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**“They Should Be Here With Us”: Beginning with Communities to Reimagine the Role of
Lawyers in Support of Systemic Change**

By

Britney De Costa

A Thesis

Submitted to the Faculty of Graduate Studies
through the Faculty of Law
in Partial Fulfillment of the Requirements for
the Degree of Masters of Law
at the University of Windsor

Windsor, Ontario, Canada

2017

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**“They Should Be Here With Us”: Beginning with Communities to Reimagine the Role of
Lawyers in Support of Systemic Change**

by

Britney De Costa

APPROVED BY:

J. Ku

Sociology, Anthropology, and Criminology / Women’s and Gender Studies

C. Mummé
Faculty of Law

G. Smyth, Advisor
Faculty of Law

22 August 2017

DECLARATION OF ORIGINALITY

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ABSTRACT

This thesis explores the roles lawyers might play to support community-led advocacy work towards systemic change from the standpoint of community advocates with lived experience of poverty. Using feminist standpoint theories and Foucault's knowledge/power nexus to analyze findings from group meetings and in-depth interviews conducted with Voices Against Poverty, a grassroots advocacy group in Windsor, Ontario, this thesis looks at how we might reimagine how lawyers support their communities and mitigate the effects of their power by transforming their relationships. This thesis provides one example of how beginning from the standpoint of communities can help us to better understand the ways lawyers can engage with grassroots advocacy groups in a way that resists, rather than reinforces, power hierarchies.

DEDICATION

This thesis is dedicated to the members of Voices Against Poverty and all the other community advocates working towards a more just society.

ACKNOWLEDGEMENTS

I want to begin by thanking my advisor, Professor Gemma Smyth, you have been more than supportive over the last year, and I would not be here without you. Thank you for your insight, your enthusiasm, and your commitment to learning and doing things in a good way.

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Thank you to the Windsor Workers' Education Centre and the University of Windsor School of Social Work for providing the space to meet with participants throughout the project.

I also want to thank my family and friends who have given me support on this journey. Thank you to my partner Connor for helping me through the most stressful times, and to Cali and Brooklyn for all your love.

And finally, I want to extend a tremendous thank you to the members of Voices Against Poverty who were so supportive of this project and came to our meetings and interviews with an openness that I really could not have imagined. I appreciate you trusting me and hope what I've written here is reflective of what you chose to share with me.

TABLE OF CONTENTS

DECLARATION OF ORIGINALITY	iii
ABSTRACT	iv
DEDICATION	v
ACKNOWLEDGEMENTS	vi
LIST OF APPENDICES	x
LIST OF ABBREVIATIONS	xi
PROLOGUE	1
CHAPTER 1 INTRODUCTION	5
Statement of Problem	6
Outline	7
Poverty	9
Voices Against Poverty	12
Lawyers & Voices Against Poverty	20
<i>The Centre for Equality Rights in Accommodations</i>	21
<i>Legal Assistance of Windsor</i>	22
<i>Pro Bono Students Canada, Windsor Law Chapter</i>	23
CHAPTER 2 LITERATURE REVIEW	26
Traditional Lawyering	27
Progressive Lawyering	28
CHAPTER 3 METHODOLOGY	35
Critical Paradigm	38
Theory	39

<i>Feminist Standpoint Theories</i>	41
<i>Knowledge/Power Nexus</i>	48
Qualitative Research	50
Collaborative Research	53
<i>Participatory Action Research</i>	54
<i>Community-based Participatory Research</i>	56
Research Questions	60
Research Participants	62
Research Design	63
Data Collection	66
Data Analysis	68
Limitations	72
CHAPTER 4 FINDINGS & ANALYSIS	73
Lawyers Should be Involved	75
<i>Risks of Involving Lawyers</i>	76
<i>Benefits of Working with Lawyers</i>	80
Role for Lawyers	90
<i>Legal Representative</i>	91
<i>Knowledge Partner</i>	94
<i>Gatekeeper</i>	98
<i>Supporting Self-Empowerment</i>	100
Importance of Trust	101
CHAPTER 5 CONCLUSION	108

BIBLIOGRAPHY.....	113
APPENDIX A: INTERVIEW GUIDE.....	121
APPENDIX B: REPORT TO VOICES AGAINST POVERTY.....	124
VITA AUCTORIS.....	138

LIST OF APPENDICES

APPENDIX A: INTERVIEW GUIDE

APPENDIX B: REPORT TO VOICES AGAINST POVERTY

LIST OF ABBREVIATIONS

- CBPR - Community-based Participatory Research
- CERA - Centre for Equality Rights in Accommodations
- LAW - Legal Assistance of Windsor
- PAR - Participatory Action Research
- VAP - Voices Against Poverty

PROLOGUE

Writing this prologue has been the most daunting aspect of this project, which is why it has taken me until the very end to put anything down on paper. Margaret Kovach tells us, “[a] prologue is a function of narrative writing that signifies a prelude. It encompasses essential information for the reader to make sense of the story to follow.”¹ And so, I am writing this to offer some insight into where I am coming from and how this shapes what will follow in the body of this thesis. Reflecting on and articulating what brought me to this project is not an easy task, but it is an important one to make clear who I am and what I bring to this work. I am very new to this style of writing, so before I begin I want to acknowledge the writing of Margaret Kovach for showing me an example of what an honest prologue can be, and my advisor Professor Gemma Smyth for encouraging me to take this path and for giving me more insight into what I bring to this work than I could have gained on my own.

I am a white settler, law and social work student, cis-woman, with no lived experience of poverty and a very unclear idea about where exactly I fit and how I can best support social justice movements and work towards a more equitable society given my location. I want to start by talking about my law school experience because this is where I first began to question what it means to be who I am and do work that contributes to a wider social justice mission, or at the very least, on days when my optimism is lower, does no harm.

Coming into law school I really was not all that serious about becoming a lawyer. I had plans to become a social worker, but opened up to the possibility that law could be a good career for me when I was accepted into a joint MSW/JD degree program, which allowed me to obtain my Masters in Social Work concurrently with my law degree. I am a logical thinker and like to

¹ Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations and Contexts* (Toronto, ON: University of Toronto Press, 2009) at 3 [Kovach].

have clearly defined boundaries to work within. I was also a rule-follower to the core, and even when I disagreed with something, if someone in authority said to do it, I did it. The law, its ideological structure still obscured to me, therefore seemed like a good fit. I thought that I could still work with the people I wanted to work with as a social worker, just offering a different service that would be more rigid and clearly defined. I laugh as I reflect on this now because this might be almost as far away as I could be from where I am and what I think in the present. I also came into this program oblivious to the concept of the “white saviour” and how my desire to help people could be harmful if I did not apply a critical lens to better understanding my own positionality² and what my role should be.

The whirlwind of being in a new city for the first year of the MSW program and first year law’s overwhelming effect, offered tiny glimpses of what I would learn later on to lead me to where I am today, but little time to reflect on the things I was learning and the processes we were going through that left me feeling unsettled (and not at all because they were intended to have that effect). But as the excitement and newness of the experience started to wear off, I had more confidence to question what I was learning. I was also incredibly fortunate to have connected with other students and faculty who have been invaluable teachers and models of critical thinking who set me on a path of questioning and making visible that which is disguised as natural or inevitable in order to uphold a colonial state structure, and my own role in it.

