THE IRISH REVIEW OF COMMUNITY ECONOMIC DEVELOPMENT LAW AND POLICY

The Irish Review of Community Economic Development Law and Policy is an online journal, published four times a year by the Northside Community Law & Mediation Centre, in Coolock, Dublin. The journal seeks to offer a platform for interaction that encourages greater scholarly and academic collaboration in the areas of social policy, law and community development, promoting the practice of CED law and policy in Ireland and learn about these initiatives in other countries.

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Publisher
Northside Community Law & Mediation Centre www.nclc.ie

Design
Matt Whitby Design
www.mattwhitbydesign.ie

ISSN (online): 2009-4302

The views expressed in this publication are strictly those of the authors and they do not reflect the views of the Editors, Editorial Board, International Advisory Board or Northside Community Law & Mediation Centre.
# THE IRISH REVIEW OF COMMUNITY ECONOMIC DEVELOPMENT LAW AND POLICY

## Volume 1  Issue 4  Index

<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EDITORIAL</strong></td>
<td>4</td>
</tr>
<tr>
<td>Andrea Mulligan and Roslyn Palmer</td>
<td></td>
</tr>
<tr>
<td><strong>COMMUNITY ECONOMIC DEVELOPMENT AND THE PARADOX OF POWER</strong></td>
<td>5</td>
</tr>
<tr>
<td>Michael Diamond, Professor of Law, Georgetown University Law Center</td>
<td></td>
</tr>
<tr>
<td><strong>SOCIAL CHANGE COMMUNITY EDUCATION - WHERE ARE WE NOW?</strong></td>
<td>26</td>
</tr>
<tr>
<td>Camilla Fitzsimons, PhD Candidate and Associate Tutor, NUI Maynooth and Community Educator, Respond! Voluntary Housing Association</td>
<td></td>
</tr>
<tr>
<td><strong>THE PUBLIC INTEREST LAW ALLIANCE: FACILITATING COMMUNITY LEGAL EDUCATION IN IRELAND</strong></td>
<td>42</td>
</tr>
<tr>
<td>Lawrence Donnelly, Manager, Public Interest Law Alliance and Lecturer &amp; Director of Clinical Legal Education, National University of Ireland, Galway and Lianne Murphy, Project Officer, Public Interest Law Alliance</td>
<td></td>
</tr>
<tr>
<td><strong>BRIDGING THE GAP BETWEEN LEGAL RIGHTS AND HOMELESSNESS – THE WORK OF THE MERCY LAW RESOURCE CENTRE</strong></td>
<td>49</td>
</tr>
<tr>
<td>Brian Barry, PhD Candidate, Trinity College Dublin and Trainee Solicitor with Mason Hayes &amp; Curran</td>
<td></td>
</tr>
<tr>
<td><strong>BOOK REVIEW: HOUSING LAW, RIGHTS &amp; POLICY BY DR. PADRAIC KENNA</strong></td>
<td>59</td>
</tr>
<tr>
<td>Reviewed by Lorraine Lally, Practising Barrister</td>
<td></td>
</tr>
</tbody>
</table>
The Irish Review of Community Economic Development Law & Policy

EDITORIAL

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Community Economic Development combines legal, social policy and community development tools to tackle poverty and disempowerment within communities. The themes of this issue are Community Legal Education and Community Legal Services, both of which are essential to Community Economic Development, and CED lawyering in particular. This issue brings together articles that address these subjects from both academic and practical perspectives.

We begin with two articles that approach the topics from a theoretical angle. Prof Michael Diamond tackles the issue of power in his paper, a crucial starting point for an evaluation of the efficacy of Community Legal Services and Education. His article shows that all Community Economic Development strategies must take account of the power inequalities that exist in socially disadvantaged communities. Any strategy that fails to take account of this background factor will ultimately prove ineffective.

Camilla Fitzsimons situates our consideration of Community Legal Education in the field of community education more generally. She traces the development of community education in Ireland and warns of the de-radicalisation and depoliticisation of the sector, a concern that must be taken just as seriously in community legal education as in the broader field of community education. This provocative account of subtle changes in the field should provide food for thought to law centres and NGOs working in community legal education.

We then move on to two articles that consider Irish organisations working at the coalface of community legal education and community legal services. The work of the Public Interest Law Alliance (PILA) and the Mercy Law Resource Centre (MLRC) provides a useful example of the practice of CED law in two quite different frameworks and illustrates the importance of CED lawyering at both the organisational and the individual levels. Larry Donnelly and Lianne Murphy's assessment of the work of PILA demonstrates the importance of legal education for NGOs and the substantial improvement such education can effect in the quality of their services. Brian Barry's discussion of MLRC provides a valuable insight into the workings of one of Ireland's most innovative Law Centres, which focuses on the provision of legal services for people affected by homelessness. We hope that these contributions will be of use to both lawyers and law students hoping to learn more about these valuable institutions, and that we can provide similar accounts of other organisations in future issues of this journal.

Finally, Lorraine Lally's book review of Padraic Kenna's *Housing Law, Rights and Policy* is a useful introduction to this valuable text, which will undoubtedly be of benefit to practitioners, academics and community development professionals alike. As the work of MLRC demonstrates, housing issues are at the core of CED lawyering.

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COMMUNITY ECONOMIC DEVELOPMENT AND THE PARADOX OF POWER

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Abstract:
This article starts from the premise that poverty is a growing problem in the United States and is becoming more so. Intergenerational poverty, the entrenchment of a class of very poor people, is a major subset of that problem and is tied very closely to the issue of race. The author claims that missing in the fight by the poor and their allies against stratified poverty is the creation and utilization of power. This paper examines the disparate ways in which commentators have defined power. It suggests that those seeking to obtain power must understand the concept’s varying meanings and direct their activities to meet their own understanding of the concept. CED may be nothing more than a re-affirmation of existing power relationships or it may be the cause and the result of a change in those relationships. This paper attempts to make sense of this apparent paradox.

Keywords:
CED, theories of power, poverty, race.

* I would like to acknowledge the exceptional research assistance of Nikolas Barber. His efforts contributed significantly to development of this paper.
Introduction

Power is ubiquitous in politics and, indeed, in all human relations. Its meaning, however, is not always well understood and is often murky. Philosophers, political scientists and sociologists have provided us with some insight into the concept but, of course, with widely varying views. Machiavelli believed the foundation of politics was power, read as force. Spinoza had a more nuanced view of power that presaged much of the modern discourse.

One man has another in his power when he holds him in bonds; when he has disarmed him and deprived him of the means of self-defense; when he has bound him so closely by a service that he would rather please his benefactor than himself, and rather be guided by his benefactor’s judgment than by his own. The man who has another in his power in the first or second way holds his body only, not his mind; whereas he who controls another in the third or fourth way has made the mind as well as the body of the other subject to his right; but only while the fear or hope remains. Once the one or the other has been removed, the second man is left in possession of his own right.1

The vast literature about power and its meaning, produced over centuries, is testament to the absence of concrete definition.2 Much of the modern literature deals with the relationship between power and poverty. It is a literature to which I have contributed3 and it is to this relationship that I wish to return in this essay.

The poor in the United States, particularly poor people of color, have been locked, often for generations, into their poverty. Given current public policy, they can expect to continue to be locked in for generations to come. Social stratification in this country is, and for decades has been, a significant social problem. Despite all of its material well-being, the United States has an enormous level of poverty.4 It also has among the highest levels of disparity between the rich and the poor in the industrialized world,5 a disproportionate amount of which burdens African-Americans and Hispanics.6 One might ask: why is this true and what may be done about it?

2 Dennis Wrong has said, “Power is the capacity of some persons to produce intended and foreseen effects on others.” Amitai Etzioni has defined power as the “capacity to overcome part or all of the resistance, to introduce changes in the face of opposition…” Other definitions have also been suggested by other social scientists Many of these have been compiled by Paul Mott. He quotes, among others, “Goldhammer and Shils: A person has power ‘to the extent that he influences the behavior of others in accordance with his own intentions.’ Weber: Power is the probability that one actor within a social relationship will be in a position to carry out his own will, despite resistances, regardless of the basis on which this probability rests. Biersted: Power is latent force.” Paul E. Mott, ‘Power, Authority and Influence’ in Michael Aiken & Paul E. Mott (eds), The Structure of Community Power 5(1970).
4 Nationally, the poverty rate increased from 14.3 percent in the 2009 ACS to 15.3 percent in the 2010 ACS. The number of people in poverty increased from 42.9 million to 46.2 million during the same time period. American Community Survey Briefs, ACSBR/10-01, issued Oct. 2011 available at http://www.census.gov/prod/2011pubs/acsbr10-01.pdf accessed 4 November 2012. For a general discussion of poverty in the United States today, see Peter Edelman, So Rich, So Poor: Why It’s So Hard to End Poverty in America, (The New Press, 2012).
The answer to the first of these questions involves an historic pattern of segregation and discrimination (that continues to the present). The relationship between race or ethnicity and poverty is exceedingly strong and involves both governmental and private actions and inactions. The answer to the second question is more opaque. We have suffered, in the United States, a history of largely failed policies and programs that were designed to reduce poverty.

One explanation for the failures is that they were the result, at least in part, of several basic misunderstandings. The first and, perhaps, most important is the misapprehension, conscious or unconscious, of the nature of chronic poverty among people of color. Another is that the programs that were enacted were designed to address the symptoms of poverty, not its structural causes. In this paper, I continue a long-standing examination of these issues, but I hope with this effort to do so through a wider-angle lens.

In Section I, I will briefly discuss the existence and causes of poverty and social stratification, including governmental complicity in creating and maintaining them, with some emphasis on the distinction between individual poverty and community poverty. In Section II, I examine various concepts of power and devote some time to considering the relationship between poverty and power, or, more precisely, between poverty and the absence of power. In Section III, I discuss the paradoxes in applying the various views of power to poor communities. Some of them merely reinforce existing power relationships while others may contest them. Section IV addresses the various elements of community economic development and examines how they relate to the theories of power I have identified. I also propose in this section various policy considerations to address some of the principal underlying causes of chronic community poverty. Finally, in Section V, I suggest a model of community economic development that addresses the lack of power in poor communities.

I. Social Stratification and Intergenerational Poverty

The greatest improvement in the productive power of labour, and the greater part of the skill, dexterity, and judgment with which it is anywhere directed, or applied, seem to have been the effects of the division of labour.

Societies everywhere have been stratified. Pre-literate societies had their chiefs, their shamans, and their village elders. Feudal societies had their landowners, serfs, and merchants. Industrial societies have their capitalists, their labor, and their unemployed. Smith’s observation suggests a reason for social stratification, the benefit of having people fit into the productive system in the most efficient way, that is, to have people who are capable and willing to perform the tasks for which they are most qualified. Smith is far from alone in making this point. It is not, however, the purpose of this essay to delve into the question of whether social and economic stratification is a necessary or beneficial aspect of social organization. I do wish, however, to examine the chronic and extreme stratification that exists in the United States today, particularly for African-Americans and other people of color.

Much of the stratification in the United States dates to slavery and, after reconstruction, to Jim Crow laws in the South and their de-facto equivalents in the North. The discriminatory social practices that led to local segregation and stratification were, in fact, bolstered by policies of the federal, as well as those of many state, governments that segregated people on the basis of race. For example, beginning in the 1930’s the Home Owners Loan Corporation (HOLC), a predecessor to the Federal Housing Administration, had an explicit policy of segregation on the basis of race. Moreover, HOLC promoted a policy of limiting loans to African-Americans for the purchase of homes, thereby limiting one of the major sources of family wealth creation. Similarly, in Hills v. Gautreaux, several residents of public housing and others on the waiting list to get into such housing sued concerning the siting of housing projects on the basis of race. Housing developments that would house black residents were placed in black neighborhoods while those that would house white residents were placed in white neighborhoods. Since black communities already contained significant numbers of poor households, the placement in them of public housing projects, which typically housed very low income residents, caused extremely high concentrations of poverty. William Julius Wilson led the way in claiming that these very high concentrations of poverty resulted in severe social pathologies such as teen pregnancy, dropping out of high school, delinquent behavior, alcohol and substance abuse, and unemployment at levels far greater than would be expected but for the concentration. These factors, in turn, contributed to further disinvestment in the neighborhood and the flight from it of financial and human capital.

In addition, through the Urban Renewal and the Interstate Highway programs, federal and local governments engaged in policies that displaced residents, largely in predominantly black, low income communities, in the name of redeveloping “blighted” urban neighborhoods or of providing efficient methods of automobile transportation. The results of these programs were the destruction or isolation of existing communities. Many have argued that these policies were designed at the behest of white elites to create buffers against the spread of black neighborhoods that would threaten white enclaves or for the benefit of real estate developers who wished to acquire cheap land.

The isolation and continued segregation of black (and later Hispanic) communities coincided with the increase of the number of the poor. The number of people in the United States living below the poverty line has grown over the years and, at the same time, has become increasingly concentrated.

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10 See, for example, Kenneth T. Jackson, Crabgrass Frontier: The Suburbanization of the United States, 195-218 (1985). The limitations went to the number of loans approved i.e. imposing higher underwriting standards for black applicants than for white applicants, and to the neighborhoods in which loans to black applicants would be made. These were limited to segregated, primarily black areas.


12 425 U.S. 284, 286-87. Plaintiffs obtained a consent decree. The decree gave class members special housing vouchers that allowed them to obtain housing in racially diverse neighborhoods throughout the Chicago area.


For example, according to the 2010 census, approximately 10 million people lived in communities where at least 40% of the residents had incomes below the poverty line. Thus, not only must poor families in such neighborhoods battle the effects of their own poverty, but they must also deal with the consequences of living among many others with similar levels of deprivation.

One might ask, what are the costs to community residents and to society of having such great concentrations of poverty? The obvious costs involve human suffering for the individuals and for their children. The costs to society are more varied. First, there are the direct costs of public services to the poor, and it is to these costs to which many in the United States direct their ire. They include such items as public assistance, policing, health and substance abuse services, and food stamps, to name a few. The indirect costs are significant as well but are less frequently subject to scrutiny. They include the loss of productivity from potentially valuable workers, and the loss to residents of some of the benefits of community such as safety and social capital. Many residents also suffer from the hopelessness and disengagement that result from intergenerational poverty, particularly in high concentration poor neighborhoods.

To some extent, society has blamed the poor for their plight. Over the years, a variety of pejorative phrases have been developed and used to identify and disparage the poor. We have made distinctions between those who suffered poverty due to conditions beyond their control such as infancy, advanced age, sickness, or disability and all others who were held to be in control of their circumstances. These were said to be lazy, unambitious, drunkards, or criminals. They were designated as the undeserving poor and were largely cut off from assistance. These characterizations were often highly correlated with race but the underlying facts, including the structural obstacles placed in the path of many such people, the political economy of poverty, were rarely explored. Sloganeers were apparently satisfied with attributing poverty to individual or, in some cases, racial, characteristics.

More recently, terms such as the “culture of poverty” and the “underclass” have been used to describe certain groups of poor people. For example, Oscar Lewis used the former term to describe several “traits” that he ascribed to the poor. The culture, he said,

…tends to perpetuate itself from generation to generation because of its effects on the children. By the time the slum children are six or seven, they have usually absorbed the basic values... and are not psychologically geared to take full advantage of... increased opportunities that may occur in their lifetimes.


18 For an interesting historical view of distinguishing and labeling the poor, see Herbert J. Gans, The War Against the Poor: The Underclass and Antipoverty Policy (Basic Books, 1995) 11-26. See also Michael B. Katz, The Undeserving Poo: From the War on Poverty to the War on Welfare, (Pantheon, 1989).

19 The term “the underclass,” which started as an academic concept, was transformed into a popular and pejorative label for urban African-Americans. Beginning with Gunnar Myrdal’s use of the term under-class “to describe the victims of deindustrialization” the term went through a series of definitions until the August 29, 1977 issue of Time magazine did a cover story entitled ‘The American Underclass: Destitute and Desperate in the Land of Plenty’ Time (Aug. 29, 1977). The article went on to describe in particularly negative terms, the personal attributes of poor, urban, African-Americans. The term as a pejorative label had entered the popular consciousness.

