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Community Development Clinics: What Does Poverty Have To Do With Them?

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Abstract

This Essay argues that in a legal community development clinic, professors should “do more than teach students to be good transactional lawyers.” Legal clinic professors should “focus their efforts on the elimination and reduction of poverty.”

KEYWORDS: Community, Poverty, Economic Development

COMMUNITY DEVELOPMENT CLINICS: WHAT DOES POVERTY HAVE TO DO WITH THEM?

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I. INTRODUCTION

This Essay advocates for a more explicit link between the work of community economic development clinics and efforts to eliminate poverty. Community development clinics need to do more than teach students to be good transactional lawyers—rather they must also acknowledge and focus their efforts on the elimination and reduction of poverty. I begin by briefly discussing poverty lawyering and then situate community development in the context of poverty lawyering. I then highlight critiques of the traditional poverty and community development lawyering. I conclude with some thoughts on how better to connect anti-poverty strategies and community development clinics and lawyering, while addressing some of the critiques of community development lawyering.

I come to community economic development work from the perspective of poverty law, and my goal in focusing on community development is to work with groups that strive to improve the lives of low-income people. I believe legal representation of individuals is essential to assisting low-income people. At the same time, thinking about the best ways to improve the lives of low-income people living in the United States, I also sometimes feel that the issues facing low-income people need to be solved collectively.¹ As I thought about an anti-poverty strategy, I was drawn to working with groups that were implementing such strategies, including

* Clinical Professor, University of Michigan Law School. I began my career as a lawyer working in legal services. I worked for the Legal Assistance Foundation of Chicago, now the Legal Assistance Foundation of Metropolitan Chicago. I was assigned to the Uptown office, representing residents of the north side of the City. Our case load consisted primarily of public benefits (welfare, disability, food stamps, and medical benefits), housing, domestic violence, employment, and consumer issues. I also worked on several class action cases. I see myself as an anti-poverty lawyer and see community development lawyering as one possible means in the many battles that must be waged against poverty.

1. Lawyers alone will not solve the problem of poverty. When it is eliminated, I believe it will be the work of low-income people in coalition with many others, including perhaps lawyers. See Stephen Wexler, *Practicing Law for Poor People*, 79 *YALE L.J.* 1049, 1053-54 (1970).

groups advocating for and providing low- and moderate-income housing; working to improve education; providing community-based health care; providing child care; working with children and families on issues such as violence prevention; and advocating for jobs that pay enough for self support. I saw in community development lawyering the possibility to support groups working on an anti-poverty strategy.

When I began teaching a Community Development Clinic,² I borrowed syllabi from others teaching similar clinical courses.³ A survey of other syllabi revealed that few, if any, clinics discussed the issue of poverty in the seminar component, at least explicitly.⁴ I decided to raise this issue as one of the topics in my classroom component.⁵ When poverty came up in class, many students reacted by asking: What does poverty have to do with our work? The students saw their work at the clinic as transactional in nature, not poverty-based. While the link was clear in my mind, I had failed to communicate that link to the students. I decided that I needed to be more explicit about discussions of poverty and the link between our work and issues of poverty. I moved the discussions of poverty to one of the first classes, after an introduction to the clinic and a tour of the community where we did a lot of work.⁶

2. I began teaching the Community Development Clinic at DePaul University College of Law in 1996.

3. Few law schools offered these types of clinics in 1994 and 1995, when I began planning the course. The number of these clinics has grown exponentially in the more than ten years since I began teaching in this area. See Jeffrey S. Lehman & Rochelle E. Lento, *Law School Support for Community-Based Economic Development in Low-Income Urban Neighborhoods*, 42 WASH. U. J. URB. & CONTEMP. L. 65, 65-66 (1992); see also Peter Pitegoff, *Law School Initiatives in Housing and Community Development*, 4 B.U. PUB. INT. L.J. 275, 275-76 (1995).

4. I have not conducted a recent survey of syllabi from these types of clinics, but I suspect that the same would hold true today. In addition, since I began teaching a community development clinical course, many small business clinics have also been formed; most of them represent both for profit businesses and non-profit organizations. My sense is that small business clinics also do not explicitly link the work they do to issues of poverty.

