

Episode 4: Creating Inclusive Contracts: Insights about the Law

The topic of this conversation is about creating inclusive contracts. You might be thinking that this is a bit obscure. Why should we be talking about the law and contracting in a set of discussions on designing for everyone? In this episode, we are going to hear from Joy Anderson, Charlene Theodore and Sara Wolfe about how we can explore the potentially biased impacts of the legal infrastructure in our economy and how to make it better.

Featured guests:

[Joy Anderson](#) is a prominent leader at the intersection of finance and social change and has been instrumental in shaping the fields of gender lens investing and innovative finance. She is founder and president of Criterion Institute, the leading think tank on using finance as a tool for social change, which demonstrates new possibilities through its ground-breaking research, innovative trainings, convenings and institutional engagement. In 2021, she authored a seminal report, “*Disrupting Fields: Addressing Power Dynamics in the Fields of Climate Finance and Gender Lens Investing.*”

[Charlene Theodore](#) is Chief Inclusion Officer at McCarthy Tétrault. Committed to concrete action in advancing the Firm’s core mission to accelerate diversity, inclusion and corporate social responsibility, Charlene oversees McCarthy Tétrault’s award-winning Inclusion Now program. Charlene has a unique understanding of the interconnection between the legal profession and EDI, and how to achieve tangible results. As the first Black president of the Ontario Bar Association, Charlene designed and implemented a series of initiatives for law firms and Corporate Canada to reimagine workplaces.

[Sara Wolfe](#) is Anishinaabe with family roots in Northern Ontario. She is a Registered Nurse, a Registered Midwife, and holds her master’s in business administration from the Rotman School. Sara has been the Director of the IndigenousInnovation Initiative at Grand Challenges Canada, one of the largest social impact investors in Canada, whose work is dedicated to supporting innovators and communities to identify and solve their own challenges, drive inclusive growth, and improve all life through Indigenousinnovation that is by and for Indigenouspeoples.

Moderator: [Sarah Kaplan](#) is a Distinguished Professor of Strategic Management at the University of Toronto’s Rotman School of Management and the Founding Director of GATE. She is a co-author of the bestselling business book, *Creative Destruction*. Her latest book, *The 360° Corporation: From Stakeholder Trade-offs to Transformation*, is based on her award-winning course at the Rotman School.

Resources:

- [Introducing Standards of Practice for Gender Lens Investing](#), by the Criterion Institute
- [The 360° Corporation: From Stakeholder Trade-offs to Transformation](#), by Sarah Kaplan
- [Gender Analytics: Possibilities conference](#)

Gender Analytics is a way to analyze your products, services, processes and policies with a gender lens to uncover hidden opportunities for innovation and improved effectiveness by considering gender, race, Indigeneity, disability, ethnicity, sexual orientation and other identities. Learn more here: www.genderanalytics.org

Want to hear more from the Institute for Gender and the Economy? Check out our signature podcast series, Busted, which busts prominent myths about gender and the economy!

Credits:

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Transcript

Sara Wolfe: For this contract, we thought that we needed an Indigenous lawyer to review it. We actually had at the end. I think it was 7 or 8 lawyers working on this contract. And I'm the one that we wrote it. But it wasn't because what we needed was a lawyer to work on it. What we needed was someone with expertise and knowledge translation. And because I was a midwife who spent 15-20 years working in taking complex medical knowledge and sitting with the client and explaining to them what it actually meant. That was actually what my expertise was. And so that's...I think it's to your point like...Do the experts actually have that expertise? But also, did you bring the right experts into the room?

Sarah Kaplan: Welcome to episode 4 of Designing for Everyone, a podcast by the Institute for Gender and the Economy (or GATE). I'm Sarah Kaplan (she/her pronouns), and a Professor of Strategic Management at the University of Toronto's Rotman School of Management, Founding Director of GATE and your podcast host. In this 7-part limited series, we're featuring a high-impact set of conversations we had in April 2023 at our Gender Analytics: Possibilities conference.

The topic of this conversation is about creating inclusive contracts. And, you might be thinking that this is a bit obscure. Why should we be talking about the law and contracting in a set of discussions on designing for everyone. But, this panel emerged from a series of conversations I had with three extraordinary people—all friends of mine—who have been thinking about precisely these issues for a long time.

Joy Anderson is a prominent leader at the intersection of finance and social change and has been instrumental in shaping the fields of gender lens investing and innovative finance. She is founder and president of Criterion Institute, the leading think tank on using finance as a tool for social change, which demonstrates new possibilities through its ground-breaking research, innovative trainings, convenings and institutional engagement. In 2021, she authored a seminal report, "Disrupting Fields: Addressing Power Dynamics in the Fields of Climate Finance and Gender Lens Investing."

