

# For Those Considering Law School

Dean Spade\*

I get several emails every week from people who want to go to law school or are trying to figure out if they want to go to law school. Most are queer or trans activists or people who want to somehow transform the world and end various harmful and horrible dynamics impacting people and communities they are a part of or care about. Because I talk on the phone or in person to many of these people and end up saying a lot of the same things to them, I thought it might be useful to write them down. In general, these conversations are focused on helping them get past the national narratives we have all been fed that tell us that legal cases are the most effective way to dismantle systems of oppression and change people's lives. If we compare that idea to what is really happening in the world and what social movements are strategizing about, we find a more complicated relationship between law and social movements that raises questions about whether, when and how becoming a lawyer could be a good way to participate in transformative change.

*Here are a few things worth thinking about when considering law school:*

*1. Most legal work maintains, rather than transforms, systems of maldistribution.*

Many people's interest in becoming lawyers is driven by the myth that changing law is the way to change lives. However, there is plenty of evidence that changing laws is not as central or as important to social change as we are made to think. In fact, in the face of large scale social movements demanding change, governments often have created laws that declare equality or neutrality in order to quell dissent and maintain the status quo to the greatest extent possible.<sup>1</sup> Very often, legal change that

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\* Dean Spade is an assistant professor at the Seattle University School of Law. He would like to thank Craig Willse, Carmen Gonzalez and Elana Redfield for their feedback on this text.

<sup>1</sup> Two sources I use to make this point in my Law and Social Movements class are Angela Harris, *From Stonewall to the suburbs?: Toward a political economy of sexuality*, 14 WILLIAM & MARY BILL OF RIGHTS J. 1539–82 and ANDERS CORR, NO TRESPASSING: SQUATTING, RENT STRIKES AND LAND STRUGGLES WORLDWIDE (South End 1999) (see especially Chapters 4, 5, 6). Angela Harris' article very helpfully breaks down how *Brown vs. Board of Education*, a case that inspires many students to imagine that a lawsuit can change the world, was undermined by subsequent governmental and private changes that produced suburbanization and preserved and expanded racial segregation in the U.S. She warns those celebrating recent legal victories in cases concerning lesbian and gay issues that such victories may be just as thin, offering little relief from the racialized-gendered violence of neoliberalism and instead making empty declarations about lesbian and gay equality that prop up existing relations of

emerges in these moments heavily compromises the demands of grassroots movements in ways that lead to symbolic victories and possibly a small amount of material change to the least vulnerable of the group who the demands were about, but leave most people the same or worse off. U.S. law is fundamentally structured to establish and uphold settler colonialism, white supremacy and capitalism—the legal system will not dismantle these things. When we look at any radical movement in the U.S. challenging these institutions and conditions, whether it's workers organizing against labor exploitation, women organizing against patriarchy, people of color organizing against white supremacy, people with disabilities organizing against ableism, people organizing against destruction of the earth, queer and trans people organizing against violent gender and sexual norms, or anyone else, we can see that those movements' most transformative demands were/are not met by law, and instead that law changes are usually created to maximize the preservation of the status quo while adding a window-dressing of fairness.<sup>2</sup> Even when we win law change that looks like it is supposed to guarantee the redistribution of some essential thing, that law is often quickly repealed, or it is never enforced, or it is twisted through administrative or judicial interpretation to do the reverse of what movements were seeking.<sup>3</sup>

2. *Lots of legal work that needs to be done to support poor people can be done without a law degree.*

For those of us who want to directly help people in our communities entangled in battles with horrible legal systems, the good news is that we can do a lot of that without going to law school. Legal advocacy can be done by non-lawyers—non-

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maldistribution. Anders Corr looks at examples of struggles for land and housing in the US and around the world and shows how legal change is ineffective on its own, sometimes undermines resistance strategies, and can only be useful at all as a limited tactic of broad mobilizations that rely on direct action. For the entire syllabus from this course, see <http://www.deanspade.net/teaching>.

