

COMMUNITY ECONOMIC DEVELOPMENT UNDER PROTEST

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Storming Caesars Palace: How Black Mothers Fought Their Own War on Poverty. By Annelise Orleck. *Beacon Press*, 2005. 368 pages. \$29.95¹

I. INTRODUCTION

Operation Life . . . survived, even thrived, during the Nixon, Ford, and Carter administrations, eight years of Ronald Reagan, and almost the entire presidency of George H.W. Bush. For twenty years, often without salaries, the women kept the office going, wrote grant proposals, met with politicians, and countered the charges of fraud and nepotism that came as regularly as summer storms. They fed the hungry, provided medical care to the poor and elderly, nourished infants and pregnant women, built homes and senior citizen housing, ran job placement and daycare programs, created a library and pool, taught nutrition, built self-esteem, and mounted innovative efforts to combat drug abuse, domestic violence, and sexual assault. Operation Life truly was the social and economic anchor of the Westside, exactly what the architects of community development had envisioned.²

This passage from *Storming Caesars Palace* hints at the sweeping accomplishments of a grassroots organization of women in Las Vegas, and history professor Annelise Orleck's richly detailed narrative of these events. Ruby Duncan and other women

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1. ANNELESE ORLECK, *STORMING CAESARS PALACE: HOW BLACK MOTHERS FOUGHT THEIR OWN WAR ON POVERTY* (2005).

2. *Id.* at 293.

“dragged Nevada kicking and screaming into the twentieth century.”³ In a city built on dreams and illusions, these women forged a movement for almost twenty-five years, accomplishing real social and economic justice for their families and their communities. They marched audaciously down Las Vegas Boulevard and through the Caesars Palace casino, hoisted welfare administrators in the air, and formed Operation Life, a community-based nonprofit lasting two decades.

Set between the 1960s and the 1980s amidst a national “War on Poverty,” the book describes a high watermark of coordinated political, social, and legal action on behalf of poor people, and encompasses several related themes: the national welfare rights movement, the state and local political struggle over welfare benefits, the personal stories of women on welfare, the relationship between gender and the creation of individual and institutional identities, and the opportunities and obstacles facing grassroots economic development organizations.

Storming Caesars Palace casts the War on Poverty in a new light to illustrate the “rich potential of a poor women’s movement for economic justice.”⁴ Orleck challenges “scholars and policymakers [to] rethink the conventional wisdom that the War on Poverty was a failure.”⁵ Through “seeing and hearing from welfare mothers in all their complex, contradictory humanity,” she hopes to unsettle existing ideas of effective anti-poverty strategies.⁶ Orleck is understandably troubled by the glacial pace of progress in the lives of poor people in America, concluding that “[a]fter a cacophonous, half-century debate about America’s so-called underclass, few creative or genuinely new ideas have surfaced.”⁷

I begin with an overview of Orleck’s portrayal of the lives and accomplishments of these women.⁸ I then suggest that Orleck is overly pessimistic about a lack of new approaches to alleviating poverty.⁹ Using the living wage campaign as an example, I argue that Community Economic Development (CED) scholarship and practice have adapted to shifting political and economic trends to

3. *Id.* at 168 (quoting Renee Diamond, a Democratic party activist and former Nevada assemblywoman).

4. *Id.* at 305.

5. *Id.* at 306.

6. *Id.* at 305.

7. *Id.* at 306.

8. *See infra* Part II.

9. *See infra* Part III.

offer promising social justice strategies.¹⁰

II. OVERVIEW

Hailing from the Mississippi Delta region, the women Orleck describes left lives marred by negative stereotypes, limited employment opportunities, racial violence, and a particular “need to escape battering, philandering, and sexual violence by black and white men.”¹¹ These “push” factors provide a large part of the explanation for the mass exodus of blacks between 1930 and 1960 from Southern states.¹² Las Vegas, like a number of other Western and Northern cities, embodied the hope of better economic and social opportunities. The construction of the Hoover Dam, the growth of wartime support industries, and the growth of the entertainment industry in Las Vegas epitomized the “pull” dynamic attracting thousands of blacks to new opportunities in the city.¹³

The black population of Las Vegas grew from 178 in 1940 to more than 11,000 in 1960.¹⁴ Like many cities during this period, Las Vegas embraced formal racial segregation, and maintained it with such vigor that it earned the nickname “the Mississippi of the West.”¹⁵ Exemplifying the lengths the hotel and gambling industry would take to balance its need for black workers and black entertainers with visitors’ racial expectations, the Sands hotel employees once drained, cleaned, and refilled the swimming pool after Sammy Davis Jr. swam in it.¹⁶ This same hotel and gambling industry imposed “a low glass ceiling” on black women’s employment opportunities.¹⁷ Although the Hotel and Culinary Workers Union, Local 226 was complicit in maintaining this limitation, one of the women, Alversa Beals recalled that “her early encounters with . . . the union helped her realize that even a marginally educated single mother was entitled to basic human and political rights.”¹⁸ The women also used the union to challenge

10. See *infra* Part IV.

11. ORLECK, *supra* note 1, at 10-28.

12. *Id.* at 28, 32, 35.