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The idea for this panel came from separate conversations I had been having with each of them about how we need to bring an inclusive analysis to the law and to contracts...Joy who talked about how venture financing term sheets should look different if you apply a gender lens...Sara who talked about how they had to completely deconstruct government contracts to respond to Indigenous ways of knowing and doing...and Charlene who has worked on how to revise legal precedent to avoid gender bias.

This was a fun and funny and wide-ranging discussion about how we can explore the potentially biased impacts of the legal infrastructure in our economy and how to make it better. I hope you enjoy our conversation.

Sarah Kaplan: Joy, let me start with you. Jackie mentioned in a previous panel about the origins of gender lens investing, which you know we all now go way back to. You are probably the leading expert and advocate for gender lens investing. And one of the things that you've talked about consistently is things like term sheets which sound very boring but turn out to be incredibly important when you're thinking about investing in new ventures and how do you apply a gender lens to that. Can you describe first what a term sheet is? And then why is it so important to change them? You know, if we take a gender lens on things and what kinds of changes would you recommend?

Joy Anderson: Great. I love how these conversations keep building through the day and Sara and I were sitting for the earlier sessions and thinking, looking at you each other. Oh yeah, let's build on that. But so, I will start by saying given where we are right now in gender lens investing, one of the fundamental challenges that we've got to sort of situate term sheets within is that we imagined that we could point money at women and diverse gender minorities and people of color. We just assumed we could point money in new directions without actually changing anything. Right. And so, the previous panels have looked a little bit at changing our analysis and what data we look at. I think we need to change our processes, but we also need to change our structures. And one of the things that...I was an early player in impact investing, founded one of the first venture funds in impact investing. And so, I was struck, as we started looking at this maybe three or four years ago, that in the 15, 16 years of impact investing, nobody had really

changed term sheets. Like there were examples of four or five funds that didn't they just download something off the Internet and say this is what a term sheet is, right? So, a term sheet is, by the way, for those of you who aren't in finance, the term sheet is the thing... it's a contract between you and whoever you're providing capital to—you as the investor and the person taking the capital—that names the terms of that relationship. And so. If you think about it. The fundamental piece that we're talking about through all of these conversations is power dynamics. Right? We're talking about power dynamics. We're talking about the structures that have been put in place over time that reify, reinscribe, define how those power dynamics are supposed to work. And it is imperative that we rethink those structures as we're moving things forward. And so just a couple quick things on this and I know we're all going to build on this in different ways. But what a term sheet does... Anytime you're creating an agreement to make an investment, you're looking at where we are in our relationship now and where we think we will be in the future and how do we manage contingencies in the future. Right? Because contracts are not about now. Contracts are about the future. And what powers we will have in the future to manage a set of contingencies. And I'm just going to put one thought provoking idea out here. And then I'll pass it to my pragmatic friends. Most of what we do in term sheets as investors is protect ourselves. We protect our returns. We protect our legal exposure. I recently got solar panels on my house and I was just thinking this morning that I think read maybe 40 pages of documentation that I had to sign off to finance my solar panels. Why is it 40 pages of documentation? Right? But that gets built overtime to layer on one protection after another and I am pretty sure that none of those protections protected me. Right? They protected the solar company and the financier and...you know...the Government of Connecticut and etcetera, etcetera. The other actors. So what if one of the things that we did when we did analysis of how finance should work, or how our agreement should work, what if we looked at each of our contracts and said... how in this contract, am I using my power to protect somebody else? What if contracts weren't just about making sure that my risks were protected, but that we had a generosity in this. Right? We are literally investing to disrupt power dynamics, but we still make sure that the people protected in that are the investors. And I realize this is heresy. But I think we've been on a path to heresy so far this morning. So I'll start there.

Sarah Kaplan: OK, the path to heresy. Good. Well, Sara, I want you to pick up on that because that's very similar to this conversation that we had about your work at the Indigenous Innovation initiative that Grand Challenges Canada. You know there are contracts obviously involved in funding there as well. And you realized that the contracts basically had to be rewritten because they were exploitative. And I was wondering if you could tell us a little bit about that journey the, the realization about that, and then what it took to actually get to a good endpoint.

Sara Wolfe: So yeah, so my first six points were just spoken to, but nonetheless I will try and build off of. Thanks Joy. So, I first just want to acknowledge that I'm not coming in as a lawyer. I am a midwife and I work in the impact investing space.

Joy Anderson: That's similar though, isn't it?

