REFLECTING ON COMMUNITY DEVELOPMENT PRACTICES: IMPROVING ACCESS TO JUSTICE BY WORKING WITH COMMUNITIES TO EFFECT CHANGE

LIZ CURRAN, ALIKKI VERNON, AND PAMELA TAYLOR BARNETT[†]

I INTRODUCTION

This article describes four Victorian legal and community–based projects which successfully engaged and empowered disadvantaged communities to participate in processes which made a difference in their lives. These communities experience social, cultural and economic disadvantage which impacts how they access justice and participate in decision making that affects their lives. The four case studies outline the community development approach taken by the authors working with a variety of clients from a community legal centre (CLC). The authors' engagement with these clients from various communities was not a part of a research project. However, this *reflective practice* account[1] provides important lessons about the elements of engagement that can make for better relationships between community groups and legal and allied services to enable civil participation, empowerment, and to effect positive change. The authors come from a range of practice disciplines in law, education, dispute resolution, and conflict management. The article outlines how community legal education, conflict management training, capacity building, and law reform advocacy can enhance greater social

---

[†]   Dr Liz Curran, Senior Lecturer, Australian National University, Dr Alikki Vernon, consultant in restorative practice, and Pamela Taylor Barnett, Lecturer, Australian National University.

[1]   Michelle Leering, 'Conceptualizing Reflective Practice for Legal Professionals' (2014) 23 *Journal of Law and Social Policy*, 83-106.

participation of marginalised groups in governance as befits a participatory and deliberative democracy. These reflections are also considered within a body of literature, including an interactive and relational approach to democracy, justice and human rights.[2] In reflecting on these specific community development projects, we aim to encourage and inform social agencies to *work with* communities to access justice and enable effective change. One of the reasons for this article is to document a range of projects and approaches that are rarely submitted to peer reviewed publications due to the time constraints and demands of those delivering the services in the community sector.

II   THEORETICAL FRAMEWORK

A   *Accessing Justice and Democratic Processes: A theoretical framework*

Access to justice is achieved when the law and its administration is fair and just — this includes ensuring that systems for addressing social harm, legal and social problems are fair and just.[3] This concept goes beyond considering just the law and procedural rights, and includes the significance of substantive rights and interests. Critical to access to justice is ensuring that people, and those who may assist them, can address problems holistically and (potentially) help curb recurring problems. The law and justice processes should deal with legal and social problems. Administrating the law is not just about

---

[2]   See Carol C Gould, *Interactive Democracy: The Social Roots of Global Justice* (Cambridge University Press, 2014); Carol C. Gould, *Rethinking Democracy: Freedom and Social Cooperation in Politics, Economy, and Society* (Cambridge University Press, 1988), Chapters 1, 4, 9.; John Braithwaite, *Restorative Justice* and *Responsive Regulation* (Oxford University Press, 2002); David Moore, 'Managing Social Conflict: The Evolution of a Practical Theory' (2004) 31 *Journal of Sociology and Social Welfare* 1, 71-91.

[3]   See David Moore, 'Managing social conflict', above n 2. Also see, Alikki Vernon, 'The ethics of appropriate justice approaches: lessons from a restorative response to institutional abuse' (2017) 35(1) *Law in Context Special Issue: Ethica*l *Issues in Alternative Dispute Resolution,* 139-158.

treating everyone the same, but ought, in effect, to be about treating people fairly and treating problems effectively. Access to justice, therefore, is ensuring that people have the wherewithal, including the resources, education and confidence, as well as real access, to participate in justice processes that are just and participatory. This also involves individuals and agencies, who are supposed to help people to access justice, actually seeking to address structural problems and unjust systems that cause a barrier to participation.[4] It is in this way, that they may help disadvantaged communities to resolve their disputes, transform conflict, and advance their rights and interests.[5]

In the authors' views, addressing systemic disadvantage requires more than just dealing with individual legal and social problems. It also involves simultaneously supporting communities to actively

---

[4] Liz Curran, 'Solving Problems — a strategic approach: Examples, processes & strategies' (Research paper, Version 2, Australian National University, March 2013); Nicole Rich, 'Reclaiming community legal centres — maximising our potential so we can help our clients realise theirs' (Community Legal Centre Fellowship Report, Victoria Law Foundation, April 2009).

[5] Alexy Buck et al, 'Piecing it together: exploring one-stop-shop legal service delivery in community legal advice centres' (Research report, Legal Services Commission, London, 2010b); Alexy Buck, Tania Tam, and Cate Fisher, 'Putting money advice where the need is: evaluating the potential for advice provision in different outreach locations' (Research findings, no.16, Legal Services Research Centre, London); Tania Burchardt, Julian Le Grand and David Piachaud, 'Degrees of exclusion: developing a dynamic, multidimensional measure' in John Hills, Julian Le Grand & David Piachaud (eds), *Understanding Social Exclusion*, (Oxford University Press, 2002) 30; Sophie Clarke and Susie Forell , 'Pathways to justice: the role of non-legal services', (Justice issues paper, no. 1, Law and Justice Foundation of NSW, 2007); Christine Coumarelos et al 'Access to Justice and Legal Needs: Legal Australia Wide Survey Legal Need in Australia', (Report, Law and Justice Foundation of New South Wales, August 2012); Liz Curran, 'Making Connections: the Benefits of Working Holistically to Resolve People's Legal Problems,' (2005) 12 *Murdoch University Electronic Journal of Law*; Alexy Buck and Liz Curran, 'Delivery of advice to marginalised and vulnerable groups: the need for innovative approaches' (2009) 3 *Public Space: The Journal of Law and Social Justice* 1; Geoff Mulherin and Christine Coumarelos, 'Access to justice and disadvantaged communities' in Pascoe Pleasence, Alexy Buck and Nigel Balmer (eds), *Transforming lives: law and social process*, (Stationery Office, 2007) 9; Mary Anne Noone, 'Integrated Legal Services: Lessons from West Heidelberg CLS' (2012) 37(1) *Alternative Law Journal* 26.

participate in decision-making that affects their lives. The transformation of systemic disadvantage requires communities to be a part of law and social reform *and* to participate in processes that apply the principles of deliberative democracy.[6] The structural barriers and conditions that contribute to inequity, poverty and disadvantage need to be understood and remedied. Communities require support in building resilience, knowledge and skill capacity to be confident to express their views and to engage in decision-making. This includes justice and political processes which need to support individual and community involvement.

Gould's[7] analysis on rethinking democracy and justice provides a useful framework to consider these concepts and the tensions and problems that need to be clarified.[8] In *Rethinking Democracy,*[9] Gould notes some of the central features of democracy that can render minority groups invisible.[10] She asks several questions that are important when addressing 'access to justice' and political participation issues. For instance, Gould asks: 'What if systems aren't fit for purpose?' 'What if the legal or democratic system do not ensure

---

[6]   Deliberative democracy differs from traditional democratic theory in that authentic deliberation, not mere voting, is the primary source of legitimacy for the law. See Joseph Bessette, 'Deliberative Democracy: The Majority Principle in Republican Government' in Robert A. Goldwin and William A. Schambra (eds), *How Democratic is the Constitution?* (AEI Press, 1980) 102.

[7]   See Carol C Gould, *Rethinking Democracy*, above n 2*,* Chapters 1, 4, 9; Carol C Gould*, Globalising Democracy and Human Rights*, above n 2.

[8]   She outlines how in political philosophy the relationship between democracy and justice are framed in particular (and often mutually exclusive) ways. See John Rawls, *A Theory of Justice* (Harvard University Press, 1971) 60, 198; Jurgen Habermas, *Communication and the Evolution of Society* (Beacon Press, 1979) 1-6; Robert Dahl, *A Preface to Economic Democracy* (University of California press, 1985) 25; Robert Dahl, *Democracy and Its Critics* (Yale University Press, 1989) 182. Iris Marion Young, 'Justice and Communicative Democracy' in Roger S Gotleib (ed), *Radical Philosophy: Tradition, Counter Tradition, Politics* (Temple University Press, 1993) 128; Joshua Cohen, 'Deliberation and Democratic Legitimacy' in Alan Hamlin and Phillip Pettit (eds), *The Good Polity*, (Blackwell, 1989) 17.

[9]   Carol C Gould, 'Rethinking democracy', above n 2, 13 - 20.

[10]   Bernard Boxill 'Majoritarian Democracy and Cultural minorities' in Arthur M Mertzer et al (eds) *Multiculturalism and American Democracy* (University Press of Kansas, 1998) 112-119 cited by Carol C Gould, above n 2, 104.

fairness or justice?' 'What if the so-called participants in the democratic process do not have control or access to these processes and are limited in their participation?' She poses the question of 'what should be done' when social and economic conditions limit self-development and participation. This question also applies to situations where some interests control the conditions needed by others for their self-development or 'equal agency'. Indeed, 'what should be done?'[11]

In *Interactive Democracy*,[12] she argues that advocating for human rights and achieving justice must go beyond protecting basic legal rights of individuals against others or against the state. Instead, they should first 'serve as goals for developing political, economic and social institutions that help… [to foster] equal positive freedom' and second be used as 'claims on others to cooperate' in helping to set up the basic conditions to make this freedom effective.

Gould describes her theoretical framework as a 'social ontological' conception of democracy and justice.[13] This framework involves applying an 'interactive approach' to individual and social relations and collective activity. In effect, she argues that our capacity for freedom and justice requires a set of basic conditions which include forms of social recognition (taking people to be 'individuals-in-relations') and access to 'the material means of life'. She notes that freedom, democracy and justice are complex, and cannot assume the application of individual choice alone. Her framework challenges the assumptions that those with control over the conditions of others must agree to 'equal positive freedom'. Rather, her term for how justice should be understood is *as* equal positive freedom. Humans must have access to the basic conditions they require to enact their positive freedom for their self-development and to take part in common activities with others. She argues that self-transforming activity requires not only the making of choices but also the availability of the means or access to the social, political and economic conditions necessary for making these choices effective. Gould states that

---

[11]   Carol C Gould, 'Rethinking democracy', above n 2, 104-107.
[12]   Ibid 3.
[13]   Ibid 4-5.

achieving a 'broader sense of justice' requires rights to democratic participation, and i) forms of care and recognition across social spheres and borders; ii) gender equality and the overcoming of oppressive social relations, iii) 'power-with' others rather than 'power-over' others; and iv) the conditions for effective dialogue and deliberation.[14]

This call for a broader understanding of justice and democracy has a long tradition.[15] The Western judicial and political parliamentary systems are structured to deal with the different interests of individuals, as competing claims, and to seek a 'contract of agreement' and the development of a 'morality of rules' to curb or uphold the rights of individuals.[16] There is, therefore, a greater tendency to relegate the conditions that give rise to social conflict or discrimination or disadvantage as less relevant. Or, for these to be interpreted as indiscriminate forces beyond the control over any group, institution or process of decision making. This focus on individual rights and interests can underplay or deny the significance of ontological needs, or fundamental human needs. It can also underplay the functions of institutions that operate coercive or uncooperative processes serving particular interests and objectives.[17] It has been argued that the devaluing of a relational worldview, that is, human connection, empathy, and collective life, has created i) a dichotomy between an ethics of justice and an ethics of care,[18] and ii) undermined a fuller form of democracy as collective governance.[19]

---

[14]   Ibid.