20 Even Ronald Reagan joined this movement when he used the term “welfare queen” in his 1976 presidential campaign. See “Welfare Queen” Becomes Issue in Reagan Campaign’ New York Times (Feb. 15, 1976) 51

21 Oscar Lewis, La Vida (Random House 1966) xlv.
Poverty was stratified and inter-generational, often on the basis of race. Yet, despite the views of Lewis (and others), the programs designed to reduce poverty tended to focus on giving assistance in the form of equal opportunity such as the Fair Housing Act\textsuperscript{22} or the Civil Rights Acts.\textsuperscript{23} This meant, according to the policy makers, that those with the ambition to achieve would be more able to do so.\textsuperscript{24} It was designed to bring individuals and their families out of poverty. In some cases, the policies achieved their goals. In most cases, however, they have failed to do so. While discrimination on the basis of race and ethnicity has been removed from the legal structure, the ongoing effects of past discrimination linger. Poverty persists and grows more desperate. Policies that do not address the structural obstacles to low income people of color escaping from poverty cannot lead to a just society. They merely offer the false hope of some individual or household being among the chosen few who can escape the chains of stratified impoverishment.

The policies that were developed did not, for example, address problems such as systematically imposed education, skills or health deficiencies brought on by past discrimination. Moreover, they turned a blind eye to the existence of ongoing, albeit, more subtle discrimination.\textsuperscript{25} A different approach to combating poverty is needed, one that deals with the structural impediments and offers the possibility of creating power in and improving the quality of the built environment and the economic prospects in low income communities.

II. Poverty, Community, and the Power Deficit

*The interests of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites. However, the Fourteenth Amendment, standing alone, will not authorize a judicial remedy providing effective racial equality for blacks where the remedy sought threatens the superior societal status of middle and upper class whites.*\textsuperscript{26}

Poverty involves more than merely the absence of means. There are many who are without means that society does not consider to be poor and who do not suffer the ignominy reserved for the poor. Various examples come readily to mind: members of the clergy and ascetics; starving artists; perhaps, for some, their elderly grandparents. Individuals in each of these examples could be said to lack means (although each may actually have a call upon those who do have means). What separates these examples (and others) from those that society defines as poor? It may be that some of them have made lifestyle choices (while having had other options), or that they had accepted to some significant extent the cultural norms and behaviors of the majority group. Each is also likely to have some ability to influence his or her environment in a meaningful way. The absence of meaningful lifestyle choices and the inability to influence environments almost always describes the situation of the poor, those who suffer from what I have elsewhere called a "power deficit."\textsuperscript{27}

\textsuperscript{27} Diamond, Reflections (n 3) 160.
The question of whether the acceptance of mainstream norms is an element of this conception of poverty is a much more complex question and one that I will touch upon in subsequent sections of this paper.  

Consider again Derrick Bell’s position that progress for African Americans will come only if permitting such progress converges with interests of the white elite. His belief is based on the view that African Americans, as a group, lack the power to implement change against the wishes of the white power structure. One might extrapolate from Bell’s observation by saying that if this is true for African Americans as a group, it is more clearly true for poor African Americans and for the poor among other racial/ethnic groups. This leads us to the point at which the theoretical meaning of power meets the reality of poverty in America.

i. The Meaning of Power

Every social act is an exercise of power, every social relationship is a power equation, and every social group or system is an organization of power.  

When we speak about social or political power, what is it that we are speaking about? Many commentators have used the term but they and most others have only vague notions of what they mean. Other commentators have a more definite meaning in mind but their meaning often conflicts substantially with those of yet others who also put forward a different definitive meaning. In fact, the concept of social power has been a highly contested one. Paul Mott, after compiling and examining many of these meanings has nevertheless concluded social scientists generally agree that social power is “some form of energy” and that “[t]he creation of human systems of coordinated action is the major means of binding in energy.”

Unfortunately, this conception of power is deceptively simple. For some, the power of the elite does not depend either on the force amassed by it or on the deprivations inflicted by it on the subordinated. Rather, according to these theoreticians, power is defined and exercised by the elite through such devices as its ability to manipulate social norms or to induce the subordinate to “consent” to the subordination. These are quite different concepts from the more traditional views of power collected by Mott. I would like to turn to three such theoreticians and briefly discuss their views.

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28 It should be noted that William Ryan et al. found “...contrary to conventional wisdom, people at different income levels display pretty much the same distribution of values, social attitudes and lifestyles.” Ryan, however, goes onto note the difference between values and actions. See also Diamond, Reflections (n 3) 160.


30 Mott, (n 2). Many of the definitions have been compiled by Paul Mott. He quotes, among others, “Goldhammer and Shils: A person has power ‘to the extent that he influences the behavior of others in accordance with his own intentions.’ Weber: Power is the probability that one actor within a social relationship will be in a position to carry out his own will, despite resistances, regardless of the basis on which this probability rests. Biersted: Power is latent force.” Mott (n 4) S. Many others have defined power by identifying the specific relationship between the dominant participant and the subordinate one. For example, Dennis Wrong defines power as “the capacity of some persons to produce intended and foreseen effects on others. Dennis H Wrong, Power: Its Forms, Bases and Uses (1979) 2. Amitai Etzioni defines power as the “capacity to overcome part or all of the resistance, to introduce changes in the face of opposition...” Amitai Etzioni, The Active Society: A Theory of Societal and Political Processes (1968) 314.

31 ibid. 6.

32 ibid. Mott and others have argued that organizing and organization are the ways to leverage individual power.
The first, Antonio Gramsci, believed that subordinated groups (in his case, the proletariat) were able to be controlled because they accepted and internalized the norms of the elites. Gramsci made the observation that "social hegemony" is accomplished through a two part process: the "spontaneous consent" given by the masses to the "general direction imposed on social life by the dominant" group (this is based on the internalization of the dominant group's norms); and the "apparatus of state coercive power which "legally" enforces discipline on those who do not "consent."33 Gramsci believed that the use of force or coercion should rarely be necessary as the dominant group is typically able to avoid rebellion through co-optation or through concessions based upon, to use Bell's term, interest conversion. One need only examine the political climate in the United States today to see at work the internalization of social norms where many working class Americans oppose the idea of "big government" despite the potential benefit to themselves of governmental intervention.34 They support de-regulation and shudder at the thought of "socialism" when government acts concerning health care, nutrition, or, ironically, financial bailouts of financial and industrial giants.35

Michel Foucault expressed a similar thought concerning the nature and operation of power. He stated that traditional theory placed power in the hands of a monarch and, at the same time, identified as limitations upon that power the rights accorded to citizens. Foucault asserted that his goal was to invert that theory and to show how the concept of rights and the "apparatuses" associated with their application result not in sovereignty (centralized power in a monarch) but in domination, the cultural subordination of the non-elite.36 Foucault was concerned with "power at its extremities...with those points where it becomes capillary."

[Our] paramount concern... should be with the point where power surmounts the rules of right which organize and delimit it and extends itself beyond them, invests itself in institutions, becomes embedded in techniques, and equips itself with instruments and eventually even violent means of material intervention.37

Foucault was interested in power where it operates, in its smallest manifestations. He believed that the system of sovereignty and the countervailing rights that supposedly limited sovereignty were "superimposed upon the mechanisms of discipline in such a way as to conceal its actual procedures, the element of domination inherent in its techniques..."38

The third social theorist I would like to mention is Steven Lukes. His book, Power: A Radical View, first appeared in 1974.39 In it he traced modern theories about power and placed them in three dimensions. The first, which Lukes
calls the one-dimensional view and which is promoted by theoreticians such as R. A. Dahl and N. W. Polsby, deals primarily with political behavior. It examines decisions made in the face of observable conflict in policy preferences between elements of society. Through such examinations, proponents of this view of power are able to discern who typically wins in these conflicts. This allows the observer to identify in which group political power lies.\(^\text{40}\)

The two-dimensional view looks beyond decisions about observable conflicts and includes non-decisions, that is, situations where the decision makers suppress certain potentially damaging issues from entering political discourse so that no debate takes place and no decision appears to have been made on these issues.\(^\text{41}\) I say “appears” because if no decision is made, the status quo remains in place and the status quo is, presumably, favorable to the elites. If it is not, of course, the elites would cause it to be changed.

Where issues that might be controversial are nevertheless deemed by the elite to be innocuous, discourse might be permitted and decisions, even those detrimental to the elite, to be made. Of course, allowing negative, albeit innocuous decisions to be made also reflects (and, perhaps, enhances) the power of the elites. Bachrach and Baratz, major proponents of this view, believe that potential conflicts as well as overt ones must be considered in analyzing and evaluating power. They claim, according to Lukes, that the first dimension “unduly emphasizes the importance of initiating, deciding and, vetoing’ and takes ‘no account of the fact that power may be, and often is, exercised by confining the scope of decision-making to relatively ‘safe’ issues.”\(^\text{42}\) The difference, then between the first and the second dimension is that the conflict which each requires is often covert in the second dimension. This requires the observer to identify grievances of the subordinated party that have not been brought into the political discourse of the society, not an easy task.

Lukes then describes his three dimensional view of power. Before doing so, he criticizes the first two dimensions as being both too concerned with individuals and overly behavioristic.\(^\text{43}\) More importantly, perhaps, he criticizes them for focusing primarily on the existence of conflict, overt or covert. Power, according to Lukes, is not only exercised in conflict situations.

...A may exercise power over B by getting him to do what he does not want to do, but he also exercises power over him by influencing, shaping or determining his very wants. Indeed, is it not the supreme exercise of power to get another or others to have the desires you want them to have - that is, to secure their compliance by controlling their thoughts and desires?\(^\text{44}\)

Gramsci, Foucault, and Lukes have presented quite a different view of power from those compiled by Mott that usually are based on force or coercion. In a practical sense, these differences in conceptualization would call for different strategic approaches for those seeking to combat subjugation. It is a different exercise to combat power as force or coercion from combating it as a set of internalized cultural or aspirational norms or when there is a lack of (or false) consciousness concerning issues that might be in contention.

\(^\text{40}\) ibid 16-19.
\(^\text{41}\) ibid 17-25.
\(^\text{42}\) ibid 22.
\(^\text{43}\) ibid 26.
\(^\text{44}\) ibid 27.
ii. The Power Deficit Squared

The absence of power is manifest in low income communities-of-color in the United States yet the governmental policies to combat poverty have failed to make significant inroads in to the problem. There are many reasons for this failure. Some of them have to do with societal will while others deal with program design.

On the latter score, Lukes criticizes the one and two dimensional view of power by pointing out, among other things, that they are individualistic. While it is clear that poor individuals suffer greatly from the absence of power, the problem is much deeper than that of individualized poverty. In the United States, the problem of poverty and stratification is systemic and structural, not individualistic. Thus, various racial or ethnic groups suffer collectively from a power deficit. Structural elements of the political economy have relegated such groups to subordinate positions in society. Often, members of the subordinated groups are steered or forced into segregated, very poor communities. Many such communities are plagued, also for systemic reasons, with high levels of joblessness, poor housing, poor health and education, and a lack of municipal and private social services.45 Moreover, there is often a lack, in such communities, of institutional infra-structure and social organization.

One governmental response to these conditions has been an attempt to de-concentrate poverty through a series of mobility and economic integration programs that were designed to create mixed income neighborhoods.46 The desired result from such programs (a result not clearly achieved, according to the empirical data)47 was an increase in well-being through increased social capital and community efficacy for those people able to reside in the mixed income communities.48 There has been little or no effort made to improve the quality of life and built environment in existing communities with a high concentration of low income residents. This may be due to the tradition of “rugged individualism” in the United States. Marvin Olsen has said “[a] basic tenet of classical political liberalism... is that the individual rather than the organized group or community is the fundamental political actor.”49 Olsen is concerned, however, that in any situation where the individual is pitted against the state and its bureaucratic apparatuses, the individual will be powerless and subject to manipulation by elites.50 Olsen’s response to this problem is what he calls “pluralism.” His view echoes de Tocqueville and Madison in that he calls for various interest organizations throughout society that can exert influence on the state and can mediate the impact on its own constituents of other interest groups.51 Certainly, in the context of poverty, one might quibble with the relevance of this view. Nevertheless, there is an important element to be extracted from the idea of pluralism.

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45 “Residential segregation is not a neutral fact; it systematically undermines the social and economic well-being of blacks in the United States. Because of segregation, a significant share of black America is condemned to experience a social environment where poverty and joblessness are the norm, where a majority of children are born out of wedlock... where educational failure prevails, and where social and physical deterioration abound. Through prolonged exposure to such an environment, black chances for social and economic success are drastically reduced.” Massey & Denton (n 14) 2.

46 For a critique of these programs, see Diamond, De-concentrating (n 11).

47 ibid.

48 It should be noted here that the number of low income residents of high concentration poverty neighborhoods that were able to move to mixed income communities was minute percentage of the poor who lived in such communities. G. Thomas Kingsley, Appendix A: Scope and Status of the Hope VI Program, in From Despair to Hope: Hope VI and the New Promise of Public Housing in American Cities 300(Henry C. Cisneros & Lora Engdahl eds., 2009).


50 ibid.

51 ibid.
Pluralism involves interest groups participating in the political discourse of the day. Putting Gramsci, Foucault, and Lukes aside for a moment, one would argue that in the context of low income communities there is a need for organization and institution building. All communities, including low income communities, have strengths as well as their more obvious weaknesses. There are, as would be the case anywhere else, members of the community with insight, intelligence, skills, and resources. There is some level (albeit, by definition, less than elsewhere) of economic resources. In other words, there are assets to build upon. Yet assets, alone, are insufficient for the development of power and its implementation. As Etzioni has said, “The common sense view ...tends to estimate the power of an actor by an inventory of his assets... Actually, the amount of assets an actor has determines only the collectivistic context of his power, his power potential.”

To harness and utilize that potential, further action is necessary. There needs to be, among many other things, such activities as education and organization.

The idea of collectivization, of leveraging individual assets to create or enhance the possibility of power, is not new. In fact, despite its mainstream liberal tradition, the idea of collective action has a long history in the United States. Even in legal discourse, at least since the 1960s, the need to organize and for collective action has played a prominent role. But, one might ask, to what purpose is the education and organization to be put? The answer has typically been to develop and utilize power. We have seen, however, that the idea of power and its source is widely contested. Thus, in order to make power-building activities efficacious, the actors involved must have a theory of power and its use and they must fit their activities to that theory. For example, if power is based upon the ability to use force or coercion, one set of activities might be useful. If, however, power is based on internalized cultural norms, or upon manipulation or false consciousness, a different set of activities might be needed.

III. Community Economic Development and Power: The Enigma

I began this essay with the comment that power is ubiquitous in the political arena, and I went on to point out the existence in poor communities of what I have called the power deficit. Many, including me, have suggested that the building of community institutions is a way of reducing the power deficit in such communities and increasing their political leverage. While I continue to hold this view, I have refined my thinking on the question. I now see power as having several dimensions, not in the sense discussed by Lukes (although I tend to agree with his assessment) but in the sense of the distinction between those who view power as Mott does and those, such as Gramsci, Foucault, and Lukes, who see power in more subtly intrusive ways. In this section, I will elaborate on the distinction in the context of poor communities and offer a vision of Community Economic Development (CED) to address this broader theory of power.

From the point of view of the powerful, power surely involves force, or threat of force, and coercion imposed upon the powerless. It also involves the authority of position and the powerful often hold, or have access to, positions of institutional authority in society. From the point of view of the subjugated, power also has elements of force and coercion. But it has other, less structural, elements. I have pointed out how Gramsci, Foucault, and others view power as embedded in the “capillaries” and apparatuses of society so that the elite are able to procure the acquiescence, if not the consent, of the powerless to the goals, norms and position of the elite.
This might arise due to a false consciousness among the non-elites, or to a racial or ethnic antipathy that divides those who are economically, but not socially, similar. Under such a regime, any benefit accruing to the powerless would likely be the result of the elite providing just enough to maintain the acquiescence of the powerless, the convergence of interests between the powerless and the elite, or to the insignificance of the benefit to the interests of the elite.

Consider what it would mean to create power if such a view was accurate. It would not be sufficient merely to build durable institutions for the subjugated to stave off force or coercion since these institutions would, presumably, just be part of a system whose apparatuses were designed to preserve the hegemony of the elite. They would be subsumed in the Foucauldian capillaries of power. To build power in this context would also require the raising of consciousness of the oppressed or, perhaps, the alteration of their consciousness. Once the oppressed became conscious of the oppression, they would have to be willing to combat it and then they would need the means to do so.

