with each other, live in real black communities. To be a part of a real black community requires that one go Home every once in a while and interact with the folks. To keep up one's membership in such a community requires that one do something on-site.

Id.; see also John O. Calmore, *Racialized Space and the Culture of Segregation: "Hewing a Stone of Hope from a Mountain of Despair"*, 143 U. Pa. L. Rev. 1233, 1271 (1995) [hereinafter Calmore, *Racialized Space*] ("When there is nowhere to run and nowhere to hide, people must make a stand in place, at one's home base. For many of the inner-city poor, this is their predicament.").

47. George Revill, *Reading* Rosehill: *Community, Identity and Inner-City Derby*, *in* Place and the Politics of Identity 117, 120 (Michael Keith & Steven Pile eds., 1993) (emphasis added).

48. C. Wright Mills, The Sociological Imagination 8-9 (1959) ("Perhaps the most fruitful distinction with which the sociological imagination works is between 'the personal troubles of milieu' and 'the public issues of social structure.'").

49. *See* Iris Marion Young, Justice and the Politics of Difference 48-63 (1990).

50. David Harvey, *Class Relations, Social Justice and the Politics of Difference, in* Place and the Politics of Identity, *supra* note 47, at 41, 56.

synergistically interlocking ways.[51] They constitute the packaged op-
portunity-denying circumstances that must be redressed. They direct
our responsive intervention as legal advocates and they map our social
justice projects.

Our social justice project's primary focus must be on helping people
to break free from the interlocking features of oppression. Oppres-
sion is at the heart of a condition-directed orientation toward re-
dress.[52] According to Marilyn Frye, a ubiquitous feature of
oppression is "the double bind—situations in which options are re-
duced to a very few and all of them expose one to penalty."[53] Over
the years of practicing poverty law from Roxbury to Watts, I was con-
tinually struck by the apparently optionless world that most of my cli-
ents inhabited. I never associated it with oppression, but rather I saw
it as a lack of social and monetary capital. I continued to believe in
the myth of Horatio Alger. I simply failed to see the predicament of
my clients as oppression—as something that was group-based, struc-
tured, and systemic. The life of the oppressed "is confined and shaped
by forces and barriers which are not accidental or occasional and
hence avoidable, but are systematically related to each other in such a
way as to catch one between and among them and restrict or penalize
motion in any direction."[54] The constraint is analogous to that of liv-
ing within a cage where, in Frye's view, "all avenues, in every direc-
tion, are blocked or booby trapped."[55] Thus, many of the problems
my clients brought to me were recurring: another eviction, another
welfare cut, another police beating, another inability to pay bills, an
endless and miscellaneous list of booby traps. I did not see that they
were linked problems that represented a cage-like structure.

When I represented white working-class clients in Hayward, Cali-
fornia in the mid-1970s, I did not really appreciate the race-based ex-
acerbation of poverty that distinguished them from my black and
Latino clients. At that time, I was not sharp enough to see the inter-
section between race and class that I came to see much later in the
1980s. I saw my minority clients as being in a similar boat as the white
poor. I knew that Appalachian poverty was different from Harlem
poverty, but it was still primarily a class experience that was being
played out in different locations. It is the feature of racialized pov-
erty, however, that calls attention to group specificity and the fact that
oppression is primarily a function of social group association.[56] The
compounded oppression of race-class is the qualitative difference be-

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51. *See id.* at 56-57.
52. *See* Calmore, *Critical Race Theory, supra* note 2, at 2206.
53. Marilyn Frye, *Oppression, in* Power, Privilege, and Law: A Civil Rights
Reader 60, 60-61 (Leslie Bender & Dann Braveman eds., 1995).
54. *Id.* at 62.
55. *Id.*
56. *See* Young, *supra* note 49, at 42 ("Oppression refers to structural phenomena
that immobilize or diminish a group.").

tween black-brown poverty and white poverty. My white clients certainly experienced the hardships of poverty. But they generally did not experience these hardships as a social group that was oppressed at the intersection of race *and* poverty. Almost never did they experience them at the tripartite intersection of race, space, and poverty. When we look at oppression, we must look at the specific social group experience and respond accordingly.

We must also pay attention to the structured aspect of poverty. Clearly poor people must take responsibility for their lives and battle the forces that might compel them to engage in dysfunctional behavior. But this responsibility is not enough, because, as Young points out:

> Oppression in the structural sense is part of the basic fabric of a society, not a function of a few people's choice or policies. You won't eliminate this structural oppression by getting rid of the rules or making some new laws, because oppressions are systematically reproduced in major economic, political, and cultural institutions.[57]

The inner-city poor are oppressed by "the normal ongoing processes of everyday life."[58] When we speak of empowerment and transformation, we should be referring not only to disrupting stark hierarchy and power imbalances, but also to changing the processes of everyday life as lived by those within the client community.[59]

Finally, cause lawyering must develop a critical vocabulary to present race and racism as part of the poverty story. Here, critical race theory can be useful to the practice.[60] It informs us that race and racism are always concepts in formation. Our notion of race and our experience with racism do not represent fixed, static phenomena. Racism is more than the intentional behavior of the occasional bad actor. Racism mutates and multiplies, creating a range of racisms. We must be able to bring up issues of race and racism without the terms always leading to fear, alienation, and off-point debate. There is no such thing as colorblind poverty. We must appreciate that because the inner-city poor are approximately seventy-five percent black and brown, inner-city poverty itself is "raced."[61] One simply cannot seek eco-

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57. Iris Marion Young, *Five Faces of Oppression, in* Power, Privilege, and Law: A Civil Rights Reader, *supra* note 53, at 66-67.

58. *Id.* at 67-68.

59. *See id.*

60. *See* john a. powell, *Race and Poverty: A New Focus for Legal Services,* 27 Clearinghouse Rev. 299, 300-04 (1993); Margaret M. Russell, *Entering Great America: Reflections on Race and the Convergence of Progressive Legal Theory and Practice,* 43 Hastings L.J. 749, 750 (1992).

