

The Community Being Helped is the Resource that is Needed to Extend Access to Justice to the Community

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1. INTRODUCTION

There is a widespread recognition of the importance of not-for-profit organizations for meeting the access to justice needs of disadvantaged people.¹ Centered within that growing body of literature, this paper points to the importance of community service agencies and voluntary organizations as resources that enable community legal clinics to identify and meet the legal needs and to provide social justice outcomes that would otherwise be beyond their capacity if limited to resources from conventional sources. The resources available from the community are not monetary. They include entrée into hard-to-reach and -serve populations, special knowledge of about the problems experienced by disadvantaged groups and collaborative partnering between trusted intermediaries and community legal clinics to achieve resolutions to problems that make sense to the people experiencing them. Collaborative partnering extends the reach of legal services, building the capacity of community groups and making them part of the ecosystem of access to justice. Illustrations supporting the “community as a resource” hypothesis are drawn from recently documented service delivery innovations developed in several Ontario community legal clinics.

2. RAISING THE BAR FOR MEETING ACCESS TO JUSTICE NEEDS

The bar has been raised for meeting the legal needs of the public, in particular, with respect to publicly funded legal aid for disadvantaged people. The access to justice gap is wider than had previously been understood. This widening of the gap has occurred as the discourse in access to justice has shifted from a focus on access to the courts to the legal and justice problems experienced by the public and to what is required to address legal and justice needs on that much broader landscape of everyday legal problems. Any modest increases in resources from conventional sources will not likely be sufficient to meet the needs as they are now understood. Focusing on the community legal clinic sector², this paper argues that research carried out over the past several years on innovative service delivery projects in Ontario supports the argument that the community itself can be engaged in partnerships that become a critical resource for narrowing the justice gap. Establishing collaborative partnerships between legal clinics and community agencies engages the considerable resources extant in the community extending the

¹ Julie Mathews and David Wiseman, *Community Justice Help: Advancing Community-Based Access to Justice*, Community Legal Education Ontario, Toronto, 2020 and K. Chol, J. Lassonde, C.L. Smith and G. Thomson, *Trusted Help: The Role of Community Workers as Trusted Intermediaries Who Help People With Legal Problems*, Law Foundation of Ontario, Toronto, 2018.

² The 73 community legal clinics throughout Ontario receive core funding from Legal Aid Ontario but are self-governing with local boards of directors and are separate from the criminal and family legal aid services provided by LAO.

capacity of community legal clinics beyond what would otherwise be possible with available resources.

3. THE PERENNIAL PROBLEM OF UNDERFUNDING

Adequate funding for legal services has long been recognized as a problem. In the early 1980's Cooper pointed to periodic funding cuts he called the "Cinderella effect". In the early period of legal aid among early adopting countries, the pattern he observed was that legal aid programs went through periods of steady growth in expenditures until eventually coming under the scrutiny of politicians who saw expenditures rising too quickly for their ideological comfort. Then, like Cinderella, after a brief time in the limelight of the ball, legal aid is sent down to the cellar.³ Cuts to legal services often occur in the wake of periodic recessions as governments struggle to control expenditures and balance budgets. Recession-driven cuts to legal aid, occurred spectacularly in Ontario during the recession that occurred in the mid-1990's and in British Columbia during the dot.com recession in the early 2000's. More recently, in 2018 the newly elected Conservative Government in Ontario reduced the legal aid budget by 30% in an effort to gain control over what was viewed as excessive government spending by previous governments. Similarly, the UK government made substantial cuts to legal aid during the late 2000's, as part of a government-wide program of expenditure control.⁴ As David Luban observed decades ago about legal aid funding in the U.S., "while equality before the law holds a privileged place in our system, and to deny equality before the law delegitimizes that system, access to equal legal services would, however, take more money than our society can be expected to provide for its poor."⁵

4. PARADIGM SHIFT AND THE WIDENING ACCESS TO JUSTICE GAP

Over the past two decades a paradigm shift has occurred in access to justice that has shifted the focus from access to the courts to the legal problems experienced by the public. During the 1990's when discussions of civil justice reform dominated the professional discourse, researchers in the U.K. observed that the discussion that was taking place centered around problems in the courts without much knowledge about the legal problems experienced by the public overall. This seemed to be a narrow

³ J. Cooper, "Legal Aid Policy: A Time for Reflection", *Environment and Planning C: Government and Policy*, Volume 2, 1984 p. 432 or more recently John Kilwein, *The Decline of the Legal Services Corporation: It's Ideological, stupid!*, in Francis Regan, Alan Paterson, Tamara Goriely and Don Fleming (eds,) *The Transformation of Legal Aid: Comparative and Historical Studies*, Oxford University Press, 1999, pp. 41 -64.