The powerful, however, will not willingly give up their power, and they presumably have the resources to rebuff forcefully any attempts to wrest that power from them. The powerful, however, also are subject to countervailing political and legal limitations. The overt use of force by the elites is constrained by ideals that are shared (if not actually practiced) by much of the population. These ideals, much like Foucault’s description of power, can be said to be embedded in the capillaries of the society. Brazen and ongoing disregard of them would likely be resisted by the society as a whole.

So what is left for the poor as far as acquiring power is concerned? William H. Simon has echoed Cloward and Piven in arguing that ‘the key political resource of the poor is their capacity to disrupt. Disruption might take the form of electoral rebellion, excessive welfare claims, strikes, or simply rioting. In [Cloward and Piven’s] view fear of disruption was the principal motivation of elites in yielding benefits to the poor.’ If the cost to the elite of repressing the disruption and the movement that spawned it is greater than the loss in power suffered by the elite as a consequence of accommodation, accommodation would be the elite’s rational choice. Thus, the effective threat of disruption politically situates any movement by the oppressed somewhere between revolution and acquiescence concerning the status quo. The movement would normally accept society’s basic economic infrastructure but would demand a redistribution of power and its benefits.

As Simon points out, however, because disruption has costs to the poor as well as to the elite, actual disruption should be used in only the most serious situations. Thus, in order to make any change sustainable, communities must create or enhance the types of durable institutions that can acquire and utilize power for the benefit of the community over time. In order to do this, communities and their residents will need to have knowledge, skills, capital and both internal and external alliances.

These are not simple things to achieve. Moreover, it must be kept in mind that the communities we are discussing are severely distressed. They are home to people who, on an individual basis, have extremely limited resources. A good portion of their time and energy must be devoted to their own survival and to that of their families.

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55 I use this term broadly here and it includes concepts such as the rule of law, democracy, and equality. They go to the sense of national identity that Americans present to the rest of the world.


57 ibid.
There is generally little time available for them to engage in political education and mobilization. Thus, some commentators have called what CED advocates have asked of community residents “heroic.” Others have pointed out that as residents of such communities accumulate sufficient resources, they leave the community for better neighborhoods thus removing a level of skill as well as financial and social capital.

IV. Community Economic Development: Growth for Individuals and Communities

So how does CED fit into the creation of community power? First, there must be a conscious purpose of building such power. In one sense, the ability to create economic institutions where there were none (or very few) before is quintessentially the creation of power. Certainly, if one subscribes to the Mott, Wrong, Etzioni, or even Simon view of power, CED is a power enhancer. This is less clear, however, if one subscribes to the Gramsci, Foucault, or Lukes views or even to Derrick Bell’s interest convergence view. In this section, I consider the meaning and purpose of CED and the roles it is expected to play in combating subordination. Then, in Section V, I will tie community economic development to a theory of power and offer an alternative approach to CED.

i. The Nature and Purpose of Community Economic Development

Throughout the half century of its formal existence, CED has meant many things to policy makers, activists, and community residents. The meaning has ranged from increasing the well-being and wealth of individual participants to enhancing community welfare; from increasing employment to capital accumulation; from job creation to building community institutions. Policy makers and legislators have sought to accomplish these widely disparate goals by developing programs and activities that were designed to promote a range of outcomes. Thus, programs were developed to further, among other things, job creation, job readiness, entrepreneurship, accessible goods and services, wealth creation, capital formation, and social mobility.

While these programs have resulted in some individual successes, they have not, as a whole, fared well. Part of the reason for this is that the programs have been developed and implemented largely in isolation from each other. The need for these programs to be inter-connected, which should be obvious, traditionally has been minimized or totally disregarded. An even greater failing is that these programs, as is true with so much of our anti-poverty policy, were based on providing assistance to individuals. They have been designed to make some poor people a bit better off. This is not, in itself, a negative goal (assuming, of course, that it is not the result of a cynical repression of broader distributional possibilities). It is clear, however, that these policies are not designed to address the structural flaws in society that have left disproportionately large numbers of minority group members in inexorable poverty.

58 See, for example, Nicholas Lemann, ‘The Myth of Community Development’ The New York Times Magazine (Jan. 09, 1994).
59 Wilson, The Truly Disadvantaged (n13) 56.
In addition, these policies and their resulting programs are not designed to alleviate the manipulation of cultural norms or the internalization by the subordinated of the goals and desires of the elites. In fact, the individualized and highly selective advancement of some members of the subordinated group as a result of the programs merely re-enforces the power of the elites. It leaves some of the poor believing that the economic system is fair and that they have a reasonable chance to succeed in it. It leaves others with a sense of hopelessness that results in their disengagement from the mainstream economic and political system.\textsuperscript{61}

Community economic development should serve greater purposes than simply assisting select individuals. While I have no objection to the increase of wealth for individual poor families, I am concerned with the ongoing crisis of inter-generational poverty among African-Americans and Latinos. Programs designed to help some small number of individuals out of this socially constructed morass are not sufficient. In fact, if one accepts William Julius Wilson’s view, they may be counter-productive. Wilson suggests that as residents in poor communities obtain sufficient resources to move to higher income communities, they do so, leaving behind those who haven’t such resources and removing, according to Wilson, those with the talent and ambition to succeed.\textsuperscript{62}

I have a very different view of community and of its possibilities. And while I recognize the political contradictions inherent in any economic development approach,\textsuperscript{63} I propose a model of CED that offers the possibility of individuals escaping poverty but one that also creates the possibility of collective power; one that confronts the structural and psychological impediments to full economic and political participation; and one that recognizes its connections to the existing political economy and the need to foster outside connections in order to be successful.

CED should help to create community institutions that are capable of marshaling human and financial resources. These institutions should bring together local residents to identify and articulate common problems, develop comprehensive responses, provide ongoing opportunities for community-wide interactions, and make connections with outside entities, both public and private. They should address job creation, entrepreneurship, capital formation, education, housing, safety, and health. They should, both within and outside local communities, organize residents politically and raise consciousness about the structural obstacles facing residents and about the potential residing in low income neighborhoods. They must, in collaboration with residents and local and outside groups, develop a comprehensive plan and mobilize the community to implement it.

\textbf{ii. Community Economic Development as a Power Enhancing Strategy}

There is an important distinction to be made between income and capital.\textsuperscript{64} On the one hand income is a flow of money over time. It is used to pay for current needs and desires and, if there is a surplus after fulfilling these components, to save, thus transforming income into capital.

\textsuperscript{61} See, for example, Cornell West, \textit{Race Matters} (1993, Vintage) 15-33.

\textsuperscript{62} Wilson, \textit{The Truly Disadvantaged} (n13) 56. Wilson’s view suggests an incompatibility between individual wealth accumulation and community development, a view with which I do not agree.

\textsuperscript{63} These contradictions involve recognition of the fact that CED participants typically accept and participate in the prevailing financial structure. These activities may change power relationships but there is typically a zero sum outcome: someone gains power or economic benefit at the expense of someone who loses power or benefits. There is not a change in the distributional system, merely in who gains a bigger share of the distribution.

\textsuperscript{64} For an interesting discussion of the difference between income and wealth, and how wealth disparity maintains the racially stratified nature of economic life, see Melvin L. Oliver and Thomas M. Shapiro, \textit{Black Wealth/White Wealth} (Routledge 1997).
Capital is the assets over which one has control at any particular time. Such control may be the result of inheritance, saving, or investment. It also may be the result of education, connections, or fortuity. At any rate, it is the store of resources on which one is able to rely in pursuing and achieving many of one's goals. The distinction between programs to assist individuals and those designed to improve communities can be conceptualized in much the same way. The former are designed primarily for consumption, the latter for the building of durable assets.

However, the building of assets, which creates, in Etzioni's words, only the “potential for power” is a necessary but not sufficient condition for the creation and utilization of power in low income communities. While community economic development may lead to improved quality of life for community residents or even to improving the community itself, if the improvement is the result of the beneficence of the elites or of an instance of interest convergence, it will not be the result of community power and will be unstable and susceptible to divestment by the same elites that permitted its creation. In this way, it would act to reinforce the dependence and subordination of the residents.

True community based CED arises from the desires and actions of residents. Improvements are planned and initiated by them through representative community organizations. These activities may include improving the infrastructure through new or renovated affordable housing or through the conversion of vacant lots into neighborhood gardens or play areas. It might involve creating new businesses or bringing existing businesses into the community that would produce more goods and services for the neighborhood as well as create more local jobs. To the extent that the businesses are locally owned, the possibility of capital reinvestment in the community is also enhanced. CED efforts should include the political organizing and education of local residents and of pre-existing local institutions. It should involve making linkages with government and with outside private institutions that have the capacity to affect, for better or worse, life in the neighborhood.

There are, however, other aspects to CED beyond the creation of business ventures and the improvement of infrastructure. CED must also create institutions that play, to use Olsen's terms, a mobilization role or a mediation role. The mobilization role involves educating residents and coordinating efforts of existing institutions. The mediation role involves making connections and alliances with outside organizations and acting as a buffer between the state or outside institutions and the community. These roles are extremely important in CED, but I would like to add two other roles that are not directly included in Olsen's model but that I believe to be equally important. They are capital accumulation and coordination and planning. In the following pages, I will discuss the roles CED institutions need to play in order to achieve community power in addition to individual success.

a. Workforce Development and Entrepreneurship

Traditionally, economic development was heavily involved with job creation. This task was often undertaken by Community Development Corporations (CDCs) or equivalent nonprofit community organizations. The methodology included helping local residents to start new businesses and attracting outside businesses to the community. It also often included training local residents on the basics of obtaining and keeping a job and on how to perform the requirements of a job once employment was secured. The latter effort would bring residents together in classes that offered them both a set of skills and the opportunity to interact with each other on job related as well as other issues.
The former activity often involved the CDC’s interacting with government and with outside businesses in their effort to coordinate finance, tax, and regulatory packages that would induce those businesses to open in the low income community. These connections and alliances provided substantive entrepreneurial and employment benefits and also helped to relieve some of the isolation often felt by low income communities through ongoing interactions with outside entities.

The businesses, of course, offer employment and goods and services to the communities in which they operate. They also offer a forum for a variety of interactions. People who patronize the businesses have the chance to interact with each other and to develop new social capital. Community events can be publicized through the businesses and local and other issues discussed there. Local coffee shops or dry cleaners, for example, are often the site for such announcements and conversations. Such businesses, particularly those that are locally owned, can become the sort of durable community institutions that help to mobilize others and can develop for themselves power and influence.

Another form of entrepreneurship that is often overlooked in discussions of economic development is tenant ownership of multifamily housing. It is important to realize that tenant owned buildings are businesses as well as homes to their residents. Resident-owners must manage what are sometimes quite large enterprises with significant annual income and expense and with the possibility of increased value. These institutions also offer important opportunities for close interaction with other community residents and with public and private officials. They also become focal points of neighborhood improvement and an example of what can be accomplished by other residents.

Both locally owned businesses and tenant owned housing offer the possibility of wealth creation and enhancements to social capital, local economic independence and legitimacy, and political power. None of these institutions, however, can make major community-wide impacts standing alone. To have such an impact, they must be coordinated with other similar institutions and with the mobilizing and mediating institutions suggested by Olsen.

b. Health, Education and Welfare

There should be (but often there is not) a recognition of the relationship between job readiness and performance on the one hand and the health, education, and welfare of the local residents on the other. Residents surely need education, both general and job specific, to succeed at obtaining and retaining a job. Similarly, they need good health to obtain and retain a job and services, such as day care and public transportation, to be able to meet job requirements. These issues are themselves aspects of CED. Job readiness programs, adult education, health care clinics, community health worker programs, and day care centers all create jobs while at the same time supporting the employment and employability of others. They also stimulate social capital and ancillary economic activity through a variety of local and outside interactions.

Activities such as these do not arise solely as a result of market activity. If they did, the needs they address would have already been met in low income communities. Instead, they typically arise due to the initiative of some planning and mobilizing entity interacting with community residents and community non-profits, service providers, government entities, and public and private funders. So while activities such as these are a form of CED in and of themselves, they also are a kind of catalyst to other economic activity in the community. As I mentioned earlier, because such linkages are often overlooked by planners, many of the programs designed to promote CED activities were developed in isolation from each other. Job training was not tied to job availability. Job availability was not coordinated with day care so that workers had safe, convenient and wholesome places to leave their children during working hours.
Health issues, a major obstacle to employment, through health education and the availability of local health clinics were not always considered and addressed.

There must also be a connection made with the local schools. Basic education is essential to full participation in newly created economic activity. Similarly, teaching about entrepreneurship and providing support for those seeking to start businesses needs to be a part of public education. Students must obtain knowledge and skills. They also must become aware of productive community-based business activity, the possibility of further such efforts, and the real opportunities they have to participate in these activities. More than merely hope, expectation must be fostered among students and young people in the neighborhood.

c. Capital Accumulation

Capital is a fundamental building block of development. By definition, its presence is limited (but not absent) in low income communities. And, just as collectivization is generally a key to political action, collectivization is also a key to community economic development. Before collectivization of capital can take place, however, there must be both a source for the capital and a repository for it. There are at least three main sources of community capital. It can come from residents of the community, from local businesses and community organizations, or from government or other outside funders.

There are also several repositories of capital. Banks are an obvious example of a repository but banks are rarely tied to the communities in which they are located. There are, however, several capital repository institutions that are tied to their communities. For example, Community Development Corporations often receive foundation and government funding and may obtain capital from the results of successful business ventures in which they engage. There are also a range of community financial institutions that accumulate and utilize capital. These are known generically as Community Development Financial Institutions (CDFIs) and include such organizations as Community Credit Unions, Community Development Loan Funds, and Community Banks. In addition, the Community Reinvestment Act (CRA) requires banks that have branches in low income neighborhoods to reinvest in those neighborhoods. There is an annual monitoring and reporting on the performance of banks subject to CRA and sanctions in the event there is inadequate compliance. CRA thus provides a potential source of additional capital to low income communities.

CDFIs can fulfill a variety of purposes in relation to CED. They function as repositories of otherwise scattered assets. In this way, they may accumulate assets to the level of critical mass. Given that level of resources, typically orders of magnitude greater than any individual and most groups in the community could amass, they have an opportunity to turn those assets into power.

66 Organizations such as the Network for Teaching Entrepreneurship (NFTE) is a private program that works with young people from low income communities. Its goal is to get students from such communities to stay in school and to recognize and pursue opportunities for entrepreneurship and further education. See its website at http://www.nfte.com accessed 4 November 2012. There are also several charter schools around the nation devoted to business and entrepreneurship in low income communities. See, for example, the Austin Business and Entrepreneurship Academy in Chicago, http://www.cps.edu/Schools/Pages/school.aspx?id=400018 Accessed 4 November 2012; Leadership and Entrepreneurship Public Charter School, in Portland, Oregon, http://lephigh.org/site accessed 4 November 2012.


68 Diamond Reflections, (n. 3) 166.
Part of the power equation is the CDFI’s ability to redistribute those assets in ways that enhance community wellbeing. By virtue of the assets they have accumulated, they are a focal point for interaction with both community residents and organizations and outside parties. And in those interactions, they participate as a partner, not as a supplicant. They can also play a mobilizing role by bringing together community residents and educating them about financial literacy and broader community issues.

d. Coordination and Planning

Given the wide range of goals and the inherent interrelationships that comprise CED, it is clear that for a CED program to be most effective there must be coordination among its participants and their activities. This can be accomplished by the creation of a supervening community agency or by a council of the existing participants in the CED process. Of course, creating such an organization is a very difficult process. The same political considerations facing any attempt at collectivization and cooperation will be faced by low income communities that attempt to do so. There may be racial, ethnic, or religious divides. There surely will be disagreements about the best way to proceed or even whether to proceed. There will be organizational loyalties and “turf” entitlements to contend with as well as personal aspirations, egos, and relationships. Nevertheless, such organizations have been created and have succeeded.

There are, for example, a group of organizations known generically as Comprehensive Community Initiatives (CCIs). While CCIs take a variety of forms, they typically involve an umbrella community group that takes on planning and coordinating functions and that undertakes alliances with outside entities. Among the most well-known of these is the Dudley Street Neighborhood Initiative (DSNI) in which a group of residents of the depressed Dudley Square section in Boston organized to undertake the planning and implementation of the re-development of the neighborhood. The results of the effort, which included a strong partnership between DSNI and the local government, have been remarkable. While there are still problems in the neighborhood, including vacant lots and high unemployment, there has been a significant rebirth that includes all elements of the local population with particular attention paid to its young people. The Initiative has developed hundreds of units of affordable housing, created parks and play areas out of vacant lots, created a charter school for the neighborhood, and created a number of programs for the neighborhood youth. It has done all of this in collaborations with local residents and groups, outside funders, and the local government.