<sup>2</sup> Cynthia Kaufman summarizes some of the ideas that have been important to social movements that are rarely discussed in law school classrooms but that activists and organizers all over the world study in community reading groups and freedom schools. Her discussion of the National Labor Relations Act and other legislation that emerged out of worker resistance provides a good example of how legal reforms that aim to quell dissent and stabilize the status quo are sometimes responses to mass mobilization seeking deep transformation. CYNTHIA KAUFMAN AND ELIZABETH MARTINEZ, *IDEAS IN ACTION: RELEVANT THEORY FOR RADICAL CHANGE* 57-80 (South End Press 2003). See also Karl E. Klare, *Judicial Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937–1941*, 62 *Minn. Law Rev.* 265 (1977–1978).

<sup>3</sup> Critical Race Theorists have provided important analysis about how law reforms that emerged as responses to movements for racial justice have ended up being used to dismantle affirmative action programs and other programs aimed at racial redistribution. See, e.g., Freeman, Alan, *Legitimizing Racial Discrimination Through Anti-Discrimination Law: A Critical Review of Supreme Court Doctrine*, in *CRITICAL RACE STUDIES: THE KEY WRITINGS THAT FORMED THE MOVEMENT*, (Kimberlé Crenshaw et al. eds., 1996); *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007).

lawyers can even represent people in and help people prepare paperwork for many types of hearings related to public benefits, immigration, and other urgent issues. Some of the most radical movements in U.S. history have provided direct help to community members in de-professionalized ways, with people learning how to get through systems or get needs met and then helping and teaching other people so that lots of people can help each other, instead of a situation in which expertise is hoarded by a few privileged people. Getting help from someone else who is directly impacted is a powerful experience that brings people into social movements and lets them see themselves as potential providers of such help to others in their circumstances. Getting help from a privileged person with a professional degree does not have the same effect and often mirrors and reproduces dynamics of subordination. A great deal of the work that poverty lawyers help people with is similar to what social workers do—filling out forms, making calls to get people into housing or medical programs, accompanying people to intimidating meetings, explaining systems, figuring out if the government isn't providing some help that it is supposed to provide. You can do a lot of that without going to law school, and law school classes mostly don't teach you how to do that. You learn that by doing it, by finding out how those systems work where you live, by talking to people who have been doing it for a long time. If you do that work for three years you'll learn more about supporting individual people struggling in those systems than if you spent those three years in law school learning about rich people's property laws or the rules of federal courts. Most poor people will not end up in federal court but there are tons of people fighting for their lives in administrative hearings with no advocacy assistance every day.

Because there are not enough poverty lawyers to even scratch the surface of poor people's needs, we desperately need to de-professionalize legal help and focus on sharing information with people in targeted communities about what they can demand from landlords, employers, and government agencies and how to be as safe as possible in the face of enormous state violence. De-professionalizing this work is also essential to breaking down the paternalistic role that service providers play in communities targeted for police violence, immigration enforcement, infrastructure abandonment, budget cuts, and political disenfranchisement. We also have to face the reality that the rules mostly don't benefit targeted people and never have, that when good rules get created they are not followed or enforced, and so to actually change conditions of maldistribution we need mass mobilization and direct action to force deep transformation. Helping people get by as much as possible under awful conditions can be part of that kind of transformative process, but it is not enough on its own, especially for those (like people targeted and caged by criminal and immigration systems) who are on the violent losing end of all those rules and for whom legal relief is usually not available.

*3. Law school is expensive (in most cases) and it's worth thinking about what impact the debt may have on your future.*

Law school is extremely expensive and way less financial aid is available for it than for undergraduate education. Many people graduate with more than \$100,000 of debt. For many, this creates pressure to take any job when they are done. Often those

who went in with intentions to do certain kinds of social justice work end up either doing horrifying pro-capitalist work at a private firm or some kind of “public interest” job that they don’t like or don’t believe in. There is no point in investing three years of your life into a school experience and then having a job you hate, so consider this strongly before going. Think about price when choosing a school, and think about whether you are willing to give up credit privilege and default on loans. Being co-opted because of debt is a sad and avoidable fate. It is awful to watch people graduate and rationalize taking any job they can find because of the pressure of their debt and the law school culture that equalizes all career choices (becoming a prosecutor or working for Immigration and Customs Enforcement is considered a “public interest” or even “social justice” job in many law schools!) and supports feelings of competition and desperation. There is enormous pressure to take any job after law school. It is in the schools’ interests to have graduates employed in elite (usually conservative or mildly reformist) work, so they support a culture of scarcity, individualism, competition and fear that drives students to take jobs that make them miserable. It is no coincidence that rates of addiction are so high amongst lawyers that some states require all attorneys admitted to the bar to take a class about substance abuse.