⁴ Graham Cookson, *Unintended Consequences: The Cost of the Government's Legal Aid Reforms*, A Report for the Law Society of England and Wales, King's College London, 2011

⁵ David Luban, "The Right to Legal Services" in A.A. Paterson and T. Goriely (eds.), *Resourcing Civil Justice*, Oxford University Press, 1996, p. 61

view of civil justice reform. The barriers known to limit access to the courts made it obvious that the legal problems experienced by the public could not be understood by focusing on what happens, or fails to happen, in the courts. The answer to that problem was to conduct representative surveys of the public asking about the occurrence of everyday problems with legal aspects. Surveys of self-reported everyday legal problems or legal needs ask respondents about problem scenarios carefully constructed to contain a legal aspect. The seminal work in this field was Professor Genn's *Paths to Justice: What People Say and Do about Going to Law*.⁶ Genn's research focused on justiciable events, problems experienced by members of the public that raised legal issues, whether or not they were recognized by the respondent as being legal or whether or not any action taken to deal with the event involved the use of any part of the civil justice system.⁷ Professor Genn's groundbreaking research laid the foundation for a considerable body of socio-legal research now numbering over 55 large-scale national or regional legal problems surveys.⁸

This body of research, carried out at different times and in different countries, has produced remarkably consistent results about the nature and extent of everyday legal problems experienced by the public. First, legal problems are ubiquitous. Four legal problems surveys carried out in Canada estimate that about 50% of adult Canadians will experience one or more legal problems within a three-year period that they consider serious and difficult to resolve.⁹ According to the most recent survey (in 2015-2016), this amounts to an estimated 11.4 million people in the Canadian population overall, representing a greater number of problems since many people experience multiple problems. These problems often occur in clusters of interconnected legal and non-legal issues which sometimes make the resolution of one problem difficult because of the complexity resulting from the intersection of problems. The vast majority of people take some action to resolve the problem. Most people do not obtain legal assistance. In fact, the majority of people experiencing a problem say they did not recognize the legal aspects of the problem and did not recognize the seriousness of it. About 55% of respondents in the most recent survey said that the problem had been resolved at the time of the survey. However, things do not always turn out well. Among people who reported that the problem they experienced had been resolved about half say the outcome was unfair and that they achieved less than initially expected in the outcome.

⁶ Hazel Genn, *Paths to Justice: What People Say and Do About Going to Law*, Oxford University Press, Oxford, 1999. See also the earlier but less influential work in the U.S. that adopted essentially the same approach. Consortium on Legal Services and the Public, *Legal Needs and Civil Justice: Major Findings of the Comprehensive Legal Needs Study*, American Bar Association, 1994.

⁷ Genn, p. 12

⁸ OECD and Open Society Foundations, *Legal Needs Surveys and Access to Justice*, OECD Publishing, Paris, 2019, p. 25

⁹ Trevor C. W. Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup and Lisa Moore, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report*, Canadian Forum on Civil Justice, Toronto, 2016 and Ab Currie, *Nudging the Paradigm Shift: Everyday Legal Problems in Canada*, Canadian Forum on Civil Justice, Toronto, 2016

The scope of the equal access to civil justice issue framed in terms of problems experienced by the public is vast. It is not sufficient to provide help only to those people who can be counted as expressed demand,¹⁰ or those who show up at a community legal clinic requesting assistance. It is now widely accepted that legal assistance must be constructed on the basis of forms of outreach in order to identify people with hidden problems, understand the problems they are experiencing in the broader context of their lives and provide service that is holistic and interdependent.¹¹ This is a tall order for legal clinics with resources limited by funding constraints. Further, in many cases, the nature of funding may have long roots in a time before the ubiquitous nature of legal problems was understood and the need for outreach informed the discourse of access to justice.

5. ENGAGING THE RESOURCES OF THE COMMUNITY

The perspective advanced in this paper is that the resources that are required to meet the far greater level of need that derives from the everyday problems paradigm of access to justice exist within the communities being served. Communities have socially organized ways of helping people. This social organization of helping exists in virtually all communities although in very different forms from one place and time to another. Engaging the resources of the community in the delivery of community legal services is a way in which legal clinics have expanded legal services and access to justice. This is increasingly being recognized, and new unique innovations are evidence of how seriously this work is being undertaken by clinics. Collaborative partnerships between community legal clinics and community organizations can lay the foundation for holistic and integrated approaches to service delivery to clients and to strengthening communities.