5. I had the luxury of teaching a year-long clinic, which allowed me to cover more topics in my syllabus.

6. The clinic I taught at DePaul began representing groups in one particular community where the University had a number of relationships and had received federal and private foundation grants to support collaborative work. Though I eventually expanded the clinic's work to the entire City, and even represented some groups in the greater metropolitan area, I kept giving a tour of that one community at the beginning of the course. The tour served as a good introduction to one community and to the City, especially for those students not familiar with the City. I also found that by taking students to one low-income community, these communities were to some extent demystified. In the last few years, I added a second semester meeting with an

I decided to sacrifice content for context.⁷ I continue to believe this was the right call. While not all the students get the connection (or care about it, for that matter), I feel an early discussion of poverty law issues makes it explicit that we represent groups working to improve the lives of low-income people. Additionally, I believe that one class (or even two) focused on issues of poverty is not enough to link the work of the clinic to anti-poverty lawyering. The clinic's case selection needs to make that connection explicit as well. Community development is thus one of a number of strategies that those of us interested in eliminating poverty and improving the conditions of those living in poverty must use.

I will discuss the traditional view of poverty lawyering and community development lawyering before going on to discuss possibilities for strengthening the links between community development lawyering and anti-poverty strategies.

II. LAWYERS HAVE A ROLE TO PLAY IN SOCIAL CHANGE

A. The Beginning of Poverty Law Practice

Community development work has long played a role in anti-poverty lawyering. A number of legal services programs have community development practices.⁸ The National Economic Development Law Center has provided technical assistance to legal services programs for over thirty-five years.⁹ Law school clinical programs

organization that had played a key and strong role in the redevelopment of its community.

7. In this case, I covered skills such as interviewing, case planning, and counseling in the first semester, because they were not taught anywhere else in the law school. As a result, some students might have had to interview clients before we covered the skill in class.

8. Brian Glick & Matthew J. Rossman, *Neighborhood Legal Services as House Counsel to Community-based Efforts to Achieve Economic Justice: The East Brooklyn Experience*, 23 N.Y.U. REV. L. & SOC. CHANGE 105, 106 (1997).

9. See John M. Little, Nat'l Econ. Dev. and Law Ctr., *Practicing Community Corporate Law*, CLEARINGHOUSE REV., Nov. 1989, at 889, 889. A review of *Clearinghouse Review* shows a number of articles written by legal services attorneys involved in community development, including William C. Kennedy, Gary F. Smith & R. Mona Tawatao, *Cultural Changes and Community Economic Development Initiatives in Legal Services: What Happened in Two Programs*, CLEARINGHOUSE REV., Nov.-Dec. 1999, at 440; Laurie Lambrix & Louis Prieto, *How to Use the Fair Housing Laws to Achieve Your Community Development Goals*, CLEARINGHOUSE REV., Sept.-Oct. 1998, at 208; Nona Liegeois, Francisca Baxa & Barbara Corkrey, *Helping Low-Income People Get Decent Jobs: One Legal Services Program's Approach*, CLEARINGHOUSE REV., Sept.-Oct. 1999, at 279; John M. Little, *Representing Community-Based Development Corporations in a Legal Services Program*, CLEARINGHOUSE REV., Nov. 1991, at 1001; Elena Popp & Francisca Gonzalez Baxa, *Creating, Preserving, and Improving Housing Through Community Economic Development*, CLEARINGHOUSE

came to this work much later. Though a number have been doing this work for some time, most clinical programs exclusively devoted to this type of work began less than twenty years ago.¹⁰