Sara Wolfe: [Laugh] Well, the interesting piece is that it is similar because my knowledge comes from being grounded in Creation Story. You know, when you work in birthing, you see Creation Story happening and I go back to the teachings that I have and the elders and the aunties that I have about our first Creation story about Sky Woman falling through the Earth and muskrat saving us. And I won't go into depth with that. But the teaching I have is that original creation story is reenacted in everything we do. So I'm just going to say that's where I'm grounded is in those teachings of my aunties. In terms of my experience with rewriting a contract, so similarly like this whole idea of looking at a contract or an agreement that we have with the grantees. They shared with me this beautiful template agreement that they had that had been thought through and built on and built on and built on and it was 84 pages. And I thought...Wow...So I started tackling in and I got about 3/4 of the way through the first page and I had no idea what I read. And I'm an alum of this school. I would like to think it was a pretty top-notch education and that, you know, I'm smart enough to be able to succeed in getting a graduate degree from one of the top business schools in Canada, in the world. But I couldn't even understand the first page. And so, I started to break down the different pieces of it and said, like, we need some help in here. Because this is too difficult for me to understand. How are we asking people to engage with this kind of material when I'm dissociating from it. And I actually was probably in a better position to understand it and go through it. We hired some Indigenous lawyers. Lawyers are some of my best friends and so no offense to any of the lawyers out there. But the problem that we have with lawyers creating contracts is that they're trained to defend and to protect the organizations that have hired them. And so, while some of the language was able to shift the whole very concept of, you were talking about creating these contracts that were protective in a different way. Let's just put the bare minimum in. Let's make them fair. Right? And so, as I was reading through different parts of it, I'm like... if the language is saying...you know...for greater certainty after every paragraph, why can't we just be certain after the first paragraph? So just simple things like making it plain language, so that anyone can understand it. So that people actually understand the relationship that they're getting into. And then if we're telling people that if they have to fulfill certain responsibilities, obligations, requirements in this relationship, and if they don't do those things, then there will be X consequences, why are we not talking about consequences that we will have to take if we don't fulfill our responsibilities? Why are we not outlining our own responsibilities and requirements in these agreements so that they are fair? And that it's not just around protecting our assets, but it's really around creating a relationship that goes into the future that we can all build off to make things better.

Sarah Kaplan: Yeah...I mean...those two things are so well tied together. So, Charlene, I want to bring you into the conversation. So, when you took on your DE and I role at McCarthy, you realized that DEI wasn't just about the diversity of the staff, but also about how equity and inclusion are represented in the law itself. And one of your major projects was to think through how to adjust the language around legal precedent to be more gender inclusive. So, can you talk a little bit about what led to those insights and what it meant to do that work?

Charlene Theodore: For sure. And I'll try and talk about my journey as a lawyer. I am lawyer on the table and an EDI strategist. So when we talk about...as Joy said, contracts are really a system and a structure for future events, right? That, contracts are also...they should take the example of a contract, and what it looks like, whether it's fair or unfair, whether it's inclusive or

not, that can actually be a bellwether for change. That can say that can be an indicator that look... we're not looking at our organizations, systems, and structures in a way that creates and generates the results that we want, right? Because if I'm off on this, I may be off on other things. One thing I will say is all contracts started with a lesson. And you learn a lot of these lessons in your first three months of law school. Right? And so, there are cases that tell you why we have buyer beware as a principle. There are cases like when you go into a parking garage, why the signs are at a certain location, you have to see the signs and there are lots of fine print before you actually pay for entry to the garage. Because they all started with somebody saying...oops, I thought we had an agreement and this doesn't work. And it went to court. Now we have all these principles. Using contracts as a bellwether for change, what I do is...I'm the Chief Inclusion officer at Canada's largest law firm. We have an initiative and a strategy called Inclusion Now. As I come to this work, I started out my legal career in international commercial law, then I went to international human rights law. And then when I came back home to Toronto, I worked in all legal aspects related to workplaces and running a business. And I started to combine my legal practice with a diversity strategy practice and now I do diversity strategy full time for the firm and for our clients. So what we have and the strategy part of the aspect that I run is called Inclusion Now. And I'll tell you what it is. And it isn't a diversity committee, it isn't an event-based EDI project. Every recruiting we do at the firm, we go about the business of the whole firm. Business, EDI, inclusive and intersectional approach to the business of running a law firm. And my job is to work with the rest of the C-Suite at the firm to ensure that everything that we do is as inclusive and intersectional as possible. So, it's a long, winding road that we took to get to the fact that, what did we do with our contracts? So because we put in the work to look at our whole business and our whole structure and how we can make it as inclusive as possible, and because every sentence or term that you have in every kind of contract precedent or template, we at some point looked around and looking at our gender work that had extended to all binaries, or lack thereof, of gender. We started looking at the work we're doing with regards to trans inclusion within our communities and within the firm. And we said, well, this language in the contract templates that we're giving our people doesn't really match with what we do anymore. And so, we set about a group of really smart lawyers and staff that about looking at kind of the whole catalog of our contracts from our business group. And they are all now in gender neutral language. So the interesting thing about that—if you thought that that was, if you thought it was interesting, I'll tell you something making more interesting—The thing about that is because, if anybody reads a contract, it is English. It really is English. I'm the kind of person...Being a lawyer, I always read every contract. I don't sign off on everything like theme parks, whatever it is. I remember going for the first time out west to Manitoba and signing up with a friend of mine to go whitewater rafting. And I read the contract and essentially what the contract said is not only was this company not liable for any death or injury, they would not be liable even if the instructor decided to deliberately attack us on the boat and cause an accident. Capsize us. They whatever explained that. Do you know what this is? And so, the interesting thing is...what the legal profession has been pushing, or some portion of them, are pushing for is plain language contracts. Right? It's an access to justice issue. Contracts dictate the balance of power. That balance of power is always going to be off if one person cannot understand to the same level that the other party can understand. Or one person needs to have extraordinary expenditures on lawyers and consultants to have that contract, even the simplest ones, translated for them. And so, nobody really picked up on the of the years of my advocating for plain language. It's still, I still look at documents and heretofore, let it be, and henceforth, let all men presence be known, you know, a 5.95 late fee if you return this book to the library late.