The ideas about engaging community resources expressed in this paper are drawn from the experience of five community legal clinics in Southwestern and Eastern Ontario. These clinics are part of a network of 73 community legal clinics throughout Ontario. All community legal clinics (CLC's) are by virtue of their purpose and history strongly connected with the communities they serve. This discussion in no way presumes that other CLC's are not already engaged in creative collaboration with communities. There is much to learn about engaging the resources of communities from the experiences in other CLC's, although so little of it has been documented.

¹⁰ Jonathan Bradshaw, *The Concept of Social Need*, *New Society*, 30, March 1972 p. 642.

¹¹ Pascoe Pleasence, Christine Coumarelos, Suzie Forell and Hugh M. McDonald, *Reshaping Legal Assistance: Building on the Evidence*, Sydney, 2014, pp. 36 – 44.

6. INNOVATIVE PROJECTS IN ONTARIO, CANADA THAT HAVE ENGAGED THE RESOURCES OF THE COMMUNITIES BEING SERVED

Five innovative service delivery projects described in this section have led to the development of the “community as resource” hypothesis. All five projects are based on the principles of outreach; going out to the community to learn about the problems experienced by people, partnering with the community to develop ways to deal with them, going out to where people live or spend much of their time and helping people who would not otherwise receive assistance.

6.1 The Legal Health Check-Up

The Legal Health Check-up project (LHC) has enabled clinics to partner with community groups to identify people with unmet needs who would otherwise not come to the attention of community clinics.¹² The essential idea of the legal health check-up is that there are many organizations in the community to which people go for assistance with the everyday problems they experience. These include food banks, churches and government services that assist people with housing and other social services. The people experiencing these problems perhaps do not recognize the legal aspects of their problems, or are unaware of possible legal solutions and, as a consequence, do not take appropriate action to deal with them before the situation becomes worse. Similarly, service providers within the community organizations assisting people lack the legal capability to identify the legal aspects of the problems with which they are assisting people. However, intermediary groups can carry out the gateway roles of problem spotting and making good referrals, aided by using a simple questionnaire-like tool called a legal health check-up. The check-up is modelled after legal problems surveys, asking people in plain language and without reference to the term ‘legal’ if they are experiencing a series of everyday problems that commonly have legal aspects.

During the two pilot projects, the LHC identified large numbers of people experiencing everyday problems with probable legal aspects. An assessment of the LHC in 3 community legal clinics 5 years after the pilot studies showed that this continues, although with smaller numbers than during the intensive pilot project phase during 2013 to 2015. As well, the review revealed that the experience of implementing the check-up project had a multiplier effect. The LHC had become the basis for the development of other types of holistic and integrated service delivery

¹² A. Currie, *Extending the Reach of Legal Aid: Report on the Pilot Phase of the Legal Health Check-Up*, Canadian Forum on Civil Justice, York University, Toronto, 2015 and A. Currie, *Engaging the Power of Community to Expand Legal Services for Low-Income Ontarians*, Canadian Forum on Civil Justice, Toronto, 2017

that transformed the way in which the clinics provide service to clients and to the community.¹³

*6.2 Legal Secondary Consultation*¹⁴

The Legal Secondary Consultation project (LSC) was one of the projects that grew out of the LHC experience.¹⁵ LSC provides advice to service providers in community agencies and voluntary associations, assisting them to better serve their own clients. The LSC is based on the proposition that the problems with which service agencies and voluntary associations assist their own clients or members of their constituencies have legal aspects about which the service providers, whether professionally trained or experienced volunteers, may not be aware. Legal professionals in the clinics provide advice upon request, primarily by telephone or email, to service providers in community agencies and voluntary associations. During the 7-month pilot project the three clinics involved in the pilot received requests for consultations from a wide variety of government agencies, government-funded services and small voluntary associations. Service providers in all community groups indicated that the advice from the legal clinic improves their ability to serve their own clients. The legal clinic is able to assist more people indirectly than would be the case if people came to the clinic rather than to the trusted intermediaries. A review conducted two years after the LSC pilot study indicated that the clinics were receiving the same level of requests for secondary consultations as in the pilot phase.¹⁶