However, because I was studying these issues at a distance by virtue of my position within academia and my lack of lived experience, it became easy to only focus on the systemic aspect of issues without acknowledging the impacts at the personal level. I became lost in the big

² In sociology, positionality refers to, “[t]he occupation or adoption of a particular position in relation to others, usually with reference to issues of culture, ethnicity, or gender.” *The Oxford English Dictionary*, 3rd ed, *sub verbo* “positionality”.

picture and forgot that it is made up of people, real people who are often erased from the way we learn about law. My introduction to critical legal theory, feminist legal theory, and critical social work theory, along with a social work placement that connected me to community advocates and is where I first met Voices Against Poverty [“VAP”] (the participants in this research), reminded of the human element.

I was, at the same time, discovering how my own positionality factored into how I should be approaching these issues. The idea of being yet another white settler with an understanding of issues stemming only from texts taking up space in a profession that is built on abstracted ideologies to uphold a colonial state structure, felt hypocritical to me as someone who is seeking to work against these structures. I decided to reject the professional status of “lawyer” or “social worker” because I did not want to further reinforce a system that privileges the expertise of “professionals” over that of persons with lived experience.

Although I rejected becoming a lawyer, I still felt unclear about the role of lawyers more generally to support social justice movements. Particularly today, with the increasing power of hate groups that does not allow for complacency or inaction, understanding how lawyers can work against systems of oppression without undermining the work being led by communities is a necessary endeavour. Canadian activist and writer Harsha Walia tells us, “[w]e all have a role to play. We don’t have the same role and there are valid questions around leadership, but we have to believe everyone has a role. There is enough space, there are enough voices, there is enough capacity and we need everybody.”³ Similarly, one of the community advocates I interviewed for this project shared: “Everybody has to get involved, or everybody loses.”⁴ But, in thinking about

³ Emilie Gilpen, “Five Activists and Artists on Fighting Racism with Outrage and Empathy”, *The Tyee* (18 August 2017), online: <www.thetyee.ca>.

⁴ Participant E, “Interview Transcript,” (16 May 2017) at 8.

the different roles lawyers can take, we have to ask: Do lawyers necessarily reinforce the systems that privilege the ruling class? Or can they adopt a role that is transformative and takes a back seat to the communities they are seeking to support? These questions brought me to this project where I was able to speak directly with community advocates with lived experience in an effort to centre their voices in this discussion. I was fortunate to work with one group of advocates who saw my intentions and trusted me with their voices.

The following chapters are the culmination of my time spent reflecting and investigating where lawyers might or might not fit in social justice work, particularly that being led by community advocates and persons with lived experience. I approached this project unsure that lawyers could play a supportive role in this work, focusing more on the potential for lawyers to reinforce hierarchies or dominance in their privileged role where their knowledge and expertise is valued in the dominant or status quo narratives. This standpoint was born out of my understanding of my own positionality as a white settler not wanting to take up more space in a privileged or dominant role. However, the participants in this research – all community advocates with lived experience of poverty – opened up my understanding of the ways lawyers can play a transformative role in supporting their work. Although I still feel that, for me, occupying space as a lawyer is not where I necessarily “fit” in supporting social justice work, I now have a more nuanced and deeper appreciation of the potential for lawyers to take on transformative roles in supporting communities towards a more just society. I hope this thesis will contribute to expanding how we think about what it means to be a lawyer committed to social justice, and how we can engage with our communities in supportive and transformative ways.

CHAPTER 1

INTRODUCTION

*“One person can’t go into a crowd of wolves and sit there and think he can take over the wolves. No, you want to shut them down, you want to get people together. So, that’s the thing, the more the better.”*⁵

The current political climate has seen the rise of regressive movements occupying positions of power and control in order to uphold the privilege of the ruling class. This requires us to work across sectors and groups, employing multifaceted strategies, and uniting towards a common goal of social, economic, and political justice.⁶ “Everybody has to get involved or everybody loses.”⁷ But what does this mean for lawyers for whom “[t]he question of whether [they] help or hurt social movements has been hotly debated by legal scholars for nearly half a century[?]”⁸ To be effective agents for change, social justice oriented lawyers must not only be critical of how they might best support movements to dismantle the systems and structures of subordination and oppression, but “should also search for new energizing visions of how law should and might move forward.”⁹ With “a new generation of movement lawyers eager to lend support, [a] refocused attention on the appropriate role that lawyers should play in advancing progressive social change”¹⁰ has emerged.

In their position within the ruling structure, lawyers reinforce hierarchies of dominance by occupying a privileged role where their knowledge and expertise is valued in the dominant or

⁵ Participant A, “Interview Transcript,” (26 April 2017) at 2.

⁶ Jennifer Gordon, “The Lawyer is Not the Protagonist: Community Campaigns, Law, and Social Change” (2007) 95 Cal L Rev 2133 at 2137 [Gordon].

⁷ Participant E, “Interview Transcript,” (16 May 2017) at 8.

⁸ Scott L Cummings, “Rethinking the Foundational Critiques of Lawyers in Social Movements” (2017) 85 Fordham L Rev 1987 at 1987 [Cummings, “Rethinking Foundational Critiques”].

⁹ William P Quigley, “Letter to a Law Student Interested in Social Justice” (2007) 1:1 DePaul Journal for Social Justice 7 at 17 [Quigley, “Letter to a Law Student”].

¹⁰ Cummings, “Rethinking Foundational Critiques”, *supra* note 8 at 1987.

status quo narratives that uphold the ruling class.¹¹ “It is a reality that lawyers, with our privilege, our access to power, and our closely held set of tools, all too often have negative effects when we intervene in community processes...[t]he issue of power pervades all aspects of the [] lawyer’s job.”¹² The lawyer’s power, “or the possibility of coercion and complicity with group domination,”¹³ has the potential to harm community-led advocacy movements working against hierarchies of dominance, even those they are seeking to support.

Statement of Problem

Working within this context, we not only need to understand how lawyers can to work to mitigate these problems generally, but also how they should approach their work with communities,¹⁴ particularly those with lived experience advocating for systemic change. What roles can lawyers play to support this work? How can they engage in these roles without further reinforcing power hierarchies that maintain the status quo?

Seeking to contribute to this discussion in a way that was transformative in its approach and limited in its potential to reinforce traditional power hierarchies, I turned to the community, rather than to lawyers and legal scholars, to answer these questions. Specifically, I worked with one group of community advocates who have lived experience of poverty to elevate their voices and share their wisdom on how they felt lawyers might best support their work and how they

¹¹ See Orly Lobel, “The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics” (2007) 120 Harv L Rev 937 at 952-954 [Lobel].

¹² Gordon, *supra* note 6 at 2144.

¹³ *Ibid.*

¹⁴ There are many connotations attached to the term “community”, that range from a group with a shared geographical location to “a group with a shared fundamental characteristic.” Michael Diamond, “Community Lawyering: Introductory Thoughts on Theory and Practice” (2015) 22 Georgetown Journal on Poverty Law & Policy 395 at 396. I have intentionally left my use of the term open to allow for a broad understanding of the ways in which lawyers can support communities of a variety of types. However, for the participants in this research, “community” references “their neighbourhoods, as well as...people with common experiences in terms of poverty, social exclusion, and other related struggles.” Sarah Buhler, ““Don’t Want to Get Exposed”: Law’s Violence and Access to Justice” (2017) 26 Journal of Law and Social Policy 68 at 73, n 22 [Buhler].

might reimagine their relationship to transform the power lawyers hold by virtue of their location and privilege into opportunities of resistance towards a more even distribution of power.