Right? That's still what contracts look like. And the fact that we're now looking at gender neutral language. What I'm excited about is that I think what it does is it presents us an opportunity to get what we want through the back door as opposed to what we thought the front door was. Right? Because now that we're looking at gender neutrality in language, we're looking at just in the contract and just looking at these contracts, and do they make sense? And so, I think that's a trend that's going to continue to evolve.

Sarah Kaplan: Well, that's really compelling. So now we kind of have...

Joy Anderson: Can I build on that?

Sarah Kaplan: Yes. You may.

Joy Anderson: So the thing I want to build on... Because she's a midwife, you're a lawyer. I worked in finance for the last 20 years but I have a PhD in 19th century American history. And so what I love about being a historian is I can tell you the date we made **** up, right? Because at some point, I think one of the things that... this idea of precedent right, I think it's so critical in what you're saying, right. So we build on top of what we learned and we assume that the previous thing we learned is still true, right? And then we just add another one, because we got another clause with another clause and. That ability to step back which is what I want to call for in finance. Why aren't we if we want to have new relationships in finance? How do we step back and relook at that which is, in so many ways, a huge challenge because everybody already spent all those legal fees and coming up with other approaches? So, how do we fix that?

Charlene Theodore: I'd like to answer that by referring to my learned friend as lawyers over here. I was honored—honored was probably not the most appropriate word, but the best word that come to me right now—to get a call from the Prime Minister's office last year to ask me to sit on the selection committee for the selection of the candidates as the next Supreme Court Justice. So, I said, sure, get a call, you serve, and I engaged in the process with a lot of great individuals, another few great individuals from across the country, in picking our, recommending to the Prime Minister, who should be our next Supreme Court Justice. And now, for the first time in our history, we have an Indigenous female judge on the Supreme Court. I say that, [audience applaud] thank you...but, I say that, because this is how we take another look at things. We let people continue to do the work. I started talking about diversity on the bench and law, several rounds of it. I don't know how many years ago. And now come to full circle to be a part of that process. What that will do is that will inform the courts perspective on, inform the Court on the Indigenous perspective of our relationship ...so our relationship with each other, our relationship with the land, our relationship with our institutions and our relationship to...I want to say punishment... or perspective on justice or atonement. Right? And so that's how we continue to do it.

Sara Wolfe: I'm going to go back down to a little bit more of a practical level to build off of those things and we talked about plain language. And no, it seems like OK, that's fairly straightforward, but plain language is actually even more nuanced than that. Because it's not just around making it at a certain basic literacy level. We talk about inclusion, well, people are coming in with different lived experiences, different cultural experiences, different language experiences, different educational experiences. But we also have an emotional connection to language and to words. And words mean different things in different languages. And when you come in from different world views, having a word that means something in a contractual piece versus what it means in a real in a person's real life is also a nuance piece. And so it's really about building that relationship, so you understand each other and making sure that it's like you are indeed on the same page about things. And the language that frequently you see in contracts, it's just one of those invisible mechanisms of upholding power and intimidation that we have an opportunity to just start dismantling. Something just as basic as like what are you actually just trying to say here.

Joy Anderson: Just to build on that...

Sarah Kaplan: I said I wasn't going to be able to talk, so go ahead!