13. *Id.* at 32. Boulder Dam was renamed Hoover Dam in 1947. *Id.* at 45.

14. *Id.* at 37.

15. *Id.* at 40.

16. *Id.* at 62.

17. *Id.* at 50; see also Ann C. McGinley, *Masculinities at Work*, 83 OR. L. REV. 359 (2004) (describing gender relationships and discrimination in the workplace).

18. ORLECK, *supra* note 1, at 56.

unfair labor conditions.¹⁹ Formal segregation in Las Vegas ultimately ended through a combination of forces: individual acts of defiance by entertainers like Harry Belafonte and Josephine Baker, threats of public marches on Las Vegas Boulevard (the Strip) and within hotels, and the inclinations of the mob and other business owners to avoid any disruption to profits.²⁰

The life experiences of the women in the rural South and under segregation in Las Vegas shaped their reactions to Nevada's administration of the welfare program. One of the leaders, Ruby Duncan, discovered Las Vegas's "hypersensitivity to unfavorable press attention" when a local newspaper published an article criticizing local welfare administrators for refusing Duncan's requests for job training in 1968.²¹ This empowering act of protest and publicity "proved to be Duncan's springboard into political action."²² Some women stretched meager food budgets under Nevada's monthly base of \$25 per child.²³ Others eligible for benefits had to persistently apply for a year before receiving them.²⁴ These women raised families, worked hard within and outside of welfare regulations to do what was necessary to feed and clothe their children, while being subjected to contemptuous scholarly and cultural narratives disparaging women on welfare.²⁵

The State itself provided challenges. Nevada resisted federal

19. *Id.* at 57-58. After being fired by the Flamingo for refusing to work overtime, Ruby Duncan used the union to get reinstated and receive an extra check for overtime. *Id.*

20. *Id.* at 63-65. Harry Belafonte sat at a Blackjack table in the Sands casino, alone, until he was dealt his cards. *Id.* at 63. Josephine Baker refused to perform one night unless the audience included black patrons. *Id.* at 63-64. "Anxious to prevent a scene, hotel managers ran through the hotel and told several black maids and porters to go home, change their clothes, and come back dressed for the nightclub." *Id.* at 64.

21. *Id.* at 74-75. After the *Las Vegas Sun* ran the article titled *Welfare Mother Wants to Work*, welfare administrators enrolled Duncan in a seamstress training program. *Id.* at 75.

22. *Id.*

23. *Id.* at 93.

24. *Id.* at 93-94.

25. *Id.* at 82-87. Orleck refers several times to the comments of Louisiana Senator Russell Long who used the term "brood mares" to describe mothers on welfare. *Id.* at 83, 114. She observes:

The nation's newest bogeywoman was stigmatized no matter what she said or did: She was a bad mother if she worked outside the home and neglected her children, a parasite if she applied for aid so that she could stay home. She was promiscuous if she pursued relationships with men, a man-hater if she chose to bring up her children without one.

Id. at 82.

programs, deeming them an intrusion into local affairs.²⁶ It was the last state to accept the federal program Aid to Dependent Children, finally adopting it twenty years after the program was established.²⁷ It was also the last state to institute the federal Work Incentive program (WIN), refusing to “cave in to federal pressure” until 1970.²⁸ After finally adopting the Aid to Dependent Children program, Nevada, like other states, became obsessed with ferreting out welfare fraud and limiting the number of people on the welfare rolls. Welfare administrators conducted midnight and early morning raids on welfare recipients, hoping to catch a man in bed or “evidence of a man’s presence—men’s clothing, razors, or after-shave.”²⁹ Officials considered these men financially responsible for the families, and eliminated their entitlement to welfare benefits.³⁰ Women understandably resented these highly personal invasions, as well as related threats to remove children from families considered too poor to care for them.³¹ One neighbor’s “small act of resistance became legend.”³² When a welfare administrator entered this neighbor’s bedroom uninvited early one morning, the woman calmly locked her in a closet, began cooking breakfast, and did not release her until her coworkers later came looking for her.³³

The National Welfare Rights Organization (NWRO), formed in 1967 and headed by Johnnie Tillman and George Wiley, offered an organizing framework and outlet for the women’s frustrations.³⁴ Welfare reform and the War on Poverty were interconnected. A

26. *Id.* at 89-90.

27. *Id.* at 90. Maya Miller, a Nevada progressive activist and president of the Nevada League of Women Voters in 1968, advocated the polar opposite view to Nevada’s conception of welfare benefits. *Id.* at 92-93. Miller persuaded the national League of Women Voters to argue that AFDC should be viewed as “earned compensation for the economically valuable work of mothering.” *Id.* at 93.