Outline

To begin, the following section discusses poverty and the grassroots, community advocacy group VAP, participants in this research who are working towards the elimination of poverty, to offer some context on their standpoint and what they bring to the research. This section was written using data collected during the research process, and takes a style that begins from the voices of participants. This style is used throughout the thesis as much as possible to privilege the voices of the participants as experts. Following this introduction, the next chapter is a literature review outlining “traditional” and “progressive” approaches to lawyering. This chapter provides context for what is considered “expert” knowledge on lawyering for social change and how lawyers have imagined themselves to best support communities they work with towards systemic change. It will also highlight how these discussions have been dominated by lawyers and legal scholars, and have paid little attention to the expertise that is held in communities in order to answer questions about the role of lawyers for social change.

To address this gap, I sought out the voices of one group of community advocates with lived experience to share their understanding of how lawyers might best support their work. In this third chapter, I provide the theoretical and methodological framework for beginning with the standpoint of community advocates in order to explore questions about the role of lawyers in social justice work. I will use feminist standpoint theories, specifically the writing of Dorothy Smith and Patricia Hill Collins, and Michel Foucault’s understanding of the knowledge/power nexus, to show the importance of beginning from the standpoint of marginalized groups who hold knowledge that is inaccessible to the ruling class who are traditionally centered as experts.

These theoretical lenses will also help to show how the power held by lawyers by virtue of their position in the ruling structure can be transformed and used by communities towards a more equitable distribution of power. Coming from this understanding, I next outline the research design and process, explaining the collaborative research approach that was used in order to ensure that the research itself contributed positively towards a wider goal of more equitable power distribution.

The next chapter presents my analysis of the data provided by participants, first looking at whether lawyers should play a role to support community-led advocacy work, discovering that while there are inherent risks that are born out of lawyers' position and the way power and knowledge is conceptualized, there are some important benefits that the participants noted would be useful to support their work. Ultimately, the group was clear that lawyers could play a supportive role in their work. The next section looks at how the participants envisioned lawyers to best support their work by outlining four roles lawyers could take in this endeavour including: legal representative; knowledge partner; gatekeeper; supporting self-empowerment. The final section then looks at what lawyers must be attentive to in how they approach these roles in order to contribute to a broader project of dismantling power hierarchies that are designed to maintain the interests of a privileged group at the expense of the lives and dignity of marginalized groups. The group shared that, for them, trust was the essential element that would determine whether their relationship with a lawyer would serve to reinforce or resist against power hierarchies.

Finally, this thesis concludes with a discussion of the limitations of this research and some suggestions for future research and directions moving forward. Here I highlight how this research contributes to the way we approach lawyering for social change and, importantly, where more work needs to be done moving forward if we want to better support our communities.

Poverty

“[T]here are so many aspects of poverty. You want to sit there and pick poverty apart, you can pick it into a million pieces and you’re never gonna be able to put it back together because more pieces are just gonna be added.”¹⁵

Because there are many overlapping entry points into social justice work, this next section provides some background and context for the work done by participants in this research, namely that revolving around poverty. I have chosen to define “poverty” using the voices of participants who understand it from their own lived experience as well as their experience as advocates working towards the elimination of poverty. These perspectives were used rather than “professionalized” definitions¹⁶ in order to allow for an understanding that is grounded in lived realities, rather than abstract concepts and theories. In defining poverty in this way, it serves not only to provide greater insight into the issue, but to validate the knowledge held by persons with lived experience, which aligns with the work of the participants in their role as community advocates and persons with lived experience.

Poverty is described by those who have experienced it as “a lack of something in your life,”¹⁷ “a lack of necessities, certain necessities in life that you know, to go through, to survive on, however you may want to put that.”¹⁸ It encompasses a lack of economic or financial means but also social isolation or exclusion,¹⁹ and a “lack of power, lack of dignity, personal dignity as well.”²⁰ Essentially, “poverty is, it’s an economic problem that limits people’s ability to get ahead. You, your life stagnates and that’s not good because you need to grow. So your economic

¹⁵ Participant A, “Interview Transcript,” (26 April 2017) at 3.

¹⁶ Here I am referencing definitions that are born out of abstract theorizing about what poverty is from the perspective of persons who do not have lived experience of poverty, specifically those that are considered “experts” on the issue, despite this lack of experience.

¹⁷ Participant C, “Interview Transcript,” (2 May 2017) at 1.

¹⁸ Participant A, “Interview Transcript,” (26 April 2017) at 1.

¹⁹ Participant B, “Interview Transcript,” (27 April 2017) at 1.

²⁰ Participant C, “Interview Transcript,” (2 May 2017) at 1.

condition needs to grow and poverty is the inability for your economic condition to grow. It's a hurdle most people can't clear. That's what poverty is."²¹

The financial aspect of poverty is experienced by people often as "not having certain necessities in your life" and "just a constant struggle to make sure that you either have a place to live, or you eat."²² It "isn't a unique experience. Poverty is all around. It's everywhere," and it "has a very, very wide range, because there's working poor, there's the poor, and then there's the dire poor."²³ The working poor is understood as when "for some people they may earn a lot less than most people especially on minimum wage, so it turns out you have more bills than you do money to get by. And if you have to feed a family then that's even worse, because then you have to think of the family and feed them before you do anything else."²⁴ Experiencing poverty, for the "working poor" (and this is also felt by the "poor" and the "dire poor" as well), has been explained, then as: "You're still not surviving, you're trying to make ends meet, and you may have a little bit more success, but your success rate is very poor."²⁵ The challenges of having "more bills than you do money to get by"²⁶ is also "hard when you're on welfare and disability, even to try to live, because you're still not getting paid enough to live. You still gotta make those decisions and you still gotta make it, you know, welfare you can't even make it."²⁷ For people living in poverty, "it's experienced by not having...I understand not having certain necessities in your life, not having your food, not having your shelter...you're not getting access to your standard healthcare or even if there's mental health issues...[and] urban sprawl."²⁸ It becomes

²¹ Participant E, "Interview Transcript," (16 May 2017) at 1.

²² Participant A, "Interview Transcript," (26 April 2017) at 1.

²³ *Ibid* at 2.

²⁴ Participant D, "Interview Transcript," (15 May 2017) at 1.

²⁵ Participant A, "Interview Transcript," (26 April 2017) at 4.

²⁶ Participant D, "Interview Transcript," (15 May 2017) at 1.

²⁷ Participant A, "Interview Transcript," (26 April 2017) at 4.