Joy Anderson: Just to build on that, because I think there's this moment when we're trying to solidify a relationship, right? And I will say, honestly, what I've learned in finance is that at that moment, the person receiving the loan, the company receiving the equity investment, they got... OK, they got a little power maybe if they're super hotshot, blah blah blah and...everybody else, they have no power. And so I do think what I want to name is at some point people have to be the ones asking for something different. It's the first comment said that those of us who are privileged, white, etcetera, etcetera need to be the ones dismantling the system, not asking the other person to do it. So the sort of ongoing question that we're sitting in. We are putting together a set of standards of what does it look like... so Criterion, my organization, is working, supported by the Canadian government, to come up with a global set of standards that says what does it mean to have addressed power dynamics in how you make investments. Because unless we're doing that, we're not doing gender lens investing, we're not doing ethical investing unless we're actually addressing the power dynamics. Just saying that we're going to point money in new directions isn't going to get there. But there aren't any standards of what good practice is. And so people who are sitting in positions with the significant amounts of capital are saying, I am doing gender lens investing. I created a microfinance vehicle and I put millions of women in debt. And aren't they thrilled? Right? And I gave them a contract that ensured that they were in debt. But we're not questioning what power we have in that. We're not stepping back and using our power in that moment to say, can we change the terms of the relationship in this moment, cause what kind of relationship do I want to have? And we have way more choices because 90% of what's in that document, we have choices about, right?

Charlene Theodore: The man told me to sign and say he was allowed to kill me on this river. We have choices. [laugh] First of all, I had a discussion with him. I still want whitewater rafting. Everybody was fine. But you know, I joked...that wasn't a joke, I actually happened, to make a point, right? There are choices. You can question things. I will...Just I want to introduce another perspective is—what something is really important to me as we all come together to do this work—is only is shifting, like really understanding who has the onus of the burden on doing this

work. So what I tend to focus on, and I agree, I try to do both the same time, encourage people to ask questions, push back. And when we talk about power, I think we're sensing a shift, another time of shifting in the general power and balance, it's time for women and people identify as women and people who identify as different outside of that binary to reclaim their power. But I also think of the people who are in power. And so my question to them, especially if you're getting into the venture capital or entrepreneurship at any level and you're the person who was drawing up contracts and telling someone you should get your lawyer to look at this and sign. What does success look like to you? Because if you're in the VC space, which is something I'm particularly interested in with respect to AI, and what does successful look like to you? Do you have success saying I've put 37 women in debt? Yes? Do you have more success when you ensure that you help women and invest in businesses that are sustainable and flourishing and changing and impacting and employing lots of people? And maybe one of them is the next, I don't know what I can't think of a business that I could name that somebody would not have a problem with.

Joy Anderson: What about just a sustainable business that serves its community?

Charlene Theodore: Well, that's what I'm saying, right? And so, I think what I would ask the people who have the power in terms of impact investing is does success look like just that short term transaction and making sure you protected or does success look like I want to protect my investment? And protecting my investment means setting up a structure where everybody knows their rights and obligations and everybody has rights and obligations, which is supposed to be the essence of a contract.

Sarah Kaplan: Can I just...I'm not interrupting...but I'm just bringing in the audience because there are a lot of questions here that I think will help that I'm going straight to you. But a lot of questions, you know, about, well, how do we do this? Like recognizing that, for example, contracts embed power and simplifying a contract could change the power imbalance. Or like if you wanted to go white water rafting, you had to sign that like there was no....if I want to use my iPhone, I have to click "I agree". I literally can't use the phone.

Charlene Theodore: Terms and conditions.

Sarah Kaplan: Yes. So all that stuff is power, right? It feels so unfair that I have to click that every time just to use my phone. So, people are saying like, OK, what would it take to actually build these simplified contracts that are connected to the people, and that recognize these power imbalances? And one person says, you know, wampum belts are inclusive contracts. I'm wondering about how much the system needs to be dismantled to become equitable. Is it about removing the opportunity for litigation? Is it about trust? Other people are asking about, how do I practically do this? Tons of questions are like. Hey, we're on your side. Oh my goodness. What do I do next? So Sara, I'm starting with you.

Sara Wolfe: Yeah. So, I have some calls to action that I just scribbled down here right before. And the first one was build these tools. We need to build the tools. But then we need to share the tools. We live in a world where we have this scarcity mindset, where if we create something, we think it's our intellectual property and we need to protect it and be the best and the leader in having this tool. But really what we're doing is preventing other people from benefiting from that work. So that's the one piece that I wanted to say about that. But I also just wanted to say that we need to also find ways of valuing the emotional labor that goes into decolonizing the tools, to restructuring the tools, to putting those tools into a plain language, for identifying the problems with them, for trying to find the solutions for them, then for advocating for those implementation of those solutions. Because that's the other part of all of this is that emotional labor that happens and it falls on the backs of the people who have been the most underserved. And the more intersectionalities you have, the more emotional labor goes into it. But probably you're in the best position to be able to create those things. But it's up to all of us to share those tools with each other so that the next person doesn't have to recreate something different.