69 These projects show perhaps the most significant departure from their predecessors in the community building field in their commitment to community transformation. Rather than focusing on bricks and mortar projects or social service development - though both are usually addressed - CCIs work to strengthen a neighborhood’s capacity to affect change by building leadership among local residents and organizations. Neighborhood governing bodies established for these initiatives do more than function as decision-makers; they also act as a kind of neighborhood “think tank,” analyzing available resources and needs and determining how those needs could best be fulfilled using resources at hand.” Winston Pitoff, ‘Comprehensive Community Initiatives: Redefining Community Development’ Shelterforce Online (November/December 1997). See http://www.shelterforce.org accessed 4 November 2012.

70 For a detailed description and analysis of the process, see Peter Medoff and Holly Sklar, Streets of Hope: The Fall and Rise of an Urban Neighborhood (South End Press 1994). For current information on DSNI, see its website, http://www.dsnio.org

71 For a comprehensive study of CCIs, see Bruce Gray, Angela Duran, & Ann Segal, Revisiting the Critical Elements of Comprehensive Community Initiatives, A Study Conducted by Staff of The Office of the Assistant Secretary for Planning and Evaluation, United States Department of Health and Human Services, [1997].
Another form of coordination involves what have come to be known as Community Benefit Agreements (CBAs). These agreements, normally entered into by community groups and outside entities seeking to undertake some project in a local community, are designed to provide some desired benefit to the community in exchange for the community’s acceptance of the outsider’s project.\textsuperscript{72} Of course, in order to secure such an agreement, the community group needs to have achieved some level of \textit{potential} power.\textsuperscript{73} This presents its own problems concerning the nature of power and the ever-present question of who legitimately can speak for a community. For a position to be a truly community-based there needs to be a strong consensus of residents and representative community organizations about the nature and bona fides of the umbrella group and of the positions it is promoting.

In addition, there are certain alliances that, from the position of a non-participant observer, make practical sense. For example, local labor unions, who are seeking members and labor concessions, would seem to have a natural connection with communities with surplus low wage labor. Similarly, environmental advocates would seem to have a political bond with community groups fighting environmental hazards such as dumps, toxic waste sites and air and water pollution. Actually making such connections would enhance the leverage of each participant vis-à-vis employers, developers, and local governments.\textsuperscript{74}

\section{CED and the Theory of Community Power}

I commented earlier about the need for a theory in building power for a community. To the extent that community economic development is a vehicle for building that power, advocates need a coherent view of how their CED efforts fit that theory. In this section, I will propose a model of CED activities that might fit a theory of community power.

As we have seen, community economic development serves a variety of purposes. It may improve the quality of life in poor communities and may improve life prospects for some community residents. The activities developed as a result of a CED strategy may create jobs, provide income, goods and services and, sometimes, allow for capital accumulation within poor communities. These activities can be undertaken for their own sake or for the sake of creating institutions that are able to acquire and wield power. In order to achieve ongoing power, however, advocates, practitioners and residents must have a conscious goal of creating such power. They must approach the CED effort with the idea of permanently changing the broader relationships between the community and its residents, on the one hand, and the world outside of the community, on the other.

We have also seen that the concept of power is indeterminate in meaning and is a fluctuating phenomenon. Thus, the creation and maintenance of power presents unique complexity. Moreover, if it is true that when one person gains power another loses power, any attempt to increase one’s power, particularly by those who do not have very much, will be met with resistance. Thus, the party seeking power confronts two major obstacles. The first is identifying precisely what it is one seeks and the second is being able to overcome the resistance marshaled against the effort. To add a final consideration associated with the development of power, advocates must be mindful of the fact that power should not be thought of as an end but as a tool to be utilized in achieving other ends.


\textsuperscript{73} Etzioni, (n 30) 322.

\textsuperscript{74} Katherine V. W. Stone \textit{and} Scott L. Cummings, ‘Labor Activism in Local Politics: From CBAS to “CBAS”’ in Guy Davidov \textit{and} Brian Langille (eds), \textit{The Idea of Labour Law} (Oxford University Press 2011).
From a power perspective, those ends are intellectually troubling. While it is important to improve the lives of those who have been systematically excluded from mainstream political, social and economic life, doing so within the existing structure can be seen as re-enforcing that structure and its pre-existing power relationships. Alternatively, if the development of community power includes a change in the way that residents and the groups that represent them understand the psychological and structural elements of elite power, it might incrementally shift the existing allocation of power between the elites and the non-elites. There is a difference between, on the one hand, contestants battling with one coming out the winner in a particular event and, on the other, a class of elites and of non-elites with the latter securing only what the former permit them to have.

Even with the understanding that power implicates itself into the fabric of society, there is an opportunity through CED, among other strategies, to re-align the power distribution. Given that the re-alignment is in the more constrained arena of incremental change, some power can be wrested from the elites. This may be achieved simply by utilizing the ability to disrupt, a show of force that Simon and Cloward and Piven discussed.

Consider, for example how the power to disrupt can secure benefits in the context of the Community Reinvestment Act or in seeking Community Benefit Agreements from a developer. In the context of the Community Reinvestment Act, regulators will consider a bank’s CRA compliance in reviewing the bank’s request for expansion or reorganization. If the community organized to oppose the bank’s action, the process of approval becomes more time consuming and expensive for the bank. It is possible that the bank will agree to certain lending practices that will benefit the community in order to avoid the community challenge.

Consider also how the power to disrupt can be used in dealing with developers seeking government approvals, financing for projects, or simply to move forward expeditiously with their projects located in low income communities. Organized opposition to such projects can threaten or delay their completion. Thus, developers often will agree to various community demands such as local hiring obligations, community space in the development or funds for community activities.

The power to disrupt, as with other elements of a CED activity, needs to be part of a coordinated strategy. It cannot be used effectively as a tool to build power when it is a spontaneous response to an immediate event. It must have a goal and be connected to other potential disruptions as well as to other strategic efforts to acquire power. From this fundamental exercise of force concessions might be obtained. Those concessions must be parlayed into activities that both serve chronic needs of communities and their residents and also build a base of power to maintain and increase the level of benefits that the community can command.

75 Recall the views of Gramsci, Foucault, Lukes and Bell discussed in Section II A.
76 See Section III.
Conclusion

The goal to be served by community economic development is the improvement of low income communities so that they are places where people choose to reside rather than being forced to live due to external structural and political constraints. To accomplish this goal requires activities that improve the lives of the residents and that improve the built environment of the neighborhood. Moreover, the activities leading to this end must be chosen and implemented by groups comprised of residents and that represent the residents. These groups can, and should, create real (rather than cosmetic) alliances with outside entities and should be cognizant of regional, national, and even transnational issues that affect them.

More fundamentally, there must be a sense of participation among residents. They must feel that they and their representatives have a right to participate in discussions about the life of the community residents. Such an expectation requires that there be an understanding of how the socio-economic structure (backed by its offspring, the legal structure) limits the opportunities of the poor. Further, it requires an understanding of how the poor can overcome the structural obstacles imposed by the system. The goal of community economic development goal should not merely be the creation of a set of isolated instances of poor people being able to get ahead through some form of employment or business activity.

Thus, advocates of CED must realize the need to change their own mindsets and those of community residents. They must organize and educate. They must assist the groups with which they work to plan and co-ordinate CED activities. Those activities must be designed not only to provide immediate assistance for the residents but also to create durable institutions that can acquire, maintain and utilize power for the good of communities they serve. As CED activity brings jobs, skills, income and capital to the community and its members, a different kind of power is possible; not merely the threat or use of force but the same economic power brought to bear by other economic enterprises and institutions.

Power, though, is ubiquitous and capillary. It is also addictive. Therefore, once community institutions are built they and the local residents must remain vigilant and responsive: vigilant to external encroachments as the elite attempt to regain what it lost; and responsive to community needs. There are also internal issues about which they must be concerned. Robert Michels has identified “the tendencies toward oligarchy and bureaucracy inherent in institutions.” As Michels cautions us, Gladstone declared that the love of the English people for their liberties was equaled only by their love for the nobility. To paraphrase Michels, since the apparatuses of power, ubiquitous and capillary, are constantly working, the poor must be sure that their love of power is not subsumed by their love of the powerful.

78 Ibid 343.
SOCIAL CHANGE COMMUNITY EDUCATION - WHERE ARE WE NOW?

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Abstract:
This article reviews the evolution of community education from its genesis in the 1970s to the present day. It begins by considering the contested meaning of the word ‘community’ and the origins of community education, before turning specifically to the case of Ireland and our domestic experience of community education. The author critically assess Irish community education, observing that it has become depoliticised and de-radicalised in recent years and calls for a return to the radical voluntary activism that was the original initiator of community education for social change.

Keywords:
Community education, community services, State influence.
Introduction

On the face of it, community education has come a long way. From fledgling beginnings characterised by temporary premises, sparse materials and reliance on significant voluntary effort, contemporary practice is now typically State funded and is commonly housed within purpose built settings. Its importance has been firmly established within policy with chapter 5 of the White Paper *Learning for Life* (2000) dedicated to its understanding. More recently, its significance in encouraging economic recovery has been emphasised with the Minister for Training & Skills describing it as ‘a cornerstone to meeting the targets of the National Skills Strategy’1. The creation and continual reform of the *Further Education Training & Awards Committee* (FETAC) has strengthened community education’s potential to formally recognise learning. This has allowed recipients to more readily progress to suitable employment or loftier heights along the laddered National Framework of Qualifications (NFQ).

Community education is not only thought of as an extension of opportunity beyond traditional settings but is also commonly presented as fulfilling important civic functions. These include fostering positivity and community cohesion; both of which are in tune with visions of a pluralist, egalitarian social order, and the actualisation of a range of citizen rights realised through collective, praxis oriented approaches. The fulfilment of these political aspirations is through an ideological interpretation of community education; a ‘second view’ described within the White Paper as ‘a process of communal education towards empowerment’ and an action intrinsically linked to community development (Government of Ireland, 2000: 110).

Although not uncontested, this presentation of social change community education2 as an approach to community development is not new (see for example Lovett, 1982, Kirkwood & Kirkwood, 1989, Connolly, 1996, 2008, Ledwith, 2005, Beck & Purcell, 2010). It is a collective, dialogic, democratic pedagogy that enables an analysis of subjective experiences undertaken in a way that encourages critical intervention in the social realm. Demonstrating its understanding in practice, the Community Education Network (CEN), which boasts over 130 member organisations, recently offered a definition of community education in tune with such social change ambitions describing it as ‘a process of personal and community transformation, empowerment, challenge, social change and collective responsiveness… grounded in principles of justice, equality and inclusiveness’ and different from ‘general adult education provision due to its political and radical methodologies’ (Aontas, 2008 p.1).

By the White Paper’s own admission, the inclusion of social change community education came about through consultation with a range of stakeholders including organisations from within the community sector3. It is hard to define exactly what the community sector is with some questioning whether a range of civil society groups can constitute a sector in itself (Ó Cinnéide, 1998/99, Collins, 2002, Powell & Geoghegan, 2004). Also problematic is the drawing out of community education as an entity in itself.

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2 Throughout this paper the expression ‘social change community education’ is being adopted. Other terms that can be used include radical community education, which is sometimes used interchangeably, and popular education, commonly used in Scottish settings and borrowed from Latin American practice in particular.

3 Appendix 2 of the White Paper lists those who participated in the consultation process. These include a number of CDPs, Local Area Partnership Companies, The Community Workers Cooperative, The Combat Poverty Agency, the Irish Traveller Movement and the Irish National Unemployment Organisation.
Although the bulk of non-college adult education is delivered through State established Vocational Educational Committees (VECs), community educators within these are remitted to position themselves in local contexts. Their actions coalesce with an array of independently founded community sector organisations which emerged through bottom up community activism in response to a range of issues such as gender discrimination, poor housing conditions, unemployment and a lack of services for young people. Some community workers within this fold also consider themselves community educators and a number of organisations are sanctioned to deliver FETAC awards and/or university accredited programmes in partnership with the relevant institution.

It would appear however that this bottom-up community sector, founded on principles of justice and equality, has dramatically lost its way and has become disconnected from many of the social change ambitions that defined its origins. Since its evolvement in the 1970s/80s, there has been considerable depoliticisation of practice with efforts to extend participatory democracy and realise social change often replaced by an assortment of local community services managing the shortfall in public service provision. For community education, there has been substantial vocalisation of practice and a renewed emphasis on individualism over collectivism with much practice conforming to State imposed demands to support the economic realm and manage unemployment. This has been exacerbated by the creation of Seirbhísí Oideachais Leanúnaigh Agus Scileanna (or SOLAS) charged with overseeing the merger of VECs into Local Education and Training boards (LETBs) and the integration of the training sector (formally FAS) within this. All accredited community education, including that which has traditionally been organised through independent community sector organisations, is likely to append to these revised structures in some way.

It is easy to present a rose tinted overview of a singular politically minded community sector with a storyline of unfettered incursion by the State. This is however not the case and, alongside externally imposed difficulties, there have been contributory factors from within the sector which will be presented as part of this paper. Before doing this, concepts of community education will be presented including a focus on the contested nature of the expression community itself. A brief history of sectoral evolvement is then offered contextualising contemporary practice within wider politico-economic circumstances. Alongside a critical analysis of State involvement with the community sector, internal accelerants are discussed concluding with reflections on the current uncertain status of social change community education and possibilities for future actions.

I. What is ‘Social Change/Radical Community Education’?

i. Deconstructing Definitions

Defining any type of education is an arduous task and attempts to do so elicit much debate. Some steer us away from agreeing perimeted definitions proposing to do so implies certain ideas and skills are indispensable and can be methodically transferred to others thus negating the contested nature of many of the concepts at play (Winch & Gengell, 1999, Aspin & Chapman, 2000). There is certain logic to caution when defining practice. A possible consequence of agreeing ring-fenced definitions is the potential to limit what is considered appropriate practice thereby excluding innovation.
Another pitfall is the way in which setting boundaried frameworks can result in strenuous efforts by supporters to fit real world events within these. Further cause for concern is the ways in which multi-disciplinary fields of study that evolve around social phenomenon, (as is the case with community education and community development), can serve the development of academic discourse rather than influence the events they purport to understand. This situation is compounded by the absent voice of those living the realities under discussion (Lynch, 1999) and it is not unusual for theory-practice divisions to emerge.

**ii. The Dubious Nature of Community**

A common starting point in discussing the nature of community education is examination of the expression community itself, a word that has enjoyed considerable popularity for some time now. Usually signifying positivity, wellbeing and social cohesion, literal translations can be applied universally covering all elements of a particular geographical area regardless of the make-up of its population. Other types of communities presented are communities of interest, for example the Gaelic Athletics Association (GAA), issue based; such as rights and environmental awareness communities, and those linked by identity for example the gay or Muslim community.

It is important that we challenge many of the assumptions implicit in use of the word community most obviously the broad presumption of homogeneity that disregards micro-economic, political, cultural, and many other differences. Also problematic is the utopian historical visioning often evoked and memories of contented, cohesive neighbourhoods usually revolve around a domestic role for women. The existence of some communities in the first place, for example the aforementioned gay and Muslim communities surely indicate segregation from mainstream community in the first place revealing an underbelly of exclusion and even banishment. It is hard to consider the history of Irish communities without reflecting on historian Frances Finnegan’s description of Magdalene laundries as penitentiaries for women considered ‘unmanageable’ for falling pregnant outside of marriage[^5]. Also worth considering is the way in which the word is called on more readily to describe geographical areas occupied by the working and lower-middle classes where disproportionate numbers on welfare benefit reside ‘sometimes with complex social difficulties’, a situation perpetuated by poor government practices in the allocation of social housing (Drudy & Punch, 2005 p.157).

As is the case with all contested concepts, the most important consideration is the inclination of the user and Shaw (2008) alerts us to a range of adoptions across the political continuum from revolutionary socialist movements to deeply conservative traditions. Under neo-liberal conditions, manifestations encouraged are towards a siding with self-help suggestions that communities can themselves overcome a milieu of economic and social disadvantages with little regard for the social policies that created these conditions in the first place (Berner & Philips, 2005). This ‘boot-straps’ mentality absolves policy makers of any redistributive responsibility and allows for a blaming of the poor for the circumstances within which they find themselves.