²⁸ *Ibid* at 1.

more than “just the lack of money, it’s the lack of access to drugs, or food, or whatever.”²⁹ This lack means having to “make a decision between having food or having a place to live. Because you’re either paying your rent or you’re paying for your food, so what do you do? Go without a place to live and eat, or not eat and live in a place but then have to go to food banks, access food banks and access soup kitchens or places that can feed you, or help you get fed or relying on other instances like if you have a good neighbour or friends or family.”³⁰

However, relying on resources in the community such as food banks and soup kitchens, or even turning to neighbours, friends, or family is a challenge because poverty is experienced as more than a lack of access to resources, but is also experienced as “not having the participatory aspects, not having engagement, not making community connections, networking, feeling isolated, and stigmatization.”³¹ The social isolation/exclusion felt by people experiencing poverty takes an “emotional toll,”³² where “isolation and certain things and feeling isolated and not feeling that you’re important to the world, it’s really hard on people. And hard to get through, hard for people to understand that because...I think members of society need to understand what it really means to be in poverty, in dire poverty, and to experience it and not just look at it and say ok, there’s a problem, let’s fix it, and walk away from the problem.”³³

And while “there have been measures to change certain aspects of poverty and to try and figure out ways to eliminate it over time,”³⁴ it can feel like you are “stuck on stupid...because... it feels like you are in this cycle and you can’t get out.”³⁵ It can feel confining and limiting: “I know how it was, I experienced it. I can’t speak for other people, k, so I felt limited, confined,

²⁹ Participant E, “Interview Transcript,” (16 May 2017) at 4.

³⁰ Participant A, “Interview Transcript,” (26 April 2017) at 1.

³¹ Participant B, “Interview Transcript,” (27 April 2017) at 1.

³² *Ibid* at 1.

³³ Participant A, “Interview Transcript,” (26 April 2017) at 1.

³⁴ *Ibid* at 1.

³⁵ Participant C, “Interview Transcript,” (2 May 2017) at 1.

caged. I mean because you can't get out of where you're at and you can't improve what you're doing, so it's like being chained to a wall of a dungeon, there's nothing you can do about it. And I think most people experience it that way. And that's the biggest problem. There should be something *we* can do about it,"³⁶ "...because this problem doesn't have to exist."³⁷

Voices Against Poverty

This understanding that "[t]here should be something *we* can do about"³⁸ is where VAP comes from. VAP is a grassroots group of persons and advocates with lived experience of poverty in Windsor, Ontario "dedicated to creating ways to help empower, educate, and value those with lived experiences of poverty."³⁹ VAP, one member shared, is "a group that you know, stands for itself, Voices Against Poverty, it's people who want to address their feelings about poverty and how poverty affects them and how poverty needs to be either reduced or eliminated. And strategies to reduce or eliminate those."⁴⁰ Formed in 2009, VAP works locally to address the impacts of poverty in the Windsor community, a city where poverty is experienced and felt at higher than average rates as compared to the rest of Canada.⁴¹

"[P]overty is experienced [in Windsor-Essex]...from my understanding, from living here is, you know, loss of jobs, empty buildings, high rent, high market rent, not enough, not enough employment, there's a bunch of factors here that you know, are experienced here in Windsor-Essex, a population of impoverished people, that, on a national basis, and a municipal basis just

³⁶ Participant E, "Interview Transcript," (16 May 2017) at 1.

³⁷ Participant A, "Interview Transcript," (26 April 2017) at 3.

³⁸ Participant E, "Interview Transcript," (16 May 2017) at 1.

³⁹ Voices Against Poverty, *LinkedIn Profile Page*, (nd), online: <<https://ca.linkedin.com/in/voices-against-poverty-82097846>> [Voices Against Poverty, *LinkedIn*].

⁴⁰ Participant A, "Interview Transcript," (26 April 2017) at 2.

⁴¹ See, Statistics Canada, *Persons Living in Low-Income Neighbourhoods*, 2011 National Household Survey, Catalogue no 99-014-X2011003 (Ottawa: Statistics Canada, 2016), online: <http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-014-x/99-014-x2011003_3-eng.cfm>: "Windsor posted to highest proportion of the low-income population living in very low-income neighbourhoods (33.3%)."

continues to grow.”⁴² And along with all of these factors, there is “a bigger problem in Windsor-Essex, other than the financial aspect which I realize is a big one, the numbers are quite high, is the lack of supports for people’s inclusion, for being engaged in community efforts for not only meeting their basic needs in terms of healthy living...healthy living circumstances, the ability to kind of grow and survive, they’re surviving but they’re not thriving.”⁴³ There are barriers that limit engagement and participation in the community for people who are living in poverty in Windsor-Essex: “[B]y and large the average poor person in Windsor-Essex I see as being excluded, not only from not having the basic survival needs of you know, food, entertainment, clothing, living circumstances met, but the other community, participatory things, kind of, that I think are emotionally important if you’re gonna actually get beyond that mindset and be able to get out of poverty as much as the income.”⁴⁴ One group member explained that, in Windsor-Essex County I think there’s a big sense of the haves and the have-nots. The haves are constantly in denial that this problem exists, ‘people are just lazy, people just don’t want to work,’ you know they don’t actually come out and talk to people who are experiencing poverty, and if they do they’re still close-minded.”⁴⁵ And the people who are experiencing poverty, “the have-nots completely understand their situation. A lot of them, they’re not passive though. They’re not passive, they engage, you know what I mean? They come forth, if there’s a town hall meeting they come out, they talk.”⁴⁶

The group is not limited to their locally focused efforts, however, as they also engage at the provincial and federal levels on issues pertaining to poverty. Relying on tools of education

⁴² Participant A, “Interview Transcript,” (26 April 2017) at 1.

⁴³ Participant B, “Interview Transcript,” (27 April 2017) at 1.

⁴⁴ *Ibid* at 1.

⁴⁵ Participant C, “Interview Transcript,” (2 May 2017) at 1.

⁴⁶ *Ibid* at 1.

and empowerment, the group comes together as a collective of persons with lived experience of poverty, using their individual strengths and perspectives towards the elimination of poverty:

“We’re a group that’s trying to literally eliminate poverty. That’s our goal, get rid of it. And hope some clown doesn’t come along and create it again.”⁴⁷ The group’s mission is:

Working to raise public awareness about “myth-conceptions” of poverty issues.
Lobby for changes to the system through collaborative partnerships with:
Community agencies, businesses, and local government.
Reaching beyond the communities and gaining media support.
Help individuals become strong leaders in their own lives and communities.⁴⁸

VAP is a non-hierarchical group, built on the premise that all members share equally in the leadership and decision-making process. Describing the group, one member stated: “We’re egalitarian. We all have strengths and we all use our strengths to help each other, and there’s never been a leader, there’s never been.”⁴⁹ While their membership is constantly in flux – some members have moved on, some have stepped away for a period of time, and new members are always welcomed in – there is a dedicated “core group”⁵⁰ of approximately six to eight members who regularly attend monthly meetings, make decisions, and lead, contribute to, and support projects with the group. This “core group” is described by one member as “really hardcore. If it needs to get done, we do it. And it may take us a little longer, because we’re limited [in number], but we get the job done.”⁵¹ Although they may be small in number, another member told me that “[t]he people who are engaged with Voices Against Poverty, they’re proactive, ready to go people...they’re people of society who are striving just to kick something right in the ass.”⁵² The

⁴⁷ Participant E, “Interview Transcript,” (16 May 2017) at 2.

⁴⁸ Voices Against Poverty, *LinkedIn*, *supra* note 39.