6.3 Hamilton Legal Outreach

The Hamilton Legal Outreach Project conducts half-day satellite clinics at 8 locations in the Hamilton area on a weekly, bi-weekly, three times per month or monthly basis depending on demand. Hamilton is a large industrial city and the Hamilton Community Legal Clinic (HCLC) is one of the largest clinics in Ontario. The Hamilton outreach project was developed following HCLC's early involvement with the LHC, because the outreach project better suited the nature of community and the capacity and resources of the clinic. The outreach clinics are provided by a lawyer and a

¹³ A. Currie and Brandon Stewart, *Unintended Consequences of Innovation; The Legal Health Check-Up Revisited*, Canadian Forum on Civil Justice, Toronto, 2020

¹⁴ The term legal secondary consultation was initially coined by Liz Curran, Liz. (2016, October). *A Research and Evaluation Report from the Bendigo Health-Justice Partnership: A collaboration between Loddon Campaspe Community Legal Centre and Bendigo Community Legal Health Service*, 2016.

¹⁵ A. Currie, *Legal Secondary Consultation: How Legal Aid Can Support Communities and Expand Access to Justice*, Canadian Forum on Civil Justice, Toronto, 2018

¹⁶ Stewart, Brandon and A. Currie, *Legal Secondary Consultation: Expanding the Reach of Ontario's Community Legal Clinics Through Community Partnerships*, *Access to Justice in the Americas*, forthcoming 2020.

systems navigator. The project has been a successful attempt to bridge legal and social services by collaborating with community services to provide a holistic, integrated and client-centered approach to legal issues. The project is a highly successful example of outreach by going out to the places where people spend much of their time and partnering with community services to which people go for assistance in the normal course of dealing with everyday problems.¹⁷

6.4 Mobile Service in Rural Wellington County

The WellComS mobile legal services van was a successful pilot project carried out by the Legal Clinic of Guelph and Wellington County. The purpose of the project was to increase the level of legal service to people in rural Wellington County. During the 6-month pilot the van visited 12 communities in the county on a regular basis, parking in central places in each community and putting out signage announcing the availability of assistance with legal problems to maximize visibility. The WellComS project connected with people in the community in several other ways, as well. Posters about the presence of the van were placed in various places where people go in their normal daily activities, such as gas stations or garages, grocery stores, coffee shops, libraries and churches. Notices about the van were posted on community Facebook pages on the day the van was present in the particular community. Tweets were sent out to community organizations, politicians' constituency offices, churches and town halls. Occasionally, Instagram messages were posted highlighting the activities of the van. Over the course of the project, social media became an increasingly important source of information about the project. At the end of the project about 30% of people visiting the van said they had learned about it through social media, compared with only about 3% of visitors at the beginning of the project.

Social media is a major aspect of normal communication among people in many communities. Information about the WellComS van was well on the way to becoming a common topic through several social media platforms and community pages. It was not uncommon for visitors to the van to remark about how information about the availability of legal services that was shared through social media had become part of the conversation among friends and family; for example, *my mother saw your post on Facebook and told me I should come in to see you*. As well as becoming part a regular topic of conversation among community members, the project became part of the social organization that offers help in the communities. By the end of the project the brief pilot phase the project had established a substantial network of referrals, making referrals to community organizations, as well as receiving referrals.¹⁸

¹⁷ Meeting People Where They're At: Final Evaluation of the Hamilton Legal Outreach Project, Hamilton Community Legal Clinic, March 2019.

¹⁸ Currie, Ab, Someone Out There helping: Final Report of the WellComS Mobile Van Project, Canadian Forum on Civil Justice, Toronto, 2019

6.5 Justice and Health Partnerships in Eastern Ontario

Since 2015 the Community Advocacy & Legal Clinic (CALC) located in Belleville, Ontario has developed 8 stable partnerships with health care providers in Hastings County.¹⁹ This project is based on a set of concepts that are well-established in the research literature and supported by clinical experience. First, legal issues are health harming. People find legal systems alienating, difficult to navigate, they often do not trust lawyers and do not know where to go for help. People often go to trusted sources in the community for advice and assistance. These community organizations can become trusted intermediaries, providing pathways to justice by connecting with a legal clinic. Health care professionals make good intermediaries. People go to health care providers to deal with medical issues. These are often directly linked to social issues related to poor housing conditions, for example. The medical issue is often the symptom of an underlying or precipitating problem that can be addressed by legal action. Physicians can uncover non-medical issues in discussions with patients and make referrals to an appropriate source of help to address a legal problem or a complex set of legal and non-legal issues.