Joy Anderson: Building on that, because I think you're spot on. And I think there are two ways of thinking about that. One is what's the overall macro environment where people are calling for different approaches. And sort of saying you can look differently, who are the leaders in impact investing or who are the leaders in AI? Because that's a place where you know there's a whole set of people who have been looking at privacy and data tied to the Internet for a long time. We should be listening to them more now. So the question is there's a whole bunch of different places where we could be looking at this. But we can actually only look at them one at a time at that level. We go to this macro level as if there's some new universal truth that should replace the particularities that have been built. And so, I was with Vicki Saunders last night, who runs Coralus here and many of us know. And what she constantly reminds me is that it's not when we're at the level of an individual and lots of people...that's been a theme for the day... when we're at the level of the individual, it's one-on-one fight, and we're probably going to lose. But if we're in community, if we're connected to others, then we can change it. So, two quick examples where I started to see change happening. One is both in Southeast Asia for some reason. But in Southeast Asia we had a gathering of all the intermediaries who were working on gender lens investing in Southeast Asia, the sort of major ones that were doing significant transactions. And we asked what would enable more transactions to happen, more money moving to good things. And one thing I was struck by was the fundamental answer was accountants and lawyers. That we needed a community of accountants and lawyers that were actually talking to each other about what different term sheets might look like in Vietnam, in Indonesia, not abstractly some US lawyer from someplace who says here's what we're doing in Silicon Valley. So one thing is that really figuring out what are the places where we can come together in context to set particular new rules and then roll them up. Second thing is...this was years ago, but a set of women entrepreneurs in the Philippines...We came together for a day. And I was like the, you know, finance person brought to you by USAid or something. And, as we talked through the day, they said, we don't want to take outside capital. Because if we take side outside capital, we would disrupt the noncompetitive community that we've built amongst ourselves over time. And it will be you, not you, you, not you. And it would be somebody else making the decision. And we have spent, back to the last panel, all of this time building trust that

would be disrupted by a competitive process. So I say. OK, cool. Let's build a holding company. Let's put you together in a structure that connects, right, like, what are the structures that tie our wrists together as communities? And then, you could take any outside capital to that collective thing. I came back. Asked a bunch of VC's. Would you put money in this? They said no, cause we'll lose control because we have control when we're one-on-one. And so, for me, that was a constant lesson to say, when we act as community, we have collective power that we don't have when we act one by one.

Sarah Kaplan: I wondered if there was something you wanted to add to this conversation?

Charlene Theodore: First of all, it's a marathon not a sprint. And I'd like to go back to what I'd like to do is like three things you can leave here today to do right away. I think you can use your time well in this conference and connect with people that have the same questions and have a deep understanding or looking to grow their understanding about how these ballot power imbalances connect to the larger systems that we use, and how it's kind of all one thread. Then number two, I would leave here with the community that you started and grow that community, right? I think that starting just maybe a round table, or let's meet every month and let's talk about these issues and letting ideas flow from there. What I will say in addition—like still number 2—is I would really lean in and don't assume that people that are part of the system, who maybe built these systems, don't want to participate. I wouldn't assume anybody is not interested in learning something new and sharing their wisdom and sharing their challenges until they say no. So, from the legal side, that could be presidents of bar associations, that could be judges, they could be retired judges, it could be general counsels at VC firms, at hospitals, in education, VC lawyers that deal in the startup space, right? Just ask if people come together. And number 3, what I would do now that you have your community is just be consistent and try new models...I do think that lawyers are essential because you're creating new ways of being in agreement with each other, which is what a contract is, in the context of a legal system that works the way it does. And so yes, we are trained to say, well, it depends because it really does depend on everything. And so, you know, I think as I thought, that example was lovely. Like sometimes it's changing the system and sometimes it's agreeing to say, based on our goals and the outcomes that we want and how we want to be in agreement with one another, this isn't the system for us right now. And so, we're going to be together in a holding company. We're going to find another way to raise capital. And tell people about what you're doing, right? Be transparent about what's working and what's not working. And I feel like that was three and a half, but yeah, it just responds to what we do now and apply it to those three steps and apply it to your sector and just start talking.