28. *Id.* at 128. The WIN program promoted state-based job training programs for welfare mothers. *Id.* at 122. Women in Nevada found it difficult to find employment through WIN because Nevada did not adopt any daycare provisions and WIN officers did not want to waste training resources on women whose childcare responsibilities could conflict with their employment attendance. *Id.* at 129.

29. *Id.* at 95.

30. *Id.*

31. *Id.* at 96.

32. *Id.*

33. *Id.*

34. *Id.* at 112-13.

paid organizer of the West Las Vegas Economic Opportunity Board (the EOB was a community action program created under the War on Poverty)³⁵ helped to start the local Clark County Welfare Rights group as part of the NWRO's local and national advocacy strategy.³⁶ Tillman advocated "a new model for poor women's mobilization that encouraged alliances with educated middle-class people—but insisted that leadership remain in the hands of poor women."³⁷ Wiley "wanted to meld these disparate mothers' groups [in Los Angeles, New York, and other cities] into a coherent movement and coordinate protests nationally to maximize their impact."³⁸ NWRO supporters Frances Fox Piven and Richard Cloward advocated a "politics of turmoil" based on disruption.³⁹ The NWRO's overall reform strategy was based on street protests and legal action,⁴⁰ or in other words, "[p]rotest in the streets and negotiation in the suites."⁴¹

Organizing as the Clark County Welfare Rights group in 1967, Las Vegas women testified before Nevada legislators and sued over illegal welfare practices.⁴² Nevada litigation compelling local schools to serve free lunches to the neediest school children became "the leading lawsuit in the country."⁴³ Their organized protests included the "storming of Caesars Palace," a quarter-mile long procession of protestors from across the country marching

35. See Economic Opportunity Act of 1964, Pub. L. No. 88-452, § 201, 78 Stat. 508, 516 (1964) (repealed 1981).

36. ORLECK, *supra* note 1, at 98-99. Armed with NWRO pamphlets, women living in the Westside of Las Vegas organized themselves into the Clark County Welfare Rights Organization. *Id.* at 98-100. Orleck adds that

[f]or the first time since the Depression, the White House was urging poor people to organize on their own behalf. They did. The call for "maximum feasible participation" by the poor was like a stone thrown into a pond. There are few better examples of the War on Poverty's ripple effect than the [NWRO], a loose federation of welfare mothers' groups galvanized into a national movement by George Wiley, an African American chemistry professor, and Johnnie Tillmon, a dynamic welfare mother and organizer.

Id. at 99.

37. *Id.* at 109.

38. *Id.* at 111.

39. *Id.*

40. *Id.* at 122. See generally GUIDA WEST, *THE NATIONAL WELFARE RIGHTS MOVEMENT: THE SOCIAL PROTEST OF POOR WOMEN* (1981).

41. ORLECK, *supra* note 1, at 115.

42. *Id.* at 120-28.

43. *Id.* at 177-78.

down the Strip and through Caesars Palace on March 6, 1971.⁴⁴ Attracting national media coverage and halting gambling throughout the Strip, the march exemplified the participants' outrage and empowerment.⁴⁵ During another march on the Strip the following weekend, protestors sat down in the middle of road, backing up traffic for miles.⁴⁶ Similarly, the women initiated "eat-ins" in Strip restaurants to publicize the issue of hungry local children.⁴⁷ In 1972, the group made inroads at the Democratic National Convention and Duncan ran unsuccessfully for a seat in the Nevada legislature.⁴⁸ According to one activist, "all of these public campaigns had a common purpose: establishing visibility, independence, and control for poor women."⁴⁹

Despite the potent spectacle of a protest on Las Vegas Boulevard, anti-welfare sentiments charged forward. States resented an "overbearing federal authority," and state finances were strained by growing welfare rolls and a national recession.⁵⁰ Adapting to changing circumstances, the women changed their focus from protests and eat-ins to long-term institution building.⁵¹ Illustrating their frustrations and their need for a long-term strategy, one of the women, Essie Henderson, quipped, "[w]e was always walking around in circles singing 'We Shall Overcome Someday' [sic] . . . You've got Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday. You ain't never gonna see

44. *Id.* at 155-58.

45. *Id.* at 157-59.

46. *Id.* at 150-60. Orleck quotes Frances Fox Piven and Richard Cloward: "[Operation Nevada was] the last national demonstration of black people employing mass marches and civil disobedience coupled with supporting litigation in the courts It was the end of an era that had begun almost two decades earlier in Montgomery, Alabama." *Id.* at 167 (citing FRANCES FOX PIVEN & RICHARD A. CLOWARD, REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE 333-34 n.40 (1971)).

47. *Id.* at 185-91.