61. As john powell explains, in a top-down process "race operates as a verb before it assumes significance as a noun." john a. powell, *The "Racing" of American Society: Race Functioning as a Verb Before Signifying as a Noun,* 15 Law & Ineq. J. 99, 104 (1997). Similarly, Kendall Thomas explains that "we are 'raced' through a constellation of practices that construct and control racial subjectivities." Kendall Thomas, *The Eclipse of Reason: A Rhetorical Reading of* Bowers v. Hardwick, 79 Va. L. Rev. 1805,

nomic justice and equal treatment for the poor by separating the quest from considerations of the raced aspects of context, history, social organization, institutional arrangements, and culture.[62]

As Michael Omi notes, "racial and ethnic categories are often the effects of political interpretation and struggle and those categories in turn have political effects."[63] Additionally, Omi reminds us that while we often correlate race with such matters as residential patterns, job qualifications, culture, academic achievement, criminal behavior, welfare dependency, and intelligence, we do so "without problemetizing the concept of race itself."[64] Thus, we fail to appreciate the shifting parameters that mark the consideration of race—"how group interests are conceived, status is ascribed, agency is attained and roles performed."[65] If our advocacy on behalf of the inner-city poor fails to incorporate this understanding, we are likely not only to be ineffective, but also to provide a disservice to the client community. We will disrespect the fullness of their predicament. The changes we seek will not be sufficiently fundamental.

II. REPRESENTING CLIENTS IN POVERTY AND PLACE

A key aspect of cause lawyering is understanding that individual clients cannot be treated as separate from their racial, geographical, and class identities. Rather, as this part demonstrates, race, class, and "place" often converge to inform both individual client identity and societal perceptions of certain groups.

A. *The Significance of Intersectional Analysis*

In the early 1970s, Robert Blauner observed that "[r]ace affects class formation and class influences racial dynamics in ways that have not yet been adequately investigated."[66] The focus on race-class intersectionality aids in furthering this badly needed investigation of the mutual race-class/class-race dynamics along with their mutual causes and effects. Intersectional analysis also aids in challenging essentialist conceptions of identity that fail to take into account that racial identity does not reduce itself to a monolithic experience, but, rather, is variously constituted in differentiating ways—such as race, gender,

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1806-07 (1993). Regarding the racing of Asian-Pacific Americans, see Natsu Taylor Saito, *Alien and Non-Alien Alike: Citizenship, "Foreignness," and Racial Hierarchy in American Law*, 76 Or. L. Rev. 261, 289-95 (1997).

62. *See* john a. powell & Marguerite L. Spenzer, *Remaking the Urban University for the Urban Student: Talking About Race*, 30 Conn. L. Rev. 1247, 1286 (1998).

63. Michael Omi, *Racial Identity and the State: The Dilemmas of Classification*, 15 Law & Ineq. J. 7, 23 (1997).

64. *Id.* at 21.

65. *Id.*

66. Robert Blauner, Racial Oppression in America 28-29 (1972).

and class—within a single social group.[67] It also aids in looking at the features and dynamics of context, framing the interaction and interrelationships of race and class, of racism and economic class subjugation.[68] Hence, this Article draws attention to the plight of a very specific group of poor clients. I focus on those who are caught within the oppressive "intersectional trap" that Chester Hartman refers to as "the ways our society creates and maintains a large stratum of the population who are both poor and subject to subordination by the dominant white majority."[69] I seek to extend the intersection of race and class, and moreover, resituate it more clearly within the constraining, concentrated, isolating circumstances that are uniquely associated with the spatial dimensions of ghetto and barrio life.[70] Although I narrowly define my claimant class or client community, black and brown people constitute nearly seventy-five percent of the eight million people who are living within neighborhoods of high poverty.

The issues confronting the inner-city poor point to a series of problems that we can trace to the inter-connected dynamics of racialized poverty, residential segregation, and the long history of racism.

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67. *See* Angela R. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 Stan. L. Rev. 581, 585 (1990).

68. *See* Calmore, *Exploring, supra* note 2, at 215. Intersectionality is most developed within the school of critical-race feminism. *See* Critical Race Feminism: A Reader 7-80 (Adrien Katherine Wing ed., 1997). Much of the theoretical work on intersectionality has been undertaken by Kimberlé Crenshaw, who describes it as a concept to denote "the various ways in which race and gender interact to shape the multiple dimensions of black women's . . . experiences." Kimberlé Williams Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, in* Critical Race Theory: The Key Writings that Formed the Movement 357, 358 (Kimberlé Williams Crenshaw et al. eds., 1995). The experiences of black women, for example, are not fixed within traditional boundaries of race or gender. The intersection of racism and sexism must be taken into account to appreciate how these women's experiences of subordination cannot be captured completely by viewing separately the race or gender dimensions of their experiences. *See id.* Finally, although intersectionality is closely related to antiessentialism, it is distinguishable in that intersectionality recognizes both multiple dimensions to identity and the ongoing necessity of group politics. *See id.* at 375. As Crenshaw claims:

> Recognizing that identity politics takes place at the site where categories intersect thus seems more fruitful than challenging the possibility of talking about categories at all. Through an awareness of intersectionality, we can better acknowledge and ground differences among us and negotiate the means by which these differences will find expression in constructing group politics.

Id. at 377.

69. Chester Hartman, *Editor's Introduction* to Double Exposure: Poverty and Race in America at xix, xix (Chester Hartman ed., 1997).

70. *See* Calmore, *Racialized Space, supra* note 46, at 1248 n.76. Perhaps due to the designation of Asians as a model minority (which is partly true, but mostly a myth), Asian poverty has received little attention by legal scholars. Regarding Asians and racialized space, however, see Andrew L. S. Leong, *A Practical Guide to Establishing an Asian Law Clinic: Reflections on the Chinatown Clinical Program at Boston College Law School,* 2 Asian Pac. Am. L.J. 83 (1994).