7. A SOCIAL ORGANIZATION OF HELPING

The main premise underlying the “community as a resource” hypothesis is that there exists in all communities, organized ways of assisting people in need. People ordinarily go to these organizations for help with a variety of problems. This structure of helping in the community can form the basis for expanding access to justice by developing collaborative partnerships between community legal clinics and community organizations. Community legal clinics are, or can become, part of this ecosystem of helping organizations, taking a lead in shaping the ecosystem into a network of expanded access to justice services. Each of the innovative projects discussed in this paper established effective collaborative relations with community groups, illustrating the extent of community services with which partnerships can be formed to achieve access to justice objectives.

In the phase 1 pilot of the LHC, HCLS formed partnerships with 6 community organizations. The use of the LHC by these intermediary organizations established an effective way of identifying unmet need and creating a pathway to justice bringing people with justice problems to the community legal clinic. The case load at the clinic increased by a third during the pilot phase.²⁰ In phase 2 of the LHC pilot project the 12 community clinics formed partnerships with a total of 125 community organizations. Although problems with establishing effective working relationships

¹⁹ This section is written with information kindly provided by Michele Leering and Lisa Turik. A final report is forthcoming: Lisa Turik, (with Michele Leering), Justice and Health Pilot Project, Final Report, Community Advocacy and Legal Clinic, Belleville, Ontario, 2020

²⁰ Currie, 2015, P. 18

between the clinics and the intermediary groups emerged as the project proceeded, at the point at which they agreed to participate in the project nearly all of the intermediaries indicated that they embraced the basic objectives of the LHC, felt that it aligned with their overall mandates and objectives and felt that participating in the LHC project would benefit their own clients.²¹

Each of the 3 clinics that developed the LSC project announced the project by circulating information to community contacts by e-mail, in community presentations about legal aid and in public legal education (PLE) sessions. As well, a poster circulated by e-mail and also made available in paper form conveyed the message that the problems with which community organizations assisted people may involve legal issues and that the clinic could help. Organizations were invited to request consultations with the community legal clinic about problems with which they were assisting people if they felt there was a possible legal issue. In total, for all three clinics, service providers from 103 community organizations, representing a variety of government services and voluntary organizations, requested consultations. Service providers who made requests for LSC unanimously indicated that the consultations helped better serve their clients. Moreover, the connection with the legal clinic through the LSC program increased their legal capability, enabling them to better serve their own clients.²²

The Hamilton outreach project established partnerships with 8 organizations in the urban area that assisted a relatively large number of people. All of the organizations indicated that the outreach service had improved the quality of service for hard to service/reach clients, contributed positively to client outcomes introducing greater stability in their lives, and had provided a service tailored to the individual needs of clients.²³ According to the intermediary groups, all of these outcomes contributed to better levels of service to their clients.

The WellComS mobile legal services project in rural Wellington County established a referral network with a large number of community organizations. Over the course of the pilot project, the project referred 60 people to 28 different community organizations. Forty-five people were referred to the van by 21 community organizations and services.²⁴

The CALC Health and Justice Partnerships projects has established stable relationships with 8 primary health care providers throughout three counties in close proximity to Belleville where the community clinic is located. These relationships have evolved and remained in place for 5 years, since the beginning of the pilot phase of the project in 2015.

²¹ Currie, 2017, pp. 28 - 29

²² Currie. 2018, pp. 18 - 19

²³ Hamilton, pp. 24 - 25

²⁴ Currie, 2019, p. 15

8. SERVING MORE PEOPLE

All five projects have produced measurable increases in levels of service. During the phase 1 pilot study of the Legal Health Check-Up at Halton Community Legal Services the number of intakes increased by one third.²⁵ During the 6-month phase 2 LHC pilot study involving 12 community clinics, a total of 125 community partnerships were established and 1700 people with legal problems were identified by the 12 clinics.²⁶

During the 7-month Legal Secondary Consultation pilot project, the three clinics provided 235 consultations to 103 different community organizations²⁷, each consultation representing one individual. Two years later, the number of people served through secondary consultations with community organizations has remained stable in all three clinics at which the pilot project was carried out.²⁸

Over a 24-month period between October 2016 and November 2018, 697 people were referred to staff lawyers for legal assistance in the Hamilton legal outreach project and 1,163 clients were served by the systems navigator.²⁹ Housing, family law and domestic violence were the most frequent types of legal problems. Referrals to other agencies, attending family and criminal court and public legal information were the most frequent services provided by the systems navigator. There was a possible 15% overlap between the services provided by lawyers and the system navigator.