[15]   Mary Parker Follett, *The New State: Group Organisations and the Solution of Popular Government* (Pennsylvania State University Press, 1918). See an overview in W B Pearce and S W Littlejohn, *Moral Conflict: When Social Worlds Collide* (Sage Publications, 1997) and John W Burton, *Resolution and Prevention* (The Macmillan Press, 1990). Also see Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* (Harvard University Press, 1982). For an overview, see Alikki Vernon, *Justice and Care: the use of restorative conflict management principles and practices in mental health governance and tribunals* (PhD Thesis, La Trobe University, 2010) 88-123.

[16]   W B Pearce and S W Littlejohn, above n 15, 32-34.

[17]   John W Burton, above n 15, 83-86.

[18]   Carol Gilligan, above n 15, ix – xxvii.

[19]   Mary Parker Follett, above n 15, 12.

This fuller form (in contrast to a 'thin' form[20]) of democracy supports a 'creative citizenship' where people are encouraged to be involved in the processes that affect their lives in a deliberative and non-coercive manner.[21]

There are a number of governing principles that support 'accessing justice and democratic processes' and provide a framework for community development. This framework also provides a basis for the reflections of the cases studies that follow. Follett outlined four principles of relational governance that are the precursors to the discourses of deliberative democracy and universal human rights:[22]

i. *Participation:* by those affected by a situation should be part of discussing the issues involved and in coordinating and consenting to change;

ii. *Addressing needs*: despite human differences, there are sufficient commonalities (human needs) that should form the basis for discussion and guide decision making and administering change;

iii. *Progressing human well-being*: the one fundamental guiding principle that should underlie all organisational processes (government, judicial, business, community) and human interactions is ensuring a 'stable foundation' for progressing human well-being and improving or alleviating adverse conditions; and

iv. *Supporting coactive power*: citizens and members of communities should be supported in learning how to converse, negotiate, address conflict, and make decisions, and

---

[20] Benjamin R Barber, *Strong Democracy: Participatory Politics for a New Age* (University of California Press, 1984) 32. Barber argues that representative or 'thin' democracy is rooted in an individualistic 'rights' perspective and the reliance on adjudication that diminishes the role of citizens in democratic governance. He offers a theoretical framework for a participatory politics.

[21] Mary Parker Follett, above n 15, 3.

[22] See Mary Parker Follett, above n 15, xiii and Alikki Vernon, *Justice and Care*, above n 15, 106-108.

to be involved in effective participation by encouraging 'power-with' and 'power-to' processes as compared to 'power-over' methods.

These governance principles complement what later writings define as the principles of deliberative democracy. The core principles of deliberative democracy can be described as: i) *participation* by those affected by an issue in the decisions regarding that issue; ii) *equity* of treatment and consideration to those participating; iii) *deliberation* on ideas and concerns raised; and iv) *non-coerciveness* regarding participating, presenting ideas and the means by which consent, agreement or an outcome is reached.[23] Such principles are perceived as applying across political, social and justice systems and support positive human interaction between individuals, groups, and within institutions, and can effect positive social change. It could be argued that they also complement the United Nations' principles of human rights.[24]

In our reflections of the four case studies, we will draw on Gould's theoretical framework and these other complementary principles of practice to outline the conditions necessary for people to engage in community projects to good effect. We outline how the approaches taken in each of these projects seek to broaden a sense of justice and promote relational governance.

---

[23] David B Moore, *David Williamson's Jack Manning Trilogy: A Study Guide* (Currency Press, 2003) 21. Also see Amy Guttman and Dennis Thompson, *Democracy and Disagreement* (Princeton University Press, 1996) and Amy Gutmann and Dennis Thompson, *Why Deliberative Democracy?* (Princeton University Press, 2002). These authors suggest that there are four requirements for deliberative democracy: reciprocity; accessibility; binding outcomes; and dynamic or provisional dialogue.

[24] Alikki Vernon, *Justice and care*, above n 15, 117. See also Liz Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantage People', (Report, La Trobe University and the Victoria Law Foundation, November 2007).

B   *Developments in Supporting Access to Justice and Effective Social Change*

Innovative justice programs and community-based projects have evolved in Australia and have contributed to realising some of the aims associated with access to justice and involving people in decision making processes that affect their lives.[25] There has been the introduction of therapeutic interventions and programs in courts, justice and legal centres that have provided a therapeutic, restorative or appropriate dispute resolution approach to addressing legal and social problems. For example, the establishment of the Neighbourhood Justice Centre in the city of Yarra, Melbourne. This Centre offers therapeutic interventions and processes such as problem-solving meetings or restorative community conferencing programs to safely, collectively and effectively prevent and resolve conflicts and crime within the community.[26] The community is also involved in public discussions and policy development about the administration of the Centre and court interventions and programs. Other examples of effective justice programs are the Youth Justice programs and the Court Integrated Services Program at the Magistrates' Court.[27]

However, more rigorous evaluations are required across justice programs, legal centres, and with integrated service delivery. Those that have been undertaken in Australia and abroad,[28] for instance by

---

[25] Michael S King, 'Restorative Justice, therapeutic jurisprudence and the rise of emotionally intelligent justice' (2008) 32 *Melbourne University Law Review*, 1096; John Braithwaite, above n 2; Michael King, et al, *Non-Adversarial Justice* (The Federation Press, 6th ed, 2014); Sophie Clarke and Susie Forell, above n 5.

[26] See Stuart Ross, 'Evaluating neighbourhood justice: Measuring and attributing outcomes for a community justice program' in *Trends and Issues in Crime and Criminal Justice* (No. 499, Australian Institute of Criminology, Australian Government, November 2015).

[27] See Heather Strang, et al, 'Restorative justice conferencing (RJC) using face-to-face meetings of offenders and victims: effects on offender recidivism and victim satisfaction' (Campbell Systematic Reviews, Issue 9, 2013); KPMG, 'Review of the Youth Justice Group Conferencing Program' (Final Report, Department of Human Services, September 2010); Stuart Ross, 'Evaluation of the Court Integrated Services Program' (Final Report, University of Melbourne, December 2009).

[28] Hazel Genn, 'What is Civil Justice For? Reform, ADR, and Access to Justice' (2013) 24 *Yale Journal of Law and the Humanities,* 397.

Genn, have identified problems with the implementation and practice of some court connected alternative dispute resolution (ADR) programs especially those that are not voluntary.[29] So too, there are issues to address in the establishment of interdisciplinary partnerships and integrated service delivery program models between professional groups.[30]

More sophisticated programs and practices involve a systematic approach to addressing problems.[31] This can involve identifying causes rather than just symptoms, assessing cultural and structural sources of tension, and providing processes that actively address these causes and tensions.[32] They also involve collaborative decision

---

[29]   Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law* (Hart Publishing. 1999); Julian Gruin, 'The rule of law, adjudication and hard cases: The effect of alternative dispute resolution on the doctrine of precedent' (2008) 19 *Alternative Dispute Resolution Journal* 206; James Spigelman, 'Judicial accountability and performance indicators' (2002) *Civil Justice Quarterly* 18; Varda.Bondy, Margaret Doyle and Val Reid, 'Mediation and Judicial Review Mind the Research Gap' (2005) 10(3) *Judicial Review* 220; Thomas J. Stipanowich, 'ADR and the "Vanishing Trial": The Growth and Impact of "Alternative Dispute Resolution"' (2004) 1(3) *Journal of Empirical Legal Studies* 843; Felix Steffek et al, *Regulating Dispute Resolution: ADR and Access to Justice at the Crossroads,* (Hart Publishing, 2013).

[30]   Ellen M Lawton and Megan Sandel, 'Medical-Legal Partnerships: Collaborating to Transform Healthcare for Vulnerable Patients – A Symposium Introduction and Overview' (2014) 35(1) *The Journal of Legal Medicine* 1, 6; Robert Pettignano, Lisa Bliss and Sylvia Caley, 'The Health Law Partnership: A Medical-Legal Partnership Strategically Designed to Provide a Coordinated Approach to Public Health Legal Services, Education, Advocacy, Evaluation, Research, and Scholarship' (2014) 35(1) *Journal of Legal Medicine* 57; Tim Roberts and Janet Currie 'PBLO at SickKids: A Phase II Evaluation of the Medical Legal Partnership between Pro Bono Law Ontario and SickKids Hospital Toronto, Final Report', (Final Report, Focus Consultants, Canada, 2012); Ellen Lawton and Elizabeth Tobin-Tyler, 'Optimizing the Health Impacts of Civil Legal Aid Interventions: The Public Health Framework of Medical-Legal Partnerships' (2013) 96(7) *Rhode Island Medical Journal* 22; Elizabeth Tobin-Tyler, 'Allies Not Adversaries: Teaching Collaboration to the Next Generation of Doctors and Lawyers to Address Social Inequality' (2008) 11 *Journal of Health Care Law and Policy* 249; Louise G Trubek and Jennifer J Farnham 'Social justice collaboratives: multi-disciplinary practices for people' (2000) 7 *Clinical Law Review* 227.

[31]   Liz Curran, 'Solving Problems'*,* above n 4; Rich, above n 4.

[32]   Alikki Vernon, *Justice and Care*, above n 15.

making for those affected by a situation. These programs also involve agencies and professionals providing assistance to resolve or transform a cluster of problems, in assisting affected parties to participate, in fostering interagency coordination and collaboration, and in ensuring appropriate training.[33] Such programs aim to go beyond just *reacting* directly to some negative situation, but to also *preventing* that situation recurring and to eventually proactively *promoting* positive social change and community (and individual) development.[34]

Multidisciplinary, collaborative, and strategic approaches are emerging as critical to fostering access to justice.[35] Legal education and legal assistance are, in the authors' views, an essential part of supporting access to justice and effective social change. When legal service delivery is only reactionary to problems (on a case by case basis), the legal education role of legal services can be overlooked.[36] There are a number of examples of the rise of community engagement in law campaigns: the Consumer Action Law Centre which include the 'Do not knock' campaigns to stop predatory door to door sales; 'bulk debt negotiation' involving numbers of individuals without funds to litigate who have been subject to poor practices and inappropriate or unlawful action. These matters are documented and gathered together, in bulk, to negotiate with corporations to change their practices and settle then collectively without going through lengthy, and costly traumatic court processes. As a result, these cases

---

[33] See Anthony Morgan et al, 'Evaluation of alternative resolution initiatives in the care and protection jurisdiction of the NSW Children's Court', (Report, Research and Public Policy Series 118, Australian Institute of Criminology, 2012).

[34] David Moore, 'Managing social conflict', above n 2, for this succinct description of deliberative democracy principles and their application; Elizabeth Tobin-Tyler, 'Aligning Public Health, Health Care, Law and Policy: Medical-Legal Partnership as a Multilevel Response to the Social Determinants of Health' (2012) 8 *Journal of Health & Biomedical Law* 211.