For most of the past four decades, however, lawyering for low-income people has been viewed primarily from the perspective of individual representation, class-action litigation, legislative advocacy, and administrative advocacy. Legal services to low-income communities trace their history to the 19th century in New York; throughout most of the 20th century legal aid organizations around the country focused on representation in individual cases.¹¹ Poverty law dramatically changed in the 1960s with the development of a body of law,¹² and the creation of the Legal Services Corporation.¹³ The federally-funded legal services program was founded with the innovative idea that lawyers had a role in eliminating poverty.¹⁴ “Legal services programs were responsible to all low-income people as a client community” and not just as individuals, and thus were charged with the responsibility of “identifying and understanding the needs of that community.”¹⁵ Clients served on the board of the local program and thus participated in identifying the problems that needed to be addressed as well as their solutions. Legal services programs were “committed to redressing historic inadequacies in the enforcement of legal rights of poor people.”¹⁶ Programs had to “respond to need rather than demand,” and thus

REV., Mar.-Apr. 2000, at 668; Ben Quinones, *CED on the Job*, CLEARINGHOUSE REV., Nov. 1993, at 773.

10. See generally Susan R. Jones, *Small Business and Community Economic Development: Transactional Lawyering for Social Change and Economic Justice*, 4 CLINICAL L. REV. 195, 202-07 (1997) (“The majority of transactional legal clinics that provide small business and housing development assistance for CED efforts emerged at law schools in the late 1970s and early 1980s.”); Lehman & Lento, *supra* note 3; Pitegoff, *supra* note 3. This emergence coincided with cutbacks in funding for legal services for the low-income population. Jones, *supra*, at 204.

11. See Raymond H. Brescia, Robin Golden & Robert A. Solomon, *Who’s in Charge, Anyway? Proposal for Community-based Legal Services*, 25 FORDHAM URB. L.J. 831, 832-33 (1998).

12. MARTHA F. DAVIS, BRUTAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960-1973, at 14 (1993) (explaining how an increased interest in individual rights, the welfare and civil rights movements, and federal court activism combined to create “the poverty law explosion of the 1960s”).

13. See Douglas S. Eakeley, *Role of the Legal Services Corporation in Preserving Our National Commitment to Equal Access to Justice*, 197 AM. SURV. AM. L. 741, 742 (1997).

14. See Matthew Diller, *Poverty Lawyering in the Golden Age*, 93 MICH. L. REV. 1401, 1404 (1995).

15. Brescia et al., *supra* note 11, at 834.

16. *Id.* (quoting Alan W. Houseman, *Political Lessons: Legal Services for the Poor—A Commentary*, 83 GEO. L.J. 1669, 1684 (1995)).

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be “proactive, empower clients, and achieve community goals.”¹⁷ Finally, the programs provided a “full range of service and advocacy tools,” including administrative and legislative advocacy at the national and state levels.¹⁸ By filing a series of test cases, legal services lawyers sought to resolve many of the problems faced by low-income persons through class action lawsuits designed to achieve judicial recognition of various constitutional rights, including the right to a subsistence income.¹⁹

Funding cuts and other restrictions in the 1980s and 1990s restricted the ability of legal services programs to reach much of their client population and to use a broad range of lawyering tools.²⁰ Throughout the programs’ life, a number of supporters of legal services critiqued the service delivery model for failing to “address the root causes of poverty or to play a significant role in the political, community-based struggles of poor communities.”²¹

B. Critique of Poverty Law Practice

The critique of traditional poverty law practice has been around at least since the 1960s, when Jean Cahn and Edgar Cahn wrote about the “centralized, comprehensive, and professionalized poverty programs” that were being created.²² Paul Tremblay identifies two dominant themes in this critique of traditional poverty lawyering: client voice and empowerment-based practice.²³ The first theme critiques lawyers for silencing clients’ stories and voices so that the lawyer’s voice is the only one that matters.²⁴ The second theme questions litigation as the best approach to resolve disputes involving subordinated persons because it perpetuates and reinforces client powerlessness.²⁵ Litigation tends to force clients to be dependent on the lawyer as well as reinforce the status quo.²⁶ The

17. *Id.* at 835 (quoting Houseman, *supra* note 16, at 1685).

18. *Id.* (internal citations omitted).

19. DAVIS, *supra* note 12, at 36-38; see also Peter B. Edelman, *The Next Century of Our Constitution: Rethinking Our Duty to the Poor*, 39 HASTINGS L.J. 1, 36-39 (1987). R

20. See Foreword, *The Future of Legal Services: Legal and Ethical Implications of the LSC Restrictions*, 25 FORDHAM URB. L.J. 279, 280 (1998).