[^5]: The last Magdalene laundry closed its doors as late as 1996. In an interview published in The Irish Times in August of that year, Dr. Finnegan identified how whilst initially used to provide accommodation for women engaged in prostitution and experiencing problematic drinking, the laundries were increasing used as a penitentiary for unmarried pregnant women with the consent of family and wider community members.
One useful model of community as a social system is that which is offered by David Clarke (1996). Considering the importance of people, place, relationships, beliefs and values, Clarke contends it is the presence of feelings of significance (I matter), solidarity (I belong) and safety (both physical and psychological), that are the hallmarks of a good community. Along with these three ‘S’s, Clarke (1996 p.48) proposes a communal dilemma as ‘the problem of how social systems can become more open to one another without weakening their own sense of community or destroying that of others’. It is through engagement with this communal dilemma, communitarianism can be developed ensuring authentic connections with others that respect, nurture and strengthen diversity.

II. What is Community Education?

At its broadest, community education can be understood as localised, structured learning that happens outside of traditional institutions. In practice these can be within specialist adult education centres such as those managed by the VECs, community buildings, literacy support centres, community sector organisations such as Community Development Projects (CDPs), Family Resource Centres (FRCs) or Community Law Centres (CLCs), Local Area Partnership Companies, training centres, health centres, within schools, churches, unoccupied social housing, people’s homes, and whatever other premises are available to groups and deliverers.

Alongside locational considerations, community education is also different in other ways. One such distinction is the way in which it is described as being not just for the people, but of the people (Connolly, 2008). Its intention is concern for process as well as content with a commonly evoked mantra being the idea of starting where the person is at. This doesn’t just mean accommodation for many of the practical challenges facing adults as they return to education such as flexibility, affordability and child-care, it also means a cognisance for the knowledge, skills and values a person brings to a learning experience and a drawing from these in determining subjects and modes of delivery.

Another core feature of community education described in the White Paper, Learning for Life is its significance in ‘reaching large numbers of participants in disadvantaged settings’ (Government of Ireland, 2000 p.110). This refers to its relationship with aforementioned communities characterised by high density social housing, disproportionate unemployment rates when set against national averages, and a population where many underachieve at school when set against meritocracy’s yardstick for progression to Higher Education. Aontas6 (2004 p.16) support this accolade describing community education as ‘to the fore in tackling adult educational disadvantage for many years’ and as events that ‘have shown how successful community groups can be in acting as first point of contact for hard to reach learners’.

In maintaining these distinguishing factors, community education has re-negotiated traditional hierarchical teacher-learner relationships. A consequence of this more lateral approach has been a blurring of boundaries between professional, in other words qualified, and lay practitioners. This latter cohort is often past recipients and members of the communities in question who have crafted their trade on the job, often in partnership with qualified counterparts. Their ability to more genuinely empathise is thought by many to add a richness to community education which is absent from more elitist models of practice.

6 The Irish National Adult Learning Organisation. For further information see www.aontas.com accessed 4 November 2012.
i. **Theories of Community Education**

Whilst this paper specifically concerns itself with *social change community education*, it is useful to extrapolate a wider understanding of community education considering it under three broad banners. The first of these is a universal approach open to all regardless of social circumstances and premised on a non-selective assumption of homogeneity (Martin, 1987). Dominant themes within this type of practice include lifelong learning, labour market re-activation and neutrality. A second type of community education that can be drawn out is a compensatory or second chance model of practice. This deliberately discriminates in favour of those considered disadvantaged as part of efforts to extend equality of opportunity. There is little doubt about the benefits for individuals which include greater job prospects and earning power, increased self-confidence (Bailey et al, 2010, 2011), and improvements in happiness and health (Field, 2011). For a community there can be falling unemployment and, in cases where people progress to higher education, a normalising of this pathway; something that might have been previously considered unattainable. However, whilst many well intentioned practitioners work tirelessly in providing for this, there is a contradiction at the heart of practice as, without a commitment to addressing the systemic causes of inequality of outcome from schooling; little more is being achieved than managing the symptoms of inequality.

Supporting these shortfalls, social change community education is a radical, politicised practice premised on a conflict model of society and concerned with the achievement of *equality of condition* (Lynch & Baker, 2005) where all in society can benefit regardless of whether or not they engage in a specific piece of individualised learning themselves. It is concerned with consciousness-raising where educators work in solidarity with community members evoking intellectual discovery through dialogue (Freire, 1972). Central to this Freirean approach is a belief that education alone does not bring about equality, what is required is *praxis*, a process of collective transformational action and reflection undertaken to effect social change. This can take many forms including dialogue and negotiation with power-holders, rights based campaign and lobbying work, and the establishment of additional supports to address issues and highlight shortfalls in public provision.

Crucially, this critical pedagogy also calls to account the structural and relational dimensions of knowledge. Notions of a fixed set of abstract ideas and indisputable facts, largely held by the teacher, are challenged in favour of a collapsing of objective/subjective boundaries as real world events are grounded within each person’s sense of self. This doesn’t mean uncritical acceptance of post-modern subjectivism as a set of unrelated circumstances; individual conjectures can and do vary immeasurably. However, when subjective accounts are validated through comparison with the experiences of others they accumulate into common or generative themes (Freire, 1972). It is these themes that create the starting point for a problem-posing analysis, enhanced by dialectic engagement with the theories and research of others, inquired into from a variety of angles. Academic contributions (such as this paper), are not presented as incontestable but are offered as codes where, through the optic of a person’s own subjectivity, an authentic understanding can be built (Shor & Freire, 1987 pp. 39-40).

ii. **The Development of Community Education in Ireland**

Community education in Ireland can be particularly traced to the 1970s, unsurprising when one considers that before this date secondary schools were the preserve of sons of the wealthy whilst any schooling girls received was largely instructional and domestically focused (Cullen, 1987, Harford 2005). In addition, many thousands of children attended an industrial school sector where, compounded by institutional neglect and abuse, recipients left with ‘a higher proportion of unmet literacy needs’ (Feely, 2010).
Demands for education emerged from those who were unable to read, women, early retirees, and employers eager to improve skills levels in the workplace (Feehan, 1979). As the organisations charged with responsibility to provide ‘a suitable system of continuance education in its area’ (Vocational Education Act, 1930, s. 30-a), VECs were perfectly positioned to respond to these needs and the appointment of Adult Education Officers (AEOs) in 1979 followed the locally based evening courses of the 1970s described by Aontas (2004 p.9) as ‘the backbone’ in the advent of community education.

The VECs were not the only providers of part-time adult education and pioneering work was also initiated by religious orders, the university sector and the trade union movement (Carey, 1979 p.11, Government of Ireland, 1998 p.38). Where the VECs differed was by their already strong connection with working class communities through the provision of post-primary vocational education. Their centrality as community education providers was copper-fastened by the introduction of ring-fenced grant aid such as the Vocational Training Opportunity Scheme (VTOS), the Back to Education Initiative (BTEI) and, the appointment of dedicated Community Education Facilitators in the early 2000s.

Also important, particularly when considering social change community education, was the bottom up emergence of a range of self-managed community groups dissatisfied with the status quo and interested in bringing about systemic change. These included the Women’s Movement, Freirean influenced popular educational initiatives many of which were underpinned by liberation theology, and grassroots movements concerned with tenants’ rights, unemployment and anti-drugs initiatives. Government responses to this foray included the establishment of The Combat Poverty Agency in 1986 legislatively charged with the dissemination of information to the State on the alleviation of poverty, and the provision of analysis on its causes (Combat Poverty Act, 1986). Following intermittent development funding through both EU and domestic development initiatives, consistent funding was introduced to an original 15 Community Development Projects (CDPs) in 1991.

Successful applications to the community development fund swelled over a ten year period and community education became interlaced with 185 CDPs, some of which were supported through VEC funded initiatives such as the Adult Literacy and Community Education Budget. CDPs operated alongside a structure of Family Resource Centres (FRCs) and youth groups and a range of addiction supports that emerged on foot of the Rainbow government’s First Report of the Ministerial Task Force on Measures to Reduce the Demand for Drugs (1996).

These locally evolved, self-managed community groups were joined by a State introduced network of Local Area Partnership Companies initially established to administer European development aid. An original 12 Local Area Partnership Companies were charged with assisting re-entry to the workforce, promoting entrepreneurialism and business start-ups, and supporting existing community development projects in their area (Teague & Murphy, 2004). This pilot programme was expanded in the mid-1990s with partnership companies remitted to engage in a multi-sectoral process enabling community representatives to share management at board level with trade union representatives, State agencies, businesses and other local interests often including education providers.

7 University College Cork (UCC) established outreach centres whilst in Dublin the Institute of Adult Education was founded in 1940 (originally the Dublin Institute of Catholic Sociology). The Green Paper in AE also refers to the People’s College (part of the trade union movement) and the Irish Countrywoman’s Association Residential College.
As a whole, the community sector is commonly described as resting on values of equality and social justice, empowerment, participation and collective action with concern for both task and process. When enacted, these principles are thought to bring about a more diffuse distribution of power and enable an amelioration of community concerns (Popple 1995, Twelvetrees 2008, CWC, 2008). Governmental commitment to community development has been enshrined in successive programmes for government and it has been claimed that over three decades, community development in Ireland has maintained its independent voice, contributed to the modernisation of rural Ireland, responded to issues arising from rapid urbanisation, and, ‘succeeded in elevating the needs of the most disadvantaged to a level where the conditions affecting these groups could no longer be ignored’ (Lloyd, 2010 p.43).

Writing some time ago, Martin (1987) proposed models of community education can be differentiated along historical inquiry when determining ideological intent. Such a trajectory would lead to assumptions that radical/social change community education is that which is practiced within community sector organisations with universal and compensatory models likely to be found within agencies such as FAS and VECs. This is however not strictly the case in an Irish setting and there are reports of radical practice from some VEC practitioners in collaboration with bottom-up community organisations, groups and networks (for example Fleming, 1989, Ingles et al, 1993, Cullinane, 2003, Brady, 2006,) and individualist, second chance models within independent community sector organisations (for example Bailey et al, 2011).

III. The Co-option of the Community Sector

There is however growing acceptance that this community sector has been considerably depoliticised. Its essence is not the initiation of civil society spaces to enable a more active citizenship, or radical ambitions of social justice through struggle; rather what has often emerged is a range of community services including child-care, health care supports, counseling, information provision, personal development and work-based training. These are welcome and necessary services for the communities in question and it is unsurprising that resources funneled into previously neglected areas were used to address the failure by successive governments to provide for basic needs.

For community education, there has been a considerable vocationalisation of delivery. The development of active citizenship through praxis has been relegated to the side-lines as lifelong learning, a concept originally conceived as part of efforts to debunk the frontloading of education to the beginning of one’s lifecycle, has been commercially re-framed as a key requirement for economic renewal. At the 2012 Aontas AGM significant apprehension was expressed by both VEC and independent community sector employees about SOLAS. Concerns raised included a top-down rather than bottom up interpretation of educational need, a clinical use of community education to engage hard to reach learners in compulsory training linked to welfare payments, a quantitative rather than qualitative approach to measuring learning, an absence of focus on the immaterial benefits of learning, and fears for the independence of local community providers threatening their diversity, levels of support and political intentions. For those offering accreditation, anxiety was expressed about a lack of representation for non-VEC structures with the overall sentiment being that these top down landmark changes will considerably devalue social change community education due to a lack of regard for non-vocational, collectivised approaches.

Where FETAC qualification has been successfully moulded to meet the needs of social change community education, the upcoming amalgamation of FETAC with other accrediting bodies into the Qualifications and Quality Assurance Association of Ireland (QQI) is an additional worry.
Uncertainty abounds about whether the LETBs will be the only quality assurers of Further Education exercising power to appoint educators without consulting host community organisations. This increases the potential for an incursion of pedagogues unfamiliar with social change community education as a process of community development interpreting all education as either universal or compensatory.

IV. How has this happened?

i. The Janus-face of the State

Whilst some contributors argue the community sector’s positioning in and against the State creates a tension that is good for democracy (for example Paterson, 1999, Chanan, 2009), the difficulty with this argument is its reliance on the State as non-aligned arbitrator. Instead there has been a Janus-faced approach; an extolling of the virtues of community development concurrent with an undermining of its viability. This has been done through unstable funding arrangements, non-negotiable service agreements and a deliberate discouragement of politicised activism; something that can lead to exclusion from State grant aid (Crickley & Devlin, 1989, Lee, 2006, O’Byrne, 2012).

Despite reluctance by Irish political parties to endorse neo-liberalism, their actions portray support for its political-economic doctrines. This model prioritises free-market economics and corporate interests over democratic politics and the public good, facilitates a transfer of wealth to an elite, and limits civil rights concealed in the language of liberty and freedom (Harvey, 2005, Giroux, 2006, Klein, 2007). The current crisis in neo-liberal capitalism has not brought an abandonment of this right wing ideology; rather it provides fertile ground for the deepening of neo-liberalism (Klein, 2007). Despite increased State interference at the top (contrary to espoused desires for State disbandment), there is a continued shrinkage of the public sector and welfare provision justified through the need to stabilise the financial sector and safeguard capitalism at all costs. Whilst some might argue prudence in social spending as timely given our international indebtedness, the tokenistic nature of equality commitments are not recent but rather a continuation of practice during the boom years. It was during the Celtic Tiger’s artificially inflated property bubble and economic frenzy of foreign capital investment (characterised by the export of profits) that inequity worsened despite the alleged protection of national social partnership agreements (O’Hearn, 1998, Allen, 2000, Kirby, 2002).

The McCarthy Report (2009) paved the way for a business-type rationalisation of the community sector implemented through project closures, compulsory mergers, and funding cuts Harvey (2012) demonstrates as disproportionate to other publically funding entities. There has also been a State encouraged re-interpretation of what remains of the sector most notably through a eulogising of volunteerism through the Task Force on Active Citizenship and a deliberate alignment of its work with a larger, non-political voluntary sector (Lloyd, 2010). The non-negotiated absorption of CDPs into Local Area Partnerships not only led to a surrender of assets built up by community groups, it also has meant the dismantling of independent management structures and loss of local control. O’Byrne (2012 p.22) illuminates the experience of those on the ground when she quotes one CDP coordinator describing ‘the heavy boot of the State on their neck through the use of economic violence’.

Increasingly, communities are provided for by over-stretched community workers and those in receipt of government return to employment benefits whilst demands for services increases as they deal with the symptoms of the disassembly of wider public service provision. The mood within the sector, be it real or perceived, is that the flick of a pen by an unsympathetic civil servant could be enough for a project to close, a job to be lost, a service to be shut down. It is little surprise that the option chosen by many is to stay below the political parapet.
ii. Co-option through Partnership

The community sector’s involvement with national partnership agreements can be drawn out as a second contributing factor in its co-option. In 1996, community sector representatives took up a much lobbied for invitation to influence social policy by moving from a position of ‘external critics to critical participants’ (Larraghy 2006 p.375) through their involvement within the Community & Voluntary Pillar (CVP) of National Social Partnership. This pillar was never given equal billing as social partners, excluded from pay talks in particular, and the expulsion of the community platform, (a collective of community sector organisations that formed part of the CVP), for their refusal to endorse Sustaining Progress revealed power over rather than power with and the lack of leverage held by the community sector when set against trade unions and employers. Perhaps most concerning is the admission by those involved that the process was frustrating and unproductive, delivering little more than tokenistic gains and that its pursuit at times usurped attention to local concerns (Murphy, 2002, Meade, 2005, Lee, 2006).

There was also considerable effort expended at local level where pluralist engagement with State and semi-State structures is where community sector presence has been ‘most evident, widespread and sustained’ (Nexus, 2002: 46). This is despite some researchers reporting concerns about their democratic legitimacy and the quality of community representation (Sabel, 1996, Walsh, 1996). More recently, community workers engaged with local partnership structures reported having little say in decision making (Powell & Geoghegan, 2004). Also problematic were dichotomous interpretations of what constitutes community development with partnership companies commonly viewing it as an extension of support services into a community rather than as a process of individual and collective transformation undertaken to influence systemic change.

iii. Ideological Divisions Within

A third contributor in the cooption of the community sector lies with its own failure to develop into a recognisable, cohesive sector with little knowledge of its existence or relevance held by those not directly involved. Part of the reason is a significant theory-practice divide and it is likely that discussions on concepts of practice that appear on the pages of academic journals are not engaged in by many community workers on the ground. Particularly telling, Powell & Geoghegan (2004 p.156) reveal community work in Ireland ‘not to be rooted in a discourse of radicalism’ (original italics) with practitioners motivated by a range of sometimes competing factors and often not seeing their work as about implementing social change. Also discussing theory-practice divisions, Sayer (2008) draws our attention to the range of disciplines community workers are drawn from including teaching, social work and healthcare emphasising the way in which this influences an assortment of approaches adopted.