[35] Pleasence P Balmer et al, 'Multiple justiciable problems: common clusters and their social and demographic indicators' (2004) 1(2) *Journal of Empirical Legal Studies* 301; and Elizabeth Tobin-Tyler, above n 34.

[36] Liz Curran, 'Solving Problems', above n 4.

have also led to changes in poor practice, improved staff training, and regulation to avert this conduct.[37]

For the past seven years in Australia, legal aid commissions and community legal centres have implemented a reform agenda in the justice system which involves establishing integrated service delivery models to address problem clusters and referral fatigue. As noted earlier, these models are not new and have been implemented across many jurisdictions to tackle domestic violence, juvenile offending and social exclusion.[38] However, in recent times, this model has attracted interest in legal assistance service delivery. In Australia, this has occurred through specific funding being allocated to this area from philanthropy, rather than government (although at the time of writing the federal government has announced some funding in the May 2017 Budget).[39] Leadership has tended to come from the services themselves rather than government, as they try to better target services and reach those most in need. Research confirms that the approach some legal assistance services are taking enables people who might

---

[37] Detailed in Liz Curran, 'Enabling marginalised voices to be heard –The challenge to law reform bodies' in Margaret Thornton and Ron Levy (eds), *New Directions of Law in Australia* (ANU Press, 2017) Chapter 47 (forthcoming); Liz Curran, 'Solving Problems', above n 4.

[38] Biuso C Newton 'Supporting quality care in general practice: the collaborative approach.' (2008) 14(2) *Australian Journal of Primary Health* 46; Mary Anne Noone and Kate Digney, '"It's Hard to Open up to Strangers" Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model', (Research Report, La Trobe University Rights and Justice Program, September 2010); Mary Anne Noone, 'Integrated legal services', above n 5. Mary Anne Noone, 'They all come in the one door - The Transformative potential of an integrated service model: A study of the West Heidelberg Community Legal Service.' (Conference paper, Legal Services Commission, 2006) 93-111; Pascoe Pleasence, Alexy Buck & Nigel J Balmer (eds), 'Transforming lives', above n 5; M Robinson and D Cottrell, 'Health professionals in multi-disciplinary and multi-agency teams: changing professional practice' (2005) 19(6) *Journal of Interprofessional Care* 547; Avrom Sherr, et al, 'A stitch in time – accessing and funding welfare rights through health service primary care' (Project report, London Health Observatory, 2004); Buck et al, 'Piecing it together', above n 5; J D Colvin, B Nelson and K Cronin, 'Integrating social workers into medical-legal partnerships: comprehensive problem solving for patients.' (Oct 2012) 57(4) *Social Work* 333.

[39] Susan Ball, Cindy Wong and Liz Curran, 'Health-Justice Partnerships Development Report' (Report, Victorian Legal Services Board, July 28, 2016).

not otherwise receive help to access services. This includes approaches such as interlinking services on one site[40] and co-locating professionals in health, law and social service disciplines. This model can result in problems being assessed both individually and systemically and to be more effectively addressed.[41] The identification of systemic problems can then lead to the appropriate action to address recurring problems through systemic intervention, early intervention, de-escalating legal problems, preventing imposts on law enforcement and public health systems.[42] Other reform approaches include delivering more effective case management, providing appropriate advocacy, legal education, community development and skill development. The following case studies are examples of this emerging reform agenda.

C   Research on Legal Needs and Remedies

Empirical studies in the United Kingdom, Canada and Australia have identified the legal needs of disadvantaged communities and outlined ways to address these needs and reduce the barriers to assistance and to justice mechanisms they experience.[43] This research found

---

[40] Mary Anne Noone, and Kate Digney, 'It's Hard to Open up to Strangers', above n 38.

[41] Alexy Buck and Liz Curran, 'Delivery of advice to marginalised and vulnerable groups', above n 5; Susan Ball, Cindy Wong and Liz Curran, 'Health-Justice Partnerships Development Report 2016', above n 49.

[42] Liz Curran, 'Solving Problems', above n 4.

[43] Coumarelos et al, 'Legal Needs Survey' above n 5. See also, James Cook University, 'Indigenous Legal Needs Project' (Submission to Productivity Commission Inquiry, James Cook University, 2015); Alexy Buck, Nigel Balmer & Pascoe Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups' (2005) 39(3) *Social Policy & Administration* 302; Nigel Balmer et al, 'Knowledge, capability and the experience of rights problems' (Research report, Legal Services Research Centre, Public Legal Education Network, 2010); Alexy Buck, Pascoe Pleasence,& Nigel J Balmer, 'Do citizens know how to deal with legal issues? Some empirical insights' (2008) 37(4) *Journal of Social Policy* 661; Ab Currie, 'A National Survey of the Civil Justice Problems of Low and Moderate Income Canadians: incidence and Patterns' (2007) 13(3) *International Journal of the Legal Profession* 217; Ab Currie, 'Civil justice problems and the disability and health status of Canadians' (2007) 21(2) *Journal of Law and Social Policy* 31;

disadvantaged people are susceptible to having clusters of social, legal and health problems that adversely impact on them.[44] Two recent Australian government commissioned inquiries came to similar conclusions and stressed that disadvantaged groups require innovative, holistic support to reach them and address their legal needs.[45]

Ab Currie, 'The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians' (Research paper, Department of Justice Canada, 2007); Pascoe Pleasence, Nigel J Balmer & Tania Tam, 'Failure to recall: indications from the English and Welsh Civil and Social Justice Survey of the relative severity and incidence of civil justice problems' in Rebecca L Sandefur et al (eds), *Sociology of crime, law and deviance - Volume 12: access to justice* (Emerald Group Publishing, 2009) 43; American Bar Association, 'Legal needs and civil justice: a survey of Americans. Major findings from the comprehensive legal needs study' (Report, American Bar Association, Institute for survey research, Temple University, 1994); Alabama Access to Justice Commission (AAJC), 'The legal needs of low-income Alabamians: A needs assessment and analysis' (Report, AAJC, 2009); PLEAS Task Force —*Public Legal Education and Support Task Force*, (2007), <http://www.pleas.org.uk/index.html>; and Tony Dignan, *Northern Ireland Legal Needs Survey* (Report, Northern Ireland Legal Services Commission, 2006).

[44] Pascoe Pleasence et al, 'Mounting problems: further evidence of the social, economic and health consequences of civil justice problems', in Pascoe Pleasence, Alexy Buck & Nigel J Balmer (eds), 'Transforming lives', above n 5, 67; The report of the 2006–9 English and Welsh Civil and Social Justice Survey – University of Oxford, *Civil justice in England and Wales: beyond the courts 2009* (Centre for Socio-Legal Studies, Oxford, 2010); Pleasence, Balmer & Tam, 'Failure to Recall', above n 43; Alexy Buck, Nigel Balmer & Pascoe Pleasence, 'Social exclusion and civil law', above n 43; Alexy Buck, Pascoe Pleasence & Nigel Balmer, 'Do citizens know how to deal with legal issues?', above n 43; Alexy Buck et al, 'Lone parents and civil law: their experience of problems and their advice-seeking behaviour' (2004) 38(3) *Social Policy & Administration*, 253–269; and Ab Currie, 'A National Survey of the Civil Justice Problems of Low and Moderate Income Canadians' above n 43; Ab Currie, 'Legal Aid Delivery Models in Canada: Past Experience and Future Developments' (2000) 33(2) *University of British Columbia Law Review* 285.

[45] The Allen Consulting Group, 'Review of the National Partnership Agreement on Legal Assistance Services' (Final Report, Australian Government Attorney-General's Department, 2014) and Tony Vinson et al, 'Dropping off the Edge 2015: Persistent Communal Disadvantage in Australia', (Report, Jesuit Social Services/Catholic Social Services Australia, 2015).

Legal problems do not exist in a vacuum. Generally, they have social causes that have an adverse cumulative effect over time.[46] Some problems can be resolved with a legal solution, others may not be solved with the law but through other, timely, interventions.[47] Some problems require a combination of legal, non-legal, earlier intervention or even prevention through systemic reform where the problems are capable of solutions.[48] Others require addressing the causes and conditions creating or exacerbating the problem.[49] For disadvantaged communities who experience such problems, early intervention and legal assistance can prevent matters escalating.[50] Important research into civil-law problems conducted in the United Kingdom in the 2000s revealed that disadvantaged people are susceptible to having clusters of problems that adversely impact on them. Some problems (debt, poor housing, discrimination, family violence, consumer debt) become legal matters when unaddressed.[51] In addition, this research identified that people's unresolved legal issues could cause anxiety and stress which can then lead to further problems such as health issues.[52]

---

[46] Alexy Buck, Nigel Balmer & Pascoe Pleasence, 'Social Exclusion and Civil Law', above n 43; See also Richard Moorhead, Margaret Robinson & Matrix Research and Consultancy, 'A trouble shared: legal problems clusters in solicitors' and advice agencies', (Report, 8/06, Department for Constitutional Affairs Research Series, 2006); Richard Moorhead, Mark Sefton & Gillian Douglas, 'The advice needs of lone parents', (Research report, Cardiff University & One Parent Families, 2004).

[47] Pascoe Pleasence, Nigel Balmer and Catrina Denvir 'How People Understand and Interact with the Law' (Research report, The Legal Education Foundation, Cambridge, United Kingdom 2015).

[48] Pleasence, P, Balmer, 'Multiple justiciable problems', above n 35; Elizabeth Tobin-Tyler, 'Aligning Public Health Care, Law and Policy', above n 34.

[49] Elizabeth Tobin-Tyler, 'Allies Not Adversaries', above n 30; Louise Trubek and Jennifer Farnham 'Social justice collaboratives', above n 30; Liz Curran, 'Solving Problems', above n 4.; Nicole Rich, above n 4.

[50] Pascoe Pleasence, Nigel Balmer and Catrina Denvir 'How People Understand and Interact with the Law', above n 47.

[51] See Alabama Access to Justice Commission (AAJC), above n 43; Rebecca Sandefur, 'Bridging the Gap: Rethinking Outreach for greater Access to Justice' (2014-15) 37(4) *University of Arkansas at Little Rock Law Review* 722; and Christine Coumarelos, et al 'Legal Needs Survey' above n 5.

[52] Pascoe Pleasence, Nigel J Balmer, & Alexy Buck, 'The health cost of civil-law problems: further evidence of links between civil-law problems and morbidity, and the consequential use of health services', (2008) 5(2) *Journal of Empirical Legal Studies* 351.

Many communities are not aware of how to seek legal assistance or do not have access to services to do so.[53] This lack of access can be exacerbated by community services not referring clients to legal services. Where non–lawyers and clients have been interviewed and surveyed, there is evidence to suggest that lawyers may also not be referring to other service providers. The reasons given by vulnerable people for apprehension in engaging lawyers were a combination of trepidation about meeting with a lawyer, a lack of understanding of the nature of the problem, and inadequate guidance in how to seek legal help. Community service providers, including health care workers, gave similar reasons when they explained why they did not often refer clients to seek legal assistance. This is consistent with the findings discussed by Sandefur and current studies being undertaken by Authors one and three.[54] In the traditional delivery of services, health and legal professions tend to have little engagement with each other.