21. Brescia et al., *supra* note 11, at 862. R

22. Paul Tremblay, *A Tragic View of Poverty Law Practice*, 1 D.C. L. REV. 123, 124 (1992) (citing Edgar S. Cahn & Jean C. Cahn, *The War on Poverty: A Civilian Perspective*, 73 YALE L.J. 1317 (1964)); see also Diller, *supra* note 14, *passim*. R

23. Tremblay, *supra* note 22, at 126-27. Tremblay cites to many of those responsible for making these critiques. See *id.* at 125-26 nn.8-11. R

24. *Id.* at 126-27.

25. *Id.* at 127.

26. *Id.* at 128.

alternative, this view posits, is a more meaningful collaboration between lawyer and client, so that lawyers work with, not just on behalf of, subordinated people.²⁷

Within the idea of “rebellious lawyering against subordination,” lawyers “must know how to collaborate with other professional and lay allies.”²⁸ We “must understand how to educate those with whom [we] work about law and professional lawyering” and “[we] must open ourselves to being educated by the subordinated . . . about their traditions and experiences.”²⁹ Lawyers need to be able to work with legal and non-legal approaches to problems; they must participate in—as well as build—coalitions.³⁰ This form of lawyering contrasts with the regnant idea of lawyering, where lawyers formally represent clients, by working alone for them in a relationship where the lawyers dominate and the clients are only present when absolutely necessary.³¹ In the regnant model, lawyers work in isolation of “the know-how and problem solving sensibilities of others.”³² The regnant lawyer equates what she does best and feels most comfortable doing, “with what most helps the politically and socially subordinated.”³³ As a result, social disputes are often resolved by litigation, regardless of whether some other strategy might make more sense.³⁴

Lawyers interested in working with community members more closely are drawn to community development as a lawyering strategy that seeks greater collaboration with client groups.³⁵ Some see work with community organizations as allowing for the possibility of community empowerment. “The purpose of empowerment lawyering . . . is to enable a group to gain control of the forces

27. Gerald P. López, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603, 1608 (1989) [hereinafter López, *Reconceiving*]; Tremblay, *supra* note 22, at 128-129; *see also generally* GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* (1992).

28. López, *Reconceiving*, *supra* note 27, at 1608.

29. *Id.*

30. *Id.*

31. *Id.* at 1609.

32. *Id.* at 1609-10.

33. *Id.* at 1610.

34. *Id.*

35. Daniel S. Shah, *Lawyering for Empowerment: Community Development and Social Change*, 6 CLINICAL L. REV. 217, 218 (1999). In the 1980s, legal scholars sought out community development as a solution to the isolation and passivity of poverty law clients and as an avenue for non-hierarchical relationships. *Id.*

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which affect their lives.”³⁶ This type of work gives the lawyer the potential to join—rather than lead—the persons represented.³⁷

III. COMMUNITY DEVELOPMENT LAWYERING AS ANTI-POVERTY STRATEGY

A. The Resurgence of Community Economic Development

Community development law seeks to affect social change in low-income communities “through neighborhood revitalization, affordable housing development, and community economic development.”³⁸ “Central to the notion of ‘community development’ is the ability of people in a community to work together to solve common problems.”³⁹ Community development legal work, however, is usually defined as employing transactional skills in order to represent community groups.

Community development theories have existed in the United States for more than a century, beginning with post-Reconstruction economic nationalism, which emphasized the development of an independent African American economic base through the creation of businesses.⁴⁰ Almost one hundred years later, the Civil Rights movement “use[d] grassroots mobilization and political action as a way to highlight issues of poverty.”⁴¹ Economic development models experienced a resurgence in the 1980s and 1990s from both the political left and right. On the left, community development appealed to progressive advocates of local empowerment, while on the right it appealed to advocates of free-market politics.⁴²

Working with community-based organizations to improve the lives of low-income people or to eliminate poverty appeals to many of us committed to client empowerment. For those interested in practicing rebellious lawyering, community development work is attractive because it requires collaborative work, calls us to use non-legal approaches to solving problems, and requires us to educate and be educated.