Also contributing to ideological heterogeneity, there is no over-arching ethos of community education presented by VECs and the most significant factor in determining approach is likely to be the ontological outlook of each individual community educationalist. This sentiment was captured by Lovett et al (1993) when they chronicle a range of responses to bottom-up, self-managed, radicalised community groups from VEC workers. Some of these groups cite considerable participation by AEOs including involvement in set-up and ongoing contribution; others believed some AEOs were an oppositional hindrance.

There has also been persistent ideological tension through the life-span of the community sector which pre-dates State involvement (Thompson, 1989, Lovett et al, 1989, Crickley & Devlin, 1989). At the root of this is disagreement between radical, conflict-oriented propositions (such as those presented in this paper), and pluralist approaches that rest on an analysis of power as something that can be successfully negotiated within civil society spaces.
These tensions have not gone away and a comprehensive review of literature by Motherway (2006) reveals continual disagreement along understandings of power, interpretations of tokenism and thoughts on future directions, clashes that persist even after the State implemented disassembly of some independent structures.

Also problematic is the deference paid to State funders by representative bodies and the continual public embracement of State reforms. Notwithstanding the efforts by Aontas to involve community educationalists in consultation with civil servants about changes taking place, their initial endorsement of SOLAS and interpretation of it as ‘a key watershed in the development of a coherent Further Education and Training Sector in Ireland’ (Aontas, 2012 p.4) is regrettable given Aontas’s representative role for all models of community education and the lack of leverage this starting point allows in future negotiations given the concerns raised in this paper.


A final factor in the de-radicalisation of the community sector is its seemingly progressive, virtually uncontested process of professionalisation. An anti-professionalisation stance can often be interpreted as an anti-standards perspective. This is simply not the case as how else can social change community education be effective? What is challenged is the way in which standards of practice are determined and by whom. As a sector professionalises, MacDonald (1995) emphasises the centrality of a recognisable elite the functions of which are:

- to develop professional ideology;
- agree characteristics that form the basis of membership; and
- negotiate the realms of practice and levels of autonomy from the State.

Again, implicit in this is an assumption of the State as impartial and neutral mediators between professionals and their benefactors (MacDonald, p.134).

Towards Standards in Quality Community Work (CWC, 2008) is the most tangible proposal by an elite of acceptable professional practice, endorsed through particular educational pathways. It commits the sector to a consensus model, despite its failures thus far, with one of the many pre-requisites for acceptable standards being towards ‘networking, solidarity and engagement with all of the stakeholders, including central government and local authorities (CWC, 2008 p.13). This leaves little room for maneuver for conflict oriented, radical models of practice marginalising them within their own sector.

A second important event for community educators who interpret themselves as community development workers is the upcoming involvement of the Teaching Council. Although still not fully clarified, it would appear that from April 2013, those delivering FETAC accredited programmes will need to register with the Council, the standard requirement being graduate and post-graduate qualification. Although Teaching Council regulations do allow some room for maneuver through recognition of prior learning and potential to accredit extensive on-site supervision (The Teaching Council, 2009), it is unclear how or by whom these will be monitored and the absence of effective systems that recognise prior experiential learning across the adult education sector remains problematic.

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8 With the exception of literacy and leisure pursuits.
These developments, both Towards Standards and the involvement of The Teaching Council, endorse dependence on certain specialist knowledge validated through university recognition, a customary feature of professionalisation (Larson, 1977, Houle, 1980, Cevero, 1988, MacDonald, 1995). The paradox this presents is that as bodies of knowledge develop around equality, social justice and the eradication of poverty, the professionals that circumvent these become dependent on the continuation of these circumstances for their own academic and professional survival often emitting a sense that theirs is the only true understanding of a particular situation.

Professionalisation can be presented as affording greater advantage for the community worker than the community member s/he is positioned to serve (Larson, 1977, McDonald, 1995) with that which is practiced by others considered un-professional and therefore unvalued. This is regardless of the legitimacy of community connections. Linking professional status to university qualifications also takes their acquisition out of the reach of many residing in the communities in question, less likely to have the educational requirements required to attend college (O’Connell et al, 2006). This perpetuates the internal cooption of practice by ‘outsider community workers’, potentially valuable in their role as ally, but also guilty of contributing to capitalism’s cultural invasion (Freire, 1972) through the unwitting hegemonic incursion of middle-class norms. When they take up representative roles, as has often been the case, the quality of this representation is questionable given that those negotiating do so from their own lens of experience and not from lived experiences.
Conclusion

Despite its pessimistic overtures, this paper is committed to the promotion of radical community education viewing it as symbiotic with a type of community development that is practiced to challenge the status quo. Whilst the extent of the State enforced annihilation of the sector and the ease at which this has happened can seem overwhelming, a potential phoenix from the flames might be a return to some of the radical voluntary activism that initiated social change community education in the first place. A consequence could be a re-adoptions of conflictual relationships with the State, bringing practice away from consensus models that have underpinned so much of Ireland’s recent history and in line with new social movement theories forcing practitioners to consider whose side they are on.

Some examples of this approach are identifiable; The Spectacle of Defiance and Hope, a broad based alliance of community organisations, artists and trade unionists and linked to the occupy movement, is committed to creative resistance to community sector cuts and economic injustice. Its actions to date have not only culminated in the mobilisation of 1,000-2,000 community members and workers, in colourful street protest on three occasions, but in a Freirean influenced process of conscientisation, initiated through locally based workshops politicising communities and those who work within them. A second collaboration between the community sector and trade unionism, the Communities Against Cuts Campaign9 has also mobilised support, most significantly through a rally of 12,000 people opposing cuts to the community sector. Recently re-convened, it is working to support praxis influenced local activism to a range of issues alongside building for a national rally at budget time.

One cannot deny the failures of these actions to substantially influence the political establishment, a further reminder of the lack of leverage held by the sector. Mobilisations do however ensure visibility for a cause and builds solidarity within. The community sector could also form wider alliances across social movements such as environmental, anti-austerity and anti-capitalist campaigns and link with adversarial political parties and independent TDs. Again it is unclear what the outcome of such alliances might be but this reticence can be countered with an assertion that pluralist actions have not thus far succeeded in improving the lot for many and perhaps it is time for a different approach. For social change community educators, the creation of critical learning spaces that encourage a questioning of the status quo is an important counter-hegemonic action that, true to its principles, encourages each of us to consider ourselves as social actors and to ask how we might become an agent for change.

Bibliography


THE PUBLIC INTEREST LAW ALLIANCE: FACILITATING COMMUNITY LEGAL EDUCATION IN IRELAND

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Abstract:

This article presents the work of the Public Interest Law Alliance in providing legal education to Irish NGOs. While community legal education is usually conceived of as education provided directly to individuals in the community, PILA's work shows how the provision of legal education to organisations can improve the impact of their services. The article includes direct feedback from NGOs who have benefitted from PILA's efforts in this area.

Keywords:

Community legal education, NGOs, education, global public interest law.
Introduction

This short article briefly examines some relevant scholarship in the field of community legal education and then outlines the work of the Public Interest Law Alliance (PILA) to provide legal education to the staff members of the non-governmental organisations (NGOs) in Ireland that it works with.

PILA is a project of the Free Legal Advice Centres Ltd (FLAC) that was established in 2009 with the broad remit of advancing the use of law in the public interest and for the benefit of marginalised and disadvantaged people in Ireland. PILA’s work in this area is similar to that undertaken by similarly situated organisations around the world and PILA is a member of PILnet, the global network for public interest law.1 “PILnet envisions a world where rule of law, as developed and supported within a wide variety of countries, delivers justice and protects human rights. PILnet connects with local partners to develop the institutions essential to rights-respecting societies. It inspires lawyers to serve the public interest, strengthens the ability of civil society to help shape law and policy and makes formal systems of justice more accessible.”2

One of the ways PILA expands the use of law in the public interest and seeks to make PILnet’s vision a reality in Ireland is through its pro bono referral scheme. PILA has established strong relationships with more than 50 NGOs and engages with their staff members regularly to assess the ever-evolving legal needs of the NGOs. These legal needs range from properly informing campaigns on policy and law reform, to identifying issues that can be resolved through strategic public interest litigation, to ensuring that NGOs are legally compliant on a host of organisational matters, such as data protection, freedom of information and contracts of employment.

At the same time, PILA has built a pro bono register of more than 100 barristers, individual solicitors and law firms of various sizes who are willing to volunteer their time, energy and expertise to help address the ongoing, unmet legal needs of NGOs with insufficient funds to pay for legal services.

From the outset of PILA’s engagement with NGOs, it has been manifest that one of the primary needs of NGO staff members working to address some of the most vexing issues facing Irish society was for education about the legal system and the law relevant to their clients. PILA’s *modus operandi* for working to meet this need is outlined below. It is important at the outset, however, to establish that the need for legal education is not unique to Ireland.3 What’s more, as the literature shows, community legal education, because it can be hugely empowering, is an important ingredient of public interest law initiatives around the world.4

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1 See [http://www.pilnet.org](http://www.pilnet.org) for more information.
3 See footnotes 5-10 below and accompanying text.
4 ibid.
I. Community Legal Education: Goals and Methodology

“Community legal education projects exist in many forms and are conducted by many law firms, legal services offices, clinical programs, and/or community organizations in this country and around the globe. Typically, they are ad hoc efforts where a particular individual--attorney, law student, paralegal, or community organizer--is asked to present a how-to workshop, develop a manual, or lead an informational or training session for other attorneys, advocates, or affiliated professionals in the community. However, community education efforts can go beyond the transfer of knowledge and information to also promote and encourage public awareness, community engagement, and advocacy. Viewed through this lens, community legal education can be an effective and far-reaching instrument of social justice, requiring the same deliberate and strategic planning that is necessary for any type of social change or law reform work.”

Indeed, community legal education is a “logical and powerful adjunct to regular casework and law reform initiatives” and has been used around the world “to effect social change.” Its focal point is the empowerment of communities by building capacity. The first task that must necessarily be undertaken then is to define what the community is. Community is an inherently broad term in the context of community legal education. A community can encompass seemingly quite different and/or overlapping groups; can be defined geographically; can be self-identifying; or can be comprised of individuals and groups, who do not self-identify, yet share a common experience.

The second task is that those who promote and provide community legal education – while it can be delivered in a number of different ways: presentations, workshops, less formal discussions, ongoing dialogue, and using different mediums – must establish clear goals at the outset.

PILA spent a considerable amount of time on each of these tasks before it commenced its work in the field of community legal education. A detailed description of how PILA provides community legal education through its pro bono referral scheme follows.

II. PILA and Community Legal Education

Since 2010, PILA has run a pro bono referral scheme that matches expertise in the legal profession with specific legal needs in NGOs. One of the most pressing areas of legal need remains legal education for NGO staff members. Before PILA began to make referrals through the scheme, meetings were held with NGO staff to help them identify

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8 Ibid. at 405.
10 Margaret Barry et al. (n7) at 405-406.
11 More information about PILA’s work in the field of community legal education, and about all of its work, can be found at www.pila.ie.
their legal needs. Legal education was one of the issues that kept recurring in meetings as something NGOs would be interested in receiving. Consequently, PILA devised a legal education programme for NGO staff members.

Because PILA works solely with organisations, not with individuals, community legal education is not delivered directly to marginalised and disadvantaged people on the ground. Legal education sessions are organised for NGO staff members.12 The sessions equip staff members with legal knowledge so they can better assist their clients and service users on the ground.13

### III. Aim of Legal Education Sessions

PILA organises legal education sessions for NGO staff members with the aim of helping them to use the law more effectively in their work. PILA envisages this happening in two ways. First, the sessions equip NGO staff members to better advocate on behalf of their clients – immigrants, homeless people, victims of trafficking, domestic violence victims, recipients of social welfare, LGBT community, lone parents, children, prisoners – and to enhance their capacity to identify systemic issues that may require further legal analysis, perhaps ultimately leading to a law reform campaign or strategic test case. PILA, as the name suggests, has a public interest law focus and believes this capacity building to be extremely important. PILA can also facilitate any additional legal assistance required through the pro bono referral scheme.

### IV. How PILA organises Legal Education Sessions

Legal education sessions are designed and organised following consultation with NGOs on what type of sessions they require and what specific queries they would like answered. PILA has devised a questionnaire for NGOs to fill in to ascertain, among other things, their level of legal knowledge, their opinion on the law and legal jargon, how they will use the information received and what issues within the area of law the session is covering would they like the lawyer (or lawyers) to address. PILA then collates the information in the questionnaires into a background note for the lawyer delivering the session, so that she will know what issues to cover, gain a better sense of the audience and decide how best to pitch the session. A lawyer will not be able to cover every issue within an area of law in the allotted time. PILA asks the lawyer delivering the session to consider providing a concrete case study on any area specified as requiring particular attention.

### V. Format of Legal Education Sessions

PILA legal education sessions typically run for three hours at the most, including time for questions and answers. PILA provides guidelines to the lawyer delivering the session on the appropriate format to use. For example, time must be allocated for a question and answer session, although it is up to the lawyer whether to take questions throughout the session or to leave questions until the end.

12 It is worth noting, though it lies beyond the scope of this article, that there is disagreement among scholars in this field as to whether education provided to NGO staff members is actually community legal education. One group believes that, because the staff members of NGOs stand with marginalised and disadvantaged people, that solidarity makes them a part of the "community." The second group believes that the staff members of NGOs are simply not part of the "community." See Margaret Barry et al., (n7) at footnote 12. Suffice it to say that 1) as to form, PILA is designed to work with NGOs and 2) as to substance, PILA concurs with the second group of scholars.

13 It is also worth noting, though it again lies beyond the scope of this article, that PILA provides legal education sessions that do not address the substantive work of the NGOs it works with, but rather their organisational needs (e.g., data protection, employment law).
The guidelines also include examples of what tools could be used in the session to allow as much interaction between the lawyer and the participants as possible, e.g., case studies, division of participants into groups for discussion and role play (if there is more than one lawyer delivering the session).

The maximum number of participants in each session is 30. This facilitates the flow of the intended discursive element of the session and, it is hoped, makes participants feel more comfortable about asking questions on a subject they may not be familiar with.

VI. Areas covered and feedback from NGOs

PILA has organised 28 legal education sessions to date for 575 NGO staff members. Most have been on a cross-organisational basis, but PILA also organises sessions for one organisation where there are sufficient staff members to warrant it. Education sessions have been held on substantive areas of law, such as mental health law, housing law, family law, good governance, immigration law, refugee law, and landlord and tenant law. Additionally, PILA has organised sessions on procedural areas of law and on legal drafting and legal advocacy skills. Many of the NGOs with whom PILA works advocate on behalf of clients. NGO staff members ordinarily do so through letters, written appeals, over the telephone or at tribunal hearings. As such, training in basic legal skills — analysis, drafting and advocacy — can benefit their work enormously.

Overall, the feedback from NGO staff members who have attended PILA legal education sessions has been very positive. Following are some examples:

- The social welfare law participants described the session as “very clear” and noted that “information sheets were excellent.” They advised that they will use the information “to advocate more efficiently on behalf of clients” and “to inform clients of their rights.” One participant said “that I am better able to understand HRC and appeals system,” and another commented that “I will be able to advocate more efficiently on behalf of clients.”
- The refugee and asylum law participants found the session “very clear and informative, delivered in an easy style with good use of diagrams,” found the “material very useful and presentation skills very high” and observed that the “speaker was very approachable,” the “Q&As covered a wide range of issue,” and that this was the “best training to date, just the right amount of information.”
- The legal drafting skills participants found the session “incredibly practical and applicable to work.” They specifically stated they will use the knowledge gained to better format letters when advocating on their cases, as well as to create good templates for letters and written appeals and to improve the structure of letters of application to relevant bodies.
- The legal advocacy skills participants called the session “useful and informative.” One advised that the session gave him confidence to advocate for vulnerable/discriminated individuals who are often afraid to complain. Another participant said she will use the knowledge received at the session in representation at tribunals.
- The mental health law participants praised the session for being “presented with respect and clarity,” “very helpful, fresh and energising,” “a brilliant session,” and for allocating “plenty of time for Q&A. [the lawyer delivering the session] was very good at keeping momentum going when people distracted her.” One participant said she will use the information to clarify for clients the decisive issues relating to their legal status. Another participant said that, when meeting clients, she will be able to discuss their situations more accurately.
The uniformly positive feedback PILA has received on its community legal education to date is gratifying. To ensure real impact, PILA follows up regularly with NGOs both to identify new potential areas where legal education may be necessary and to determine whether additional sessions and/or updates are needed in areas where sessions have already been provided. PILA believes that this follow up, together with the provision of detailed materials put together by expert lawyers, militates against the possibility that legal education sessions become “hit and runs.” Instead, they add real value and can be built upon.