During the 6-month pilot study, the WellComS rural mobile service project two community legal workers provided advice from the van. Over 6 months, the legal workers provided service to 464 individuals, including PLE, referrals, and communicating with a lawyer at the clinic via Skype.³⁰ Most of the people using the van appeared to be first-time users of legal aid. Matching clinic intake information with information collected at the van revealed that only about 12.5% of visitors to the van had previously been clients of the Guelph clinic.³¹

The Justice and Health Partnership has made about 600 referrals to CALC and has trained 150 health care providers to spot legal issues since the beginning of the project.

²⁵ Currie, 2015, p. 15

²⁶ Currie, 2017, p. 13

²⁷ Currie, 2018, p. 10

²⁸ Stewart and Currie, 2020, p. 1

²⁹ Hamilton, pp. 12 and 15

³⁰ Currie, 2019, p. 6

³¹ Ibid., p. 7

Table I: People Served Per Project

Serving More People		
Project	Number of People Served	Time Period
Legal Health Check-Up - Pilot I	300 individuals identified as having potential legal problems by 7 community organizations	4 months
Legal Health Check-Up - Pilot II	1700 individuals identified as having potential legal problems by 125 community organizations	6 months
Legal Secondary Consultation	235 individuals assisted by 103 community organizations in consultation with 3 community legal clinics	7 months
Hamilton Outreach Project	Approximately 1860 individuals (617 assisted by staff lawyers and 1163 by the systems navigator; possible 15% overlap)	24 months
Justice and Health Partnerships	About 600 people referred to the community clinic by health care providers in 9 community health organizations; 2 were added in 2017	48 months

9. COMMUNITY ORGANIZATIONS ARE WILLING PARTNERS WITH LEGAL CLINCS

Community organizations understand the value of partnering with legal clinics. In the two phases of the LHC project, partner organizations felt that the check-up would benefit their clients and the capacity of the organization to better serve their clients.³² Similarly, the service providers receiving advice through secondary legal consultation felt that it increased their ability to better serve their own clients.³³ The partner organizations in the Hamilton legal outreach project said that the project enabled them to provide better support and service to their clients.³⁴ The local health

³² Currie 2017, p.

³³ Currie, 2019, pp. 18 and 19

³⁴ Hamilton, p. 18

care providers that developed partnerships with CALC in the justice and health partnership project were enthusiastic about the value of the collaboration for their patients.

10. BREAKING DOWN BARRIERS

Collaborative partnerships between community organizations and legal clinics can break down barriers between legal clinics and individuals and between clinics and communities. The legal profession can be viewed with a sense of mistrust by people who have been subject to perceived unfairness and arbitrary decisions of government bureaucracies for most of their lives. This stereotype may lead disadvantaged people to mistrust lawyers, viewing them as part of the establishment that has routinely oppressed them. However, barriers begin to crumble and the shared interests and goals between clinic and community can become clear as community service organizations develop an understanding of how legal problems are aspects of the everyday problems experienced by their own clients.

Successful partnering may not come entirely automatically. At the outset of a partnership arrangement clinics will likely have to develop a basic level of legal capability among community organizations in order to understand the logic underlying clinic-community partnerships. Legal clinics have to approach the community with a proactive offer of assistance and a message emphasizing: *We come to you. We help you in a way that makes sense to you.* This idea can run counter to the previous experience of disadvantaged people and to the predominant image of the legal profession in the popular culture. After having been given an explanation about the holistic and integrated approach to legal service to which the Halton clinic was committed, a volunteer service provider in a community organization taking part in the phase 1 LHC pilot replied with what seemed to be a measure of disbelief: *well, you must be a different kind of lawyer.*³⁵

11. LEADERSHIP FROM LEGAL PROFESSIONALS

The leadership of lawyers and legal clinics is crucial in this community development approach to expanding access to justice. However, access to justice must involve more than access to legal remedies.³⁶ In the projects discussed in this paper, lawyers are leading the way in developing holistic approaches that involve legal and non-legal remedies. Social development approaches to expanding access to justice and strengthening communities begins with the premise that everyday problems have legal aspects and that developing effective and durable solutions must involve

³⁵ Currie, 2015, p. 25

³⁶ Rebecca L. Sandefur, Access to What? Daedalus: The Journal of the American Academy of Arts and Sciences, 148 (1) Winter 2019

collaborative efforts between the legal clinic and community expertise. However, this approach to understanding legal problems comes from a shift in thinking occurring within the field of access to justice. It does not come from the domain of social services and the larger concern with social justice. Lawyers and other legal professionals with progressive ideas about justice and access to justice have to take the lead in bringing this to the community.