36. William P. Quigley, *Reflections on Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U. L. REV. 455, 455-56 (1995).

37. *Id.* at 456.

38. Shah, *supra* note 35, at 218.

39. Jones, *supra* note 10, at 196 n.2.

40. Scott L. Cummings, *Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice*, 54 STAN. L. REV. 399, 405 (2001) [hereinafter Cummings, *Progressive Politics*].

41. *Id.*

42. *Id.* at 406.

Not all economic development, however, is community economic development.⁴³ Some pursuing this work have envisioned a progressive community economic development, encompassing a more democratic influence over the local economy and “more equitable allocation of costs and benefits.”⁴⁴ This progressive type of development work calls for more “systemic approaches that involve community organizing.”⁴⁵ Some critique a pure economic development strategy because “economic growth alone will not solve the problems of social inequality.”⁴⁶ Community development lawyering as a strategy for the elimination of poverty requires more than representation of groups involved in economic development. It also requires more than representation of community-based organizations since they have often supported a conservative political agenda.⁴⁷ Those who have criticized community development work have frequently proposed ways to make the work more progressive.

B. Criticisms of Community Economic Development

There have been numerous critiques of economic development as an anti-poverty strategy.⁴⁸ Professors Daniel Shah and Scott Cummings are two prominent critics of community economic development work, offering viewpoints from a legal perspective. Professor Shah points out that the priorities driving community development projects have shifted to accommodate the representation of elite interest groups.⁴⁹ In addition, lawyers and other professionals have assumed a more important role in community

43. See WILLIAM H. SIMON, *THE COMMUNITY ECONOMIC DEVELOPMENT MOVEMENT* 69 (2001).

44. Peter R. Pitegoff, *Buffalo Change & Community*, 39 *BUFF. L. REV.* 313, 317 (1991).

45. *Id.* at 327.

46. Richard McGahey, *State Economic Development Policy: Strategic Approaches for the Future*, 15 *N.Y.U. REV. L. & SOC. CHANGE* 43, 47 (1986-87). An example is the “paradox of rising national poverty at a time of record employment levels.” *Id.* at 46.

47. Robert Mier & Wim Wiewel, *Business Activities of Not-For-Profit Organizations*, *J. AM. PLAN. ASS'N* 316, 316 (1983).

48. Not all of these have appeared in academic circles; some have appeared in the press. See Nicholas Lemann, *The Myth of Community Development*, *N.Y. TIMES*, Jan. 9, 1994, § 6 (Magazine), at 27 (noting that the welfare of places as opposed to the welfare of people is popular with politicians, and pointing out that economic revitalization efforts do not pass the reality test). Social service programs that make daily life decent for residents of inner cities are those in housing, safety, education, and employment. *Id.* at 60.

49. Shah, *supra* note 35, at 220.

development, to the exclusion of community representatives, as a result of the complex and technical funding mechanisms involved in community development and the abdication of government responsibility for such development.⁵⁰ The realignment of responsibility from government to the private sector, with the shifts from grants to loans and investment and a greater focus on quantifiable outcomes for projects, has meant that low-income community residents are not able to play a meaningful, empowering role in making decisions for their community groups.⁵¹ The resulting environment looks more attractive, but community leadership is less involved and “increasingly dominated by the moneyed interests whose priorities rest with maintaining the subordination and isolation of inner city neighborhoods.”⁵² Professor Shah concludes that community development cannot serve the role of empowering communities “if the ends . . . remain material improvement, . . . the means . . . subordinate the voices of the communities they serve, and funding community-based organizations co-opts leaders by giving them a stake in the system that continues to oppress their constituents.”⁵³ He argues that lawyers should move away from complex, high profile transactions that require mediating between the client groups and outside funders and investors.⁵⁴

Professor Shah proposes better ways for lawyers to work with communities: counseling, lay lawyering, and serving as collaborative corporate counsel. The goals of representation should be to empower low-income people, to enable them to gain political power, and to give them more control over their lives.⁵⁵ Lay lawyering demystifies the law and fosters self-help activities. Lawyers can be important educators at the initial stages of community organizing by helping groups identify ways to address their problems. By educating people in low-income communities on their rights, “lawyers expose the vulnerability of the oppressor to the oppressed and bring issues of resistance out into public forums.”⁵⁶ With education about the vulnerability of the oppressor, communities form and direct themselves toward the next steps of mobilization, set their own agendas, and make use of lawyers.⁵⁷ Professor Shah cites

50. *See id.* at 238-39.