48. *Id.* at 192-95. Ruby Duncan later formed a close relationship with candidate—and later President—James Carter that allowed Duncan considerable access to federal program decision-makers. *Id.* at 235-43.

49. *Id.* at 123. Orleck maintains her focus on the women's personal development amidst their efforts to reform city and statewide institutions. She describes positive changes in Ruby Duncan as a result of the women's successes, noting that "[t]he battle for food stamps had taught her how to marshal business executives, Legal Services attorneys, grass-roots organizers, federal funders, and in-your-face lobbying to bring essential services to poor Nevadans." *Id.* at 207.

50. *Id.* at 170-71.

51. *Id.* at 196.

Someday.”⁵²

The women reclaimed an abandoned building in 1972 to house Operation Life, a community-based nonprofit providing daycare, an employment center, a drug counseling program, a Legal Services Office, hot breakfasts for children and the elderly, and programs for troubled teens.⁵³ The women of Operation Life were ambitious and opportunistic. When their effort to establish a local medical facility for poor children failed through formal channels, the women established their own Community Health Center in 1973.⁵⁴ It was “the only [Early Periodic Screening and Diagnostic Testing (EPSDT)] screening center in the United States run by as well as for poor families.”⁵⁵ The health center had the “highest outreach rate of any EPSDT clinic in the U.S.” and was praised by Congress as “one of the most effective EPSDT clinics in the nation.”⁵⁶ The women translated this success into opening their own library (Westside’s first) in 1973.⁵⁷

Operation Life successfully supported small business development.⁵⁸ It also enjoyed success with federal programs. It employed more than 100 community residents to “visit[] homebound elderly, tutor[] schoolchildren, provid[e] job counseling, and work[] on the community press” under the Comprehensive Employment and Training Act.⁵⁹ It also successfully lobbied the state legislature to accept the new Women and Infant Children (WIC) program.⁶⁰ Operation Life soon became “one of the largest employers on the Westside.”⁶¹

52. *Id.*

53. *Id.* at 196-200. Invoking a similar community-based solution to poverty, Michele Gilman proposes “community-based approaches for overcoming the barriers to work and self sufficiency faced by [Temporary Assistance to Needy Families assistance] recipients.” Michele Estrin Gilman, *Poverty and Communitarianism: Toward a Community-Based Welfare System*, 66 U. PITT. L. REV. 721, 796 (2005).

54. ORLECK, *supra* note 1, at 218.

55. *Id.*

56. *Id.* at 220 (citing H.R. REP. NO. 96-568 (1979); H.R. REP. NO. 95-1481 (1978)).

57. *Id.* at 222.

58. *Id.* at 262. Essie Henderson and Earlene Weatherhall opened the first business, a beauty shop and beauty supply distributorship, through Operation Life. *Id.* at 262. Mary Wesley later opened a restaurant. *Id.* at 288.

59. *Id.* at 224.

60. *Id.* at 224-25.

61. *Id.* at 256. “By 1980, the organization employed over one hundred people, the vast majority of whom were current or former welfare recipients. Operation Life’s cash flow approached \$3 million annually.” *Id.* at 263.

Operation Life joined the still nascent community development corporation (CDC) movement of the 1970s, qualifying as a Title VII-funded CDC in 1977.⁶² However, this new status—and the federal money that accompanied it—required Operation Life to hire more expert staff.⁶³ This created class and race conflicts among the now diverse population of the organization. At the same time, mixed signals from funders began to create financial uncertainty and organizational instability.⁶⁴ Federal support for community-led advocacy programs began to wane in the 1980s with the election of President Ronald Reagan.⁶⁵ Additionally, the local government began to rethink its funding of Operation Life programs.⁶⁶ The institution endured these obstacles throughout the 1980s, but by the beginning of the 1990s Operation Life's major programs had been taken over by other entities or simply ended.⁶⁷

The women heralded by Orleck succeeded in the face of formidable personal and societal challenges. Orleck believes that the record of their achievements should move readers to reexamine existing poverty law strategies, and she contributes much to the literature of poverty law and social movements by “uncovering” these women's stories of persistence, inspiration, and triumph.

While Orleck rightfully lauds these women's accomplishments and invites us “to listen to the poor and support the bottom-up community revitalization programs they have created,”⁶⁸ one cannot ignore the impact of overarching economic, political, legal, and social influences that maintain poverty. While Orleck demonstrates that people living in poor communities are capable of leadership and meaningful participation within antipoverty movements, those movements still face significant macro-limitations. Orleck notes that the founding women of Operation Life were still poor enough to qualify for senior affordable housing

62. *Id.* at 260.

63. *Id.* at 261.

64. *Id.* at 284.

65. *Id.*

66. *Id.* at 279. In 1986, Clark County built its own public library in the Westside, ending monthly rental checks to Operation Life. *Id.* The County also reclaimed money for affordable housing development. *Id.* at 281-83.