VII. Legal Education Outside Dublin

As most of the organisations PILA works with are based in Dublin, the vast majority of legal education sessions are held in the capital. However, PILA organises sessions in the regions as well. Sessions have been held in Limerick, Mayo and Galway thus far, and a session in Cork is currently being planned. PILA always tries to secure local lawyers to deliver the sessions and works in collaboration with an NGO in the region because of its understandably better sense of the realities on the ground.

VIII. Use of technology to Disseminate Legal Education Materials

PILA is aware that NGO staff members are very busy with their important work, particularly in these difficult times, and mightn’t be able to attend legal education sessions that would be useful for their work. Furthermore, as a public interest law organisation, PILA is conscious of its mission to spread legal knowledge, which can greatly empower the NGOs it works with. Accordingly, and with the approval of lawyers who deliver legal education sessions and design materials that participants can take with them, PILA makes these materials available through its website.14 When new materials are made available, PILA notifies its broad range of stakeholders through the bi-monthly PILA Bulletin and through its Facebook and Twitter accounts.

14 http://www.pila.ie
Conclusion

When PILA was established as a project of FLAC in 2009, it looked to best practices internationally and to PILnet to ascertain how best to expand the use of law in the public interest in Ireland. The provision of community legal education is a core aspect of the work of other public interest law organisations. PILA’s initial engagement with NGOs demonstrated the need for legal information and education in Ireland, and PILA’s efforts to provide community legal education through its pro bono referral scheme are now similarly core to achieving its overarching mission.

PILA believes that its community legal education efforts will encourage NGO staff members in future to always consider the legal dimensions of the problems they are confronted with. This, in turn, will lead to more strategic public interest litigation, and PILA’s pro bono referral will increasingly be used to facilitate the taking of cases that can benefit large numbers of similarly situated individuals and groups. This has been the experience of public interest law organisations in other jurisdictions that PILA has met through its membership of PILnet.

While the feedback to PILA’s efforts since 2010 is almost universally positive, it is still too early to state definitively whether community legal education will have the same impact in Ireland that it seems to have had elsewhere. Like so many of PILA’s activities, community legal education is very much a “seed planting” exercise. But the premise upon which PILA was founded, and upon which PILA’s counterparts around the world were founded, is that these “seed planting” exercises can progressively reform and demystify the law and the legal system. That would surely be in the public interest.

15 The Community Legal Education Association of Manitoba, Canada is another case in point. More information is available at http://www.communitylegal.mb.ca accessed 4 November 2012.
BRIDGING THE GAP BETWEEN LEGAL RIGHTS AND HOMELESSNESS – THE WORK OF THE MERCY LAW RESOURCE CENTRE

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Abstract:
This article is an exposition of the work of the Mercy Law Resource Centre, a Dublin law centre that focuses on the provision of legal services to people affected by homelessness. The author discusses the legal frameworks relating to homelessness and the factors that contribute to its complexity and intractability as a social problem. He sets out a practical account of the way in which the work of MLRC makes a tangible contribution to solving the problem of homelessness both for individuals and for the community at large.

Keywords:
Homelessness, CED, community legal services, law centres, litigation, policy development.

* The author was recently seconded to Mercy Law Resource Centre to work as a trainee solicitor for three months, as part of Mason, Hayes & Curran Solicitors' Corporate Social Responsibility Programme.
Introduction

This article will describe the importance of a specialised legal advice and representation service, within a system of community support services, designed to assist people who experience or are at risk of homelessness. The article will particularly focus on the role of the Mercy Law Resource Centre (MLRC), a law service which engages in this role. The MLRC will be described as a working example of CED Lawyering.1 The Centre, through the medium of law, influences social change and helps to redress a discrete problem in Irish society.

MLRC was established by the Sisters of Mercy in 2009 to provide a free advocacy service for people who experience or are at risk of homelessness. The Sisters of Mercy initially identified this group of society as facing particular hurdles in accessing legal services, rights and entitlements. Social housing and social welfare law were recognised as being poorly catered for by the State and private legal sector.

MLRC serves this role through providing an accessible service tailored to suit the needs of households2 who require legal assistance with housing and social welfare legal issues in the Dublin area. MLRC also provides specialist legal guidance to other organisations in the field to assist the collective effort to support households affected by homelessness. A further objective of MLRC is to campaign on behalf of its client group to influence government policy and to generate awareness generally of the very considerable impact that homelessness, or the threat of such has on so many families’ freedom, security and way of life. The Dublin area has by far the highest prevalence of homelessness in the country. A special report as part of the last Census in 2011 indicated that 60% of 3,808 homeless persons enumerated were in the Dublin region on Census Night. Dublin also has the highest concentration of homelessness services. For these reasons MLRC focuses its work on the central Dublin region in an effort to maximise its limited resources to cater for as many people as possible.

I. The Need for a Legal Service in a Network of Community Services

There is a wide and increasingly high-profile range of services currently addressing the issue of homelessness in Ireland. These services are provided by a network of bodies comprising both the public and voluntary sectors. The services include preventative strategies,3 local authority co-ordination strategies,4 and supportive services providing accommodation and other social services.5 Many organisations perform a dual role by providing emergency, short-term accommodation and related support services to people experiencing homelessness alongside the separate role of developing policy and initiating political and public campaigns on the issue of homelessness.

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2 A household can comprise an individual or a family unit, comprising a couple without children or with up to 15 children.
4 See for instance the work of the Dublin Region Homeless Executive.
5 See, for example, the Local Authority Assessment and Placement Service who manage the provision of Local Authority Social Housing and Emergency Accommodation to people experiencing homelessness, and also the work of major nationwide organisations such as St. Vincent de Paul, the Simon Community, Focus Ireland, and The Salvation Army. There are over 300 associations across Ireland who are members of the Irish Council for Social Housing who complement state-provided social housing.
For those who are homeless or are facing the prospect of homelessness, the laws of the State and, in particular, the actions of State bodies operating through this area of law have an acute impact on the day-to-day lives of this client group. How these laws affect households can have life-altering consequences: for instance, the decision to be placed on a housing list, or to be afforded medical priority for social housing support, or a decision to evict a household. Frequently, households within this client group are extremely disempowered by human and financial stress. A sizable proportion of the client group which instructs MLRC struggle to varying degrees with issues such as mental illness, addiction, criminal history, relationship breakdown and profound economic hardship. The complex, intimidating and often fragmented nature of legal procedures surrounding social housing and social welfare issues can exacerbate a household’s already very stressful circumstances. These procedures include applications for various social housing support structures and eviction procedures. One of the central aims of MLRC (and, indeed, Community Law Centres more generally) is to make the State’s services and procedures more accessible and understandable, and to provide assistance at each step to ensure that clients are aware of their rights and entitlements and that they have the full legal support to pursue them, particularly where State services may err in applying the law.

The assistance that MLRC provides in resolving the legal dimensions of households’ problems is an essential element in the network of support structures for this group in society. Although other associations may have substantial expertise in other elements of the issue of homelessness and may be able to provide limited legal advice, the need for dedicated legal assistance is particularly vital in this area of law. This is due to a range of factors:

- The complexity of the law
- The general lack of representation due to the limited means and resources of the client base
- Difficulties with access to information

### i. The Complexity of the Law

Although the essence of the problem of homelessness is simple - where a household does not have a place to call home - the legal framework is complex. The rights and entitlements of households conflict with the limited resources available. At the latest count, there were 98,318 households deemed by local government to be eligible and in need of a permanent home. Of these 2,348 households are deemed homeless. It is worth noting that these statistics do not include those who may have a housing need but have not applied for social housing support or those who have applied but have not yet been assessed.

<table>
<thead>
<tr>
<th>Category of Need</th>
<th>No. Households</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeless</td>
<td>2,348</td>
<td>2.4</td>
</tr>
<tr>
<td>Traveler</td>
<td>1,824</td>
<td>1.9</td>
</tr>
<tr>
<td>Existing accommodation unfit</td>
<td>1,708</td>
<td>1.7</td>
</tr>
<tr>
<td>Existing accommodation overcrowded</td>
<td>4,594</td>
<td>4.7</td>
</tr>
<tr>
<td>Involuntary sharing</td>
<td>8,534</td>
<td>8.7</td>
</tr>
<tr>
<td>Young Persons leaving institutional care</td>
<td>538</td>
<td>0.5</td>
</tr>
<tr>
<td>Medical or compassion reasons</td>
<td>9,548</td>
<td>9.7</td>
</tr>
<tr>
<td>Older persons</td>
<td>2,266</td>
<td>2.3</td>
</tr>
<tr>
<td>People with a disability</td>
<td>1,315</td>
<td>1.3</td>
</tr>
<tr>
<td>Not able to meet the cost of accommodation</td>
<td>65,643</td>
<td>66.8</td>
</tr>
<tr>
<td>Total</td>
<td>93,318</td>
<td>100</td>
</tr>
</tbody>
</table>

MLRC’s main service to households is the provision of legal assistance to those who either seek social housing support, or to those who are housed but are in danger of being made homeless through eviction proceedings or are in unsuitable accommodation and seek a transfer. The legislative framework for these issues is provided through the Housing (Miscellaneous Provisions Act) 2009 and the Social Housing Assessment Regulations 2011. The provisions contained in these two pieces of legislation are central to households’ applications or appeals for accommodation and whether they are successful or not in same. The law is complex, and at times, ambiguous.\(^8\) MLRC acts as an advisor on how the law will apply to a particular household’s situation.

ii. Lack of Representation

For obvious reasons, social housing law is not an area of law that private practitioners specialise in for commercial gain. MLRC assists those who would not ordinarily be able to afford legal advice or representation.

Although state-provided legal assistance is available from the Legal Aid Board, frequently there are long delays in accessing its services.\(^9\) An essential element of access to justice is timeliness. Frequently, MLRC’s clients require urgent assistance in resolving their matter. MLRC has successfully catered for demand to process legal issues in a timely manner within its set geographic parameters.

There is a collaborative supportive network for various law centres in the form of the Public Interest Law Alliance. This network recognises the importance of collaboration amongst the different agencies as a means of improving the effectiveness, scope and efficiency of their combined services. These services endeavor to fill the considerable void left by the under-resourced, state-provided legal aid.

iii. Difficulties Accessing Information

Frequently, individuals and organisations ask MLRC for simple information on the provision of certain public services or on basic legal issues. Many clients are unaware of how to obtain this information. In the realm of housing law and social welfare law, information may be sought on issues such as how to apply for social housing support, how to challenge a decision of a local authority in respect of an application, how to make a complaint against a landlord, what one’s legal rights are in respect of a pending eviction, and how to apply for social welfare entitlements or to challenge the decision of the Department of Social Protection. MLRC also provides information on other matters such as family access and guardianship entitlements and certain criminal matters etc. However, MLRC does not provide legal representation on these matters and will refer individuals on to other available services and legal professionals.

II. How Clients engage MLRC

As mentioned above, the nature of MLRC’s practice and client engagement is not akin to normal practice for commercial gain. MLRC, like other Community Law Centres markets its services in a different manner to ordinary law firms, with a view to targeting and prioritising its services to those who need it most. This is done in the ways described below.

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8 See below for discussion on Lisa Kinsella v Dun Laoghaire Rathdown County Council
9 Fiona Gartland, ‘Delays of up to 10 months to see Legal Aid Board solicitor’ Irish Times, (Dublin, 25 February 2012).
i. Clinics

MLRC’s services are designed to make legal services as accessible as possible to households in the central Dublin area in need of such. To service this client group, MLRC hosts legal clinics in Dublin’s busiest emergency accommodation services and other homelessness service providers. The clinics are designed to serve both persons experiencing homelessness and living in emergency accommodation and also, through the drop-in services, to serve members of the public who may be experiencing homelessness or are under the threat of homelessness.\(^{10}\)

In this way, the clinics are targeted at a specific demographic, providing one-to-one legal advice to those who need it most. This allows MLRC to provide as accessible and as useful a service as its resources allow. Clinics are advertised in-house at the emergency accommodation providers.

ii. Collaborating with other Organisations

MLRC works alongside other charities and organisations which specialise in providing services to those experiencing homelessness. Social workers and other staff at Focus Ireland, Crosscare (Haven House) Threshold, Simon Community, Community Access Network and various Citizens Information Services Centres (amongst others) seek advice for their clients and refer them to MLRC where specialist legal advice or representation is needed. This referral system provides a crucial link between individuals requiring legal assistance and MLRC. While individuals may have certain issues or problems, it may not be immediately apparent to them that these issues may source from complex legal matters which could be resolved with a legal professional’s assistance.

MLRC also hosts training events with other homelessness organisations to help them to provide basic legal support to its users.

iii. Telephone and Office Meetings

MLRC are available to answer legal queries by telephone and to arrange meetings at its offices at Cork Street, Dublin 8.

\(^{10}\) At present, clinics are provided to the Residents of:
- De Paul Hostel, Backlane, Christchurch, Dublin 8 from 1 to 2 p.m. on Tuesdays
- Crosscare, Haven House, Morning Star Avenue, Dublin 7 from 4 to 5 p.m. every other Tuesday
- Dublin Simon, Harcourt St., Dublin 2 from 4 to 5 p.m. every other Tuesday

Walk-in clinic is provided at:
- Focus Ireland Coffee Shop, Advice & Information Service, 15 Eustace Street, Temple Bar, Dublin 2 on Wednesdays from 4 to 5.30 p.m.
- Liberties CIC, 90 Meath Street, Dublin 8 on Wednesdays from 11 to 12.30p.m.

Please visit www.mercylaw.ie for the most up to date clinic times.
III. How the Work of MLRC Helps to Solve the Problem of Homelessness

i. Changes in Law and other Impacts of Litigation

MLRC has represented clients at the Private Residential Tenancies Board, the Equality Tribunal and at the High Court. Generally, litigation concerns a challenge to a decision of a public body.

In the recent past MLRC has helped to reverse the initial decisions of local authorities and other public bodies through litigation, and in some instances, has brought about changes or clarifications in the law, resulting in improved access to appropriate housing and social welfare entitlements for clients.

The following are examples of the outcomes of litigation, which either clarified points of law, or provided positive results for claimants:

i) A client with a serious, debilitating illness and a young, dependent daughter sought a transfer of social housing accommodation to move to an area where family members would be able to care for her and her daughter. Her application for social housing support was not considered because she was already housed in another local authority. MLRC represented her in a hearing before the High Court which ultimately led to a judgment by Hogan J in the High Court requiring the local authority to consider her need for social housing support. This judgment clarified an ambiguity in the Social Housing Assessment Regulations 2011 pertaining to the assessment of eligibility and need for social housing support. The Court held that the local authority was not in a position to refuse to assess individuals where this was not expressly provided by legislation.

ii) A separated father with joint custody, access and guardianship rights in respect of his two teenage daughters was refused eligibility for 2 bedroom accommodation by a Local Authority as it was their policy to only allocate separated fathers bedsit accommodation. Proceedings were instituted before the Equality Tribunal alleging discrimination on the grounds of gender, civil status and marital status. The matter was fully resolved before hearing and the Tribunal investigation did not then proceed.

iii) A Romanian client who had been resident in Ireland since 2002 could not gain access to a Local Authority housing list due to the retrospective application of a rule regarding work permits and eligibility. As a result of this, the client and his family did not qualify for Rent Supplement and were facing eviction. MRLC contacted the local authority and, with the prospect of judicial review proceedings, the client was placed on the housing list with priority backdated to the date of his application.

