

Movement Lawyering in Law School

Transcript

Alejo Rodriguez: We've come to understand the law as being some higher level way in which we need to learn how to govern and maneuver and work with society, when in fact, the law emerges from the people and not some higher up coming down. Right. And the way law is taught and educated, it excludes community and those directly impacted from the law from this conversation. Right? If we really, if we really are interested in developing a democratic society, we cannot exclude community.

Gavin Coyle: We just heard from Professor Alejo Rodriguez. Professor Rodriguez is a social justice advocate, poet, public speaker and Adjunct Professor at the Center for Institutional and Social Change at Columbia Law School.

In that excerpt, Professor Rodriguez describes an approach to law that characterizes a new kind of social justice lawyering – called movement lawyering. Traditionally, lawyers have focused on legal and legislative changes to bring about social justice goals – if you think of the lawyers at the NAACP during the civil rights era. Instead, movement lawyering believes that law is only one of many tools available to achieve systemic change. Movement lawyers center the community and directly impacted individuals by listening to, supporting, and facilitating their goals. Rather than focusing on legal procedures, movement lawyers prioritize helping the community gain a sense of its own power to fight the conditions of oppression.

But this approach to the law is not what we learn in law school. Instead, we're taught that the law is the only legitimate method for achieving systemic change and that lawyers are the ones who should be in charge of those movements. But the law also has a big role to play in creating the conditions of oppression – in order to become an effective movement lawyer, you need to understand the role of the law in creating powerlessness. Oftentimes this means unlearning a lot of what you learned in law school.

To understand how ideas from movement lawyering could be used to improve legal education, we spoke to Professor Alejo Rodriguez and Professor Susan Sturm, the founding director of the Center for Institutional and Social Change, about a new project at the Center called BATTLE. BATTLE stands for Breakthrough in Abolition Through Transformative Legal Empowerment, and was designed by Professor Rodriguez to forge a collaboration between formerly incarcerated community leaders and the Black Law Students Association at Columbia (known as BA LSA). My colleagues Maneka and Joo-Hee spoke to Professor Alejo a few days ago.

Maneka Khanna: Thank you so much for joining us, Professor Rodriguez. We are here today to discuss your project BATTLE at the Center for institutional and social change at Columbia Law School, and the topic of movement lawyering. While I know BATTLE was not intended to be an example of movement lawyering, we think the approach it takes is similar- in that law students

engage with issues in the law with directly impacted individuals, instead of, for example, law professors. Can you introduce BATTLE for our listeners?

Alejo: Sure. One, thank you for having me. Good morning, just really happy to be here and just really love to have the opportunity to share with you. One of the things I would say about

BATTLE-it's a learning exchange opportunity between law school students, primarily working with a lot of BLSA students, BLSA members, and with directly impacted formerly incarcerated individuals. And we have a host of individuals, about five formerly incarcerated individuals, as well of about four to five people who are BLSA members in this learning exchange. And just a way of examining the law and the impact of the law in creating marginalized communities from both sides of the law, if you would, from those who are looking to be practitioners, and those who have been impacted directly about it. Think was also very special about the classes that really leaned in from a non-traditional approach of examining the impact of the law, like really examining it from the impact of marginalized communities, and not from a top down perspective.

Maneka: So as we understand it battle is a project designed around the movement to abolish the prison industrial complex. Could you give our listeners a brief introduction to this movement? And what do you mean by the term prison industrial complex?

Alejo: One of the one of the most instructive definitions I ran across of the prison industrial complex exists in, in a book called *The Plague of Prisons*, by Ernest Drucker. And, you know, just paraphrasing, he has said that, you know, prisons are used as a form as a, as a tool of mass incarceration, for a means of social control. That mass incarceration has nothing to do with crime and punishment, that prisons, in fact, is just a vehicle to help support a larger scheme. And when we look at it that way, that we realized, or we should pay attention to the fact that it's layered, not just based on prison labor, his idea of prison industrial complex is not just, it's not just the exploitation of prison labor, but how would it actually is built to exploit community. And, and of course, that's it, that's a really bold jump right as a huge leap. And so, what battle does is try to try to really examine the origins, right, of let's say, the 13th amendment.