Nonetheless, protection of legal rights and guarantees of entitlements may remain central even though resolutions may aim at broader objectives of empowerment and stabilizing or improving people's lives. Entitlements to benefits are expressed in complex legislation about which members of the lay public are not aware and that can be very difficult to understand except by people with legal training. In the LSC project, the advice provided by the legal clinic provides guidance to service providers in navigating the aspects of problems and the procedures that are defined by regulation and legislation.

As noted elsewhere, lawyers may sometimes be mistrusted and people may avoid contacting a lawyer for assistance unless a situation is dire. However, paradoxically, lawyers enjoy high status in the community and can be viewed as powerful advocates or allies by other service providers. One respondent in the LSC evaluation said she always copies the community legal clinic in correspondence with agencies with which she is dealing on behalf of a client because it always resulted in a more timely response.

12. HOW MIGHT THE COMMUNITY AS A RESOURCE HYPOTHESIS APPLY IN OTHER PLACES?

What will work best in a particular area depends on the characteristics of the community, the capacity of the legal clinic based on its size and the resources available to it. The transferability of an innovation remains important. However, the most important aspects of what is transferable may be the basic access to justice objectives of an innovative project. An innovation that would work well in industrial Hamilton with a large community legal clinic may not work so well in the more socially diverse Halton Region which has a much smaller clinic and a different population. More broadly, on a global scale, Southwestern and Eastern Ontario in which most of the projects described in the paper are located, are relatively wealthy places with an abundance of government services and voluntary associations that are funded from charitable or government sources. An interesting question is whether the success of community - clinic partnership innovations depends on the wealth of the communities in which they are developed.

The "community as resource" hypothesis that appears to be supported by the innovative projects discussed in this paper is most fundamentally dependent on the

existence of a social organization of helping with which a legal clinic or some other lead organization can engage in collaborative partnerships. It would be interesting to see if the same approaches for expanding access to justice would work elsewhere or, indeed, whether approaches that exist elsewhere would contain valuable core ideas that could be adopted in Canada. Founded on the United Nations Social Development Goal 16.3 (and 16.3.3), there has been an increasing global commitment to achieving access to Justice and to understanding the conditions for doing so. This growing global consensus on the need for developing people-centered approaches to access to justice and the gaps that exist in our understanding of how to achieve greater access is expressed in the recent paper titled *Justice for All*.³⁷ The community as a resource hypothesis is potentially a way to frame one aspect of that broad objective. The Canadian Forum on Civil Justice is involved in a three-year community-based justice project in three countries – Sierra Leone, South Africa and Kenya.³⁸ The main objective of the project is to examine the cost-benefit of providing access to justice services. Interim reports from the countries indicate that each country has a large number of groups providing community-based dispute resolution. Some are rooted in customary justice systems, some are court-based and some are independent organizations funded by donor agencies. Many have organizational challenges related to funding and staff training. However, they have the important connections with their respective communities that constitute the resources that are essential for identifying legal need and developing approaches to meeting them. In South Africa, the Centre for Community Justice and Development is, itself, a funded agency that is connected with a number of community advice organizations. In Kenya, the KATIBA Institute, a non-governmental organization, has identified a large number of civil society, traditional community-based, court-based and community-based (often religious) organizations operating throughout the country. Similarly, in Sierra Leone, the organization conducting the research, the Centre for Alternative Policy Research and Innovation, has identified a number of organizations that provide assistance to people in need in that country.

Whether the lead organization around which a network of access to justice services is organized is a legal aid office, a community-based justice organization or some other hub, organization would vary depending on local and regional realities. The resources of community organizations that are most important in the outreach/partnering innovations center on community knowledge, access to difficult-to-reach and -serve populations, and a shared interest with legal aid in social justice.

³⁷ *Justice for All: The Report of the Task force on Justice, Conference Version*, Centre for International Co-operation, New York, April 2019.

³⁸ See the Canadian Forum on Civil Justice web site at <https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/> for additional information. The project is being funded by the International Development Research Centre in Ottawa.

13. WHAT DOES THIS MEAN FOR COST AND COST-BENEFIT?

The cost of a community development approach that engages the resources of the community to expand legal and justice services is not only, or even primarily money. It is the cost of carrying out the outreach activities that are part of a community development approach. The cost of outreach, of which there are two basic forms, is the time and level of effort required to develop and maintain relationships with the many helping organizations working to assist people in a complex community. One resource intensive form of outreach is strategic outreach. This involves constantly maintaining contact with what might be a highly diverse and changing community, continuously taking the pulse of the community, and learning about extant and emerging needs. Project specific outreach more directly involves building individual collaborative projects. Developing successful projects requires a considerable investment of time by the legal clinic. At the outset of a project, this involves developing the understanding by potential partner organizations that there is a shared interest between the legal clinic and community groups based on the fact that every problem with which they try to help clients or members of their constituency may have legal aspects. This is part of building the legal awareness and capability of staff who work for community organizations. Importantly, this involves taking a considerable amount of time to learn in detail what potential partner organizations do and how they go about it, so efforts and building partnerships do not fail due to misalignments of project design and the protocols and procedures, both formal and informal, of community organizations to which people go for help.