67. *Id.* at 292.

68. *Id.* at 306.

at Ruby Duncan Manor when it opened in 1988.⁶⁹ The coordinated efforts of national, state, and local antipoverty advocates had failed to achieve a Constitutional right to a “minimum income.”⁷⁰ Finally, state and local political forces frustrated the War on Poverty’s call for “maximum feasible participation” by the poor in grassroots antipoverty efforts.⁷¹ Over time, state and local governments successfully limited the federal government’s direct participation in local program development and funding, undermining the revolutionary potential of federal antipoverty measures. These macro-influences—economic, political, legal, and social—proved a formidable challenge.⁷²

Orleck’s observation that “few creative or genuinely new ideas have surfaced” in the last fifty years of discussing poverty is descriptive if she means to attribute poverty’s persistence to the failure of policymakers to enact a nationwide, comprehensive program attacking poverty.⁷³ No federal response to poverty has emerged in the last fifty years that is as hopeful and as sweeping as the War on Poverty. In fact, programmatic trends have run in the opposite direction. Recent federal initiatives, like public housing redevelopment under HOPE VI, do not allow grassroots organizations to control local program planning or implementation.⁷⁴ Other programs, like federal Empowerment Zones or the New Markets Tax Credit, emphasize local market incentives and improvements over community organizing or political activism.⁷⁵

69. *Id.* at 278.

70. MARTHA F. DAVIS, *BRUTAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960-1973* 37 (1993).

71. ORLECK, *supra* note 1, at 306.

72. See also Matthew Diller, *Poverty Lawyering in the Golden Age*, 93 MICH. L. REV. 1401, 1414 (1995) (concluding that organizing strategies of 1960s failed or yielded limited successes).

73. ORLECK, *supra* note 1, at 306.

74. See Susan D. Bennett, *Little Engines that Could: Community Clients, Their Lawyers, and Training in the Arts of Democracy*, 2002 WIS. L. REV. 469, 470 n.5 (2002) (describing public housing resident participation in the HOPE VI program).

75. See Susan R. Jones, *Will New Markets Tax Credits Enhance Community Economic Development?*, 8 J. SMALL & EMERGING BUS. L. 229 (2004); Audrey G. McFarlane, *When Inclusion Leads to Exclusion: The Uncharted Terrain of Community Participation in Economic Development*, 66 BROOK. L. REV. 861, 889-92 (2001) (discussing participation in Empowerment Zone program); see also Jennifer Forbes, Note, *Using Economic Development Programs as Tools for Urban Revitalization: A Comparison of Empowerment Zones and New Markets Tax Credits*, 2006 U. ILL. L. REV. 177, 178 (2006) (concluding that both programs should focus more on building social capital within communities).

Orleck's observation, however, is overbroad and pessimistic considering the creativity and experimentation expressed under locally developed antipoverty strategies. With the federal government's retreat from antipoverty leadership, local public and private actors must become catalysts for broader social change. Therefore, Orleck's observation obscures a more fundamental concern in an era of decentralized governance: How can antipoverty movements link local advocacy to broader based social change? The remainder of this essay focuses on developments in CED work since the mid-1980s and describes the potential for broad-based social change emerging from local activism.

III. COMMUNITY ECONOMIC DEVELOPMENT LAWYERING AT THE LOCAL LEVEL

Orleck does not incorporate lawyers' work until midway through the book, when she introduces Edward Sparer, "the chief 'guru' to a new generation of poverty lawyers,"⁷⁶ and Jack Anderson and B. Mahlon Brown III, two young attorneys at Clark County Legal Services.⁷⁷ These lawyers were part of the traditional public interest legal model of the 1960s and 1970s.⁷⁸ During this period, lawyers litigated significant welfare rights cases in federal courts.⁷⁹ Concurrently, lawyers represented hundreds of individual welfare recipients whose benefits were reduced or terminated.⁸⁰ Focusing

76. ORLECK, *supra* note 1, at 115. Edward V. Sparer was the architect of the welfare rights movement legal strategy. See DAVIS, *supra* note 70, at 22-39; Gary F. Smith, *Remembering Edward V. Sparer: An Enduring Vision for Legal Services*, 39 CLEARINGHOUSE REV. 329 (2005).

77. ORLECK, *supra* note 1, at 115. Another War on Poverty program, the Office of Economic Opportunity, created Legal Services to provide legal services for the poor. *Id.*

78. Louise Trubek, *Crossing Boundaries: Legal Education and the Challenge of the "New Public Interest Law"*, 2005 WIS. L. REV. 455, 458-61 (2005) (describing CED's adaptations from past public interest advocacy).