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Gavin: The 13th amendment to the US constitution abolished slavery after the Civil War, but the amendment has an exception for those who have been convicted of a crime. So, if you are convicted of a crime, you could still be held to involuntary servitude. The documentary 'The 13th' on Netflix does a great job of explaining the link between the 13th amendment and the prison industrial complex. So we asked Professor Rodriguez what BATTLE's findings on the 13th amendment were.

Alejo: Likewise, with abolition, the abolitionist movement, and I'm one, I could never say, I'm an expert on this. Here, I'm just I'm really clear about that. I'm still learning about this, in many ways, because when we think about it, we all are still learning about abolition, true abolition, like many of us bought into the concept that slavery had been abolished, because of the of a civil war, that

we see it still right there existed in the 13th Amendment, right, we have no real model in which abolishment has actually won, especially in regards to race, right. But we do have some inferences we can draw, we can continue to build and learn together and begin to examine, and what BATTLE does is bring people who are directly impacted into that discussion of examining, and I think it's that way in which BATTLE offers a transformative aspect to abolition movement in and of itself, because it's structured that way the learning is side by side, step by step.

Often we look at the 13th Amendment, we act as if this idea of felon disenfranchisement always existed, right. But this country was born in 1776, we had our first jail in the same month. And yet,

we do not talk about felony disenfranchisement, until 90 years later, not until black people are free. Before that black people were enslaved, based on a social construct that the law has designed. And once they're free, we have a 13th amendment, another social, another social application of how to reinvent slavery.

Maneka: Can you tell us a little bit about how you see the role of the law in perpetuating marginalization and the prison industrial complex or mass incarceration?

Aalejo: Yeah, thank you. And so a little backdrop, you know, I, I am also directly impacted, I served 32 years in the New York state prison system. And so, in addition to having to, to reflect on my life circumstances that led me and got me into that situation, I started thinking systemically, like, I'm not just a product of, of my incarcerated experience, I have experienced, you know, like a sequence of failing institutions, from school to healthcare, to employment, you know, and so, I began to just think about it broadly, not just in in them in the perspective of, of being imprisoned, but how marginalization has occurred, and has been reinforced in my own personal life.

There's a quote from Michelle, Alexander's book, *The New Jim Crow*, that I just, I just think that oftentimes we gloss over it, because it's such a profound book, but there's a statement that if we truly would have understood the impact of the civil rights movement, we would have never entered into the era of mass incarceration. And so what that says, what that reminds me is, during your civil rights movement, the issue of that time was, the issue of the time was segregation. And many of us felt if we were able to just desegregate if we can just move, change these barriers, then the black community be better positioned to thrive. No one would have imagined the use of prisons as the next iteration of social control. Right? Back in slavery, everyone thought or the thinking was if we just remove the stain of slavery. What I've gathered from there is every time we just focus on a one solution, aspect to the problem that is systemic, we leave ourselves open for multiple assault in different ways. A reinvention of the same practice in a different design. So, the idea of examining or getting to the heart of it and looking at the law as to because then we're doing the examination, all from the results of what had happened, we have not begun to even examine the role that the law has played in creating the structure.

Maneka: Thank you for that Professor. I wanted to hear a little bit more about the other community leaders at BATTLE. And if you can guess, tell us about the, their journeys. The you

know, give our listeners an understanding of the immense experience and perspective that they're bringing to BATTLE.

Thank you so much for that, because that's one area that we haven't touched in, I think it really speaks to the power of paying attention to critical race theory, application, not just movement lawyering, but also just really paying attention to critical race theory and the practice of. The leaders so powerful, one individual, his name is, his name is West Canes, and he is the Chief of Staff of Bronx defenders. So he did his time and came out and he did very well in contributing to this movement of criminal justice reform. Another young man Cory Green just recently graduated with his doctorate from CUNY research for CUNY graduates school. The sister Kiki Dunston used to be a former NYPD police officer due to some unfortunate circumstances, she was convicted and did seven years. She is now working in criminal justice reform. She's the director of community engagement with Hudson Link, one of the one of the most significant college programs, reentry

type programs that the state has New York State has. And lastly, we have Rosalyn Smith, who did 40 years and there's a number of there's a number of evidences of her of her activism while in Bedford Hills in New York state. So we have a really, really unique group of leaders and individuals who had the ability to move beyond the trauma, and not just getting caught into the impact of the individual trauma from prison experience, not to say that someone is healed from the trauma, I'm not saying that. But there's they're not stuck, they're able to, they've been able to look at their personal experience as a deeper examination as a portal, if you would, into systemic change.