⁴⁹ Voices Against Poverty, “Group Meeting Notes,” (6 April 2017) at 2.

⁵⁰ Participant E, “Interview Transcript,” (16 May 2017) at 3.

⁵¹ *Ibid* at 3.

⁵² Participant A, “Interview Transcript,” (26 April 2017) at 7.

group's passion and dedication is clear to those who know them, and is one of the first things that I noticed after meeting them and learning about their work.

Besides their dedication to the cause, "the single sole force [defining the group] is advocacy around inclusion of people with lived experience in the dialogue, in the process, in the leadership,"⁵³ something that is practiced within the group itself which is primarily made up of persons with lived experience of poverty. The group recognizes that those who experience poverty are in the best position to understand it, because for people who have never had the experience of poverty it can be difficult to even see that it is an issue. One group member explained it this way: "[T]he principle matter is talking to those who are in need, 'cause you would think that everything would be fine, everything is not fine. And you gotta look outside the box, because you're inside the box, and inside the box, you're just looking at four walls, you gotta look outside the box, you gotta look around instead of thinking what's in front of you."⁵⁴ Because they recognize the important and necessary standpoint that those who have experienced poverty bring to efforts to eradicate it, "Voices Against Poverty is a group of people...we've lived experience, some of us are still living in poverty, so we have lived experience, we know what it's like, and we came together to try and improve things."⁵⁵ Although having lived experience of poverty is a shared experience for members, they each come to the group with a unique experience of poverty that is indicative of the diverse ways that poverty plays out in peoples' lives. One member explained the differences this way: "With Voices we have people who are lived experience, but they're lived experience in different stages. Some are in jobs now,

⁵³ Participant B, "Interview Transcript," (27 April 2017) at 2.

⁵⁴ Participant A, "Interview Transcript," (26 April 2017) at 4.

⁵⁵ Participant E, "Interview Transcript," (16 May 2017) at 1.

others have been in education, there's a few looking for work, and then we have people who are actually on the assistance, and we bring something together."⁵⁶

The diversity represented in group members' experiences of poverty also extends to the strengths and perspectives they bring to the work. One member explained, "the strengths I bring to the table could be different from anybody else's, their strengths, because if you think about it, you're coming from different perspectives, different walks of life, different situations."⁵⁷ During one of our first meetings as a group, the diversity of perspectives was made explicit as we discussed the use of the term "resistance" to describe the work of the group. One group member's claim that, "we're not resisting the man," was met with another member's quick reply of, "yeah, we are."⁵⁸ This exchange was followed by a discussion that concluded with a description of the group as "kind of a bit like spectrum,"⁵⁹ where members with varied assessments of and approaches to their work are able to come together to address poverty, because the members are "all committed to the same thing regardless of where [they] stand on the spectrum."⁶⁰

Practically, this plays out as members "all stand together and if [they] need to [they] pick and choose"⁶¹ their degree of involvement on certain projects (i.e., if a group member is unable or unwilling to participate in a direct action, such as a protest, for personal or professional reasons, they can choose to disengage from the group in that instance). Group members "have choice levels, so, but, the fact that it is open to the group members to kind of make the decision to engage anyway [they] want."⁶² Group members are also connected to various other advocacy

⁵⁶ Participant D, "Interview Transcript," (15 May 2017) at 6.

⁵⁷ Participant A, "Interview Transcript," (26 April 2017) at 8.

⁵⁸ Voices Against Poverty, "Group Meeting Notes," (23 March 2017) at 2.

⁵⁹ *Ibid* at 3.

⁶⁰ *Ibid*.

⁶¹ *Ibid*.

⁶² Participant B, "Interview Transcript," (27 April 2017) at 2.

groups in the community which allows them to, as one member shared, to “do things separate from each other [even though we’re a collective], but when we can still represent Voices Against Poverty when we’re out in the community, working with another group, because [one member] takes it to Idle No More, [another] takes it to the Workers’ Action Centre, like we’re all parts of other pieces, so those pieces fit together all the time. So it doesn’t always necessarily say that the whole group works with another group, but pieces of the group.”⁶³

However, because “decisions are made around a consensus, are consensus-based, and as worked out as a group,”⁶⁴ and the group does not engage as a group in actions that are not agreed to unanimously, “everyone else in the group is behind that person”⁶⁵ regardless of their ability to participate directly.⁶⁶ During the individual interviews one member spoke to the group’s cohesiveness, despite having diverse perspectives: “The group we have, we’ve been together so long it’s almost like a family... we’re close knit, we’re loyal, and when we need to get something done, if you need something done, the whole group is gonna do it. We think like one person, we act like one person.”⁶⁷

The group, while diverse, unites around “the core mission statement of all of it – advocacy for change,”⁶⁸ “advocacy around inclusion of people with lived experience in the dialogue, in the process, in the leadership”⁶⁹ and “trying to literally eliminate poverty.”⁷⁰ To this end, they share in their commitment to “[c]ombating the negative stereotypes and having that voice, giving people that voice.”⁷¹ For VAP, as its name suggests, the concept of “voice” is central to their

⁶³ Voices Against Poverty, “Group Meeting Notes,” (6 April 2017) at 2.

⁶⁴ Participant A, “Interview Transcript,” (26 April 2017) at 9.

⁶⁵ Voices Against Poverty, “Group Meeting Notes,” (23 March 2017) at 3.

⁶⁶ *Ibid* at 3.

⁶⁷ Participant E, “Interview Transcript,” (16 May 2017) at 3.

⁶⁸ Participant B, “Interview Transcript,” (27 April 2017) at 2.

⁶⁹ *Ibid*.

⁷⁰ Participant E, “Interview Transcript,” (16 May 2017) at 2.

⁷¹ Participant A, “Interview Transcript,” (26 April 2017) at 3.

work. One member told me, “I really like the name Voices Against Poverty because it does speak to the idea of a voice, and I think that’s an important aspect.”⁷² Another member shared: “We want to be able to stand up for the people we’re advocating for, we want to be able to give them a voice.”⁷³ Having a voice and giving a voice means that “the type of work is that community engagement, that community advocacy, lived experience and the being part of the process and trying to address not only the financial, but more that inclusionary aspect, and that stigmatization aspect [of poverty].”⁷⁴ One member said that addressing the inclusionary and stigmatization aspects of poverty was about “[g]iving people [experiencing poverty] that person to talk to, that person who won’t judge people...people don’t want to be judged.”⁷⁵ They explained this was especially important for persons experiencing poverty because,

I feel and I think that that’s what happens is that you get into that state, and it’s a state of mind where it’s like I can’t do nothing, I’m worthless, I don’t feel right, I’m trying, I’m just trying to survive, I just need something, I need something to eat and something else and then the turn comes and, the stereotypes and the vicious circle coming around...and they have nowhere else to turn, and they get closed up, frustrated, angry, sad, you name it, all the emotions, let’s just throw them all on the table here.⁷⁶

The group agreed that they were “about empowering people with lived experience”⁷⁷ in order to give people a voice: “It’s just to help people empower things, give that sense of empowerment, that you can do it because that’s what happened in my mind.”⁷⁸ It’s about “combating the negative stereotypes, and having that voice. Giving people that voice, that ‘I can,’ the ‘I can’t’ doesn’t exist.”⁷⁹ This means finding “those ladders for them to climb and get

⁷² Participant B, “Interview Transcript,” (27 April 2017) at 3.