In order to understand the range of racisms in the United States we must appreciate the role that class plays and the relationship between race and class. The most constraining aspect of this relationship may be the way in which it is manifested in ghetto and barrio life. Thus, we must have a comprehensive view of the conditions to be redressed. We must recognize, as john powell observes, that "[r]ace and racism have had, and continue to have, a profound impact not only on who is poor in our society but also on the meaning of poverty and the policies that we adopt and fail to adopt."[71]

In looking at the racial and ethnic data regarding neighborhood poverty, I am struck by two things. First, it is really not a significant problem for whites, as only one percent of all non-Hispanic whites live in poor neighborhoods. Second, for this reason, racism may continue to cultivate broad societal neglect and block efforts at grand-scale redress. As John Payne observes: "Racial discrimination is not far below the surface of economic discrimination. Our society simply would not tolerate the amount of poverty found in black and other minority communities if whites were proportionally as poor as these less-favored groups."[72] I believe that Payne's observation is an accurate reflection of today's neglect of race-based need. Worse, his observation reflects on a legacy where the intersection of race and poverty has dampened the nation's commitment to bold anti-poverty redress.

Indeed, Hugh Heclo explicitly ties a retreat from fundamental antipoverty policy to the disproportionate numbers of blacks to be affected. He observes that during the 1960s "[t]he minority status of all blacks left antipoverty policy highly vulnerable to white liberal doubts and antiblack racist sentiment."[73] White support for racial justice remained strong as long as moral issues were salient in the civil rights movement—issues associated with addressing such matters as state-sanctioned segregation, political disenfranchisement, and antiblack violence, largely in the South. Support waned, however, when the movement's attention was redirected to the economic aspects of racial inequality. Heclo states, "[a]s the civil rights movement moved north after 1964 and pressed demands for open housing, busing, and affirmative action, the northern white civil rights constituency began melting away and undermining the political foundations of antipoverty pol-

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71. john a. powell, *Introduction* to Double Exposure: Poverty and Race in America, *supra* note 69, at 3, 12.

72. John M. Payne, *Title VIII and Mount Laurel: Is Affordable Housing Fair Housing?*, 6 Yale L. & Pol'y Rev. 361, 370 (1988); *see also* Deirdre Martinez & Sonia M. Perez, *Diverse Needs, Diverse Solutions: Toward a Latino Anti-Poverty Agenda*, 1 Geo. J. on Fighting Poverty 55, 55-56 (1993) ("[U]nlike other American workers, the large majority of Hispanics are unable to depend on their jobs for economic stability . . . .").

73. Hugh Heclo, *The Political Foundations of Antipoverty Policy, in* Fighting Poverty: What Works and What Doesn't 312, 323 (Sheldon H. Danziger & Daniel H. Weinberg eds., 1986).

icy."[74] Many, perhaps most, Legal Services attorneys and other lawyers for the poor may have been deterred or detoured by the right-wing backlash against challenging the economic aspects of racial inequality. Too often we have simply treated poverty law practice as redressing the problems of poor people who were largely fungible clients who stood on common ground, as poor people. We have shied away from interjecting a racial element into the advocacy. This has been, and continues to be, a terrible flaw in our practice.[75]

B. *The Anchor of Context: Racialized Class-Space*

As I mentioned earlier, there are many ways in which inner-city poverty is different from other poverty. Those who experience it live under harsh and interlocking circumstances that reinforce the elements of poverty in ways that are very different from those of other poor people. Not only is their space generally racialized, but also they are socially isolated, geographically constrained, and, for many, their poverty is concentrated within high-poverty neighborhoods. Thus, they experience poverty not simply as individuals, but as members of a poor community, which is why I refer to them as clients in poverty *and* place.

The racialized inner-city poor, particularly African Americans and Puerto Ricans, experience concentrated poverty in their neighborhoods that is compounded by a spatial and geographic marginalization that deepens their intersectional racist and economic subordination. Within this context of ghetto and barrio poverty, geographic racism operates in a way that manifests the effects of what Michael Harrington has called "the new poverty."[76] In the context of past poverty, the poor suffered from deprivation, constrained opportunity, and exploitation. These marked their economic inequality. A significant segment of today's poor, in contrast, are superfluous not only to the economy, but also to the nation's societal organization.[77] To appreciate their isolation and expendability, it is important to understand that social organization is a comprehensive context. William Julius Wilson characterizes social organization as "the working arrangements of society, including those that have emanated from previous arrangements, that specifically involve processes of ordering relations and

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74. *Id.*

75. According to Florence Roisman and Philip Tegeler: "Although many legal services clients are members of racial or ethnic minority groups and are restricted to housing that is both separate and unequal, past years saw relatively little race-based housing litigation by legal services attorneys." Florence Wagman Roisman & Philip Tegeler, *Improving and Expanding Housing Opportunities for Poor People of Color: Recent Developments in Federal and State Courts—Part I: Race-Based Federal Claims,* 24 Clearinghouse Rev. 312, 313 (1990).

76. Michael Harrington, The New American Poverty 9 (1984) ("The poverty of the eighties is different from all those poverties that preceded it.").

77. *See id.* at 231-36, 252-55.

actions with respect to given social ends, and that represent the mate-
rial outcomes of those processes."[78]

The condition to be redressed under these circumstances is the face
of oppression that Iris Young calls marginalization: "Marginalization
is perhaps the most dangerous form of oppression. A whole category
of people is expelled from useful participation in social life and thus
potentially subjected to severe material deprivation and even extermi-
nation."[79] Young also notes that "increasingly in the United States
racial oppression occurs in the form of marginalization rather than
exploitation. Marginals are people the system of labor cannot or will
not use."[80] Similarly, Katz characterizes marginalization as "the pro-
cess whereby some combination of factors—for instance, technologi-
cal change, racial competition, or government action—pushes groups
to the edges of the labor force, leaving them redundant, unwanted, or
confined to the worst jobs."[81] As a fundamental criticism, marginal-
ization theory must be recognized before society can attempt to re-
dress the conditions and lived experiences of a significant number of
the inner-city poor. Moreover, marginalization should direct the at-
tention of cause lawyering in seeking to redress particular injustices.

