

Iván Espinoza-Madrigal
Excerpt from Latinxs in the Law Lecture
NYU School of Law

¡Buenas noches! Good evening!

I want to thank the Latinx Rights Scholars Program for inviting me to speak tonight. I also want to thank the Latino Law Students Association, OUTLaw, the Public Interest Law Center, and Dean Morrison for supporting this lecture. It's great to see so many friends, colleagues, and legal warriors here tonight.

My journey here was not easy. I have lived in the United States since I was nine years old. My mom, my brother, and I lived in a low-income, immigrant community. As a single mother, my mom worked long hours. Her hard work put food on the table, but we could not afford many things. I didn't have health insurance until my first job after college. My family didn't have health insurance until an insurance exchange opened in response to the Affordable Care Act. My undocumented family members remain uninsured. They also live under the constant threat of deportation.

I didn't share a classroom with a white student until seventh grade. For many years, I attended what were essentially segregated public schools serving students of color. Many of my friends dropped out of school and eventually came into contact with the criminal justice system. This was my introduction to the school-to-prison-to-deportation pipeline.

These are just a few examples of life at the intersection of race, immigration, and poverty. When I came out in college, I added sexual orientation to this mix. My experiences growing up fuel my passion and commitment for justice and equality. Even today, every case I file reminds me of my family's struggle.

I recently represented Perla, an undocumented transgender Latina woman living with HIV who engages in survival sex work. Perla was arrested for "walking while trans" in Los Angeles. When she was brought to the precinct, the officer asked for her ID. She couldn't provide one because she is undocumented. The officer searched through her purse and found medicine. He asked what it was for and Perla explained it was her HIV medication.

In California, sex work is generally treated like jumping the subway turnstile. It's a minor offense, and you get a slap on the wrist: pay a fine and you get released.¹ But because

¹ HIV CRIMINALIZATION IN CALIFORNIA: PENAL IMPLICATIONS FOR PEOPLE LIVING WITH HIV/AIDS, THE WILLIAMS INSTITUTE 3 (2015), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/HIV-Criminalization-California-Updated-June-2016.pdf> [<https://perma.cc/HLF4-DYT6>] ("Across all HIV-related crimes, White men were significantly more likely to be released and not charged (in 61% of their HIV-specific criminal incidents) than expected, and Black men (38%), Black women (44%) and White women (39%) were significantly less likely to be released and not charged. These charging differentials were even starker among individuals assumed to be engaged in sex work under the solicitation while HIV-positive statute. White men were not

Perla was undocumented and HIV-positive, it turned into a deportation-triggering felony. The government tried to deport Perla using her identity against her. Instead of warranting deportation, we argued that each point the government made worked in favor of granting Perla protection. Her HIV status and sex work didn't make her a "danger to the community"—it made her vulnerable to persecution. And we won.

Some of my peers asked a lot of questions about Perla's case: "Why would you take such a messy case? Why didn't you keep her story clean and simple by alleging one protected status?"

These questions reminded me that there are many ways to approach the law. You can approach the law from an academic, theoretical, or low-hanging fruit perspective. I approach the law through the lens of survival.

Maybe it's because I know from my own experience that poverty, marginalization, and oppression can be messy. And I would like to think that our rights and our equality don't have to wait for "simple facts" or "picture-perfect" clients.

After all, shouldn't poor people, people of color, trans people, people living with HIV, and people with disabilities see themselves reflected in our work and in our victories? I believe no one should be left behind. We should respect and take into account our client's full identities and experiences.

Would we have been able to win if we had kept Perla's story "simple?" Maybe, but I don't think we would have pushed the law to recognize that people experience oppression at the intersection of multiple protected categories including race, gender, and sexual orientation.

One of the greatest limitations in existing legal doctrine is the tendency to divide and separate statuses. We tend to treat race separate from gender, separate from sexual orientation, separate from gender identity, and so on.

Intersectionality makes sense because our lived experiences combine and cut across the doctrinal categories that the law currently provides. Why? Because human beings occupy multiple categories at once. Most of us navigate multiple identities and roles. In my case: son, brother, and husband. But for some reason, we try to oversimplify our clients. We have to fight this tendency. And I think this applies not just to the way that we see and represent our clients; it also applies to how we see ourselves as lawyers. We have to fight the tendency to stay in our lane.

I've been able to work across social justice movements and organizations because I see our struggles as interconnected. Some of my best experiences have come when I veered off the beaten path and when I sought to break down silos to represent "messy" clients.

charged in 70% of cases, while all others were not charged in 43% of cases. Conversely, in those same incidents, White men were charged with an HIV-related crime 13% of the time, while all others were charged for an HIV-related crime 33% of the time.").

As an attorney of color, I believe this is also my professional and social responsibility. I say this because only four percent of lawyers are Latino.² But almost one in five Americans now identify as Latino.³ The needs of our communities—facing complex social problems—shouldn't be dismissed as too “messy” to tackle.

I know that each one of us has the capacity to advocate for ourselves, for our clients, for our families, and for our communities. And to do this we must be comfortable with ourselves.

I didn't bring my whole self to work until I fully came “out”—and I mean that very broadly. I had to embrace not just my sexual orientation, but also other aspects of my lived experience from growing up in poverty, and surviving domestic violence, to having undocumented family members.

Even after embracing so much “otherness,” it can be tough to find a sense of belonging. It can be challenging not to see other LGBT people or people of color in your classroom, in your office, or on the bench. When you face challenges—when you “integrate” a room because you are the only person of color, when you are the only person who is openly LGBT or openly living with HIV, or when you are the only trans voice or trans-affirming voice—remember that you do not stand alone.

I challenge you to build on the social justice movements that we've inherited. I challenge you to embrace and protect even identities that are yet to be recognized. I challenge you to roll up your sleeves and get messy. And I challenge you to remember that power is your birthright!

Thank you. *Gracias.*

² AMERICAN BAR ASSOCIATION, NATIONAL LAWYER POPULATION SURVEY (2017), http://www.americanbar.org/content/dam/aba/administrative/market_research/National%20Lawyer%20Population%20Demographics%202007-2017.authcheckdam.pdf [<https://perma.cc/RA3H-RRML>] (citing 3.9% of resident active attorneys identifying as Hispanic).

³ U.S. CENSUS BUREAU, QUICKFACTS (2017), <https://www.census.gov/quickfacts/table/PST045216/00> [<https://perma.cc/M35M-K47U>] (last visited April 28, 2017) (citing 17.6% of the U.S. population in 2015 identifying as Hispanic or Latino).