51. *See id.* at 246.

52. *Id.* at 248.

53. *Id.* at 250.

54. *Id.* at 250-51, 255.

55. *Id.* at 250.

56. *Id.* at 253.

57. *Id.*

Stephen Wexler, who has suggested a four-stage process of education for social change: informing groups of their rights; writing manuals and other materials; training lay advocates; and educating groups for confrontation.⁵⁸ Shah proposes that lawyers can educate low-income people about their rights regarding financial lending discrimination; crime control and police brutality; or about government policies and decisions that affect the structure of opportunity in our cities.⁵⁹ He advocates working with groups engaged in activities that genuinely empower individuals and build social alliances in the process, such as those addressing problems of domestic violence or police brutality or arts organizations, since these organizations are driven by community-centered motivations and priorities instead of business or professional training.⁶⁰ Professor Shah concludes that a shift in focus in the field of community development will allow lawyers to get closer to the ideal of collaborative lawyering.

In two separate articles, Scott Cummings also criticized community economic development. Arguing that community economic development became the dominant approach to solving urban poverty with a market-based strategy, he concludes that it has failed to deliver on its promise of poverty alleviation, diverting attention from the need for a coordinated political response to economic disadvantage and privileging localism over structural reform.⁶¹ Community-based organizations became one of the few politically viable anti-poverty strategies in the 1980s and 1990s, embracing the value of self-help and promoting private-public partnerships.⁶² Because the market does not function properly in low-income communities, the argument goes, the role of organizations is to leverage private investment for the development of community-based businesses, affordable housing, and financial institutions.⁶³ Professor Cummings argues that the structural constraints imposed by funding sources have forced community organizations to drift away from political confrontation. The failure to confront the

58. *Id.* at 251 (citing Wexler, *supra* note 1).

59. *Id.* at 253.

60. *Id.* at 254-55. Lawyers for these organizations could be presented with a number of employment, contractual, corporate, and even intellectual property issues.

61. See generally Cummings, *Progressive Politics*, *supra* note 40; see also Scott L. Cummings, *Mobilization Lawyering: Community Economic Development in the Figueroa Corridor*, in *CAUSE LAWYERS AND SOCIAL MOVEMENTS* 302 (Austin Sarat & Stuart Scheingold eds., 2006).

62. Cummings, *Progressive Politics*, *supra* note 40, at 424.

63. *Id.* at 438.

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“crucial political dimension of poverty” has limited the effectiveness of community development.⁶⁴ The place-based strategy (localism) diminishes the importance of large-scale, coordinated social change strategies.⁶⁵

In order to reclaim community development as progressive political action, Cummings argues for politically engaged community economic development, one that applies legal advocacy to support community organizing around economic justice issues, situates community development within the context of a broader progressive movement on behalf of marginalized communities, and is spatially de-centered in order to create regional, national, and transnational structures.⁶⁶ He advocates various development strategies that he defines as progressive, such as economic justice issues involving living wage campaigns, worker cooperatives, community benefits packages in publicly subsidized development, employment requirements in federal legislation, and sectoral employment interventions.⁶⁷

Professor Shah advocates for a shift in the type of lawyering in the field of community development, toward collaborative counseling and collaborative community education. Professor Cummings advocates a change in the types of issues that community development lawyers handle. I share many of those concerns regarding community development work and their suggestions for lawyers interested in a more progressive development agenda. The question is how lawyers in the field are to make the case selection decisions. What guidelines might we use in case selection to allow us to more closely work with groups engaged in this more progressive community development that actually seeks to improve the lives of low-income people?