Peter Marcuse identifies three striking spatial developments that
have occurred since the 1970s.[82] Urban space is now arranged in a
hierarchy that reflects new patterns of increased economic, social, and
political separation. Legal advocacy on behalf of the inner-city poor
must recognize the interrelationships at work here and our practice
must be responsive to them. Within the spatial hierarchy, at bottom is
the largely abandoned city, in between is the suburban city, and at top
is the luxury city. These spatial developments include the transforma-
tion of earlier racial and ethnic ghettos, whose white-ethnic occupants
experienced the ghetto as a point of departure, into the present ghet-
tos that society now excludes, abandons, and separates from others by
social, economic, and often physical barriers.

A second development is a qualitatively new phase of suburbaniza-
tion. No longer dependent on the central city for employment, serv-
ices, or cultural or entertainment outlets, there is an increasing
"totalizing suburban development, in which 'edge cities' are created
combining residential, business, social, and cultural areas, removed
from older central cities, overlaid on earlier patterns of suburbaniza-
tion."[83] While white suburbs have historically represented racial and
class exclusion, there has been some dependence on central cities and

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78. Wilson, *supra* note 15, at 132-33.
79. Young, *supra* note 49, at 53.
80. *Id.* Unfair treatment of Latino and Asian immigrant workers, however, may
reflect racist exploitation.
81. Katz, *supra* note 3, at 452.
82. *See* Peter Marcuse, *The Ghetto of Exclusion and the Fortified Enclave: New
Patterns in the United States*, 41 Am. Behav. Scientist 311, 311 (1997).
83. *Id.* at 311-12.

some relation to a region as metropolitan. The totalizing environment of the suburb is a new and dramatic increase in localistic insularity and self-sufficiency. This development parallels the transformation of upper-class living areas, which are similarly totalizing, as separate, often gated communities. In Marcuse's view, "[t]he three developments are intimately connected with each other and mutually reinforcing."[84] While not entirely new, these developments "are new phenomena that represent a combination of old and well-known processes with elements that are substantively new."[85]

Traditional ghettos were sites of opportunity through exploitation. The residents were confined by dominant interests not only to facilitate a strong measure of social control but also to channel ghetto activities in a way to further dominant economic interests.[86] The new ghetto of the excluded is very different. According to Marcuse, here race and class intersect "in a spatially concentrated area where residents' activities are excluded from the economic life of the surrounding society, which does not profit significantly from its existence."[87] Society is less inclined to use these residents, even under circumstances of exploitation, because "of fear that their activities, not controlled, may endanger the dominant social peace."[88]

This ghetto, moreover, is conceptually different from an enclave. An enclave is also a spatially concentrated area, but one within which "members of a particular population group, self-defined by ethnicity or religion or otherwise, congregate as a means of enhancing their economic, social, political, and/or cultural development."[89] Transcending class, many African-American, Latino, and Asian communities are spatially organized as cultural and/or immigrant enclaves. Many suburbs are also enclaves, but they are racially or economically exclusionary. As Marcuse says:

> The exclusionary enclave, although not new, plays a new role today, both quantitatively and qualitatively. It differs from other forms of enclaves (although there are shared characteristics) in that its residents, intermediate and insecure in their economic, political, and social relationships to the outside community, wish to "protect" themselves from a perceived danger from below.[90]

Marcuse's description is particularly helpful in distinguishing the black ghetto today from the ethnic or cultural enclaves of white immigrants. Often those who rely on an equality of opportunity policy fail to appreciate this distinction. Moreover, the black ghetto of exclusion is

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84. *Id.* at 312.
85. *Id.* at 313.
86. *See id.* at 314.
87. *Id.*
88. *Id.*
89. *Id.*
90. *Id.*

different from the Mexican barrio, with the latter often representing an enclave. Puerto Ricans, largely concentrated in New York, resemble blacks living in the ghetto of exclusion. Hence, understanding why blacks and Latinos have come to occupy their place in society and how they can move on, will call for group-specific, different analyses. In many ways, Latinos may be subjected to racist discrimination and exploitation more than to racist marginalization.

As we view the context of space within Marcuse's descriptive framework, we see relationships that reinforce the marginalization and exploitation of the inner-city poor. We also see features that belie the story of the nation as an open society. This reality renders quite problematic remedies that are predicated on the civil rights tenets of colorblindness, individual equality of opportunity, and integration through assimilation. We also see how much of the inner-city poor's subordination is place-directed from one space to another.

If we enter the context of poverty described here, it is not enough to direct intervention efforts at what occurs within poor communities. Rather, we must affect inter-spatial relationships. Spatial organization within the ghetto is now in a new relationship to related spatial organization. This geographic separation of blacks primarily, but also some Latinos, has important political consequences. Through the process of racialization it transforms many urban problems, particularly those associated with living in the city, into black and Latino problems. Indeed, the array of problems associated with city life get reduced to the black and brown poor, so that they become the problem.[91] As Margaret Weir notes, "[t]his geo-political separation exacerbates the disconnection of the black [and brown] poor from whites, as the fate of the city becomes not a shared interest, but part of a battle over how resources will be distributed across political boundaries."[92]

From within the client community's context of lived experience and in collaboration with that community, how to intervene more effectively in this allocation of resources battle is a fundamental problem to be solved. Moreover, this battle is tied to issues of power and collective identity. This is particularly true when considered in light of Marcuse's analysis, because within his spatial hierarchy there are virtually no perceived mutual interests that would motivate groups to work together across boundaries. Indeed, from within each dominant group's boundaries, they look inward to perpetuate an insular, defensive localism that personifies the racialized inner-city poor as threats to their personal safety and their neighborhood's quality of life. Rigid exclusion of those below is the watchword.

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91. *See* Margaret Weir, *From Equal Opportunity to "The New Social Contract": Race and the Politics of the American "Underclass", in* Racism, the City and the State, *supra* note 11, at 93, 104.

92. *Id.* (citation omitted).