⁷³ Voices Against Poverty, “Group Meeting Notes,” (23 March 2017) at 3.

⁷⁴ Participant B, “Interview Transcript,” (27 April 2017) at 3.

⁷⁵ Participant A, “Interview Transcript,” (26 April 2017) at 3.

⁷⁶ *Ibid.*

⁷⁷ Voices Against Poverty, “Group Meeting Notes,” (23 March 2017) at 2.

⁷⁸ Participant A, “Interview Transcript,” (26 April 2017) at 3.

⁷⁹ *Ibid.*

up into that and feel better about themselves and their family.”⁸⁰ One member shared how being an active member in VAP contributed to their own empowerment: “I learned some things. I learned what I’m capable of, I learned what other people are capable of. And you can’t tell people that they can’t do something when you don’t give them a chance to do it. That’s the whole idea. Give a person a chance to do it. And that’s why we try to get as many people coming to Voices Against Poverty as we can, and to work on that.”⁸¹

In addition to seeking inclusion through the empowerment of persons with lived experience of poverty, “the basic thing [they’re] asking for is inclusion and finding a means of actually reducing poverty.” The group was clear that this meant not only having a voice themselves and giving a voice to others, but that they grow a collective voice to educate others about poverty. One member shared that “[t]he idea is to get people communicating, and I mean everybody, and I think we’re doing that. It’s what we started doing, and we haven’t stopped.”⁸² For the group this means “working with any group who’s looking to end poverty, and in so doing, we make it a bigger organization, we make the voice louder, and that’s the point. Make the voice really loud.”⁸³ Another member spoke of the need for building that collective voice so that people have that needed support when they are working to “shut down” opponents: “Because the more, the better, you know. You know one person can’t go in, one person can’t go into a crowd of wolves and sit there and think that he can take over the wolves. No, you want to shut them down, you want to get people together. So that’s the thing, the more the better.”⁸⁴

⁸⁰ Participant D, “Interview Transcript,” (15 May 2017) at 4.

⁸¹ *Ibid* at 6.

⁸² Participant E, “Interview Transcript,” (16 May 2017) at 2.

⁸³ *Ibid*.

⁸⁴ Participant A, “Interview Transcript,” (26 April 2017) at 7.

Not only does the group work with those who share in a common mission to end poverty, but they also said that “everybody” included politicians and bureaucrats: “We spoke to politicians, we spoke to bureaucrats, we spoke to the news, we spoke to anybody who’d listen And the idea was to get people to join...to do something to help, and that’s what we were there for, to try and help.”⁸⁵ The idea, they said, is to “[m]ake the voice really loud”⁸⁶ by getting everyone involved. One member shared that in taking this inclusive approach, “some of our work has advanced our ability to change the way poverty is viewed and to teach people, you know, this is how you get out.”⁸⁷

Lawyers & Voices Against Poverty

Specifically seeking to understand how lawyers fit into this inclusive approach, I spoke with members about their experiences working with both lawyers and law students, specifically noting their work with the Centre for Equality Rights in Accommodations [“CERA”]; Legal Assistance of Windsor [“LAW”]; and the Windsor Law chapter of Pro Bono Students Canada [“pro bono students”]. In each of these relationships, group members explained, “We got invited to the table...They invited us or they asked for our help, or they asked and the University has sent some of their students.”⁸⁸ Since, as the group shared, “they usually come to us,”⁸⁹ the choice to engage is up to VAP, “it’s us choosing, and it’s usually people approaching us. We never approach lawyers. Lawyers approach us and say listen, we know this is going on, we can’t do certain things but you guys can do certain things.”⁹⁰ In terms of seeking out the work of lawyers, or approaching lawyers themselves, one member shared, “I didn’t have to, and you know if I felt

⁸⁵ Participant E, “Interview Transcript,” (16 May 2017) at 1.

⁸⁶ *Ibid* at 2.

⁸⁷ *Ibid* at 1.

⁸⁸ Participant D, “Interview Transcript,” (15 May 2017) at 7.

⁸⁹ Participant E, “Interview Transcript,” (16 May 2017) at 5.

⁹⁰ Voices Against Poverty, “Group Meeting Notes,” (6 April 2017) at 3.

there was a need for it, I would, I would have done so.”⁹¹ Another member expressed that they felt they could approach a lawyer if they saw the need: “Well we have talked to some lawyers in the past, we have talked to law students, so we’ve never really been without...we know they’re available, we know they’re approachable...and so it depends on what’s going on, what we see as a need and we go from there.”⁹²

Centre for Equality Rights in Accommodations

CERA “is a not-for-profit charitable organization dedicated to preventing evictions and ending housing discrimination across Ontario.”⁹³ They work towards their mission “through public education, research, law reform, casework, test case litigation and using international human rights law and mechanisms.”⁹⁴ As one member of VAP explained, CERA is “a Toronto-based group that comes here [Windsor] and does outreach,”⁹⁵ with a mission statement that “ties back to the whole idea of equality, and their focus is a rights-based focus,”⁹⁶ their work “has to do with rights and accommodations, so, Voices has partnered with them.”⁹⁷ VAP’s work with CERA was primarily centered on self-empowerment and empowerment of persons with lived experience.

VAP supported CERA when they hosted sessions in Windsor-Essex, first with “one collective of advocacy outreach to tenants to find out tenant issues,”⁹⁸ and then with two follow-up sessions: “One was finding out the issues from the service manager perspective, and one was

⁹¹ Participant A, “Interview Transcript,” (26 April 2017) at 16.

⁹² Participant D, “Interview Transcript,” (15 May 2017) at 8.

⁹³ Centre for Equality Rights in Accommodations, “About CERA” (nd), online: <http://www.equalityrights.org/cera/?page_id=2> [CERA].

⁹⁴ *Ibid.*

⁹⁵ Participant B, “Interview Transcript,” (27 April 2017) at 23.

⁹⁶ *Ibid.*

⁹⁷ Participant D, “Interview Transcript,” (15 May 2017) at 6.

⁹⁸ Participant B, “Interview Transcript,” (27 April 2017) at 17.

from a tenant perspective.”⁹⁹ These sessions were used to help CERA develop “tenant guidelines and books for service providers.”¹⁰⁰ One VAP member who “helped [CERA] with the sessions”¹⁰¹ and who “helped preview the local documents,”¹⁰² shared that, “what was good about engaging with CERA, part of that was how to train tenants how to self-advocate around some of these by-law issues and knowing how to do it locally.”¹⁰³

Legal Assistance of Windsor

Group members also spoke about working “with Marion Overholt [Executive Director, LAW], and she runs LAW, Legal Assistance of Windsor,”¹⁰⁴ whose mission “is to enhance social justice by providing integrated face-to-face legal and social work services to marginalized low income people in Windsor-Essex and through individual and systematic advocacy.”¹⁰⁵ Taking an interdisciplinary approach combining law and social work, this “clinical learning project of the University of Windsor, Faculty of Law [works to] examin[e] the law and legal profession in context, while helping to provide legal services to those who are unable to pay a private lawyer and were unable to obtain a legal aid certificate.”¹⁰⁶ VAP described their work with LAW as primarily focused on legal advocacy, knowledge exchange, and gaining access to the establishment.