There are also on-going financial and operational costs of specific services provided by the clinic, such as providing secondary consultations. There is a cost to developing and maintaining an LHC instrument, on paper and on-line. There is a cost to the intake function of a clinic as numbers of applications and inquiries grow, and there is a service delivery cost as the number of clients increases. Other costs might include PLE sessions to community groups which might simultaneously help to promote programs like LHC and LSC.

The increased number of people served is one of the key benefits of client-centered and community-focused legal aid. This occurred with each of the projects discussed in this paper. Durable and effective solutions to problems are also important. However, none of the research included a longitudinal component to examine longer term outcomes.

Strengthening the community and building community capacity to accomplish in partnership with community clinics what they could not do on their own are outcomes that have been achieved by all of the innovative projects discussed here. The Legal Health Check-up Project involved partnering with community organizations to identify unmet needs. The Justice and Health Partnerships Project did the same and also involved health care providers in resolving problems. “Health

care providers played a critical role, investing time, space and resources”³⁹ in building the partnerships. Legal secondary consultation increased the capacity of community organizations to assist their own clients. The WellCoMs Mobile Van Project in rural Wellington County built a referral network around the service provided by the van. Finally, the Hamilton outreach project developed partnerships with community groups that increased overall community response to legal need.

14. DISCUSSION

This paper examines the idea that engaging the resources of the community being served is the way forward to meet access to justice needs of those same communities. Moreover, the resources of the community are needed to meet a level and complexity of legal need that is greater than what was realized when access to the courts was the predominant narrative of access to justice. Each of the projects reviewed in this paper shows how legal services can be extended by engaging the resources of organizations in the community to which people go for help with problems they experience in their everyday lives. The importance of engaging the resources of the community that is being served is part of growing body of literature on the importance of the community in increasing access to justice. Cohl and her colleagues state in the *Trusted Help* report that people will not receive the help they need without the intervention of a trusted intermediary in a community organization.⁴⁰ Similarly, Mathews and Wiseman recognize that people experiencing life-affecting problems with a legal aspect [frequently] access help from a trusted intermediary in a not-for-profit community organization.⁴¹ This paper extends these ideas by showing specifically how clinics have developed projects that engage community resources and extend the reach of legal aid. Engaging the resources of the community is not a one-way street. It involves partnering with community organizations and strengthening the communities being served. This not only extends the reach of legal aid funded organizations, it extends the boundaries of what legal aid can offer.. According to Mathews and Wiseman, “community organizations are a valid component of the broader ecosystem of access to justice services.”⁴²

This perspective entreats funding organizations that provide both on-going and discretionary funding to community legal services to view collaborative partnering between legal clinics and the communities they serve as a solution of the access to justice gap.⁴³ Community agencies and voluntary associations are natural partners

³⁹ CALC, p. 21

⁴⁰ K. Cohl, et. al., p. 16

⁴¹ Julie Mathews and David Wiseman, p. 49

⁴² Ibid, p. 6

⁴³ A. Currie and Brandon Stewart, *The Unintended Benefits of Innovation; The Legal Health Check-Up Revisited*, Canadian Forum on Civil Justice, York University, forthcoming 2020

for community legal clinics. They share broad social justice mandates with community-based legal aid. Viewed through the lens of the everyday legal problems perspective, legal clinics and community organizations have shared mandates to assist people with the same problems. All the normal transactions and transitions of life, finding and being released from employment, decent housing, forming and dissolving relationships, purchasing goods and services, entering into contracts, and so on frequently have both legal and non-legal aspects that are sometimes interconnected in ways that resist solutions unless tackled by holistic and integrated approaches.

As access to justice discourse has moved from a predominant focus on matters resolved in the courts to the broader canvas of the life-affecting problems with legal aspects experienced by the disadvantaged public, the access gap is now understood to be so much wider than previously realized. Innovation is not cost free. However, relatively small investments in good innovations can yield large gains in greater access to justice and narrow the access gap.

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