79. See, e.g., *Goldberg v. Kelly*, 397 U.S. 254, 260-61 (1970) (establishing right to fair hearing before termination of welfare benefits); *Shapiro v. Thompson*, 394 U.S. 618 (1969) (challenging residency requirements), *overruled in part by Edelman v. Jordon*, 415 U.S. 651 (1974); *King v. Smith*, 392 U.S. 309, 312 n.3 (1968) (invalidating Alabama's "substitute father" regulations). *But see Dandridge v. Williams*, 397 U.S. 471 (1970) (upholding state maximum grant provisions). See generally DAVIS, *supra* note 70.

80. ORLECK, *supra* note 1, at 141. This local representation was organized. *Id.* In response to the sudden and massive need for individual representation in Las Vegas, "[a]n emergency 'lawyers' brigade' of forty attorneys and seventy law students, led by Edward Sparer, flew, hitchhiked and drove their battered Volkswagen beetles into town." *Id.*

particularly on the public interest litigation model, CED scholars have since wrestled with lawyer-client dynamics, examining how lawyers can better connect with the communities they serve without usurping the autonomy or voice of that community.⁸¹

While the traditional public interest legal model operated in a federally driven regulatory state, CED has had to adapt to a shift in governance, to a more decentralized structure in which states, localities, and private actors share increasing decision-making responsibility.⁸² CED tends to concentrate on neighborhood-defined efforts because these are geographically closer to local policymakers and lawmakers, and because they build on the geographic, cultural, and social connections shared by community residents.⁸³ CED advocates develop housing, encourage small businesses, provide social services, and create community nonprofit institutions.⁸⁴ Lawyers engaged in CED work increasingly use their transactional expertise, rather than litigation skills, to advise community clients on the tax and corporate law implications of community-based development projects.⁸⁵ This “self-help” quality appeals to political conservatives. At the same time, liberal legal and political advocates can employ CED strategies to pursue more progressive redistribution strategies.⁸⁶ CED’s versatility, its focus on local issues, and its generally non-adversarial approach help the movement to gain support from diverse public and private actors.

81. The literature in this area is voluminous. See, e.g., GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* (1992) (calling for increasing deference to community client skills); Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 *YALE L.J.* 2107, 2125-30 (1991) (describing “interpretative violence” to client narratives); see also AUSTIN SARAT & STUART SCHEINGOLD, *CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES* (1998); Ascanio Piomelli, *Appreciating Collaborative Lawyering*, 6 *CLINICAL L. REV.* 427 (2000) (discussing critiques of collaborative lawyering).

82. Orly Lobel, *The Renew Deal: The Fall of Regulation and the Rise of Governance in Contemporary Legal Thought*, 89 *MINN. L. REV.* 342, 344-45 (2004).

83. *Id.* at 345.

84. WILLIAM H. SIMON, *THE COMMUNITY ECONOMIC DEVELOPMENT MOVEMENT* 2 (2001).

85. Ann Southworth, *Representing Agents of Community Economic Development: A Comment on Recent Trends*, 8 *J. SMALL & EMERGING BUS. L.* 261, 263 (2004).

86. Michael Diamond, *Community Economic Development: A Reflection on Community, Power, and the Law*, 8 *J. SMALL & EMERGING BUS. L.* 151, 165-66 (2004). “Community economic development is more than the creation of jobs, the provision of goods and services and the accumulation of individual wealth. To view community economic development as comprised merely of these time worn bromides is to forego the chance for more serious change.” *Id.* at 166.

One of the key features of CED is its non-adversarial, transactional work. This work does not directly challenge state actors and market forces. On the contrary, it connects with these groups to foster social and economic investment within underserved communities. In part, this collaborative approach reflects CED's reaction to the devolution of power to the local level and its distrust of relying on any single political structure or funding source. The federal political structure that supported the War on Poverty, for example, was soon supplanted by administrations hostile to those termed "welfare queen[s]"⁸⁷ and pledging "to end welfare as we know it."⁸⁸

A skeptical view of this collaborative role is that it sacrifices meaningful change for incremental accommodations. Rather than seeking broad-based economic reform, CED creates sporadic connections between poor communities and mainstream market opportunities. Challenging this limited view, some scholars emphasize CED's role in the distribution of power, using CED to enable an individual in a poor community "to influence his or her social, political, and economic environment."⁸⁹ Lawyers engaged in this work may develop both legal and non-legal strategies to help communities.⁹⁰ Some scholars also argue that CED should return to a more politically engaged strategy that incorporates community organizing in order to achieve broader social and legal reforms.⁹¹ These critiques underlie CED's more recent forays into progressive national movements like the living wage campaign.