*4. Law school is a very conservative training and rarely a critical intellectual experience.*

Law school is not like liberal arts college. It isn’t about writing cool papers full of critical ideas. Many law schools, like academia in general, are perceived as “bastions of liberalism” in the context of our outrageously white supremacist, conservative country, but the intellectual and political environments are so mildly reformist (at best) that they will feel shockingly conservative to anyone who wants to see significant change. The things that interest you about law are not what the classes are about. You don’t even get to choose your classes until they have had a full year to isolate you from your communities and passions with an enormous workload and tear down and rebuild your way of thinking. Law school classes are about memorizing obscure rules that are likely to have nothing to do with your daily practice as a lawyer. They are about indoctrinating you into the belief that racist, genocidal legal systems and principles are neutral. They are only somewhat about passing the bar exam, an exam that also tests you on things that have very little relevance to social movement lawyering. Law school is like a language immersion program, but one in which the language you are learning is the language of rationalizing white supremacy, settler colonialism, patriarchy and capitalism. The traditional pedagogy of law school relies on humiliating students if they bring in other ways of thinking or knowing about the world, thereby whittling them down to a shadow of their former selves and reshaping them to make them think inside a very narrow box. It is true that law school sometimes makes people more concise speakers and writers, but it is certainly not the only way to do that, and there is an equal danger that it makes people into bad communicators.

Culturally, law school is a place where white masculine norms and behaviors are exacerbated. Curved grading ensures an environment of competition and scarcity, a hierarchy of perceived intelligence that inevitably values white, masculine norms. Classes are often enormous—80-100 people—and students sit in assigned seats.

Critical dialogue is made impossible in such an environment, and ostracism of people who fall outside the norms is par for the course. And it feels like high school—the first year is pretty much all day every day, you have a locker, white wealthy people frequently bully and tease people who bear markers of otherness.

Usually when I share these concerns with people considering law school, they nod, but they feel that they can resist this climate and training. I urge you to take it seriously. I think that no activist exits law school without having been changed and made more conservative. It took years of social movement engagement for me to shed some of the internalized dominance behaviors I gained in law school, to remember how to think about solutions that cannot be won in law, and to revive communication and relational skills that law school tramples.

*5. If you go to law school, it's crucial to go to a school where you will have allies and support and where the learning experiences you want are actually being offered. Don't get caught up in the quest for prestige.*

After I share the above points with many people, they still go on to law school, and they still go to the highest ranked school they get into. It could be that people drawn to law school are also people who value prestige and have a hard time resisting social pressure, regardless of their self-identifications as anti-capitalists, rebels, non-conformists, or whatever. If you are someone who actually wants to see transformative change, and despite my above points you are committed to going to law school, go somewhere with a social justice mission or a specific program that you know draws MANY students to that school because they share your commitments. Lots of schools have something on their website about public interest law. That's not what I mean. I mean go to CUNY—a place that is truly committed to social justice, that has lively and vibrant student activism and roots in transformative movements, and that draws students because of its mission, so your classmates will have more to teach you. Or go to Northeastern, where students are given the chance to work for credit more than at any other school. Or go to UCLA where the Critical Race Studies program is a rare haven for students of color and racial-justice focused students to learn from critical race scholars and deeply engage with law from a critical perspective. Or come to Seattle University and hang out with me, and help us push the school to make our social justice mission as vibrant and transformative as it can possibly be. In any case, do not fall into the trap of prestige. Some of the most elite law schools in the country don't even offer classes in Critical Race Theory or Poverty Law. Rankings are based on the wealth of the school, the extent to which their students succeed on racist indicators like the LSAT, and other criteria that are irrelevant to or counter to social justice concerns.

