

One Problem, Many Responses? – A Multidisciplinary Approach to Access to Justice.

Is there a role for non-legal professionals to play in access to justice initiatives? And could a multidisciplinary approach facilitate better access to justice? These questions and their possible answers go to the heart of the immediate debate over the goals and ambitions of those committed to confronting and enhancing access to justice.

A good place to begin is the suggestion by Ab Currie in “[Nudging the Paradigm Shift](#)” that:

“multiple problems, the existence of trigger and consequence effects (or in situations in which a single problem triggers multiple or a chain of problems, what might be called trigger and cascade effects) and possible momentum driving legal problems suggest that early intervention and resolution is needed to prevent legal problems from forming interconnected clusters that are more difficult to resolve.”¹

From an access to justice perspective, the main issue that arises from this important insight is how we might start to address the clustering or cascading of problems. Previous empirical research has identified the potential ‘clustering of legal problems’ that results from a person’s inability to resolve their legal issue. Moreover, ‘clusters of legal problems’ are often a strong indicator of social exclusion.² In accordance with conceptions of social exclusion, certain individuals may be geographically resident in a society but unable to participate in the “normal activities of citizens in society.”³ The involvement of a variety of non-legal professionals offers an opportunity to combat both clustering and the resulting exclusion that clustering or cascading problems can cause.

Key components of the activities from which individuals are excluded include the ability to exercise decision-making power and the ability to be part of a larger community from which the individual can draw support and a sense of connectedness. Individuals who are socially excluded suffer from economic disadvantage and are less likely to secure social

¹ Ab Currie, “Nudging the Paradigm: Everyday Legal Problems in Canada”, (Toronto, Canada: Canadian Forum on Civil Justice, 2016), available online at www.cfcj-fcjc.org/a2jblog/nudging-the-paradigm-shift-everyday-legal-problems at 17.

² Ab Currie, “The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians”. Available online at www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07-la1-rr07_ajl/rr07/la1.pdf [Currie, “The Legal Problems of Everyday Life”]. In examining the link between access to the civil justice system and issues of social exclusion, Pleasance highlighted the importance of access to legal advice in the sense that “legal advocacy and legal advice for the poor and excluded is an effective engine for social inclusion and fighting poverty through insuring and expanding rights to critical benefits and services, and giving a voice to grievances and empowering people and communities. Alexy Buck, Nigel Balmer & Pascoe Pleasance, “Social Exclusion and Civil Law: Experiences of Civil Justice Problems among Vulnerable Groups” (2005) 39:3 Social Policy & Administration 302 at 304 [Buck, Balmer & Pleasance, “Social Exclusion and Civil Law”] quoting J Stein, “The Future of Social Justice in Britain: A New Mission for the Community Legal Service” (2001) Centre for Analysis of Social Exclusion, London School of Economics 48

³ Tania Burchardt, Julian Le Grand & David Piachaud, “Social Exclusion in Britain 1991-1995” (1999) 33:3 Social Policy and Administration 227 at 230.

rights that include employment, housing, health care and education.⁴ In this sense, there are economic as well as social aspects of this state of affairs that give rise to social exclusion.⁵ Thus, in recognizing and addressing social exclusion, it is important to identify and remedy the various mechanisms by which individuals are disengaged from and/or unable to access mainstream society. However, more often than not, individuals experiencing social exclusion experience a combination of problems that include among other things, unemployment, poor skills, low income, lack of housing, high rates of crime and the breakdown of the family. Alone or in combination, these problems perpetuate social exclusion, disempowerment and alienation, thereby making it difficult for individuals to resolve issues on their own and almost impossible for them to affect justice in their lives.⁶

Thus, social exclusion can be both a cause and effect of an individual experiencing justiciable problems. In order to effect justice, it is often necessary to address a variety of issues that prevent an individual from having a better, healthier and productive life. Data outlined in the Canadian Forum's [Overview Report](#) indicates that individuals' attempts (and often inability) to resolve their legal issues has significant social costs to society in the context of increased physical and mental health issues, loss of employment and use of social assistance. Accordingly, the need to address the full range of the challenges and issues faced by an individual becomes more immediate.