Under these circumstances, I am not sure what access to the mainstream "opportunity structure"[93] means, in practical terms, for those at the subordinating intersection of race, space, and poverty. Thus, for example, as Jargowsky points out, "[g]hetto dispersal, mobility strategies, and enterprise zones have a common flaw: they have little effect on the economic and social systems that give rise to geographic fragmentation of metropolitan areas."[94] The aspiration, as he says, must be "to find a new and viable structure for metropolitan areas in the twenty-first century, a larger urban *community* rather than an agglomeration of separate and antagonistic *places.*"[95]

C. *Beyond Location: The Inner-City as a Place*

In looking at the spatial dimensions of living, we usually refer to location rather than place. In buying a house we are reminded by realtors that the three most important values are "location, location, location." Location attaches or detaches us from a viable opportunity structure. As Douglas Massey observes: "Where you live determines the chances you get in this world . . . . It determines the school your children go to, the crime you're exposed to, the peer influences on your children. If you're isolated from the mainstream, it's not a fair world, it's not a fair contest."[96] Similarly, Gary Orfield states:

> [A] family's spatial location determines so much in our sprawling, highly segregated metropolitan areas. It not only determines whether or not one's children will grow up in a multiracial setting with friends of different groups but it also determines the quality of schools, the level of municipal services, increases in housing value, relative tax burdens, ease of access to work, safety, and much else.[97]

These observations focus on location instrumentalism—a geography of opportunity that "locates" white space as privileged over colored space. Location is viewed as objective, neutral, and relatively fixed. As locations are compared, some are deemed desirable and others undesirable. The danger here is that those who reside in the latter locations are also deemed undesirable or helpless. We write off certain locations and we write off those who live there. In distinguishing location from place, we can come into the lives of the client community and hear their counter-stories to inform us of their definition of their situation, because their place is the site of their identity and

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93. George C. Galster, *Polarization, Place, and Race, in* Race, Poverty, and American Cities 186, 215 (John Charles Boger & Judith Welch Wegner eds., 1996).

94. Jarogowsky, *supra* note 13, at 206.

95. *Id.* at 213.

96. Isabel Wilkerson, *Study Finds Segregation in Cities Worse Than Scientists Imagined,* N.Y. Times, Aug. 5, 1989, at A6 (quoting Douglas S. Massey).

97. Gary Orfield, *The Movement for Housing Integration: Rationale and the Nature of the Challenge, in* Housing Desegregation and Federal Policy 18, 18 (John M. Goering ed., 1986).

action. It is a source of their self-described, rather than imposed, cultural meaning. Their space is much more than where they are located. It is their place.

The distinction between "location" and "place" is more than a play on words. For example, J. Nicholas Entrikin argues that "the significance of place is associated with the fact that as actors we are always situated in place and that the context of our actions contribute to our sense of identity."[98] He adds that the significance of place is also linked to the "situatedness" and related issues of self-identity and action.[99] Within ghetto and barrio life, place and identity are tied together and bonded by culture. It is not necessarily a culture of poverty. It is a culture of resistance to oppression. It is a culture of survival. It is, most importantly, a culture of making do and progressing against the odds, in spite of residing in a poor location. It is in place that agency is exercised. It is where personal identity is forged with collective identity.

We assign values to places in relation to our projects. It is where base building must occur. As Yi-Fu Tuan explains: "Place is not only a fact to be explained in the broader frame of space, but it is also a reality to be clarified and understood from the perspectives of the people who have given it meaning."[100] When space is reduced to location the inner-city poor are turned into objects to be manipulated within the built environment and an instrumental rationality is exercised to their detriment. According to Stephen Haymes: "[P]eople and things are given importance only in terms of their function with respect to locations. Such a perception favors those groups whose interests dominate decisions about the organization of space."[101]

This subordinating spatial organization is illustrated in suburban formation, urban renewal and displacement, exclusionary zoning, gentrification, public housing site selection, and environmental inequities. It is illustrated in the spatial hierarchy that Marcuse has described, consisting of the ghetto of the excluded, the totalizing suburb, and the luxury citadel.

Thus, we must join inner-city client communities in our *shared* recognition that "all spatialities are political because they are the (covert) medium and (disguised) expression of asymmetrical relations of power."[102] This means that legal advocacy of impact must join in the client community's challenges to that hegemony which is expressed in

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98. Stephen Nathan Haymes, Race, Culture, and the City: A Pedagogy for Black Urban Struggle 89 (1995) (quoting J. Nicholas Entrikin).

99. *Id.*

100. *Id.* at 100 (quoting Yi-Fu Tuan).

101. *Id.* at 92.

102. Michael Keith & Steve Pile, *Introduction Part 2: The Place of Politics, in* Place and the Politics of Identity, *supra* note 47, at 22, 38.

terms of place, politics, and identity. Failure here is to retreat from the necessary cutting edge of cause lawyering.

III. ADVOCACY WITHIN THIRDSPACE: DEVELOPING SOCIAL CAPITAL

This part examines Edward Soja's and bell hooks's "thirdspace" perspective in an effort to restructure inner-city poor neighborhoods. It also looks at the effects of the designation "underclass" and the importance of the connection between social capital and housing policy.