You need a school that offers as many classes as possible that are relevant to dismantling white supremacy, settler colonialism, capitalism and patriarchy. You need a school where student activists are taking the institution as their target and engaging in multi-issue activism, teaching each other along the way. You need a school that values clinical legal education and will give you lots of chances to actually do work supporting poor communities while you are in school. As someone who used to be part of hiring attorneys, I can tell you that I did not value fancy degrees. I

valued people who had gotten some experience, people who had developed critical thinking about race, disability, poverty, gender and immigration, and people who had thought critically about the role of lawyers in social movements and learned how to think about privilege. Once you are at school, you need to form your own reading groups and other support spaces to learn what is not taught there, including movement history and the role of lawyers in social movements. And you must continue to engage with social movements, not in a lawyer's role, throughout law school and after. This is essential to keeping perspective on the limited role of legal work, maintaining humility, and finding balance and passion.

### *What Roles Can Lawyers Play in Social Movements?*

The idea that people who want to make change will make the biggest impact by becoming lawyers and bringing precedent-setting lawsuits needs to be reevaluated in the face of what movement history reveals. Once you let go of that idea, you can start to think about what role lawyers should or could have in social movements and evaluate whether you see yourself in those roles. In my view, transformation really happens because of the mobilization of large numbers of people directly affected by harmful and violent systems who make collective demands that exceed the limits of law and then force change through direct action (i.e. breaking the law). It doesn't come from the top—from elites granting change through legislation or courts. The question then becomes what role lawyers can have in that broad, participatory, mass mobilization-focused, bottom-up transformation.

### *Some important roles lawyers can play in such movements are:*

#### *1. Demystifier of legal systems*

Lawyers can serve movements by using specialized knowledge to help demystify systems that are targeting vulnerable people but that are often intentionally opaque. Sometimes lawyers can help movement leaders identify and strategize who the targets of various campaigns could be or where weak points in certain legal systems are. However, this is easily overstated, because people targeted by violent legal systems usually know more about how they actually work and lawyers often only know how they work on paper (and sometimes mistakenly believe that to be how they actually work). Legal training can make people less adept rather than more adept at strategizing for change because we tend to buy into how the system works without even realizing it. Law school teaches people how to stop thinking outside of legal solutions to problems, which mostly means we can only think of ways to slightly tinker with harmful systems, and thereby strengthen, stabilize, and legitimize them. The entire focus of legal education is about working inside the existing legal system. Even the small part of legal education that is about poor peoples' struggles is usually about narrow reforms and courtroom strategies, not about supporting rent strikes or squatting or prison abolition or indigenous land struggles—essentially, not about

actually challenging the root causes of maldistribution. Again, because law school is a powerful space of indoctrination, if you decide to go, you need to have already formed deep frameworks to resist that indoctrination through participating in and studying social movements and legal systems through perspectives of people directly impacted by systemic maldistribution and violence.

## *2. Legal service provider*

Lawyers are sometimes helpful for people facing abusive legal systems (immigration enforcement, criminalization, welfare cuts, eviction, environmental injustice). If survival services are part of a larger organizing strategy aimed at systemic transformation—meaning that they connect people to a way of joining with others struggling in similar circumstances and are governed by people from the directly affected group—they can be an important entry-point for people into resistance struggles and an important source of support for people to help them take political leadership on matters that concern them. Unfortunately, that is not what legal services look like for the most part. Most legal service provider jobs where lawyers help people navigate violent legal systems (like criminal defender jobs, welfare advocacy, unemployment benefits advocacy, immigration law) are not part of broader social movement strategy. Many lawyers working in those jobs end up feeling like they are just cogs in the machine.

Because of the way that these jobs are structured (large organizations with lots of hierarchy, narrow practice areas or funding restrictions on certain kinds of help, and gigantic caseloads), it can be hard or impossible to connect with larger social movements even if lawyers who work there want to do so. Only a tiny percent of people can even get a lawyer, and only for some of their needs. Everything is so stacked against poor people that many have claims that lawyers won't take because they can't win. Those few that get a lawyer and win something are the exception, not the rule, and often what they are winning is something that isn't that great and might be taken away again at any point. Many lawyers providing direct services come to feel like their work legitimizes the system, and also hate that their jobs involve enforcing the laws on their clients—telling people to take the plea bargain, or that they can't represent them in eviction defense because they don't have enough rent saved up, or that there are no avenues for them to gain immigration status. Very few of the people most impacted by poverty, racism, ableism and xenophobia get representation, and very few "win." Legal services provided in this way focus on individuals—as if people's problems with eviction, immigration, criminalization are an individual matter—and do not get to the root causes that affect whole neighborhoods, cities, racial groups, or economic classes.<sup>4</sup> Unless legal services are directly connected to a