To the extent that individuals' inability to resolve their legal issues in meaningful ways contributes to social exclusion and potentially increased costs to society more generally, the central challenge becomes how might early multidisciplinary services play a better role in reducing the clustering or cascading of problems that can occur and perpetuate social exclusion. Assuming there is a role to be played by such services, further questions recommend themselves -- what would these services look like? And how might traditional legal services work together with non-legal services to better address individuals' needs. Metaphorically speaking, this approach recommends itself to the fence at the top of the cliff rather than the ambulance at the bottom – that is assuming there is even an ambulance available. Essentially, the issue is whether, by integrating a variety of different types of assistance (legal and non-legal), we might be better able to address the clustering of problems that prevent people from affecting justice in their lives.

⁴ Liz Richardson & Julian Le Grand, "Outsiders and Insiders' Expertise: The Response of Residents of Deprived Neighbourhoods to an Academic Definition of Social Exclusion" (2002) 36:5 *Social Policy and Administration* 496 [Richardson & Le Grand, "Outsiders and Insiders' Expertise"].

⁵ Ajit Bhalla & Frederic LaPeyre, "Social Exclusion: Towards an Analytical and Operational Framework" in Institute of Social Sciences, *Development & Change* (Oxford, UK: Blackwell Publishers Ltd, 1997) at 418 [Bhalla & LaPeyre, "Social Exclusion: Toward an Analytical and Operational Framework"]; Richardson & Le Grand, "Outsiders and Insiders' Expertise", *ibid* at 5.

⁶ Roderick MacDonald, "Access to Justice in Canada Today: Scope, Scale and Ambition" in Julia Bass, W A Bogart, & Frederick H Zemans, eds, *Access to Justice for a New Century-The Way Forward* (Toronto, Canada: The Law Society of Upper Canada, 2005) 19 at 100.

In addition to thinking about what early multidisciplinary intervention might encompass, it is important to think about the locations at which such an approach to access might be explored in greater detail. This challenge recently arose in the context of an informal focus group that I organized at the [Community & Legal Aid Service Program](#) (CLASP) at Osgoode Hall Law School. In the course of discussing issues of access to justice with the volunteer law students working at CLASP, the topic of working with volunteer social work students was raised as giving rise to a positive partnership between law and another faculty. The volunteer social work students attend CLASP and attempt to assist in addressing some of the client's non-legal needs and issues; many of these impact or are impacted by their legal challenges. For example, the students from the social work faculty assist clients with a host of issues that arise in the context of administrative law settings. These include the impact of and potential response to the loss of housing in a landlord tenant hearing; the use of non-legal advocacy work respecting social benefits applications; the direction to parenting counseling in the family law context, and the provision of support services for individuals applying for status on respect of humanitarian or compassionate grounds.

The law students identified several benefits to having the student social worker's input and assistance. Encouragingly, the supervising social worker also identified a variety of ways in which she was able to provide assistance that was beyond the traditional legal context and/or contributed to the resolution of a client's legal matter. One particularly personal aspect was in the provision of therapeutic assistance to individuals preparing an application for the Criminal Injuries Compensation Board. In this instance, the social worker's expertise allowed her to help the victim construct a narrative for the lawyer in a more therapeutic manner. In this way, it was possible to minimize the trauma experienced by the victim in reliving the facts for the lawyer. More generally, the presence of the social worker allows the lawyer to focus on the legal aspects of the client's issues without overlooking some of the important non-legal issues affecting the individual's life. The ability of the student social worker to assist the client in addressing some of their 'non-legal needs' (or even devising a plan to address their needs) also takes pressure off the client and, in some instances, facilitates the law student's attempts to resolve their legal issues.

In discussing the idea of integrating non-legal assistance with the law students, there was an inherent understanding of the link between ensuring individuals have appropriate social assistance, living arrangements and counseling and seeing to it that the client leaves the clinic better than when they arrived. The value of such a partnership raises further questions about how such partnerships might be further fostered to address both the clustering of everyday legal problems (that are often intertwined with non-legal problems) as well as the cascading of problems that occur when individuals are struggling to (and as such, focused on) resolving a particular issue. For example, one such area that remains incredibly challenging for the clinic setting involves issues of mental health.