Two important actions were outlined in the Australian and UK research for legal and community service delivery to be effective and to achieve sustainable solutions for vulnerable groups. They needed: i) a targeted and highly accessible approach to advice and help across service types and ii) a well-coordinated approach to addressing problems by linking local services.[55] Similar studies into legal needs and civil-law problems were conducted in Australia and Canada with similar research findings and reform strategies.[56] There have been several attempts to put these reforms into practice within these two countries and the United Kingdom (for example, Family Advice and Information Service in the UK). Some evaluations have shown these

---

[53] Allen Consulting Group 'Review of National Partnership Agreement' and Tony Vinson et al 'Dropping off the Edge', above n 45.

[54] Liz Curran, 'Research and Evaluation Report for the Bendigo Health–Justice Partnership: A Partnership between ARC Justice Ltd and Bendigo Community Health Services' (Draft Working Paper, December 2016) (217 pages) and Rebecca Sandefur, above n 51.

[55] Coumarelos et al, above n 5; Buck et al, 'Piecing it together', above n 5.

[56] Alexy Buck et al, *Civil justice problems,* above n 5.

have not been successful, others are showing that they can be effective and have an impact on peoples' lives.[57]

Important Australian nation-wide studies assessed the legal needs of community groups, including Indigenous communities, and identified similar systemic factors that present barriers to vulnerable and disadvantaged communities accessing justice and legal services.[58] The findings confirmed that recipients of legal assistance services are largely people on social support or with incomes of under $26,000. The studies also highlighted the low rates at which people experiencing disadvantage are likely to see lawyers. The low rates of referral of clients from social services, allied health, financial and health services to legal services were identified too. The Legal Survey found that the most common adverse consequences resulting from the legal problems experienced by survey respondents were income loss or financial strain (29 per cent), followed by stress-related illness (20 pe cent), physical ill health (19 per cent), relationship breakdown (10 per cent) and moving home (5 per cent).[59] The studies resulted in recommendations outlining how a holistic and collaborative approach across service types (both legal and non-legal) could result in more effective, targeted and responsive outcomes for disadvantaged and vulnerable communities.[60]

---

[57] Tim Roberts and Janet Currie 'PBLO at SickKids', above n 30. and Ellen Lawton and Elizabeth Tobin-Tyler, 'Optimizing the Health Impacts of Civil Legal Aid Interventions', above n 30; Liz Curran, 'Draft Working Paper for a Research and Evaluation Report for the Bendigo Health–Justice Partnership', above n 54; Susan Ball and Cindy Wong, 'Health-Justice Partnerships Development Report', above n 39. Mary Anne Noone, and Kate Digney, 'It's Hard to Open up to Strangers'*,* above n 38.

[58] Sarah Ellison et al, 'The legal needs of older people in NSW*',* (Report, Law and Justice Foundation of NSW, 2004); Geoff Mulherin, & Christine Coumarelos, 'Access to justice and disadvantaged communities', above n 5; James Cook University, *Indigenous Legal Needs Project,* above n 5; Melanie Schwarz, Fiona Allison and Chris Cunneen, 'The Civil and Family Law Needs of Indigenous People in Victoria: A report of the Australian Indigenous Legal Needs Project', (Project Report, James Cook University, 2013).

[59] Christine Coumarelos et al, 'Legal Needs Survey'*,* above n 5.

[60] Ibid.

Other research findings, mainly in the United Kingdom (there is little recent peer reviewed material is available in Australia), demonstrate the beneficial role that legal education[61] and law reform advocacy[62] can have on identifying and improving systemic barriers that impact on lives.[63] Pleasence et al, have undertaken longitudinal studies in the United Kingdom for over a decade. They note in findings in a 2015 Summary of their report that:

> This substantial report provides a wide range of insights into the experience of legal problems and what determines whether or not they are resolved. The evidence presented here suggests that public knowledge of the law is low, and that much of what individuals believe they know about their rights may not be correct. It indicates that certain groups are more vulnerable than others in relation to both their ability to solve legal problems and the impact that these problems have on them.[64]

However, despite these findings, neoliberal governments consistently shrink or do not replenish resources of legal services[65] despite the need and demand of the most disadvantaged in our communities. In the United Kingdom, cuts to legal aid were over £30m (around 10 per cent) more than expected.[66] Further funding cuts occurred in Canada, where it has been observed that legal aid has been 'underfunded for

---

[61]   Lisa Wintersteiger, 'Legal Needs, Legal Capability and the Role of Public Legal Education', (Report, Foundation for Public Education: London, 2015). Pascoe Pleasence, Nigel Balmer and Catrina Denvir 'How People Understand and Interact with the Law' above n 50; Jacinta Maloney 'I feel empowered, I know my rights: Communities empowered by peer education and paralegals', (Fellowship report, The Victoria Law Foundation, 2014); and Katie Fraser, 'Prevention is better than cure: can education prevent refugees' legal problems?', (Fellowship report, Victoria Law Foundation. 2010)

[62]   Nicole Rich, above n 4.

[63]   Access to Justice Arrangements Report, (Report, No 72, Productivity Commission Inquiry (5 September 2014)); Liz Curran, 'Solving Problems', above n 4.

[64]   Pascoe Pleasence, Nigel Balmer and Catrina Denvir 'How People Understand and Interact with the Law' above n 47;

[65]   Hazel Genn, above n 28.

[66]   Sommerlad and see Roger Smith, 'The UK Government's Cuts to Legal Aid: Counting the Cost?' *International Legal Aid Group Newsletter*: *Issue 35* (March – April 2015) 9.

years'.[67] In Australia, the Productivity Commission recommends an injection of $200 million into legal aid by the government.[68] Legal assistance services in Australia run on limited resources and rely heavily on volunteers. Limiting funding defies the economic reality that targeted assistance and integrated services save the government money in the longer term on spending on health and law enforcement, by earlier intervention and resolving problems at their core.[69] In addition, the Australian Government's silencing of agencies to participate in law reform and present information about their clients' direct experience of the laws and their administration, and in making recommendations to improve service delivery, is also counter-productive.[70]

D   *The Role for Lawyers and Community Legal Centres in Community Development*

As the case studies will show, there is a role for lawyers beyond merely providing legal information or advice. Adopting a community development approach to their legal education and assistance is key to strengthening individual and community capacity to act on legal information and their rights with confidence. This approach can enable communities to have the skills to better advocate for themselves and others in their community and become more active and engaged in civil society. This approach is especially relevant with shrinking funds to legal aid services which generally assist the poor and disadvantaged in society. People can find themselves pitted against the state and corporations, who are repeat players in the justice system and have significantly more resources.[71] Access to knowledge,

---

[67] Jennie Russell & Charles Rusnell, 'Alberta Justice Cut Legal Aid Service', *CBC News* (24 July 2015).

[68] Productivity Commission Inquiry into Access to Justice Arrangements Report, above n 63.

[69] Liz Curran*,* 'Solving Problems', above n 4, 12-14.

[70] Liz Curran, 'Attorney General George Brandis Set to Silence CLCs' *The Saturday Paper*, (14 June 2014).

[71] Liz Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives'*,* (Report, West Heidelberg Community Legal Service / Reichstein

having capacity and confidence to be able to assert rights and to ensure accountability and responsibility for unlawful actions are all a part of access to justice. [72]

The role that legal aid, Community Legal Centres (CLCs) and community agencies can play in their work with and for the community is well described by the Scottish Community Development Centre's definition of community development:

> Community development is a way of strengthening civil society by prioritising the actions of communities, and their perspectives in the development of social, economic and environmental policy … It strengthens the capacity of people as active citizens through their community groups, organisations and networks; and the capacity of institutions and agencies (public, private and non-governmental) to work in dialogue with citizens to shape and determine change in their communities … Good community development is action that helps people to recognise and develop their ability and potential and organise themselves to respond to problems and needs which they share. It supports the establishment of strong communities that control and use assets to promote social justice and help improve the quality of community life. It also enables community and public agencies to work together to improve the quality of government. [73]

Legal assistance services can, therefore, play an important role in directly fostering community development and in supporting community justice centres. This understanding of the role of legal assistance services also reflects a broader perspective about the justice and governance system. For lawyers to incorporate this broader vision into their role, the training of lawyers needs to improve and be more multidisciplinary.[74] A justice system is not just about court cases or

---

Foundation, 2007); Liz Curran, 'Ensuring Justice and Enhancing Human Rights' above n 24; Liz Curran, 'Solving Problems', above n 4.

[72] See PLEAS Task Force 'Developing capable citizens: The role of public legal education: the report of the PLEAS Task Force' (Report, PLEAS Task Force, UK, July 2007).

[73] *Scottish Community Development Centre*, <http://www.scdc.org.uk/>.

[74] J Macfarlane, *The New Lawyer: How Settlement is Transforming the Practice of Law* (University of British Columbia Press, 2008) 30-34; Michael King et al, *Non-Adversarial Justice*, above n 25, Ch 1; L Risken and J Weststbrook, 'Integrating Dispute Resolution into Standard First Year Courses: The Missouri

advocating for individual rights. It ought to promote dispute resolution, systemic reform to prevent problems at their source, conflict transformation, problem-solving, building communities and making a beneficial difference to peoples' lives. Legal processes are part of a justice system that operates to *serve* the community in various ways.[75]

National research on the legal needs of disadvantaged groups recommends innovative, holistic support to these communities to achieve both active participation in decision making and sustainable solutions for vulnerable people.[76] As noted, Liz Curran has written previously on studies undertaken in Australia demonstrating that legal and community services can (and do) work together with individuals and social groups who have complex needs and experience systemic disadvantage, and that this engagement can impact on peoples' lives and policy development.[77] Legal and community services can play an important role in supporting disadvantaged communities in: i) addressing their immediate problems; ii) assisting them to identify barriers and remedies in the social and justice systems; iii) fostering skill development and collaboration; and iv) participating in processes that facilitate change.[78] An adult learning or action learning approach is a proven pedagogical approach to effective training and skill acquisition and is critical to community development. Action learning, much like action research, is an approach and a process involving reflective and progressive problem solving driven by individuals working with others in teams or as part of a "community of practice"

Plan' (1989) 39 *Journal of Legal Education* 509; Australian Law Reform Commission, *Review of the Adversarial System of Litigation: Rethinking Legal Education and Training* (1997) [5.7].

[75] Alikki Vernon, *Justice and Care*, above n 15.

[76] Christine Coumarelos et al 'Legal Needs Survey', above n 5; Australian Government Productivity Commission, Access to Justice Arrangements: draft report, above n 63*;* and Alexy Buck and Liz Curran, 'Delivery of advice to marginalised and vulnerable groups', above n 5.

[77] Liz Curran, 'Solving Problems', above n 4; Liz Curran 'Community Legal Centres Lead on Law Reform,' (2008) 82(4) *Law Institute Journal,* 62-65 and Rebecca Sandefur, above n 51.