One member spoke about the last time they had supported the work of LAW: “Well the last time had to do with the welfare...they were discontinuing this process where if you needed extra money for second month’s rent, you’ll get it, and they wanted to end it so they came and

⁹⁹ *Ibid* at 18.

¹⁰⁰ *Ibid* at 17.

¹⁰¹ *Ibid*.

¹⁰² *Ibid*.

¹⁰³ *Ibid* at 20.

¹⁰⁴ Participant E, “Interview Transcript,” (16 May 2017) at 5.

¹⁰⁵ Legal Assistance of Windsor, “About LAW” (nd), online: <<http://legalassistanceofwindsor.com/about-us/>> [LAW].

¹⁰⁶ *Ibid*.

said we can't do that. So we went and we talked and we stalled it for a while. But eventually we lost it, they were never going to listen to us on that one. But we did try, and everybody showed up and everybody supported Marion [Executive Director, LAW]."¹⁰⁷ The group reflected on their relationship with LAW as "a good marriage"¹⁰⁸ because "we get to hear what is legal and what is not legal, they hear what our voices are and then try to find a way to deal with it through the law;"¹⁰⁹ "it helped them [LAW] to have people with lived experience who could speak to their issues they were talking about and it helped us have lawyers backing up what we were saying as well you know."¹¹⁰

Pro Bono Students Canada (Windsor Law)

The group has also had an ongoing relationship with the Windsor Law chapter of Pro Bono Students Canada, "a national...organization, with chapters in 22 of Canada's 23 law schools."¹¹¹ VAP was approached, "a long time ago...by the pro bono students to allow [them] to participate in work that Voices Against Poverty was doing."¹¹² As part of the Community Placement Program, which "matches law student volunteers with organizations that have a need for legal services but insufficient resources to retain legal counsel,"¹¹³ one member explained that, "there was an application process" which VAP applied through and was approved.¹¹⁴ VAP then was able to assign students projects to complete, which, "after their [students'] final project's finished, they [students'] have to get the lawyer to sign off on their project."¹¹⁵

¹⁰⁷ Participant E, "Interview Transcript," (16 May 2017) at 6.

¹⁰⁸ Voices Against Poverty, "Group Meeting Notes," (23 March 2017) at 1.

¹⁰⁹ Participant D, "Interview Transcript," (15 May 2017) at 6.

¹¹⁰ Voices Against Poverty, "Group Meeting Notes," (23 March 2017) at 1.

¹¹¹ Windsor Law, "Welcome to Pro Bono Students Canada at Windsor Law" (nd), online: <<http://www1.uwindsor.ca/clubs/pbsc/>> [Windsor Law, "Pro Bono"].

¹¹² Participant C, "Interview Transcript," (2 May 2017) at 9.

¹¹³ Windsor Law, "Pro Bono", *supra* note 111.

¹¹⁴ Participant B, "Interview Transcript," (27 April 2017) at 16.

¹¹⁵ Participant C, "Interview Transcript," (2 May 2017) at 11.

Although pro bono initiated the relationship with VAP the same way CERA and LAW did, the relationship differs in that, unlike CERA and LAW who looked to VAP to support their advocacy work, pro bono students work with VAP to support VAP's advocacy work. VAP's relationship with pro bono students is one primarily based on access to legal information and knowledge exchange.

Because “the pro bono students, they can't exactly answer any questions because they're not lawyers and they can only take on questions that are simple,”¹¹⁶ the group uses the students to provide legal information and “a bridge”¹¹⁷ in terms of language, both for VAP to “learn[] to speak in the language of the groups and the different things that we have to interact with”¹¹⁸ but also “to help break down [clinical words] to plain language in some cases.”¹¹⁹ The first project pro bono students did for VAP, one member shared, was looking at the laws around the question of, “is it better to do an incorporation of Voices Against Poverty, or should we do a charity model?”¹²⁰ Another time, the group was working on a petition and, one member shared: “We wanted to know how should we change the damn thing so that it didn't step or try to step around any by-law...it didn't read right for a couple of people so we talked to a lawyer, I mean that's what pro bono students are for, right?”¹²¹ The majority of the projects pro bono students have worked on for VAP over the years have been to look “for any laws pertaining to this [poverty issue] that would support or go against” and to “make a fact sheet, not in clinical words, but in regular people words” that could be shared in the community, because, as one members shared,

¹¹⁶ Participant C, “Interview Transcript,” (2 May 2017) at 9.

¹¹⁷ Voices Against Poverty, “Group Meeting Notes,” (23 March 2017) at 2.

¹¹⁸ *Ibid* at 2.

¹¹⁹ Participant B, “Interview Transcript,” (27 April 2017) at 12.

¹²⁰ Participant C, “Interview Transcript,” (2 May 2017) at 9.

¹²¹ Participant E, “Interview Transcript,” (16 May 2017) at 6.

“that’s the way I saw using the pro bono students was to help us create legal awareness, ‘cause a lot of times people don’t know their rights as tenants.”¹²²

¹²² Participant C, “Interview Transcript,” (2 May 2017) at 10.

CHAPTER 2

LITERATURE REVIEW

The way we understand lawyering has come from debates and discussions that happen in the extralocal¹²³ realm of academia and from the legal profession itself, rarely allowing space for the perspectives and standpoints of the people whose lived experience affords them a deeper understanding of what would be most useful to support their work. And while this project seeks to challenge this erasure by centering the voices of community advocates with lived experience as experts, it is important to also understand what the dominant or status quo narratives tell us about lawyering for social change in order to form a more complete picture that acknowledges how these varying understandings interact to inform what we think and know about this issue.

To that end, this next chapter will outline my understanding of how lawyers and legal scholars have conceptualized the role of lawyers and approaches to lawyering in support of social change. To uncover what is considered “expert” knowledge on lawyering for social change, I began this project with a literature review looking at how lawyers best work towards social change. This led me to look at different types of lawyering which I read as residing on the periphery of one another. What follows is a discussion of the literature on “traditional” and “progressive” lawyering, both labels which emerged in a literature search for social-justice oriented lawyering approaches. There are various labels that apply to the two concepts of lawyering I have presented below,¹²⁴ and a literature search was conducted that encompassed the various labels.

¹²³ The term “extralocal” comes from Canadian sociologist and feminist standpoint theorist Dorothy Smith who describes it as “something like a bird’s eye view, a viewpoint not situated in the local and particular places and not located in actual, particularistic social relations.” Dorothy Smith, *The Everyday World as Problematic: A Feminist Sociology* (USA: Northeastern University Press, 1987) at 77 [Smith, *Everyday World*].

¹²⁴ *Infra*, notes 126, 127, 143.