Sarah Kaplan: We have more questions coming in from the audience and is a question that I wanted to ask is as well. Everything that you're talking about. One thing that strikes me is that this is work. Like again, it's not just, as Joy started out by saying we're just going to direct money at you or we're just going to say we're going to make these more inclusive. This is actual work. And I know, Sara, we've talked offline about how that process of redoing the contracts was...work. So, I wanted to talk a little bit more about that, like in this work, and you've already highlighted some of the barriers, but maybe as you're doing this work, because I think everyone

here is based on the questions that are coming in, are sort of like, OK, I want to do it, what are the barriers that people can anticipate, and then how do you overcome them? Because it's going to be easy to feel defeated once you hit that first barrier. And how do you keep moving? I mean, how did you keep moving through that whole process? Maybe I'll start with you, Sara, and then we can all talk about that.

Sara Wolfe: How did I keep moving? That's an excellent question, Sarah. Thank you for that. No, I mean it. What kept me moving was that I knew that there was a different way of doing it. So I didn't come into Grand Challenges in this 80s-somewhat-page contract that I couldn't read or understand without having been there before. It wasn't my first rodeo. And as a midwife, I had worked with an academic research scientist who was Indigenous for a number of years, doing a lot of community participatory research. And the panels this morning really resonated. But one of the things I really benefited from was... someone who shared different contracts and things that they had worked on in the healthcare space and in that community research space and community partnerships that I was able to build off of. And so, what kept me going is the deep commitment to be in service to the community and knowing that there was the option to do something different. And so, I took the template from the well-living house, which is based out of St Michael's Hospital. And I applied it to this new context. And the beautiful thing about these contracts that I templates that I had to work from is that they outlined what are the principles that we are actually operating from. I was able to adapt and build off of those based on the engagements and the deep relationships I had with the community and the understanding of the community's cultural context in the world view that was very different, so I could look at it with a different lens. And I think a lot of the time that's what's missing is that people aren't grounded in a different way of understanding the world, right? We're raised in these Western systems and and constructs through our education systems, right from kindergarten and preschool through to post-secondary universities, where they're reinforced by the media, by the news systems and cycles, by everything that we interface with that they're reinforced. And we never get that opportunity to learn a different way of seeing the world. But when you do, then you actually have that opportunity to say, OK, now I know different. And the deepest teaching I have is that we have to actually start with ceremony. So often we go in ready to put the shovel in the ground and we actually haven't done the deep work yet. And if we start with spirit, we start with that setting the intentions. If we get ourselves on the land and just actually ground ourselves, that can be metaphorically as much as actually literal, but, if we just get on the land and ground ourselves in that spirit and that ceremony, set those intentions with each other. And through that, following a different way of starting those engagements, we can actually build the relationships that allow us to acquire the data that we need, to go into these things that can become tangible contracts.

Sarah Kaplan: Joy. Barriers. How you overcame them?

Joy Anderson: Yeah. So I think one of the things that is terrifying about the work that we do. I run a think tank that challenges systems of power on a daily basis. It's super fun. And one of the things that grounds me in that is that...I remind myself that expertise is a performance. So when I walk into a room and somebody says, sweetie, that's just not how it works...you just don't

understand...I've been really stuck on this experience where I had been working with somebody, I thought, authentically for about 3 months. And he came back to me and said, but you don't really know anything about finance. I was like what the hell? But he had so not...I wasn't performing the expertise the way he expected it and I forgot, if you don't ever perform that expertise, then they'll assume you don't have it. And he literally said to me, but this other firm, when we're not a consulting firm, but like these other people, have been bringing in five experts on every column. Like dude, you know what? You're paying for that. But there was a way that they were performing expertise that comforted people. So one is that there's danger in not performing the expertise. But there's danger in also thinking that the expertise is real. Right? I have been stunned how many times I've actually dug into conversations with people who I think are expert in the field that they're talking from. Ohh, what's another way to do that? Oh no, that's how it happens. I'm like, but there are these five different ways of doing that. Ohh. No, no, we just do it this one way. But why? Hmmm... that's how it's done. Right? So, one is, I think in law and in finance, I have actually lots of respect for lawyers, cause I'm so often pushing up to the edge and I really don't want to cross over the boundaries like I don't want to go all the way over. So the people who can help you understand the logic of the system and how it works now cause that's the one...So there are two things for me is don't take expertise so seriously. When somebody tells you that's not how it works, use it as a moment to understand how they think it works. Right? Suck it up for a bit. Hey, I had a lunch with somebody yesterday. I had to suck up like, ohh. I don't know anything about finance. Tell me all about it. But that sort of moment...because if you don't listen at those moments...then you won't learn the logic of the current system of power in such a way that you can figure out where to intervene. So it's a kind of both end. Don't ignore, in my mind, that there is a logic to how the system works. This makes me very pragmatic and probably less of an idealist. Because, in the end, I want to start with the logic of the system. But then I don't take it seriously that that's the only way it works, or that everybody's telling me that this is how it has to work. That they know any more than I do.