[78] Liz Curran, 'Solving Problems'*,* above n 4.

to improve the way they address issues and solve problems.[79] Complex problems require a range of skills and strategies that a community or team of individuals can develop and customise for a specific set of issues.[80] This approach is in contrast to traditional legal education which provides a lecture style one-off session or a forum format which assumes that the trainer/practitioner/professional, whether a lawyer or expert in a field, is the holder of all knowledge.

Despite the reduction of funds, and other trends toward limiting the functions of legal and community centres, service initiatives[81] are emerging to tackle the cycle of poverty, social exclusion and disadvantage experienced by community groups.[82] These initiatives represent a broader view of governance and justice that foster partnerships and collaboration among social agencies, the state, judiciary, and community groups. They play an important role in the overall strategy to transform the vicious cycle of problems begetting problems.

---

[79] For action learning see Reginald W Revans, *The Origin and Growth of Action Learning* (Chartwell-Bratt, 1982) and Wikipedia on Action Learning, Wikipedia, *Action Learning*, <http://en.wikipedia.org/wiki/Action_learning>. For action research see Kurt Lewin, then a professor at MIT who first coined the term 'action research' in about 1944, and it appears in his 1946 paper 'Action Research and Minority Problems' in *Resolving social conflicts* (Harper & Row, 1946).

[80] Rick Flowers et al, 'What is effective consumer education? A literature review', (Literature Review, Centre for Popular Education, University of Technology Sydney, 2001); Joh Kirby, 'A study into best practice in community legal information: a report for the Winston Churchill Memorial Trust of Australia' (January 2013) 69 *The Clarity Journal* 12.

[81] Liz Curran, 'Making the Legal System more responsive to Community', above n 71.

[82] Louise Trubek and Jennifer Farnham 'Social justice collaboratives', above n 30.

III   ACCESSING JUSTICE AND DEMOCRATIC PROCESSES: COMMUNITY DEVELOPMENT IN PRACTICE

A   *Four Case Studies: Examples connecting community with justice and democracy processes*

The four Victorian case studies were projects undertaken by staff members of the West Heidelberg Community Legal Service (WHCLS) in collaboration with Banyule Community Health (BCH) and an independent conflict resolution consultant.

These four legal and community-based projects demonstrate approaches taken to engage and empower disadvantaged communities to be better positioned to transform the vicious cycle of problems begetting problems. The authors worked with community legal centre clients and different groups in the community who lacked the social capital and knowledge to enact their legal, political and human rights, The community development projects provided opportunities for these community members to learn about these rights, to develop new skills for negotiating more effectively, including with public authorities, and to participate in policy development and government processes. In reflecting on this work, the authors describe how these projects applied lessons drawn from interactive and deliberative democracy frameworks, relevant research, and community development practices to improve community legal centres' service delivery, legal education and advocacy,

These community development projects aimed to support self-transforming activities. This required not only encouraging individual choices but collective participation, and included the availability of the means or access to the conditions necessary for making these choices and participation effective. This type of engagement sought to actualise Gould's 'social ontological' conception of democracy and

justice discussed earlier.[83] The projects also supported 'coactive power' interactions where members of the communities involved were supported in learning how to converse, negotiate, address conflict, and make decisions, and to practice effective participation by encouraging 'power-with' interactions. These are interactions where reciprocal relationships and power sharing is supported in terms of recognising and reinforcing peoples' contributions, skills and decision-making capacity.

B   *Case Studies and Methodology: A reflective practice approach*

These case studies are not a part of a research project as such. There is, therefore, no formal methodology undertaken (or the requisite ethics approval) in terms of the collection of quantitative or qualitative data via surveys or interviews. This article provides instead a description of the reflective process undergone by the author practitioners who provided a service delivery to engage particular community groups to improve their access to justice and to feel enabled to have a voice in decision-making. These reflections outline a range of practice experiences arising from the authors' involvement in these projects, including how we worked with other community agencies, staff, and parliamentarians. As Leering in her article on reflective practice notes,

> [i]t is clear that, even as seasoned or expert legal professionals, we need to continually reassess and re-evaluate our professional calling and practice to provide better services, learn how to collaborate, take risks and to be prepared to innovate, and keep abreast of developments and new knowledge to increase access to justice.[84]

As part of our reflective practice, we met to examine our approaches, discuss engagement and training strategies, identify barriers, and recast the training or workshop sessions to reflect any learnings from input by the communities involved. The case studies draw upon the notes taken by the practitioner authors, workshop

---

[83]   Carol C Gould, *Interactive Democracy,* above n 2, 3.
[84]   Michelle Leering, above n 1, 88.

information and minutes, and published reports authored by the practitioners as a part of their accountabilities to funders of the projects. These reports were discussed with and approved by the project participants. These reflections have also been informed by the literature, as outlined in the earlier part of this article.

Each case study highlights the value of collaboration and joint strategic planning which can enable the mobilisation of communities to better understand and address their issues, and, in some cases, influence decision-makers.

C   *Background to the Service Where the Projects Were Delivered*

The WHCLS, allied health and social welfare services are co-located within the Banyule Community Health (BCH) complex, located on a public housing estate. The clients of these services mostly come from significantly disadvantaged social backgrounds. They include families fleeing family violence; newly arrived and older migrant communities, with a large proportion of people from the Horn of Africa; people with some form of disability or mental health issue; and people with poor income support or who receive social security benefits. Most of the community lives in public housing. Much of the public housing is poorly maintained by government. A targeted, segmented waiting list exists which means people often cannot get the housing they need or are homeless.

The co-location of services at BCH has provided disadvantaged people, who might not otherwise have received help, access to a range of services so they can address their problems more effectively. Even with the advantage of co-located services, there were problems with serving the community adequately due to these services being overloaded with case work. More creative and innovative approaches to service delivery were needed to enhance people's access to justice beyond only managing client case work.

One of the authors was a Director of the WHCLS at the time when further reforms were being discussed. She initiated and supported a number of the innovations to service delivery at the legal service. The innovative projects that were implemented aimed to reach more people and stretch service impact beyond one-on-one case work through building community and client knowledge, skills, capacity, and resilience. All the authors were facilitators on different projects and had roles in one or more of the four case studies that follow.

Each of the cases studies outline the presenting problems of the community, the aim of the project, the approaches or methods adopted to seek community development, and practitioner reflections and lessons learned for future actions.

D   *Case Study One: Somali women and legal education workshops*

The WHCLS offered an advice and case work clinic where residents from the local region could be helped by student lawyers operating under the supervision of a practitioner.[85] It became apparent (through trends in case work for lawyers and non-legal professionals at the health centre) that many Somali women in the community who attended the clinic lacked a sound understanding of their legal rights and how to address their needs.

Most of the Somali women lived in West Heidelberg's public housing. They experienced a number of problems with housing and homelessness, finance (including social security and consumer debt), infringements, family violence, and migration issues. These women generally did not understand the role of police in the community or the Australian political system. They often were not aware of what a 'legal' problem might be or how to go about raising and addressing these problems. The training given to newly arrived immigrants by government agencies had failed to address this knowledge gap.

---

[85]   The clinic at WHCLS was provided by the School of Law at La Trobe University.

The WHCLS received a Victorian Women's Trust grant (based on the service's mapping study of case work trends and a community consultation on need). This grant funded the employment of a Community Development Project Worker who could provide interactive legal workshops to help the resident Somali women to understand their legal and human rights, and to navigate the Australian legal system. One of the authors was the project worker on this project. The aim of the project was to engage as many Somali women as possible so they could build their knowledge, skill capability, and confidence to take action on problems they experienced, seek the appropriate help required, or involve themselves in participatory processes to effect change. Another long-term goal of the project was to support peer-education among the women so that they could continue to help each other and their communities.[86]

There were a number of important elements of the project that contributed to its effectiveness. These *elements of engagement* also apply to the other three projects to be outlined. First, the employment of a Somali liaison worker who played a critical role in building trust with the women and acted as a cultural adviser and translator. The liaison worker helped to recruit Somali women to the workshops, and supported their participation in them. The engagement of a member of the community who is involved in a project provides many benefits: for instance, this person assists i) with a better understanding into the community's needs, concerns, and interests; ii) in providing a role-model to the community; and iii) in contributing a different view and insight into the problems and solutions that can benefit the working team and the community.

Second, another essential element for the project was both the expertise of the project worker and the way they worked collaboratively with a number of professionals and agencies. The groups involved included the legal service staff, the clinical coordinator, BCH staff, the Somali social worker, the Maternal and Child Health nurses, the Neighbourhood Renewal Co-ordinator, the Austin Hospital, a Child Protection Society representative, Court

---

[86]   Jacinta Maloney, 'I feel empowered, I know my rights', above n 61.

liaison officers, and the local Family Relationship Centre staff. Each organisation and person played a role — from providing venues, referring and recommending the program, and having input into the project design and delivery. The project worker facilitated the connections between these groups and organisations as well as facilitated well-structured conversations between the Somali women and others providing information or workshops.

Third, time was spent by the project worker on building rapport with the Somali women by visiting local women in their homes, sharing meals, and sitting with them during prayer. It was key for the project worker to spend this time building trust and to express a respectful interest in the women's culture. The journey of many of the women, through war-torn Somalia and the trauma of the refugee camps, meant building trust and ensuring a space of safety was critical to them participating in the project.

Fourth, the project worker involved the Somali women from the outset in designing the proposed legal workshop. With the help of the Somali liaison worker, the project worker sought the women's input on the content and the duration of the legal workshop sessions, so these sessions resonated and were important to the women, and available at times when they could attend.

The women stated early that housing was their main concern. Other issues that were impacting on their lives were consumer debt and social security matters. Each of these issues had legal dimensions, and possible legal remedies, which the women were unaware of. A mixture of fortnightly meetings and specific training workshops were agreed to by the group as the best way to work towards capacity building and legal education. The project worker provided a flexible arrangement with the times, days and weeks of these meetings as consideration needed to be given to when the women needed to pause for prayer, to eat due to Ramadan, or engage in other religious events. Some meetings were run casually at the playgroup to allow more mothers to attend. Others were in the evening, at the neighbourhood renewal venue, when the women could leave children at home with

husbands or other adult children, thereby increasing the access of the sessions to more women.

Finally, another important element was the project worker's adopting action learning and adult learning approaches in the delivery of the legal workshops. The initial session (an introduction to the Australian structure of government) was prepared by the project worker. However, in designing subsequent sessions, she was flexible and guided by the women's feedback from the first workshop and their learning requirements. This is consistent with the adult learning or action learning approach discussed above. In taking such an approach, the project also acknowledged the need for 'equal agency', 'self-development' and participation, as outlined by Gould and Follett.[87]

The importance of allowing an 'organic' structure to unfold, and not be tied to pre-conceived ideas, is not to be underestimated. Initially, only one session was organised on the housing topic. However, this was not enough as the women asked for a second and third session to gain further knowledge. The reason why these sessions were so important is best captured by one woman's remark: 'No home, no life'.

An important early lesson for the project was that the best way for the project worker to structure the capacity building workshops was to ensure that the group had a good understanding of the common issues in the community first. Once some useful examples were shared and considered by the group, then it was appropriate for the project worker to also identify and gently suggest topics that the community knew little about or did not know could be significant to their lives and/or have legal solutions.