IV. LIVING WAGE CAMPAIGNS

The national welfare reform movement of the 1970s was unsuccessful at obtaining a constitutionally guaranteed minimum

87. ORLECK, *supra* note 1, at 272.

88. William Jefferson Clinton, "Our New Covenant," Democratic National Convention Acceptance Address (July 16, 1992), <http://www.americanrhetoric.com/speeches/billclinton1992dnc.htm>; see Gwendolyn Mink, *Violating Women: Rights Abuses in the Welfare Police State*, 577 ANNALS AM. ACAD. POL. & SOC. SCI. 79 (2001).

89. Diamond, *supra* note 86, at 158.

90. Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 COLUM. HUM. RTS. L. REV. 67, 68 (2000). Non-legal activities include "political action, the use of publicity and the media, demonstrations, economic pressure, boycotts, civil disobedience, and physical development." *Id.* at 79 n.34.

91. Scott L. Cummings, *Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice*, 54 STAN. L. REV. 399, 458-86 (2001).

income. At the local level, however, antipoverty advocates have been more successful at persuading city and county legislatures to pass living wage ordinances.⁹² These ordinances, based on the simple idea that workers should not have to raise their families in poverty, typically require businesses with public contracts to pay workers a sufficient wage to support their families.⁹³ Living wage advocates recognize that the federal minimum wage, \$5.15 per hour since 1997, is not adequate to keep an individual or a family out of poverty.⁹⁴ The growth of this grassroots campaign during the last ten years to adopt true “minimum” wage levels at the local level exemplifies the strength of local advocacy and its possibilities for achieving national, broad-based labor reform and economic justice.⁹⁵

Approximately 122 living wage ordinances have been adopted in cities and counties across the country since the first ordinance in Baltimore in 1994.⁹⁶ Faith-based and labor organizations were the catalysts for the Baltimore ordinance and for subsequent ordinances nationwide.⁹⁷ Living wage ordinances vary in wage levels, required benefits, and covered employers.⁹⁸ Some ordinances cover employers receiving public contracts,⁹⁹ while

92. LAWRENCE B. GLICKMAN, *A LIVING WAGE: AMERICAN WORKERS AND THE MAKING OF CONSUMER SOCIETY* xi-xii (1997).

93. *Id.*

94. *Id.*

95. Community benefits agreements are a related economic justice strategy. Cummings, *supra* note 91, at 479-83. In this strategy, a community supports a developer in the land use approval process in order to obtain employment guarantees and other benefits. *Id.* Culminating in an enforceable agreement, this strategy offers a creative approach to reconciling urban redevelopment with existing community goals. *Id.*; see, e.g., FIGUEROA CORRIDOR COAL. FOR ECON. JUSTICE & L.A. COAL. TO END HUNGER & HOMELESSNESS, *SHARE THE WEALTH: A POLICY STRATEGY FOR FAIR REDEVELOPMENT IN L.A.'S CITY CENTER* (2002), <http://www.saje.net/Publications/sharewealth2.pdf>.

96. See William Quigley, *Full-Time Workers Should Not Be Poor: The Living Wage Movement*, 70 MISS. L.J. 889, 899-914 (2001) (outlining a brief history of the living wage movement). See generally GLICKMAN, *supra* note 92 (providing a more comprehensive historical analysis of the living wage movement).

97. The Baltimore campaign was led by a faith-based organization, BUILD (Baltimoreans United in Leadership Development), and a labor organization, AFSCME (American Federation of State, County and Municipal Workers). See Baltimoreans United in Leadership Development Home Page, <http://www.buildiaf.org> (last visited Apr. 18, 2006); American Federation of County, State and Municipal Employees Home Page, <http://www.afscme.org> (last visited Apr. 18, 2006).

98. Quigley, *supra* note 96, at 924-31.

99. See, e.g., SANTA CRUZ, CAL., MUNICIPAL CODE §§ 5.10.020-080 (2000),

others apply living wage requirements more broadly to companies receiving local tax breaks or grants.¹⁰⁰ Similarly, ordinances often contain exemptions for certain employers.¹⁰¹

Living wage campaigns offer the opportunity to link antipoverty lawyering efforts with economic justice organization.¹⁰² Community lawyers can play a key role in living wage campaigns by drafting or reviewing ordinance language, explaining ordinances at community meetings, and testifying before local and state legislative bodies.¹⁰³ Similarly, lawyers are involved in the implementation, oversight, and monitoring of these agreements.¹⁰⁴ Of course, lawyers also defend living wage ordinances in litigation. In 2003, Santa Fe passed a living wage ordinance covering all for-profit and nonprofit employers registered or licensed in the city that employ more than twenty-five people.¹⁰⁵ The New Mexico Court of Appeals upheld the ordinance finding that a general state minimum wage law did not prohibit local home rule jurisdictions from enacting higher wage requirements.¹⁰⁶ However, state

available at <http://www.ci.santa-cruz.ca.us> (covering employers entering into city contracts greater than \$10,000).