A. *The Real-and-Imagined Inner-City of "Thirdspace"*

Among others, Edward Soja and bell hooks have conceptualized a "thirdspace" that enables us to re-imagine space. Together, Soja and hooks attempt to move us beyond traditional binarianims and into a thirdspace that is rooted in a recombinational and radically open perspective. Soja adopts what he calls a critical strategy of "thirding-as-Othering" in an attempt "to open up our spatial imaginaries to ways of thinking and acting politically that respond to all binarisms, to any attempt to confine thought and political action to only two alternatives, by interjecting an-Other set of choices."[103]

Soja is not suggesting that binary choice should be rejected categorically, but, rather, that this choice be placed within a creative process of restructuring. In this way, we can draw "selectively and strategically from the two opposing categories to open new alternatives."[104] Binary choices include historical and sociological modernism and postmodernism, and integration and community enrichment. Soja theorizes a thirdspace that would provide "for a more open and combinatorial perspective."[105] Hence, thirdspace represents "a creative recombination and extension, one that builds on a Firstspace perspective that is focused on the 'real' material world and a Secondspace perspective that interprets this reality through 'imagined' representations of spatiality."[106] Thirdspace puts us on a journey to "a multiplicity of *real-and-imagined* places."[107]

In order to deal in thirdspace, we must become ambidextrous advocates, akin to a switch hitter in baseball. Like a switch hitter, "[m]odernist identity politics has always had to face reactionary hegemonic resistance and reformist liberal diversion."[108] While we clearly

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103. Soja, *supra* note 23, at 5.
104. *Id.*
105. *Id.* at 6.
106. *Id.*
107. *Id.*
108. Edward Soja and Barbara Hooper, *The Spaces that Difference Makes: Some Notes on the Geographical Margins of the New Cultural Politics, in* Place and the Politics of Identity, *supra* note 47, at 183, 187.

identify the former as "them," we often fail to include ourselves, as legal advocates, among the reformist liberal diversions against whom the inner-city poor must also battle. Perhaps, by adopting a third-space sensitivity, we can avoid harming the client community with our friendly fire.[109]

In a related way, bell hooks directs us to a counter-hegemonic form of *spatial praxis*. Our advocacy must incorporate more of a bottom-up perspective, not exclusively, but more than we presently do. This ties in with the thirdspace notion of disordering modernist binaries—lawyer and client perspectives, for example—and promoting new and radically different cultural politics. hooks points out that "[u]nderstanding marginality as position and place of resistance is crucial for oppressed, exploited, colonized people."[110] For those of us who reside outside of the intersection of race, space, and poverty, but who desire to enter, intervene, and work with those who do, this observation would help us to understand how they are not overwhelmed by their pain and deprivation. It explains how they resist certain hopelessness and "despair, a deep nihilism [that could penetrate] in a destructive way."[111]

Here, too, we can better appreciate why we cannot come into the picture with canned claims and prayers for relief. We must be open to being used by the client community in ways that they deem appropriate. We can provide technical assistance and advocacy perspective; we can enhance their stories; and we can help them to leverage their positions. We cannot eliminate poverty; we cannot really move very many out of poverty. But we can join the political project by occupying the real-and-imagined worlds on the margin and helping the community to reclaim these spaces as places of radical openness and possibility.

Community building from thirdspace means that we attempt to further establish these communities as:

> [T]he sites where one's radical subjectivity can be activated and practiced in conjunction with the radical subjectivities of others. It is thus a spatiality of inclusion rather than exclusion, a spatiality where radical subjectivities can multiply, connect, and combine in polycentric communities of identity and resistance; where "frag-

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109. Accordingly Soja explains:
> This creative spatialization involves more than wrapping texts in appealing spatial metaphors. It is a vital discursive turn that both contextualizes the new cultural politics and facilitates its conceptual re-visioning around the empowerment of multiplicity, the construction of combinatorial rather than competitively fragmented and separated communities of resistance. It also leads to a new spatial conception of social justice based on the politics of location and the right to difference within the revised situational contexts of post-modernity.

Soja, *supra* note 23, at 96. Additionally, this approach may well help to resolve conflicts between people of color within shared space.
110. bell hooks, Yearning: Race, Gender and Cultural Politics 150 (1990).
111. *Id.*

mentation" is no longer a political weakness but a potential
strength: the spatiality searched for but never effectively discovered
in modernist identity politics.[112]

Often when I speak of "spatial equality" or community enrichment, I
am told that I am being rhetorical and impractical. But if you judge
efforts by results, this postmodern dream is no more rhetorical, im-
practical, or crazy than the attempt to integrate inner-city poor with
the white suburbs, a strictly limiting firstspace move. While it should
still be pursued, integrationists should not assume a monopoly on re-
medial effectiveness or on definitions of "doing the right thing."
While I favor integration, generations are likely to die before it is a
significant occurrence. We simply cannot wait for it any longer.

B. *Fighting the "Underclass" Label and Developing Social Capital*

A good deal of debate about policy responses to the ghetto poor,
barrio poor, and neighborhood poverty itself is distorted because
these poor and their poverty are over-inclusively associated with the
image of the undeserving poor. These people are deemed to make up
the so-called underclass groups—the inner city, the persistently im-
poverished, the jobless, the uneducated, the criminal, the violent, and
welfare underclasses.[113] The designation of underclass is more than a
reference to poverty. It incorporates a societal judgment that these
poor violate mainstream rules or norms of behavior. These poor are
seen as living in a self-perpetuating culture of poverty that causes
them to be so alienated and damaged that even if there were improve-
ments in their economic condition and increased access to a viable
opportunity structure, they would be unable to take advantage of
these changes. The remedial focus is on changing their behavior and
values rather than changing their structured inequality. Thus, from
the far right-wing perspective, Patrick Buchanan expresses this view:

> The real root causes of the crisis in the underclass are twofold.
> First, the old character-forming, conscience-forming institutions—
> family, church, and school—have collapsed under relentless secular
> assault; second, as the internal constraints on behavior were lost
> among the black poor, the external barriers—police, prosecutors,
> and courts—were systematically undermined . . . .
>
>   What the black poor need more than anything today is a dose of
> the truth. Slums are the products of the people who live there . . . .
>
>   The first step to progress, for any group, lies in the admission that
> its failures are, by and large, its own fault, that success can come
> only through its own efforts, that, while the well-intentioned out-
> sider *may* help, he or she is no substitute for personal sacrifice.[114]

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112. Soja, *supra* note 23, at 99.
113. *See* Calmore, *Racialized Space, supra* note 46, at 1246-52.
114. Thomas Byrne Edsall & Mary D. Edsall, *Race,* Atlantic Monthly, May 1991, at
53, 80 (quoting Patrick Buchanan).