---

[87]   Carol C Gould, *Interactive Democracy,* above n 2; Mary Parker Follett, above n 15; W B Pearce and S W Littlejohn, above n 15; John Burton, above n 15; Carol Gilligan, above n 15.

The other important aspect of these sessions was enabling enough time for the group to share their experiences. This is consistent with the principles of adult learning, described above. The project worker invited to the family violence workshop a lawyer who was highly experienced in working with Horn of Africa families enduring family violence. This session ran in an informal way with profound stories being shared over thermoses of hot Somali tea. The women shared their stories after a group discussion about confidentiality. The lawyer responded by explaining the law and their legal rights. This exchange increased the women's understanding of not only the law but how to access services and other justice agencies to protect themselves and their children.

This flexibility in designing the workshops and the project worker's responsiveness to the women's needs was key to their engagement. Similarly, the respect and interest in sharing cultural stories and practices as demonstrated by the project team.

Approximately fifty-five Somali women were involved in this project for approximately one year. During the project, the women started to spread the word about the workshops. Hand-outs provided in the meetings were shared amongst women who had not attended the previous sessions. Consequently, a number of women made appointments with the lawyers on matters previously ignored, thereby avoiding an escalation of their problems. One morning, there were 25 files opened by the legal service on public housing matters for Somali women. Over some months, more files were opened and eventually a dedicated project was funded to address the influx of cases. Prior to the project, these women had not sought legal assistance.

A part of the success of this project is illustrated in the building of capacity for 'equal positive freedom' among these women by supporting each individual woman to collectively seek social recognition for a number of systemic issues and to access the means by which to request cooperation from government agencies and authorities to provide the basic conditions to improve their lives. However, to continue to foster this development, ongoing support is

required.

E   *Case Study Two: Public housing tenants' working groups and workshops*

Community members in a West Heidelberg Residents' Group (a group which had been set up as a strategy for neighbourhood renewal) continuously raised concerns about poor quality housing and how this impacted on their health, lives, and safety. They also complained about a lack of appropriate housing and cycles of homelessness.

Clinical legal education students at WHLCS, as part of a law reform assignment, examined and audited files from a six-month period. This research revealed that 9 % of the legal service's clients had raised concerns about poor quality housing in interviews with their lawyers, even though other legal issues were the reason for the lawyers' interviews. It appeared that housing problems were an ongoing underlying source or contributing factor for other legal issues or other problems arising.

The Northern Region of the Department of Housing in Victoria has a tightly targeted and segmented waiting list with many people either giving up on housing or living in sub-standard conditions. The Department also has highly technical, administrative requirements which restrict what residents can do to address their housing problems. Residents reported not being allowed to maintain, take steps to improve, or fix problems with their houses without prior consent from the Department, otherwise they could be penalised. This consent was rarely forthcoming. Residents also complained of a reticence of housing officers to respond to the issues they raised. There were examples given of no or poor responses from the Department when raising issues about rising damp and asbestos, and concerns about how such exposure was poor for their health. The reason for a particular group of residents receiving no response from the Department was due to a whole street being deleted from the Department's records, despite rent still being collected. When seeking assistance, those residents

were told that they 'didn't exist', according to the Department's computer.

The residents' group sought assistance from the community legal service to learn communication and advocacy skills to engage with the Department of Housing. They wanted to feel confident to voice their experiences to the Department and for their concerns to be acknowledged by staff. The residents also wanted to have greater input into decision-making about their housing issues, including why there was a lack of housing.

A number of the elements that were adopted in the first case study were implemented with this project. The starting point for this project was to engage with the residents and better understand their experiences. To substantiate the stories of their housing experience, these were documented and inspections undertaken, including the taking of photos of their living conditions. This work was undertaken by law students as part of their Clinical Legal Education law reform assignment, over several legal education clinical courses.[88] Once the extent of the problem had been investigated, and evidence gathered, the legal service Director, was involved in coordinating and delivering the tailored training workshops with the residents.

The Director attended meetings of the resident group over many months to undertake the following:

i. map problems;

ii. identify law and other relevant knowledge gaps (eg how the political process works, how to handle media interest) and who were decision makers;

iii. consider principles of citizenship;

---

[88] This includes a period of time when Liz Curran was the clinical legal education supervisor and before her time as Director and was continued when another clinical legal education supervisor was in the role.

iv. identify policy development required; and

v. identify the skills needs of residents.

The Director scheduled 27 training workshops with the residents' group who were all public housing tenants and other interested residents over the course of one year. These were undertaken as part of the Director's 'community development' function in her position description. They were designed and scheduled to fit in with the residents' group's identified needs, interests, and availability. There were a number of matters the residents wanted to learn. These included: how to run a focus group; what their human rights were around humane housing; how to use the human rights Charter to negotiate outcomes with decision-makers; what legislative avenues existed to enable them to negotiate improved outcomes; how to meet a minister; how to facilitate a community meeting; and how to work with the media. From the resident group's discussions, it became clear that community members did not know their rights, or responsibilities, who to talk to and when, or how to contact the relevant people and deal with being 'fobbed off.'[89]

In the course of this training, issues around poor literacy and numeracy emerged. The Director, facilitating these training sessions, worked with the residents in understanding how residents could best learn and develop skills to navigate complex systems given these factors. Residents were actively engaged in the sessions which included the use of role plays based on the residents' own experiences. Skills were practiced and rehearsed in scenarios before residents then enacted them in 'real-life'. It was also important that workshops were not overloaded with content and that information was provided over time to assist with both comprehending and retaining the information. The training on the human rights Charter, for instance, was undertaken over five sessions.

---

[89]   A direct quote from the workshop participant taken in notes by the authors. This means ignored or belittled in Australian parlance and reflects in their own words how they feel.

A significant aspect of this project was the action learning component. With the growing confidence and skill development of the residents, they decided to be involved in specific actions which then shaped the workshop sessions. Due to the ongoing unresponsiveness of the Department, the residents decided to organise a meeting with the Minister of Housing. Residents wanted to learn a method for telling their stories in an orderly and respectful manner so that they could get a response from the minister. A training session was designed to focus on how to prepare and conduct a ministerial meeting, which included how to write a briefing. This briefing was written in collaboration with residents, the legal service and Neighbourhood Renewal staff.

Two members of the residents' group co-chaired the Ministerial meeting. They fielded questions and comments from the residents and ensured that residents expressed their experiences to the Minister at the meeting. Members of BCH counselling team were also there to support residents in telling their story. An action plan with dates was drafted at the meeting to ensure the Department kept their undertakings, with a copy then sent to the Department and Minister.

After the meeting, the residents debriefed about what they had learnt, reflected on the challenges and how they dealt with their exasperation and maintained a respectful demeanour during the sometimes heated exchanges and deflection by the Departmental personnel who were present when they raised their concerns. The residents' group members noted that they would normally have 'lost their cool' earlier. However, with the preparation prior to the meeting they operationalised what they had learned about being polite and persistent but not aggressive or angry.

Despite the undertakings given at this meeting, some of the residents felt that their complaints had not been resolved with the promised speed. They realised that to apply pressure on the Department and the Minister, and ensure that the promises made were

kept, media pressure would be a useful tactic. The Director suggested that the residents speak directly to the media, rather than others speaking for them as it could be a more powerful message. However, given past experience of dealing with the media, the residents were initially reluctant to do so. This concern shifted when the group considered how effective they could be if they had the right training. It was identified that media training was essential to ensure clarity of message as well as to protect residents against sensationalist media and manipulation. This training was then provided over sessions by the Director who has media experience and expertise. These sessions included identifying exploitative media practices and strategies, who not to talk with, how to manage privacy and deal with media intrusions, and how to respond (or not) to questions. Many residents continue to utilise this training to this day.

The media ran a series of stories on public housing in the local and major daily newspapers which led to ministerial action and (possibly contributed to) a Parliamentary Inquiry. Some residents, for instance, were re-located from poor housing because of the media coverage. For the first time in three decades, the Victorian government called a Parliamentary Inquiry into Public Housing in Victoria.[90] It was called just before Christmas 2009, giving very limited lead time for submissions to be provided before the Christmas shutdown.

The Director saw this Inquiry advertisement in the daily newspaper and brought it to the residents' attention. The residents wanted to participate in the Inquiry but had no idea how to. This highlights the points made by Gould, about the importance of enabling the community to access the 'material means of life', and by Follett, about applying the principles of deliberative democracy, as discussed earlier. Although the residents' group wanted the opportunity to be heard in this process, they felt no one would listen to them. In collaboration with this group, the Director devised further training sessions to

---

[90]   Family and Community Services Committee, 'Inquiry into the Adequacy and Future Directions of Public Housing in Victoria', (Inquiry, Victorian Parliament Office, 2011).

enable participation into the Inquiry. The training included information on how to prepare, chair, and run a focus group, as well as produce material required to do so. The residents' group developed consent forms, formulated relevant questions to raise with the focus groups, created posters and wrote a newsletter to advertise the focus group to encourage community participation across the public housing estate. A Tips/ Fact Sheet was drawn up for the focus groups and Inquiry. The legal service assisted residents in drafting, organising and administering consent forms for the participants.

The residents' group facilitated eight focus groups over the summer holiday period. The Director was available to sit as an observer or provide additional support for each focus group, but the residents facilitated the discussions. The focus group discussions were recorded by residents who had skills in audio systems. The information gathered from participants was de-identified, as many were fearful of departmental reprisals.

The Director gained pro bono support from a law firm to transcribe the focus groups' recordings and pay for the printing costs of the submission. These transcripts were then used by residents to draft the submission for the Inquiry. A 200-page submission, with case studies and recommendations, was produced.

The residents' group was called to 'give evidence' before the Parliamentary Committee. The legal service provided further training on how to participate in giving evidence and what to expect. The Director attended the Committee as a support person for the residents. Initially, some of the parliamentarians aimed questions at the residents and seemed surprised by the responses. Initially some parliamentarians were noticeably distracted by their smart phones and ipads when the residents began their statements. But, eventually, on hearing the evidence given by the residents, the parliamentarians put aside distractions and started to listen to them. As one observer, from another agency, present during the submission stated, 'you could hear 'a pin drop'.

After the evidence, the parliamentarians, across party lines, stated that it was 'the most powerful and compelling submission'.[91] The honest portrayals of the brutal reality of life on a public housing estate conveyed by those with lived experience had visibly impacted on the politicians. In fact, the clear power of the submission and the transformation of the politicians is illustrated by the following interaction. The residents had initially asked permission to take photographs of them providing their submission so they could 'report back' to their community. The Chair had refused this request, stating that it was against protocols. However, at the end of the resident group's submission, the Chair asked for a camera and took photos of the parliamentarians posing with the residents. As the photos were being taken, one politician commented that this was a 'significant moment in democratic participation'.

The empowerment of this resident group to effect positive personal and social change again highlights Gould's argument about how a self-transforming activity requires not only the making of choices but also the availability of the means or access to the conditions necessary for making these choices effective. The particular conditions that provided for this effective engagement included the residents having a better knowledge of the departmental system and the law, organisational and meeting skills, and media, facilitation and communication training that fostered constructive engagements and conversations. The incremental development of these skills and putting them into practice, reinforced the group's confidence, and their personal and collective skills, to seek to inquire, do more to improve their own conditions, and to engage in 'creative citizenship'.