IV. REFOCUSING COMMUNITY DEVELOPMENT TO REPRESENT GROUPS WORKING TO REDUCE AND ELIMINATE POVERTY

A. Legal Services Case Acceptance Criteria

Case acceptance criteria that explicitly seek a link to poverty reduction would provide a better connection between community development and anti-poverty work. We can look for some guidance

64. *Id.* at 451, 454.

65. *Id.* at 455.

66. *Id.* at 458-64.

67. *Id.* at 465-91.

to discussions about case selection criteria in poverty practice. In his article on case acceptance criteria for legal services programs, Paul Tremblay sets out five criteria that poverty law practitioners should use in case selection.⁶⁸ These principles are:

- *Legal Success*. This principle gives lower preference to very weak or very strong cases.
- *Conservation*. This guide prioritizes cases that require proportionally smaller amounts of the program's resources to accomplish the necessary benefit.
- *Collective Benefit*. The legal services office would give preference to cases that are likely to affect the lives of a larger group of people when applying this guideline. This principle may conflict with the principle of legal success, since the more speculative cases have the possibility of being more transformative. Under this guideline, the program would also reject cases which undercut community interests.
- *Most Serious Legal Matters*. This principle measures the level of pain, discomfort, or harm caused by the legal matter.
- *Long-term Benefit over Short-term Relief*. This is particularly important to consider since Paul Tremblay advocates that the legal services programs have a trustee responsibility to both present and future community members.⁶⁹

Certain criteria should not be considered in case selection—relative poverty; social worth; constituent demand (the program needs to understand the community, not poll them); and attorney preference or satisfaction.⁷⁰ Finally, Professor Tremblay advocates for a mix of individual case representation, which is beneficial to the individual client; focused case representation, which confronts a particular broader social or legal concern within the program's client community; law reform, which is litigation, legislative, or administrative advocacy in which broad change is sought; and mobilization lawyering, dedicated to redressing the imbalance in political, economic, and social power.⁷¹

These criteria apply in the community development setting and should be considerations for community development lawyers interested in linking community development efforts with poverty reduction or elimination. Even with the availability of pro bono

68. Paul Tremblay, *Acting 'A Very Moral Type of God': Triage Among Poor Clients*, 67 FORDHAM L. REV. 2475, 2490-93 (1999).

69. *Id.* at 2477.

70. *Id.* at 2493-99.

71. *Id.* at 2500-03.

lawyers, legal resources are not unlimited in the community development area. Lawyers need to consider the likelihood of success so as to not waste legal resources on matters that have no chance of success. At times, however, the lawyers and community organization may decide to challenge a particular issue despite the likelihood of failure.⁷² The difference when collaborating with community organizations is that lawyers need to feel comfortable with having law be one of the many strategies used in a campaign.⁷³ This may run counter to the conservation criterion as well. The collective benefit and most serious legal matters criteria are easier to apply in the community development context because their very definitions imply looking at the community's interests as opposed to individuals within the community. At the same time, the challenge may be in balancing what may be good for a particular organization (the client) with what may be good for the community members (or even other community organizations that may not be clients at this time). Similarly, the long-term versus short-term criterion allows consideration of what is in the community's best interest as opposed to a particular group's interest. Tensions will often exist between these criteria, and as a result, the community lawyer will need to weigh and evaluate them.

But these criteria are not enough for community development lawyers wishing to work toward the elimination of poverty. We need to consciously look at the work of the groups we represent to help us craft an additional criterion.

B. A Group's Commitment to Poverty Reduction as a Case Acceptance Criterion

Lawyers interested in linking community development and poverty amelioration need to consider an additional criterion: the extent to which the group's work addresses issues of poverty. This can encompass a wide area of work since poverty deprives individuals and families in a number of ways other than a "shortage of income."⁷⁴ The groups we need to represent are varied since efforts to reduce poverty require a multidimensional approach.⁷⁵

72. Of course, this argument assumes that there is a basis in law to advocate the particular position and as a result the likelihood of sanctions is low or nonexistent.