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<sup>4</sup> In fact, when legal services attorneys successfully brought class action suits to broaden the impact of their cases, Congress responded by placing restrictions on the use of Legal Services Corporation money to conduct class actions, ensuring that those attorneys' work would stay focused narrowly on individual cases and not reach root causes. Omnibus Consolidated Rescissions and Appropriations Act, Pub. L. No. 104-134, § 504(a)(7), 110 Stat. 1321, 1321-53 (1996)

strategy of mass mobilization, they mostly maintain and mildly legitimize harmful arrangements because a few people get some small help surviving.

Most legal services are not currently connected to transformative change strategies, and are not going to be unless we marshal resources for much more of that kind of work—direct community organizing, base building, mobilization. This is something to consider about becoming a lawyer—are those the skills most needed by our movements right now? We definitely do need radical people to be criminal defense attorneys and welfare lawyers and all that, but we also need to be building the skills and strategies for seeking bigger change, and the reality is that the mostly privileged people who go to law school—and the few people from targeted communities who get in<sup>5</sup>—end up doing system-maintaining work. Most law students I meet have never worked with and often have never heard of mass mobilization efforts besides a few historical examples like the Civil Rights Movement, and they tend to have a skewed view of mass movements that centers charismatic individuals and law changes and obscures the roles of mass mobilization, direct action, and armed struggle.<sup>6</sup> Unless you have a really clear idea of how you will navigate these tensions and how your work will be different, going to law school may just co-opt you into narrow reform work. There are ideas out there of alternative models for doing legal support work for movements.<sup>7</sup> You should find out about them *before* you decide whether or not to go to law school so that you can be part of building the kinds of accountable grassroots-based movements that can direct legal work in meaningful ways. Don't get half way through law school before you figure out that you are very limited in addressing the problem that drove you there (mass deportations, homelessness, access to education) by practicing law. In the context of many current movements, legal work is overdeveloped and mass mobilization strategy and infrastructure are underdeveloped. System-sustaining services are more supported than system-threatening mobilization strategies. Think about where you can get the skills you need to do whatever you do in ways that actually generate change and make you maximally useful to the processes of transformation you believe in. Do we need more lawyers or more organizers, given the limited effectiveness of legal change strategies?

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<sup>5</sup> In recent years, admission of Black and Latino applicants to law schools has actually declined. See Tamar Levin, *Law School Admissions Lag Among Minorities*, N.Y. Times, Jan. 6, 2010, available at <http://www.nytimes.com/2010/01/07/education/07law.html>.

<sup>6</sup> For a critical examination of the narrative of “peaceful protest” and the marginalization of movements engaged in armed self-defense against the U.S. government see PETER GELDERLOOS, *HOW NONVIOLENCE PROTECTS THE STATE* (South End Press 2007); WARD CHURCHILL, *PACIFISM AS PATHOLOGY: REFLECTIONS ON THE ROLE OF ARMED STRUGGLE IN NORTH AMERICA* (AK Press 2007).

<sup>7</sup> See e.g., Gabriel Arkles, Pooja Gehi and Elana Redfield. *The Role of Lawyers in Trans Liberation: Building a Transformative Movement for Social Change*, 8 SEATTLE J. FOR SOC. JUST. 579 (2010); Dean Spade and Rickke Mananzala, *The Non-Profit Industrial Complex and Trans Resistance*, 5 SEXUALITY RESEARCH & SOC. POLICY: J. OF NSRC 54 (March 2008), available at <http://www.deanspade.net/writing/>.



This framework is generic—it does not address specific conditions that you may be facing or specific movements you may be a part of, but I hope it provides a moment of pause in the assumption that law school is a wise choice for activists who want to transform the world.