---

[91] Residents' Group Submission, Inquiry into the adequacy and future directions of public housing in Victoria, (Transcript, Family and Community Development Committee, 11 February 2010) <http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/56th/ph/transcripts/T14_RG3081_11-Feb-10.pdf>.

F   *Case Study Three: Enabling community members and their*
workers to use human rights mechanisms under Victorian legislation

The WHCLS Director undertook 'legal need identification' training workshops, with the multi-disciplinary team at the Banyule Health Service, other Victoria-wide service providers and council officers, to improve the relationship and service delivery between these providers to the local community. As discussed in above, overseas research demonstrated that although disadvantaged people are more likely to have legal issues, they often seek help from their 'trusted' health or allied health workers, rather than seek legal assistance. However, more poignantly, research conducted at the WHCLS, by Noone,[92] revealed that doctors did not often refer matters to the legal service, despite it being in the same building, because they did not perceive the problem as a legal issue. These research findings reinforced an earlier study undertaken by the WHCLS Director, in 2007, and later studies by Sandefur et al,[93] which suggested that workers and community members did not realise that many problems could be resolved with legal assistance.

After scoping the issues confronting community members and service workers, the Director realised that there was a more effective method to inform the training workshop than identifying legal need. Many of the communities' problems were capable of a legal action or

---

[92] Mary Anne Noone, and Kate Digney, 'It's Hard to Open up to Strangers', above n 38.

[93] Liz Curran, 'Ensuring Justice and Enhancing Human Rights' above n 71; Rebecca L Sandefur et al, (eds), *Sociology of crime, law and deviance, volume 12: access to justice*, above n 43, 43–65; American Bar Association (ABA), 'Legal needs and civil justice survey', above n 43; Alabama Access to Justice Commission (AAJC), The legal needs of low-income Alabamians: A needs assessment and analysis, above n 43; PLEAS Task Force — see *Public Legal Education and Support Task Force*, (2007), above n 43; Elizabeth Tobin-Tyler, 'Allies Not Adversaries', above n 30.; Louise Trubek and Jennifer Farnham 'Social justice collaboratives', above n 30. See also Mary Anne Noone, 'Towards an Integrated Service Response to the link between Legal and Health Issues' (2009) 15 *Journal of Primary Health* 203; Liz Curran, 'Relieving Some of the Legal Burdens on Clients: Legal Aid services working alongside psychologists and other health and social service professionals' (2008) 20(1) *Australian Community Psychologist* 47.

response by using the framework of the then new Victorian Charter of *Human Rights and Responsibilities Victoria 2004.* Many allied health, health and social service agencies and their clients were unaware of the opportunities the Charter presented to resolve issues.

The training project aimed to inform service providers and community groups, most likely to work with disadvantaged clients or patients in the community, how they might use the Charter to broker better outcomes in their dealings with public authorities. The Charter training also aimed to support people in resolving issues through dialogue and negotiated outcomes.

By engaging social, health and allied health workers, council workers and community groups, the training focussed on building the advocacy skills and capacity of professionals so that they could ensure public authorities complied with the new Charter on behalf of their clients. Although public authorities were required to consider individual circumstances of human rights, many were often unaware of these responsibilities.

The Director provided forty-five training sessions on the human rights Charter and its practical use to professionals and the community over an eighteen-month period. These were partly funded by the Victoria Law Foundation,[94] but also fell within the Director's 'community development' function. Some sessions built on earlier sessions as groups identified a wish for further in-depth training. Some sessions were one-off, but groups were offered further support by phone or email.

The training adopted adult learning principles, informed by the Director's educational qualifications, and was tailored to the expressed needs of those people present in each session. The real-life

---

[94]   An application was made by the Director to the Victoria Law Foundation 'Small Grants' scheme for $5,000 due to demand for training by community and workers.

experiences of participants were used to explain the Charter's relevance and how its framework could be applied. From the outset of the training, workers were asked to identify issues, problems or barriers they faced in their case work. The trainer responded to the issues raised in the case work with practical step by step ways to tackle each of the situations. Not only was it critical for the workers to become aware of the obligations of the Charter, but it was also important to provide them the skills they needed to assist public authorities to become aware of their own obligations. The trainer encouraged a conciliatory approach to working with authorities as it would often achieve a better outcome.

Role plays provided the most effective method to demonstrate how to approach different situations. Workers practiced the types of conversation they might have with decision makers or the best way to correspond with them. The role plays provided an opportunity for workers to practice techniques, such as when they were being avoided or dismissed, and to rehearse the next steps in gaining a positive response from authorities.

The training of non-legal professionals in advocacy skills broadened the reach of the legal services and countered its limited funding and resources to assist all clients. The training also provided other professionals with human rights tools (such as a one-page human rights checklist) to add to their armoury to feel more confident in advocating for their client or patients' needs.

The longer-term positive benefits of the human rights project saw reductions in 'blanket' refusals from public authorities to consider client's human rights concerns. With non-legal professionals understanding the Charter, community members have a greater likelihood of their human rights being adhered to. Professionals reported that after the training, they used the Charter framework to suggest roundtable discussions where creative suggestions and lateral solutions were adopted to resolve problems.

The resources, approach and lessons learned during this training were utilised and replicated in training delivered by the Human Rights Law Centre and the Federation of Community Legal Centres Human Rights Working Group in 2012 – 2014, in a series of human rights training workshops with people with disabilities and non-legal service providers.

This project sought to identify the systemic barriers that contribute to inequity and to preventing access to justice by working with agencies to collectively address structural problems and systems that, in Gould's terms, are 'not fit for purpose', and to help curb recurring problems and barriers to justice and participation.

G   *Case Study Four: Public housing estate residents 'creating rights spaces'*

Staff from the community health centre approached the Director of WHCLS expressing concern about a number of clients who were in conflict with government agencies such as the police, housing officers, and child protection. The Director was also aware of some members of the West Heidelberg Residents' Group who were frustrated by difficulties with government officials and who felt that they did not know how to prevent or more effectively deal with the disputes and conflicts they experienced. It was crucial for the Director to support the residents' group by building on from their previous involvement in interactive activities and skills development training (see Case Study Three) in order to address the imbalance in social and participatory inequities they were facing. As Gould identified, this is key to community empowerment. This support and moving beyond the short term to longer term engagement with the community is essential to bringing about community mobilisation and effective change.[95]

---

[95]   Nicole Rich, above n 4.

The WHCLS Director invited one of the co-authors of this article, an expert restorative facilitator and lecturer in dispute and conflict management, to assist in applying for a council grant and to undertake the training workshops.[96]

The project aimed to support participants to learn skills that could help them to i) understand and *deal* effectively with disputes and conflicts, ii) to *prevent or minimise* negative or harmful situations recurring, and iii) to *promote* and build positive relationships. The workshops sought to engage the participants to recognise the causes rather than just symptoms of their problems, including the cultural and structural sources of these tensions. The focus of the training was also to assist the group to identify how to assess different types of problems, learn about strategic negotiation, and consider the type of dispute resolution or conflict management process that may help to address problems.

The conflict management workshops were promoted on flyers at the BCH centre and at the WHCLS. In consultation with staff at the BCH centre, the facilitator provided details on the flyers about the venue and time for the workshops based on what was known to best suit the potential participants (health care clients and housing estate residents). The legal service rooms were already a place that likely participants were familiar with, felt safe in, and able to access. A consistent time and day for the workshop was chosen to ensure that people with school-aged children could attend and that the date was easy to remember. The 14 participants that signed up for the workshops noted that these considerations had aided their involvement.

The facilitator applied restorative and action learning principles in approaching the workshops. Working in partnership *with* those involved in a situation is a core principle of restorative practices. Another core principle is restoring *right relations* within a person,

---

between people, and between groups.[97] This approach contrasts with other approaches where experts (whether lawyers, parliamentarians, health professionals, teachers, employers) act to do things *for* or *to* people by imposing a set of rules and practices or assuming that decision-making is best left to experts. The facilitator worked with the workshop participants to develop a clear but flexible structure, and to incorporate reflections and learnings from the participants into subsequent workshops. The framework for the workshops was flexible in design to address the needs and preferences of the participants.

The format of the first workshop was designed to support inquiry and engagement, including creative problem-solving and goal setting. This approach was in line with applying the principles of deliberative democracy and Gould's principles as outlined above. The facilitator invited the participants to provide specific examples of 'real life' issues, then develop a shared understanding about the types of problems they experienced. The group identified structural and cultural issues and problems with housing authorities as a high priority. These were the cause of extreme anxiety and conflict. However, some examples reflected personal issues around managing emotions with family members and neighbours. Generally, the group wanted to improve their relationships within their families, among the community, and with public authorities.

The group was then asked to identify how they had attempted to address these issues, and to differentiate what had been effective and what had been unhelpful in their approach. This sharing of experiences and knowledge built rapport among the group from the outset. The exercises also helped to tailor the training content to suit the group's needs and to ensure that the skills developed would be useful and applicable in their everyday lives as well as in public encounters. At the end of each day of the workshops, the facilitator discussed the general plan for the next session with the residents. In addition, the 'homework' for each participant was to try out a recently learnt skill and/or approach and report back to the group next time on

---

[97] Alikki Vernon, above n 3, 143. Also see David Moore, 'Managing social conflict', above n 2.

how it worked. The general feedback at the second meeting was that participants had improved their responses to family members. Instead of arguments escalating into disputes, examples were given of techniques used to circumvent or minimise a destructive exchange. Others shared examples where they identified what they could do better after the event.

Throughout the workshops, the group discussed effective and unhelpful actions, behaviours and approaches. The practical exercises developed for the workshop reinforced the skills and structures required for improving communication and negotiating.   The residents' ideas and insights along with lessons learnt were also written as 'minutes' of each of the workshops. These notes served to i) highlight the wealth of knowledge within the group, ii) capture ideas, theories and exercises, and iii) provide a plan for suggestions about future action.

The participants were provided with a training manual outlining possible communication skills and complementary exercises as well as some information about different dispute and conflict resolution processes. The manual was written in simple language considering residents' criticism of information given to them from agencies which is unclear, replete with jargon or unhelpful. The information outlined how we may *react* to a situation (and seek dispute and conflict processes available); how we may try to *prevent* negative or unhelpful situations arising or minimise them (by communicating differently, negotiating more effectively, and managing emotions); and how we can *promote* different pathways for engagement (such as organise community meetings, provide assistance and seek learning opportunities).

At the end of the workshop, the residents stated that they had developed a greater awareness of how the strength of a community comes from within the community itself. The residents decided to keep in touch and use other members of the group to test ideas and practice difficult conversations using what they had learned in the workshops. The outcome of the workshops, as identified by the

residents, was that they i) felt more confident in identifying their problems and addressing them when they could, including with the Office of Housing and other authorities, and ii) seeking help amongst themselves or asking for assistance from agencies and service providers when required. The group had a better understanding of *how* to structure conversations, encourage problem solving, or dispute and conflict resolution.