100. DAVID REYNOLDS, RACHEL PEARSON & JEAN VORTKAMPE, REPORT ON THE IMPACT OF DETROIT'S LIVING WAGE ORDINANCE (1999), <http://www.laborstudies.wayne.edu/Resources.1999report.pdf> (writing that Detroit's ordinance applies to employers receiving more than \$50,000 in city contracts or other financial assistance); see also Angela Yvonne Jones, *Bittersweet Victory: Non-Enforcement of Detroit's Living Wage Ordinance Plagues the Community's Living Wage Standard*, 5 J.L. SOC'Y 617 (2004).

101. See, e.g., SANTA CRUZ, CAL., MUNICIPAL CODE §§ 5.10.020-080, available at <http://www.ci.santa-cruz.ca.us> (exempting companies with five or fewer employees, nonprofits, employees covered under collective bargaining agreements, and employers already paying above living wage amounts).

102. Cummings, *supra* note 91, at 465-72 (describing lawyer collaborations with living wage campaigns in Boston and Los Angeles).

103. Selena Spain & Jean Wiley, *The Living-Wage Ordinance: A First Step in Reducing Poverty*, 32 CLEARINGHOUSE REV. 252, 266 (1998) ("Legal experts and advocates can play an important role in this effort to ensure that the needs of low-income clients are being met by the provisions set out in living wage ordinances.").

104. *Id.*

105. SANTA FE, N.M., CITY ORDINANCES ch. XXVIII, § 1.5 (2003), available at <http://santafenm.gov/cityclerks/livingwageeng-span.pdf>. The ordinance covers part time and full time workers. *Id.* The minimum wage is \$8.50 per hour, rising to \$9.50 in 2006 and \$10.50 in 2008. *Id.* Future increases are tied to the Consumer Price Index. *Id.*

106. *New Mexicans for Free Enter. v. City of Santa Fe*, 126 P.3d 1149 (N.M. Ct. App. 2005). The court also upheld the ordinance against takings and equal protection challenges. *Id.* at 1166-69; see also Spain & Wiley, *supra* note 103, at 252-53 (outlining the differences between local living wage laws, state minimum wage laws, and prevailing wage laws). As a home rule city, Santa Fe has substantial

legislation expressly prohibiting local jurisdictions from enacting living wage ordinances has been found constitutional.¹⁰⁷

These local efforts have national support. The Association of Community Organizations Now (ACORN) has been particularly instrumental in growing the movement through tracking successful campaigns, providing technical assistance to local efforts, and serving as an information clearinghouse.¹⁰⁸ The Brennan Center for Justice at New York University School of Law advises cities and counties on living wage ordinances.¹⁰⁹ Similarly, organizations like the Center for Community Change and Economic Policy Institute provide technical assistance on community organizing as well as economic and policy research.¹¹⁰ Local wage advocacy is coordinated with a national living wage movement seeking legal recognition, city-by-city, of a minimum level of income to support working individuals and families.

Living wage advocacy shifts CED's work beyond a locally focused, market-oriented strategy to a more progressive strategy that is politically engaged. The community-organizing activity within the living wage campaign, as well as its focus on politics and economic justice, is reminiscent of the economic justice battle engaged in by lawyers and the women of Operation Life.

V. CONCLUSION

Perhaps it is time for CED to incorporate more of the spirit of protest and disruption displayed in national and local welfare rights efforts. *Storming Caesars Palace* describes a coordinated national and local legal strategy framed by a social movement of protest, organizing, and politics. Mothers on welfare lobbied at the state and local level, used the media, and took to the streets in protest.

freedom to pass laws unless the state has enacted a specific prohibition. See Richard Briffault, *Home Rule for the Twenty-First Century*, 36 URB. LAW. 253 (2004) (arguing home rule's continued importance and suggesting improvements). Similarly, the city is given autonomy over matters of local concern. *Id.*

107. *New Orleans Campaign for a Living Wage v. City of New Orleans*, 825 So. 2d 1098 (La. 2002) (finding statute a legitimate exercise of state police power).

108. See ACORN's Living Wage Resource Center, <http://www.livingwagecampaign.org> (last visited Apr. 18, 2006).

109. See Brennan Center for Justice at NYU School of Law, Poverty Program, Economic Justice: Living Wage, http://www.brennancenter.org/programs/living_wage/index.html (last visited Apr. 18, 2006).

110. See Economic Policy Institute, Research and Ideas for Working People, <http://www.epinet.org> (last visited Apr. 18, 2006).

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They made life uncomfortable for policymakers and city officials, singing on front lawns and hoisting recalcitrant officials in the air.¹¹¹ Orleck reminds us of the promise and power in this spirited expression of social change.

111. About fifty mothers gathered on the city welfare director's front lawn early one Sunday morning singing "We Shall Overcome" and later lifted him over their heads and carried him down the stairs of the welfare office when he refused to meet with them one afternoon. ORLECK, *supra* note 1, at 150, 164.