Some would associate these comments with an extremist position, but in less harsh terms a recent *New York Times* editorial follows suit. After detailing black-white income inequalities, it states that they are "more a problem of poor education, weak skills and the rise in single-parent families than of race."[115] Similarly, Stephen and Abigail Thernstrom claim that "the serious inequality that remains is less a function of white racism than of the racial gap in levels of educational attainment, the structure of the black family, and the rise in black crime."[116]

The underclass label is problematic in various ways. Labels are not mere words. They carry judgmental and normative connotations that can influence societal institutions and individuals to punish those who are stigmatically labeled. Behavioral labels and terms may illuminate certain behavior, but they may also hide the poverty that can cause the behavior that society deems to be negative. According to Herbert Gans, because "underclass" is a code word that implies that undeserving people are not or should not be in society, those who accept the term in this way justify excluding the poor from the rest of society without expressly admitting it.[117] Moreover, because the term underclass is racialized, it is a convenient way for masking antiblack or anti-Latino sentiments. As a racial code word, it "accommodates contemporary taboos against overt prejudice . . . . Such taboos sometimes paper over—and even repress—racial antagonisms that people do not want to express openly."[118]

By contesting such labeling as "culture of poverty" and "underclass behavior," Wilson points to the proper direction. He argues that "the key conclusion from a public policy perspective is that programs created to alleviate poverty, joblessness, and related forms of social dislocation should place primary focus on changing the social and economic situations, not the cultural traits, of the ghetto underclass."[119] I do not mean to suggest that there is no problematic behavior or dysfunctional values operating within the dynamics of ghetto or barrio life. In recognition of this, however, Wilson explains that many manifestations of inner city social dislocations should be analyzed as symptoms of racial-class inequality, not as cultural aberrations, and, therefore, "changes in the economic and social situations of the ghetto underclass will lead to changes in cultural norms and behavior patterns."[120]

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115. Editorial, *Black-White Income Inequalities*, N.Y. Times, Feb. 17, 1998, at A18.

116. Stephan Thernstrom & Abigail Thernstrom, America in Black and White: One Nation, Indivisible 534 (1997).

117. *See* Herbert J. Gans, The War Against the Poor: The Underclass and Anti-poverty Policy 59 (1995).

118. *Id.*

119. Wilson, *supra* note 15, at 138.

120. *Id.* at 159.

C.   *Developing Social Capital of Support and Leverage*

In discussing inner-city poverty, there is a perennial debate over whether remedial emphasis should be place-based or people-based.[121] I believe that a combinational development of social capital relaxes the tension between these options. According to Robert Lang and Steven Hornburg, "social capital" is a concept that generally refers to "the stocks of social trust, norms, and networks that people can draw upon in order to solve common problems."[122] There are two primary dimensions to social capital. First, there is a social glue aspect that refers to the degree to which people participate in group life. It relates to the amount of trust or comfort one experiences when identifying and participating in a social group.[123] The second aspect of social capital is a social bridging function that establishes links between groups. The bridges are important, because "they not only connect groups to one another but also give members in any one group access to the larger world outside their social circle through a chain of affiliations."[124] Both the glue and bridge aspects must be developed among the inner-city poor. In redressing their plight we must keep in mind that both stability and mobility are important.[125]

A full consideration of social capital is well beyond the scope of this Article, but we are increasingly recognizing a connection between social capital and housing policy that is also relevant to undertaking advocacy projects on behalf of the racialized, inner-city poor. We should pay closer attention to social capital theory and development. Robert Putnam identifies four interrelated challenges that lie ahead for social capital theorists:[126] (1) showing the usefulness of social capital in *new* domains; (2) developing a better understanding of *how* social capital works; (3) deepening our understanding of the varied forms of social capital and the cultural contexts in which these forms are found; and (4) understanding how social capital is created.[127]

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121. *See* Susan S. Fainstein & Ann Markusen, *The Urban Policy Challenge: Integrating Across Social and Economic Development Policy, in* Race, Poverty, and American Cities, *supra* note 93, at 142, 143-46.

122. Robert E. Lang & Stephen P. Hornburg, *What Is Social Capital and Why Is It Important to Public Policy,* 9 Housing Pol'y Debate 1, 4 (1998).

123. *See id.*

124. *Id.*

125. As Lang and Hornburg suggest:

> Applying the concept of social capital to public policy moves us beyond many artificial distinctions and demonstrates that both place-based and people-based strategies are needed to improve the lives of the poor. Using the concept to frame issues also helps us predict in which cases a people- or place-based policy, or some combination, is likely to work best.

Id. at 13. Here, I think we need to search for opportunities to employ a tandem approach.

126. *See* Robert D. Putnam, *Social Capital: Its Importance to Housing and Community Development—Foreword,* 9 Housing Pol'y Debate at v, v (1998).

127. *See id.* at v-vii.

Drawing upon the work of Xavier de Souza Briggs,[128] we must explore the ways in which social capital can help the inner-city poor gain upward mobility. Briggs, for example, has compared two groups' social support networks. Both groups consist of public housing tenants, one group residing in a predominantly African-American community and the other residing in a middle-income, racially-mixed suburb. His study indicates that the type of neighborhood is less significant to the mobility of poor youth than the social networks available to them. He distinguishes between social-support social capital and leveraged-opportunity social capital.[129] The first refers to social capital that helps one "get by or cope," while the latter refers to social capital that helps one "'get ahead' or change one's opportunity set through access to job information, say, or a recommendation for a scholarship or loan."[130] This form is about "access to clout and influence."[131] Mobility strategies emphasize this form of social capital as a coincidental benefit to integration. Changing-location strategies often neglect to appreciate the social support left behind. That support may include being able to get a ride from a friend or neighbor, to confide in someone, to get helpful advice, or to obtain a small, emergency cash loan.[132] As Briggs points out, "[a]lthough people at all income levels need social supports, coping capital is especially vital to the chronically poor, as it routinely substitutes for things that money would otherwise buy. Some of the most important supports we all rely on, though, are emotional and not material."[133]