Sara Wolfe: Just to give an example exactly of this is that, for this contract, we thought that we needed like we just we needed an Indigenous lawyer to review it. We actually had at the end...I think it was seven or eight lawyers working on this contract and I'm the one that rewrote it. But it wasn't because what we needed was a lawyer to work on and what we needed was someone with expertise and knowledge translation. And because I was a midwife and spent 15, 20 years working in taking complex medical knowledge and sitting with the client and explaining to them what it actually meant, that was actually what my expertise was. And so I think it's to your point. Like do the experts actually have that expertise? But also, did you bring the right experts into the room?

Sarah Kaplan: So, Charlene, do you want to, just building on that? You know, key barriers that you've faced and what were the tips and tricks for overcoming them?

Charlene Theodore: Yeah, I'll preface that by, first, I was thinking through it this whole time like, what advice would I give? Because I've got lots of tips and tricks. But I think the first thing I would say is the greatest skill you can develop is to learn how to distinguish for yourself what barriers you choose to deal with or not. Right? Before we talk about how we deal with systemic

issues, barriers, challenges, I think the first thing you need to know is, is this a place I want to assist, is this a place where I want to stay and fight. Because all of that I could give you thousands of tips and tricks, and they're all for not if that's not the place that you're supposed to be. Right? And we've made a lot of progress from a gender perspective, like the intersection of, like, gender, the actual intersectionality, data, you know. First I heard Sarah speak like long time ago and doing like amazing work and that's what I heard about GATE. And you know, there's just so much innovation. And so, I feel like in terms of shifting balance of power, I always tell like a lot of young players call me, I'm always like...you don't have to. I can give you advice on how to do this, but you can go. Right? Even in this economy, right? I think that the next wave of innovation are going to come from people that choose to kind of leave rather than fight those systems. And when it comes to when we're thinking about businesses that are that people may create that are multi-generational, no matter what it's going to be, it's going to be the people that said I'm going to do things differently and I'm going to try and test and create community around that. So, I just want to make that really clear. And that includes my industry. Like last summer, we had our first generation Gen. Z student cohort, right? And I learned a ton, I got a little annoyed sometimes, but I always paused and thought about it. And I will tell you they were always right. They were always right. Sometimes I had to pause and think and, you know, because we communicate differently. But any concerns that they came to me, they've got a winning streak. They were never wrong. So anyway, you choose to stay and fight. I think, a lot of it for me, without getting into like do this, do this, do that, a lot of it for me is about mindset. Too many people when it comes to either implementing some kind of EDI business strategy. The pain points usually come when there are, you know, people are at an impasse or they're frustrated. I tend not to get frustrated as often because I am anticipating, I've learned, and I know that this process does not exist without frustration. And you'd be surprised how many people I consult with and encounter and meet, that on some level, consciously or unconsciously, do not expect it to be really hard, and really sometimes tense and adversarial. And so, I think it softens the blow when you anticipate like this is what we have to get through in order to get to the other side. So I hope that's helpful. But yeah, that's what that mindset is kind of really propelled my thinking and my career trajectory in terms of being able to be effective in this work.

Sarah Kaplan: You want to add?

Joy Anderson: Yeah, it just it struck me. As you were saying that what I kept thinking is I'm always reminded...I live in a world where I'm trying to change the system. And you are sort of graciousness like, sometimes you don't really need...you just don't have to fight all the time. You can just like it could just be OK today. Like we could make a long list of things, all the things wrong in the world and feel like we're not doing enough to change them. We are already enough. And so I think the first thing though is, it is a choice. I mean a lot of where I'm working is to say the system is not working. We have to actually change the system. And that's a lot of work. And I do think you have to stay and over a long time. Because it doesn't change because you had one conversation and you wanted it to change. It's a long-distance run. I also really want to honor there is really important work that simply helps people survive the current system and I'd never want to undervalue that work to say, somebody who's sitting in a bad contract, it is zero help for me to say, you know what we should do, we should reimagine how contracts are written. Right now, they're in a bad contract and so I think it's a both/and to say how do we

make sure that we are aware of the injustices in the current structures and that we are keeping our eyes out for folks who need help to survive those systems. Because they might have been lucky enough to get access to them, but then they didn't turn out to be as helpful as they thought. But so both/and in that.

Sarah Kaplan: Listening to this discussion again, it reminds me that inequality can be embedded into all sorts of unseen areas of our economy. Even legal contracts cannot be seen as somehow neutral but instead as instruments for perpetuating bias or, instead, if they get the attention they deserve, as opportunities for creating greater equality.

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See you next time!