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Gavin: Programs like BATTLE allow oppressed communities to work with lawyers and other professionals in their struggle to improve conditions. We also spoke to Prof. Susan Sturm, a law professor and the Founding Director of the Center for Institutional and Social Change about the role movement lawyers can play in assisting communities in their efforts to combat oppression. We asked Prof. Sturm what, in her view, a true criminal justice system would look like and how we can center directly impacted individuals in our work as legal professionals.

Susan Sturm: If I could make one change, and only one change, to transform the criminal legal system, to become a criminal justice system, it would be to center the involvement and the leadership of people directly impacted. All of my experience shows that when you do not have the participation and leadership, even really well intentioned, lawyers and policymakers will get it wrong. And they won't be able to sustain the work. And they won't be able to produce the kind of ethics and ethos that underlies these transformational efforts. So all of that has led me in the Center, first of all, to make sure that people who are have first-hand experience are leading these projects.

And secondly, part of what's really powerful is that even though it is true that this leadership is central, one cannot transform the criminal legal system without the participation of lawyers, and

without the participation of people who are currently in positions of power, if for no other reason than to share that power. And so part of what's so exciting about the design of battle is that it is forged by and centrally features the leadership of people directly impacted. And it also really appreciates the importance of collaboration with people who do not have that kind of first-hand experience but bring other kinds of knowledge and wisdom and experience into the room. But we have to be very attentive to the ways in which powers exercised. Lest we unwittingly recreate the the very power dynamics that the project was designed to change.

Maneka: I'm interested to hear your opinions on what you think the proper or appropriate role of a lawyer is in building or contributing to a social movement, whether that's a law professor, or law student, or a corporate lawyer, or just anyone in our profession. And I'm interested to know, how do we as lawyers not occupy all the space because traditionally, lawyers are seen as the gatekeepers of power.

Susan: This question about how we exercise our own power is just such an important one. And what I've seen a couple of things, just speaking firsthand, of using one's power to open up a space for people who otherwise would not be in the room, and in a position to speak for themselves. So that's such a critically important role. Because so often, lawyers will be invited into the space in a way that community members will not initially have access to. And that puts us in a position to reframe the way power is exercised in that space itself. So that's a really important role, we also have a lot of access to resources that can be shared with communities, and also understand the resources and redefine what expertise means. So that the forms of resources that people in communities have get the respect and the value, including compensation that really is warranted. So that's something that lawyers can really do. Lawyers have also an understanding of the way power currently operates. And so there's a lot of an opportunity to understand and build collective understanding of legal literacy, such that people directly impacted have even greater power to exercise their own voice in spaces where power is operating. Lawyers can also open up legal institutions to greater racial literacy, by creating spaces for dialogue about the racial assumptions that are currently built in to current cultures and current practices. And so can be part of that, that dialogue and that and that conversation to reimagine the images and the stories that are currently informing the ways in which people of color and communities affected by incarceration are currently stereotyped in and often marginalized by current legal institutions and practices. And in in that way, reimagine the way law operates. So we move from an idea of law as only operating on or against communities to thinking about law, in the way I learned about from my mentor, Robert cover, which law is the relationship between the is, the ought and the what might be. If you think about law that way, then lawyers have a place at the table, but not the place at the table.

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Alejo: I'm a part of this. I can contribute to it. I'm not just a recipient of it. I have the ability to contribute to it. And I think that has been transforming. Even for law students, and I think for the for the directly impacted folks, it's been demystifying of the law so that it is accessible. So maybe

accessibility is the word and answer to your question is cause greater accessibility in ways that I couldn't even imagine when we thought of it.

Joo-Hee Kim: I feel like it's been really inspirational hearing from you, because we forget the law is like a living, breathing thing that can, you know, change, depending on what we do. And, you know, just going through case after case and reading, you know, decisions after decisions, it kind of builds you in a way that, you know, it's the education, the format of the education can almost be disempowering in that, like it weighs down on you so much that you forget that you can do the work to look at what you're reading critically and to make change. So. Yeah, what you've said today has kind of rekindled that. So that spirit. Its been great. Thank you so much.