I think it is wrong to emphasize mobility without appreciating the trade-offs between leveraging and coping social capital. As people move out of the inner-city communities, policy makers and advocates should not only look at the new access to opportunity, but should also look for ways to compensate for the loss of social networks. We must proceed simultaneously to develop both forms of social capital.[134] Perhaps, in this way, the tension between place-based remedies and

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128. *See* Briggs, *supra* note 24, at 179-80.
129. *See id.* at 178 (citation omitted).
130. *Id.* (citation omitted).
131. *Id.* (citation omitted).
132. *See id.* (citation omitted).
133. *Id.*
134. James Rosenbaum and his colleagues suggest how the Gautreaux Moving to Opportunity Program can be improved: There should be a supplement to the almost non-existent public transportation system in the suburbs, perhaps helping the movers to finance the purchase of a car. Additionally, both child care assistance and employment training are needed. *See* James E. Rosenbaum et al., *Can the Kerner Commission's Housing Strategy Improve Employment, Education, and Social Integration for Low-Income Blacks, in* Race, Poverty, and American Cities, *supra* note 93, at 273, 301; *see also* Florence Wagman Roisman, *Intentional Racial Discrimination and Segregation by the Federal Government as a Principal Cause of Concentrated Poverty: A Response to Schill and Wachter,* 143 U. Pa. L. Rev. 1351, 1377 (1995) (arguing that "[m]obility programs should be not only replicated but improved" along lines suggested by Rosenbaum).

people-based remedies can be relaxed, and those within and from inner-city communities can develop their potential as a whole people with strong community ties as well as broader access to a viable opportunity structure.

CONCLUSION

In discussing the difficulties of anti-discrimination advocacy, Kimberlé Crenshaw argues for the creation of an advocacy orientation that reflects a distinctly black political framework that "is informed by the actual conditions of Black people."[135] In her view, as distinguished from the civil rights vision, "this new approach should not be defined and thereby limited by the possibilities of dominant political discourse, but should maintain a distinctly progressive outlook that focuses on the needs of the African-American community."[136] This identifies a similar task at hand for representing those inner-city client communities who live within the intersectional constraints of race, space, and poverty.

Advocacy on behalf of these people and their places must be activist, bold, innovative, and radically progressive. It must also be site-specific and targeted in responding to the needs and aspirations of the inner-city poor as a distinct social group. In this response, it must proceed in, literally, an organic manner. It must transgress boundaries, including those that mark the professional role, socialization, and responsibility of attorneys. In representing inner-city poor people, universalistic perspectives and orientations are likely to be ineffective. In many cases, neither poor people nor their troubles can be viewed as fungible. In responding to, and working with, our client communities, we must identify which particular poor people and which particular contexts are the subjects, before we can map advocacy strategies.

When race and space are synergistically involved with poverty, race-neutral or color-blind poverty practice is naïvely wrong-headed. It reflects an approach that is both ahistorical and de-contextual. It badly underestimates the interlocking elements of oppression. In terms of redress sought, it stops us too far short. However good we may be at our craft, we may be too divorced from the client community in perspective, relations, and sensitivity. Lawyers, especially non-minority lawyers, may feel uncomfortable reading race into the story.

To all advocates, I wonder whether we can really "do good" without respecting the client community's voice, vision, and humanity. I know we pay lip service to issuing that respect, but nonetheless I wonder if our practice genuinely reflects it. It is our professional responsibility to do so. In responding to the actual conditions of the racialized, inner-city poor, we must direct our quest for the cause of social justice

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135. Crenshaw, *supra* note 32, at 1387.
136. *Id.*

with respectful regard and comprehensive understanding of a world that is foreign to us, even as we practice within it. Practicing law in the community is not a tourist adventure and, therefore, we must eschew the routine of the autonomous, interloping advocate who dreams up cases in the home office and then tests them on the community. That is, we must search for invitation, opportunity, and connection that legitimate our very presence and committed practice. An open mind and a correct sensibility may be more important than the command of technical craft, because often we must learn as we go. We must approach that learning in non-linear, non-laboratory ways. Learning within our client communities will likely respond to these places as "eco-system[s] of knowledge"[137] where learning is "multidimensional, often messy and confusing."[138] Only through this approach will advocates effectively become incorporated within the client community.

We must then escape the debilitating and reactionary features of "regnant" lawyering and adopt a progressively activist, yet patiently open, collaboration with the client community. This approach must not only reinforce the client community's coping energies of survival and its habits of resistance to the oppressive opportunity-denying circumstances of racial-spatial inequality and economic subjugation, but it must also accommodate our entry into the thirdspace, counter-hegemonic world of these communities. However strange it may seem there, we must respond as if it were at least tentatively familiar. We must come with a faith in the ability of those in these communities to hold fast to their struggles and their potential to, with support, transform life within these communities. Through collaborative support, we must have faith that our client base can reconstitute its communities as viable homeplaces. At the same time, we must recognize that empowerment must extend beyond support and agency from the communities within. It must go further and enable the clients to position themselves to reach out and to assume a greater entry into a more just and open society where opportunity can be leveraged in new and different ways.

Most of what I am articulating here is captured in bell hooks's observation that "[w]e are transformed, individually, collectively, as we make radical creative space which affirms and sustains our subjectivity, which gives us a new location [(I would say 'place')] from which to articulate our sense of the world."[139] From within the space of marginality we can come to know a situatedness that is, in part, self-chosen rather than oppressively imposed by external structures. This

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137. Ernest A. Lynton, *Knowledge and Scholarship, in* Metropolitan Universities: An Emerging Model in American Higher Education 87, 89 (Daniel M. Johnson & David A. Bell eds., 1995).

138. *Id.*

139. hooks, *supra* note 110, at 153.

marginalization does not write off people, but provides a vantage point from which to see and act differently. From that vantage point, one knows different things and one knows in different ways. This perspective and knowledge can propel resistance and construct radical senses of openness and possibility. As bell hooks implores us: "Enter that space. Let us meet there."[140]

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140. *Id.* at 152.