73. In effect, the legal strategy may not be dominant, but instead used to leverage government or others in power.

74. Mark R. Rank, *Toward a New Understanding of American Poverty*, 20 WASH. U. J.L. & POL'Y 17, 35 (2006).

75. Peter B. Edelman, *Toward a Comprehensive Antipoverty Strategy: Getting Beyond the Silver Bullet*, 81 GEO. L.J. 1697, 1726 (1993).

Poverty “undermines the quality of life of those inhabiting its ranks.”⁷⁶ People living in poverty encounter problems “acquiring basic resources such as food, clothing, shelter, health care, and transportation.”⁷⁷ This “produce[s] considerable stress in the lives of the poverty stricken and their families.”⁷⁸ Poverty reduces the quality of one’s health, results in diminished life chances for children living in poverty as they grow into adults, undercuts the ability of a person to build economic assets, and undermines a person’s ability to “fully partake in the freedoms, rights and opportunities to which all citizens are theoretically entitled.”⁷⁹ The “failure to have a job that supports oneself and one’s family is a major source of frustration and loss.”⁸⁰ The United Nations Development Program’s poverty index for industrialized nations attempts to capture this complex measure of the effects of poverty by measuring deprivation in survival, deprivation of knowledge (functional illiteracy), deprivation in income, and social exclusion (from the labor force, defined by remaining unemployed over a span of twelve months).⁸¹

Community development lawyers working on issues of poverty should represent groups striving to ameliorate the consequences of poverty as well as groups developing policy initiatives to reduce and eliminate poverty. Using these criteria, we would seek out groups engaged in projects and interested in carrying out activities that reduce poverty and have an impact on the lives of low-income people. Though it is easier said than done, we should look at both the mission of a group and the way the group carries out its mission. Such groups are committed to community organizing and finding what residents want. Such groups are not afraid to challenge the status quo and advocate public policies that actually reduce poverty and improve the conditions of those living in it by providing necessary social services. Such groups are involved in advocating for changes in economic policy that will create economic activity, jobs in specific locations, or jobs targeted to specific tasks. Such groups will support job creation targeted to give work experience, such as community service, to help low-income people through periods of under-employment (when they cannot find

76. Rank, *supra* note 74, at 35.

77. *Id.*

78. *Id.*

79. *Id.* at 36-37.

80. *Id.* at 37.

81. See generally UNITED NATIONS DEVELOPMENT PROGRAM, HUMAN DEVELOPMENT REPORT 2006: HUMAN POVERTY INDEX FOR DEVELOPED COUNTRIES, available at <http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf>.

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work in the labor market) and to assist them in seeking unsubsidized employment. They will provide housing and health care for low-income people, and support health coverage for those not covered by private or government programs. The groups should provide child care that will allow parents to work, for both child development and poverty prevention purposes, and advocate for decent education for all low-income children. Such groups will seek to enforce anti-discrimination laws and provide and advocate for family support and preservation services. Finally, such groups must advocate for substance abuse treatment services and ensure effective crime prevention, including the enforcement of child support obligations.⁸²

For those of us in universities, these criteria allow for interdisciplinary work. We can collaborate with those in other disciplines working with groups developing innovative social and public policies and evaluating those policies. This proposal would require us to learn more about the social science and public policy research in the area of poverty reduction. At the very least, it is something to work toward. Otherwise, we risk working in the dark, not knowing if our work is having any effect on the people whose lives we hope to improve.

V. CONCLUSION

Community development is not the “silver bullet” of anti-poverty or lawyering strategies. Transactional lawyering—or community development lawyering—by itself is neither an effective tool for poverty reduction nor is it any more empowering for low-income communities than other forms of lawyering. It does not guarantee collaborative work leading to social change. In fact, it presents its own challenges. But legal work for community organizations, even with its weaknesses, can assist low-income communities.

The problem of poverty is too complex to be solved by one method alone, but community development should be one strategy we employ. Community development clinics need to situate their work in the context of poverty reduction, elimination, and amelioration. This requires that we raise the question of poverty with our students and in our classes and that in our case selection we be conscious of anti-poverty strategies. We need to look beyond the

82. Edelman, *supra* note 75, at 1734-35.

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transactions involved to the work our client groups are doing, and the impact of that work on those living in poverty.