As can be seen from the above, the legal representation undertaken by MLRC has been a crucial component in ultimately resolving the clients’ issues.
ii. **Information Dissemination**

MLRC provides accessible, relevant information literature to clients who have queries on issues that frequently arise. Earlier this year, MLRC collaborated with other Law Centres\(^\text{12}\) to publish an extensive explanatory booklet on social housing law: “Social Housing Rights Explained.” This booklet is promulgated by the law centres and leading homelessness organisations around Ireland. It provides simple guidelines to the often complex array of laws and procedures in social housing law.

iii. **Befriending Service**

MLRC recruits volunteers who make themselves available to befriend clients in order to accompany them and provide them with emotional and practical support as they go through the difficult process of trying to assert their rights.

The role may entail such activities as helping the individual to fill in forms, accompanying her/him to court, helping her/him to turn up to appointments etc. Training is provided to all volunteers who also have the support of regular group meetings where peer support is provided.

This service provides an important link between clients and the professional legal service which MLRC solicitors provide. MLRC recognises that although professional legal service is of assistance to our client group in many instances, the range of problems which our clients face need to be addressed holistically. Both practical and emotional support can be of great benefit to clients. Befrienders provide this necessary support to assist clients to address these issues and to link in with the necessary services to resolve them.

IV. **Policy Development**

MLRC combines its policy development work with other homelessness organisations throughout Ireland. MLRC’s aim is to “use the law to advocate effectively on behalf of our client group in order to change those laws, policies and attitudes which unduly and adversely impact on them and deprive them of the means to improve their lives.”

To that end, MLRC has made submissions and produced papers on a range of discrete legal issues which affect its client group and has been involved in providing legal expertise to collaborative projects campaigning for changes in the law. Certain campaigns on the issues of homelessness and social welfare comprise a number of different strands: social, economic, political and legal. MLRC provides the required legal expertise to complement the other strands of analysis for campaign materials. In particular, MLRC is currently involved in the following high-profile policy campaigns:

i. **Constitutional Convention**

MLRC is collaborating with an informal ‘Housing Group’, a collective group of law centres and homelessness organisations across Ireland\(^\text{13}\) to develop a campaign to put housing rights on the agenda for the Constitutional Convention.\(^\text{14}\) A survey carried out for Focus Ireland found 80 per cent of the public supported a Constitutional right to housing for Irish citizens. The poll of 1,000 people nationwide by Amarach Consulting found that 8 per cent of people disagreed with the proposal.

\(^\text{12}\) Ballymun Community Law Centre, Irish Traveller Movement Law Centre and Northside Community Law Centre.

\(^\text{13}\) This group comprises MLRC, Ballymun Community Law Centre, Northside Community Law Centre, PILA, Irish Traveller Movement, Barnardos, Focus Ireland, Community Action Network, Dr. Padraic Kenna, Lecturer NUI Galway, Member of FEANTSA (European Homeless). The group meets on a monthly basis to share information and consider matters of policy.

MLRC’s contribution to the campaign is to assist in drafting submissions for the group to send to government, outlining legal aspects of the reasons why a right to housing should be brought to the table at the impending Constitutional Convention.

ii. Collective Complaint

MLRC is currently collaborating with the same Housing Group to formulate a complaint to the European Committee of Social Rights under the auspice of FEANTSA, a major European network that focuses exclusively on homelessness at European level. FEANTSA enjoys participatory status with the Council of Europe and is entitled to lodge such collective complaints. This Collective Complaint aims to explain how Irish governmental policy on social housing and the issue of homelessness amounts to violations of Article 16, Article 30 and Article E of the Revised European Social Charter. The ultimate purpose of the Collective Complaint is to apply pressure on the Irish government to level up their policies in this area to the standards required by the European Social Charter.

iii. Other Policy Work

MLRC has produced papers on the following topics:

- NAMA
- Criminal Justice (Public Order) Bill 2010
- Proposed licensing and tenancy agreements under Pathway to Home
- United Nations Universal Periodic Review
- Local Authority Anti Social Behaviour Strategies
- Exemption in the Civil Legal Aid legislation in respect of Housing matters
- Mental Capacity Bill
- Response to the UN Special Rapporteur on Extreme Poverty and Human Rights
- Response to the Blueprint to Deliver a World-Class Workplace Relations Service.

MLRC continues to work with central and local government to highlight anomalies or injustices in the law affecting its client group.

15 FEANTSA: “European Federation of National Organisations Working with the Homeless”
16 Article 16 – The right of the family to social, legal and economic protection.
With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.
17 Article 30 – Everyone has the right to protection against poverty and social exclusion.
With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake: to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance; to review these measures with a view to their adaptation if necessary.
18 Article E – Non-discrimination.
The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.
V. Looking Forward: Using Law to Redress the Issue of Homelessness

In an earlier volume of this journal, Maria Antonieta Nestor describes CED lawyering “as a strategy for redressing urban poverty that acts as a facilitator by building and empowering communities through the use of different legal tools and approaches.”

The combination of MLRC’s activities bears many of the hallmarks of this concept, specialising in a particular area. In the 3 years since opening its doors, through legal discourse the Centre has impacted considerably on furthering equitable social development in the areas of social housing and social welfare on behalf of its client group. The Centre provides a “composite, mixed-recipe of legal, social policy and community development tools” as described by Nestor.

As outlined above, the work of MLRC (like all Community Law Centres) is restricted by its limited resources and its geographical focus. Although limited in these respects, the work of the Centre, as described above, demonstrates how the input of a small team of specialist legal professionals and support staff can play a unique and central role in addressing a specific issue of community poverty and disempowerment and ultimately help to reduce the problem on a national level. For instance, in Lisa Kinsella v Dun Laoghaire Rathdown County Council, in which MLRC acted for the plaintiff, the judgment may have the effect of drastically reducing the scope of circumstances in which a local authority may refuse to consider social housing applications. On a non-litigious note, MLRC constantly engages with the State’s services, in particular the local authorities in the Dublin area, providing a professional, legally competent voice on behalf of those who may not have the means to do so independently. Through negotiation and a clear understanding of particular clients’ circumstances and how the law applies to them, compromises and solutions are frequently arrived at between MLRC’s clients and the relevant state body. Through negotiation at this level, Law Centres such as MLRC provide balance between certain groups on the margins of Irish society and their engagements with State services. This particular role should not be underestimated in the broader context of how professional legal services can assist in reducing the social issue at hand.

The ever-expanding client base within the Dublin area demonstrates that there is a sizable demand for legal services for this client group. Ideally, such services should be available for people experiencing homelessness on a nationwide level.

19 Nestor, (n2).
20 Ibid.
Conclusion

The combined effect of MLRC’s direct client contact at clinics, strategic litigation, and policy work (undertaken both by MLRC alone in a collaborative context) serves as a multi-purpose service that supports its client group by making the law more accessible to them, by advocating and campaigning effectively on their behalf in order to change the laws, policies and attitudes which unduly and adversely impact on them.

MLRC serves a particular role within the complex system of homelessness, social housing and social welfare services. Although in essence a legal service in a defined area, MLRC operates in a broader context in an advisory capacity to other NGOs who may not have specialist legal expertise. It also accepts referrals of legal queries from these other organisations. While other organisations work for the same client group to provide other specialist services to improve their quality of life, MLRC offers its legal expertise and assistance to the client group - both directly to them, and indirectly through these other organisations.

MLRC also works with state bodies, to reason and negotiate with them, and to highlight particular instances of perceived breaches of law or other injustices. Where necessary, MLRC engages the state bodies through litigation. In a sense, MLRC plays a delicate dual role in its relationship with state bodies, making efforts to collaborate with them to ensure the fairest results available to its clients within the parameters of the law, and on other occasions, holding them to account through litigation or the threat of such, where a state body’s interpretation of the law is possibly unjust.

In this way, and through policy development, MLRC acts as a crucial communicative link between these state bodies and the people that they are designed to serve.

Law plays a central part in the prevalent social problems which MLRC’s client group face. While the client group’s issues and needs are, on the face of it, frequently immediate and tangible in the sense that their accommodation or financial situation is unsustainable, the application of law through CED lawyering is often decisive in improving their situation. MLRC acts as a facilitator to bridge the gap between their problem and the law, to arrive at a fair and appropriate resolution and, as such, plays a vital part in the system of co-existing services endeavouring to improve the quality of life of its client group in a fair and appropriate way.
BOOK REVIEW:
HOUSING LAW, RIGHTS & POLICY
BY DR PADRAIC KENNA*


This textbook examines and dissects the area of housing law, rights and policy in Ireland. It is suitable for a wide range of professionals from legal advisors, housing administrators, policy makers, law students and activists to any individual working in housing. Chapter one is an introduction to the book stating a holistic approach covering all forms of accommodation. Housing affects all in society, and this theme runs throughout the book. The book would appeal to a person seeking to get a well-structured, detailed foundation in housing law and policy in Irish society. Dr. Kenna’s analysis extends beyond the policy and legal realm and explores the rights that are being established through Irish case law and case law of the European Court of Human Rights.

In chapter two, Dr. Kenna outlines the development of the Irish Housing System detailing the economic, political and social struggle that was endured in Ireland. This covers the decline of the ruling families in the large estates in Ireland, the influence of Michael Davitt on the rights of tenants to resist illegal evictions and the advanced state of decay of tenement housing. The Housing Act 1919 was enacted despite political turbulence and illustrates the significance of housing to the state. The link between economic activity and housing is a constant theme which is developed with the role of macro economics and capitalism linking land and house prices within the housing market.

The chapter includes a description of Marx’ and Engels’ assessment of the question of housing. Chapter three contains perspectives on the Irish housing system and a comparison with that of the United Kingdom. Irish policy makers are obliged to take account of the body of jurisprudence from the European Court of Human Rights, especially because of the increase in cases taken in relation to illegal evictions by Member States. The conflict of rights between landlord and tenant and the role of the state in intervening between the two interested parties is scrutinised to demonstrate that need for reform is obvious. The development of a legally enforceable entitlement would create consistency in the area of housing rights. Outside Ireland there has been a movement toward housing forums in which the state authorities, voluntary organisations, trade unions and other government departments provide representation to develop a multi point plan in relation to housing needs.

Chapter four focuses on providing a definition of housing need in Irish law and policy. There is an examination of different social groups within the area of housing need and the increasing numbers in state supported residential centres, which have recently been regulated. The Scandinavian approach focuses on the person and the person’s needs. Theories of homelessness are examined fully with the role of the homelessness agency and the systems in operation in the United Kingdom. Dr. Kenna debates philosophy and the provision of housing stock that is linked with an assessment of the housing need of the society. This discussion is developed in Chapter five, which studies specific

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Chapter six tackles the contentious issue of housing and the Irish state finance as it pertains to housing provision and other financial mechanisms. There is direct and indirect financing of housing by the state. The most direct form is the use of the taxation system while the primary indirect form is the system of schemes that support housing. The Rental Accommodation Scheme subsidises the rent of persons in a certain bracket. The Housing Finance Agency Act 1982 was designed to assist in the provision of finance for housing. The Housing (Miscellaneous Provisions) Act 1992 provided for shared ownership and consideration given to the rent being paid as well as other lump sums and percentages of ownership recognisable by the local authorities. Dr. Kenna includes the NAMA Act 2009 and the effect of a windfall tax on rezoned land as a new mechanism of state financing.

In chapter seven Dr. Kenna explores the law of mortgages, which is often neglected. The Land and Conveyancing Reform Act 2009 redefined mortgages and equitable mortgages and the powers and rights of a mortgagee in section 96 and section 97. The use of judgment mortgages and the involvement of the family home with new legislation are designed to give the court more discretion. In the current climate this chapter provides an excellent source of relevant information and includes the revised code of conduct for mortgage arrears.

In chapter eight Dr. Kenna focuses on the concept of a right to housing. The right is argued to be fundamental to an individual’s dignity supported with theories of social justice and equality. Case law on socio economic rights illustrates the battle between individual rights and judicial concern for the separation of powers. The Jesuit Centre for Social Justice and Social Justice Ireland are campaigning for better-established and enforceable housing rights and socio economic rights. The debate is influenced by the European Convention on Human Rights Act 2003.

Chapter nine reviews the relationship between private law and housing. The de facto family and case law in relation to direct and indirect contributions are explored. The Family Home Protection Act 1976 and Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 is discussed extensively. The area of private law is then explored by Dr. Kenna who deals with the provision of professional building services, the use of auctioneers and engineers and the issues of liability and compensation for negligence. This has become a live issue for society as a result of difficulties involving pyrite and other structural concerns in the work of construction professionals.

Chapter ten details an outline of planning, housing standards, and buildings regulations and illustrates the role of parties employed or engaged by Local Authorities. This includes organisations that assist in assessing planning applications. The reform of the planning system was instrumental in the regulation of the building industry and the interpretation of building regulations. Issues exposed in the Flood report in relation to planning irregularities as well as the All Party Oireachtas committee in 2004 are included so that the reader will understand the context of the changes.

Chapter eleven recognises the role and function of local authorities examining the statutory obligations and reform of housing law that has occurred in the last ten years. This textbook provides a useful and informative analysis of the Planning and Development Acts and the Housing Miscellaneous Provisions Acts. The regulations providing standards include an examination of the housing services plan and the use of rent book regulations. The author highlights that there is a need for the integration of the legal and regulatory systems.
The state obligations when dealing with illegal occupiers under the Housing Act 1966 referencing the Housing Act 1997 are thoroughly discussed. The Housing (Miscellaneous Provisions) Act 2009 requires local authorities to develop an anti-social behaviour strategy to be completed at least 6 months before the housing services plan expires.

Chapter twelve details the effect of the Residential Tenancies Act 2004, which sets out the definitions of a tenancy and a dwelling. It then addresses the establishment of the Private Residential Tenancies Board (PRTB), the rights of a tenant and periods of notice required. The PRTB can with the consent of the minister under section 13 make a supplemental list of landlord's obligations. There is discussion of the Section 58 termination, rent setting and use of rent review clause as well as dispute resolution and the registration of tenancies. Dr. Kenna's comprehensive approach provides detail on the supplementary rent allowance, the role of the state in assisting the individual or the family as well as reference to the annual review of the PRTB and the database of decisions. Chapter thirteen tackles the difficulties surrounding apartment-dwelling including the new player on the field, the management company, and the inherent difficulties that are experienced for those living in an apartment. The Multi Unit Development Act 2011 has not been exposed to enough scrutiny until the publication of this work and in the light of the complex legal issues at play this chapter will serve as a valuable reference.

In Chapter fourteen, Housing Associations and Co-operatives, the author deals with the historical housing trusts in Ireland such as the Iveagh Trust Act 1903. The Irish Council for Social Housing is a symbol of the growth of co-operatives and housing associations. Co-operatives were initially a solution for many with a specific housing need within the Traveller community. The expansion of social housing associations is often means through which the state may outsource the maintenance of housing estates and housing stock. The regulation of housing associations is discussed in detail. The distinctions between tenants in social housing associations and those in other local authority housing are usefully outlined.

Chapter fifteen undertakes a review of the difficulties that exist in relation to rural housing and in particular the public debate that surrounds one-off housing policy. There are difficulties in relation to accommodating the needs that rural housing presents. The rural renewal scheme gave taxation relief to those who renovated and constructed rental accommodation in certain counties. The living-over-the-shop scheme was provided under the Finance Act 2001 in five main cities, thereby excluding many rural areas from benefit.

In Chapter sixteen there is an exploration of the role of the European Union in controlling and developing housing policy in Ireland. The expert group on mortgage arrears is included with a wide variety of European equivalents which includes useful sources of European regulation and policy makers. Dr. Kenna addresses European consumer law in the form of the Unfair Terms in Consumer Contracts Regulations that has had a massive effect on all consumer dealings and is worthy of examination. Inclusion of an examination of mortgages in the European Union is of interest to practitioners, as clients may have invested in numerous properties abroad and obtained mortgages in other EU countries. The EU Framework Directive on homelessness includes coverage of the European Federation of organisation who are developing a typology of homelessness and housing exclusion called ETHOS.

The conclusion in the final chapter provides a useful summary of the main themes of the author's extensive deliberation in this textbook. The multi-layered approach of the author makes the book an enlightening resource for an individual with a legal background. The distinctions between private and public housing are often overlooked by writers, but this book avoids those pitfalls. It will make the reader realise that our approach to ownership and the development of rights that are recognisable and enforceable is an ever-changing landscape in need of cultivation and protection.
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