The training demonstrated the effectiveness of a community group learning to implement a *framework* which facilitates decision-making among the community to support timely and effective responses to problems, and to promote strategies for the sustainability of the community. Facilitating learnings that support relationship management, negotiation, and decision-making had repercussions well beyond the life of the project. They also support community members to be confident to be a part of progressing their own well-being (and that of their families and networks), and to play a role in engaging with agencies and government bodies to seek to improve or alleviate adverse conditions, and administer informed and positive change. This type of capacity building can foster greater self-governance and relational governance.

IV   FURTHER REFLECTIONS AND LESSONS

A   *Reflections on the Case Studies: Elements of engagement that helped empower disadvantaged communities*

The experiences from these legal and community-based projects taught the authors that the more disempowered and marginalised the community is, the less likely they are to know about the law, their rights and responsibilities, or have the confidence and know-how to seek to engage in processes that affect their lives. We also learnt that improving access to justice and supporting community empowerment and change requires more than just offering training or workshops. It requires building effective relationships, working collaboratively and

taking the time required to listen and learn together. The methods applied by the authors in these projects reinforced the benefits and effectiveness of an action learning approach in community development, as discussed above.

There are several key elements of engagement, emerging from the authors' reflective practice, that were essential in supporting community members to be involved in each of these projects – and, ultimately, to articulate their needs and rights, be involved in policy developments, and effect change on various levels. The eight key elements are:

1. *Working with communities and professionals*: this involves building partnerships and collaborating with those affected by a situation and those who can support change by:

    i.   involving these groups in the design and delivery of the project;
    ii. spending time to build rapport, trust and cultural understanding; and
    iii. acknowledging and utilising the different skills of the participants.

2. *Employing experienced project coordinator/s*: this may involve a person or persons from a particular community group and/or a person from outside of the community who can provide a different perspective and expertise. The coordinator/s also need to have the right skills, know-how and expertise, including facilitation, group decision making, and strategic negotiation skills.

3. *Collaboratively developing a strategic plan:* this involves implementing a well-structured facilitative process that fosters constructive engagement and collective decision making. A shared understanding of the problem can be negotiated with the appropriate stakeholders and then a further negotiation about what can be done, by devising a plan for the project. These processes can ensure that those involved:

    i.   explore specific examples and develop a shared understanding of the problem;

   ii.   identify key principles and goals (that is, what they are seeking to achieve) and how to develop options to achieve these goals;

  iii.   identify the type of skills and processes that can help to address not only the most immediate problems but long term issues also; and

  iv.   devise an action plan, including mechanisms to review the implementation of these plans.

This facilitated process is provided at the beginning of a project with 'reviews' built in during the duration of the project. A built-in review mechanism allows for ongoing learning, adaptability, and an assessment of how productive or effective (or not) are the actions implemented.[98]

4. *Crafting tailor-made training and skill development*: an effective training structure involves working with people to design the training content to suit the groups' needs. The content of the training is enhanced by developing 'real life' role plays and scenarios based on a shared understanding of the problems and the situation that communities and individuals are experiencing. The hands-on practice of applying skills, reflecting on this practice, and building on this experience over an extended period enhance deeper (and potentially ongoing) learning. Working with people to also identify knowledge gaps, including knowledge of systems and power structures, can allow for trainers and coordinators of projects to tailor the delivery of information and the facilitation of activities to greater effect.

5. *Considering the necessary logistics for maximising involvement:* to maximise 'access' to training, workshops or meetings, it is important to assess what type of impediments may limit attendance and participation of the participating group/s and address these as much as possible. Such considerations may involve providing a safe and comfortable space; assisting people to attend by linking in with services or other community

---

[98] Michelle Leering, above n 1.

members, ensuring that the time for any meeting is appropriate; checking language requirements; and being clear about confidentiality.

6. *Pooling collective resources, wisdoms and skills*: there can be a number of social networks and professional groups and institutions who assist disadvantaged communities. It is useful to connect with these networks and share experiences of what may be helpful to assist communities, what resources may be available to do so, and who else may be or should be involved. These networks can also provide assistance in understanding the systemic and administrative constraints, as well as identify how to address these.

7. *Evaluating the project*: the effectiveness of developing useful assessment tools is to gauge (in an ongoing way) what aspects of a project need to be i) reinforced, as they are proving to be helpful and effective, and ii) what practices need to be redirected or modified so that they can be useful. There are a variety of types of evaluation or feedback tools. In the application of action learning, verbal and/or written forms of feedback seeking reflections and structured input from the participants and other stakeholders, including network groups, the coordinator and other workers, helps to monitor the progress of the project and improve practice. These approaches are in line with Gould's and Follett's understanding of what are critical elements in improving access to justice and democracy: that is, enabling participation and making up for inequality in conditions, knowledge and power relations. Where possible, and particularly with ongoing projects, employing an external agent to evaluate the project also provides for additional (and worthwhile) learning.

8. *Documenting the project:* it may not always be the requirement of the project objective and/or the funding body to produce a report, however, there are potential benefits in doing so. It provides the participants with a record of their achievements and captures the lessons from the project that can be shared not only with those involved, but with their community members, and other groups who may benefit in progressing their own

community development. The documentation of a project can provide, in effect, the capturing of voices of marginalised groups who may not otherwise have a platform to be recognised for their 'equal agency', as described by Gould.

B   *Broadening Legal Education and Assistance: Approaches supporting access to justice and effective social change*

Legal aid services and community legal centres can work with communities who are otherwise excluded from public discourse to have a voice and to be more proactively involved in protecting their rights. They can provide information and offer effective training which is relevant and targeted to the needs of the community. The case studies highlight strategies using community development, restorative principles and action learning approaches. Essentially each of the approaches adopted in the case study projects aimed to collaborate with people affected by a situation to be a part of decision-making processes that impact on their lives — whether in social reform and policy development, in addressing disputes and conflict, or in developing new skills. These approaches seek to engage and empower people and their communities.

Effective legal education does not limit legal services to one on one case work. To do so would limit the capacity to identify trends and take action that solve problems at their core. It can also limit the capacity to explore how legal problems relate to broader social problems.

Legal assistance and allied services that work in partnership with communities can provide the environment in which a range of skills and processes can be considered, adopted, and calibrated. Community legal education needs to reach out and be targeted and responsive to community needs and behaviour. Disadvantaged and vulnerable groups have complex problems which are diverse and can be made up of multiple interconnected elements – much like the composition of the communities themselves. Legal assistance should involve active

listening and be receptive to community members' experiences. It needs to provide educational opportunities and to work towards engaging community members in applying skills, realising their rights, and promoting law reform. By doing so, increases the likelihood of greater access to the legal system, to support equality before the law, and to encourage systemic improvements. It is also important to note that this approach is advocated by the UN Development Program based Commission on Legal Empowerment of the Poor.[99]

Community legal education should be evaluated, and participants asked for feedback on their experiences and what worked well and why. Any evaluations of community legal education at legal services should focus not only on how many sessions are held, the topics and number of participants, but also assess the impact of the sessions on people's understandings and behaviours.[100] Evaluations should then be used to constantly enhance and improve strategies adopted by legal services.[101]

A holistic approach to legal education and advocacy supports the goal of building collective resilience among a community.[102]

---

[99] See United Nations Development Program, 'Overview of the United Nation's Development Program's (UNDP) Approach to Measuring Capacity', (Capacity Development Group, Bureau for Development Policy, United Nations Development Program, 2010).

[100] See Victoria Law Foundation Community Legal Centre Fellowship reports: Rachel Ball, *When I tell my story, I'm in charge: Ethical and Effective Storytelling in Advocacy*, (Victoria Law Foundation 2013); Nicole Rich, above n 4.

[101] Monica Ferrari and Katie Fraser, Evaluation Report: Assessing the Value of what's the law? Australian Law for New Arrivals (Report, National Legal Aid, 2013; Liz Curran 'We Can See there's Light at the End of the Tunnel Now': Demonstrating and Ensuring Quality Service to Clients', (Consultant Report, Legal Aid ACT 2012) 41-47.

[102] The concept of collective resilience is drawn from Angela Fielding and Judi Anderson, *Working with Refugee Communities to Build Collective Resilience*, Association for Services to Torture and Trauma Survivors, Occasional Paper, (ASeTTS, October 2008). This concept can be applied beyond the refugee community in trying to rebuild traumatised and destroyed communities. It can also include communities of disadvantaged people that can experience similar adverse conditions and problems.

Resilience is conceptualised as a 'multidimensional process that maximises the opportunity of all community members to cope with adversity, to respond positively to challenging life circumstances and ultimately to flourish'.[103] This perspective recognises that promoting resilience is an ongoing process that has many dimensions and requires an understanding of what a specific group of people or an individual may need at a given point in time. The aim of legal education and assistance is to target resources and activities to reinforce collective resilience — to foster the social bonds and networks that provide support, protection, and well-being.

Legal educators, therefore, can play an important role in developing and facilitating processes and methods that increase the communities' understanding and ownership of the law and in how to apply it. So often laws and how they are administered affect communities, but those same communities have little 'voice'. Systemic reform involves changes in thinking as well as in action; in how we develop community and in how we learn to live together and make desired change happen.[104]

V   CONCLUSION

Documentation is a real challenge for people delivering community development projects. Despite many years of requests to document the processes and lessons from this practice of community development, it is only recently that the three authors could come together and outline the theoretical underpinnings of these projects and distil the essential elements of this engagement.

---

[103] Gail Mason and Mariastella Pulvirenti, 'Former Refugees and Community Resilience "Papering Over" Domestic Violence', (2013) 53(3) *British Journal of Criminology* 402.

[104] Jacinta Maloney has discussed the importance of adult learning and the role of peer-to peer learning in her recent Victoria Law Foundation Community Legal Centre Fellowship Report: Jacinta Maloney, *I feel empowered,* above n 61.

Legal education and advocacy are initiatives that go beyond simply reacting to problems. In adopting community development, restorative principles and action learning approaches, legal education and assistance can operate to support disadvantaged communities to both respond more effectively to adverse conditions and problems as well as to minimise or mitigate such risk factors. They can encourage community members to advocate and articulate their needs, address and solve problems, participate in decision-making and bring about change.[105]

The cases studies highlight how access to justice can be achieved with some practical approaches. The eight key elements of engagement demonstrate how working with communities can assist them in avoiding legal problems or better manage how they respond to legal and social problems, and how communities themselves can devise solutions that are meaningful and effective for them. A collaborative approach between legal and allied services working with the community can help address underlying problems, identify individual and social responsibilities, and promote a network of supportive relationships. This approach can better lead to early intervention and prevention of problems emerging or escalating.[106] It could be argued that the lessons drawn from these four legal and community projects help answer Gould's question of 'what should be done' when social and economic conditions mitigate against self-development and participation. At a local community level, legal and allied services can work in partnership with the community in an integrated service delivery model to initiate and bring about access to justice and effective change.

---

[105] Liz Curran, *Making the Legal System More Responsive to Community*, above n 71, 3.

[106] Liz Curran*, Solving Problems*, above n 4.