An additional issue that arose as a result of the discussion at CLASP is whether there are unique advantages associated with multi-disciplinary services within a law school legal clinic as opposed to community legal clinics -- does the integration of volunteers from

other faculties offer a unique opportunity to gain access to other disciplines that complement and support the legal assistance? Addressing the potential possibilities of broader multi-disciplinary clinics requires that we continue to move away from a paradigm of access that is focused on providing legal representation in the formal legal system. Instead, the preferable approach is to move toward a conceptualization of access that has at its core two main principles: (i) a recognition that addressing an individual's legal issue may not 'fix' the problems that a lack of access to justice precipitates or perpetuates; and (ii) the importance in engaging individuals in a discussion about what they need to bring about justice. In other words, approaching an individual's issue from a purely legal perspective without taking account of the other non-legal components of their life fails to address broader issues of social exclusion, disengagement and disempowerment that effectively prevent individuals from effecting justice. Alternatively, there are potential benefits associated with assisting an individual tackle a variety of challenges that alone would be overwhelming and, in all likelihood, would leave the individual feeling powerless. With the proper multidisciplinary information, support and assistance, it might be possible to address a host of issues that assist the individual become healthier from a socio-economic as well as legal standpoint as well as engaged in the larger community. It is in this sense that policy and initiatives would seek to redress the myriad of costs of justice issues that ultimately impact an individual and the greater social context.

This approach coincides with the data collected by the Canadian Forum which suggests that, in addition to significant legal costs associated with being unable to access justice, there are a variety of non-legal costs incurred (e.g., costs associated with increased health concerns, precarious housing and employment challenges, and emotional/psychological tolls.⁷) While a majority of people may be prepared to try and handle their problems on their own, that same group of individuals is also likely to say that, when handling their problem on their own, they would have benefited from better information, support and guidance.⁸ So perhaps it is time to expand the thinking about what kind of assistance is offered and at what sites we might make such assistance available to individuals – the understanding being that to the extent individuals are going to need assistance, they may require a combination of legal and non-legal information and services. A further and crucial part of tackling these questions was previously noted by Rebecca Sandefur, who suggested that it is important to ask people what kinds of help they would like with their

⁷ Respondents were then asked, had they received the help they felt would have made a difference, whether they would have still preferred to deal with the problem 'on their own' as much as possible. Almost three quarters of this group of respondents, 71.6%, answered in the affirmative. The data reveals that a large percentage of people with everyday legal problems are self-helpers and that many prefer to 'handle the problem on their own' out of a sense of personal responsibility.

⁸ The fact that a portion of individuals interviewed in the Costs of Justice research project indicated that non-legal assistance from authoritative sources was helpful in resolving their legal issue and this figure did not fall far behind the figures for legal assistance suggests that "there are many paths to justice and the potential effectiveness of developing non-legal approaches to assisting people with everyday legal problems may be of particular importance." Trevor CW Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup and Lisa Moore, "Everyday Legal Problems and the Cost of Justice in Canada: Overview Report" (Toronto, Canada: Canadian Forum on Civil Justice, 2016) [Farrow et al., "The Costs of Justice"]

problems in order to develop services that meet their own needs, notwithstanding that this assistance might be far from traditional legal services. In this context, it is worth noting that the Canadian Forum's research highlighted the great number of individuals who accessed non-legal information and service in order to try and resolve their problem – as opposed to legal advice.

All of this data begs the question of how do we begin to explore what type of services an expanded concept of access might include. As a partial answer to this question, I think it is important to seek out those individuals both working in and being assisted by law clinics in order to better understand the nature and scope of the services that would better assist individuals in addressing both the potential clustering as well as cascading effects of their problems or issues. More specifically, I think it will be important to survey the different multi-disciplinary services currently available as well as the views of both clients and volunteer lawyers at a clinic such as CLASP. The objective of the research I am proposing would be to expand the information we have about the full scope of challenges that individuals face when attempting to resolve legal issues. In particular, the goal is to explore what services, information or support might help them address this broader scope of challenges and what benefits might be attributed to the provision of a broader scope of services. It is hoped that, by engaging in such discussions, our thinking about how best to address individuals' access to justice needs that takes account of the whole of an individuals' life might be expanded.

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