Traditional Lawyering ¹²⁵

Under the traditional, regnant,¹²⁶ or first-dimensional¹²⁷ approach to lawyering for social justice, lawyers are focused on mitigating injuries rather than the processes of subordination,¹²⁸ addressing “the immediate and identifiable”¹²⁹ effects and failing to question the deeper structures and root causes of these “injuries.”¹³⁰ Relying on conventional legal remedies and institutions,¹³¹ traditional lawyers “formally represent”¹³² clients and translate their concerns into legal claims.¹³³ They view legal remedies as *the* solution to subordination and oppression.¹³⁴ This type of lawyering puts a lot of weight on professional “expertise” and “dominance.”¹³⁵ Traditional lawyers put themselves above communities and other advocates, naming themselves “preeminent problem solvers”¹³⁶ and believing that they should be leading social movements and change efforts with little or no input or collaboration with community.¹³⁷

Those who subscribe to this understanding of the role of lawyers are often unable to understand the limitations or harms of this approach because they “are too enmeshed in their law

¹²⁵ The following section has been adapted from a portion of a paper prepared for the course Graduate Seminar, Law course 08-98-530-1.

¹²⁶ “Regnant” lawyering is a term coined by Gerald López: see Gerald López, *Rebellious Lawyering: One Chicano’s Vision of Progressive Law Practice* (HarperCollins Canada, 1992) [López, *Rebellious Lawyering*].

¹²⁷ Lucie White introduces us to “first-dimensional” lawyering: see Lucie E White, “To Learn and Teach: Lessons from Driefontein on Lawyering and Power” (1988) *Wis L Rev* 699 at 755 [White, “To Learn and Teach”].

¹²⁸ *Ibid* at 754.

¹²⁹ Paul R Tremblay, “Rebellious Lawyering, Regnant Lawyering, and Street-Level Bureaucracy” (1992) 43 *Hastings Law Journal* 947 at 950 [Tremblay].

¹³⁰ White, “To Learn and Teach”, *supra* note 127 at 755.

¹³¹ Tremblay, *supra* note 129 at 950 (n 12).

¹³² White, “To Learn and Teach”, *supra* note 127 at 755; see also Angelo N Ancheta, “Community Lawyering” (1993) 81 *Cal L Rev* 1363 at 1367 [Ancheta].

¹³³ Tremblay, *supra* note 129 at 953.

¹³⁴ While traditional legal remedies can lead to positive results – for example, the advancement of human rights–traditionally focused lawyers fail to understand that there is space for nontraditional, or non-legal, responses, and that these tools should be considered as well. See, Ancheta, *supra* note 132 at 1368.

¹³⁵ Tremblay, *supra* note 129 at 950 (n 12).

¹³⁶ Ancheta, *supra* note 132 at 1367-1368.

¹³⁷ *Ibid*; See, Quigley, “Letter to a Law Student”, *supra* note 9 at 20: (“There is a lawyer-led law school and legal profession myth that suggests social justice law and the lawyers practicing it are at the cutting edge of social change. I think history demonstrates it is actually most often the opposite – developments in law follow social change rather than lead it.”)

oriented environment.”¹³⁸ The impacts of a traditional approach to social justice oriented lawyering are further obscured by the “benign and well-intentioned” relationship where lawyers view themselves (and are viewed by clients) as working within “a supportive and caring context.”¹³⁹ Because traditionally oriented social justice lawyers are well intentioned, appear to understand the struggles of their clients, and can be viewed as a “helper or champion”¹⁴⁰ for their clients, it can be easy to accept this conceptualization as a way to understand lawyers in this context. However, to argue that lawyers have a role in community resistance or social movements seeking systemic change because the law is a meaningful space to achieve this change ignores how traditional lawyering reinforces the status quo and upholds structures of subordination by: failing to look at the structural causes of oppression; privileging legal remedies while ignoring non-traditional advocacy practices; and championing hierarchical relationships of power and dominance.¹⁴¹

Progressive Lawyering ¹⁴²

My reading of the texts on social justice or “progressive” lawyering revealed a spectrum of non-traditional, social justice minded lawyering types¹⁴³ that align on four key characteristics:

¹³⁸ Tremblay, *supra* note 129 at 953.

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*

¹⁴¹ It is not a new argument to suggest that the traditional approach to lawyering is ineffective for social change. In the 1970s, Steven Wexler argued in his discussion of the role of lawyers in supporting meaningful and lasting change for “poor” clients that “lawyer’s must depart radically from the traditional lawyer’s role”; White, “To Learn and Teach”, *supra* note 127 at 765.

¹⁴² The following section has been adapted from a portion of a paper prepared for the course Graduate Seminar, Law course 08-98-530-1.

¹⁴³ For example, (non-exhaustive) see: Sameer M Ashar, “Deep Critique and Democratic Lawyering in Clinical Practice” (2016) 104 California Law Review 193 (for a discussion on “democratic” lawyering); Gary Bellow, “Steady Work: A Practitioner’s Reflections on Political Lawyering” (1996) 31 Harv CR-CL L Rev 297; Peter M Cicchino, “To be a Political Lawyer” (1996) 31 Harv CR-CL L Rev 311; and Martha Minow, “Political Lawyering: An Introduction” (1996) 31 Harv CR-CL L Rev 287 (for discussions on “political” lawyering); Jonathan Black, *Radical Lawyers: Their Role in the Movement and in the Courts* (New York: Avon, 1971); and Ben Emerson, “The Role of the Radical Lawyer: From Theory to Practice” (1986) 1 Socialist Lawyer 3 (for discussions on “radical” lawyering); Richard Abel, “Lawyers and the Power to Change” (1985) 7 Law & Pol’y 5; Susan D Carle, “Progressive Lawyering in Politically Depressing Times: Can New Models for Institutional Self-Reform Achieve More Effective Structural Change?” (2007) 30 Harvard Journal of Law & Gender 323; Corey S Shdaimah,

they acknowledge the root causes of subordination; do not rely exclusively on traditional legal advocacy tactics; centre community voices; and work collaboratively and non-hierarchically with community. These texts are rooted in the work of practicing lawyers, legal professionals, scholars and academics who have theorized about how lawyers should approach systemic change work in and with their communities. Although in some iterations the lived experiences of communities are included as an integral component to understanding the work of lawyers, these texts remain indicative of abstracted theorizing about what communities need or want from lawyers when they engage in social change work. Beginning from the position of legal insiders, “specialists occupying influential positions in the ideological apparatus,”¹⁴⁴ these texts reflect the perspective, ways of knowing, and understanding of the ruling class.

First, advocates of progressive lawyering argue that we cannot ignore the structural nature of subordination, recognizing that we need to acknowledge the root causes rather than focusing exclusively on “mitigating injuries.”¹⁴⁵ Progressive lawyers recognize that any work done by lawyers must contribute to dismantling these structures, which means looking beyond what is “immediate and identifiable”¹⁴⁶ and focusing on the more elusive structural factors,¹⁴⁷

Negotiating Justice: progressive Lawyering, Low-Income Clients and the Quest for Social Change (New York: NYU Press, 2011); and William H Simon, “The Dark Secret of Progressive Lawyering: A Comment on Poverty Law Scholarship in the Modern, Post-Reagan Era” (1994) 48 *Miami L Rev* 1099 (for discussions on “progressive” lawyering); Cristine Zuni Cruz, “On The Road Back In: Community Lawyering in Indigenous Communities” (1999-2000) 24:1 *American Indian Law Review* 229; Michael Diamond, “Community Lawyering: Revisiting the Old Neighborhood” (2000-2001) 32 *Colum Hum Rts L Rev* 67 [Diamond]; Charles Elsesser, “Community Lawyering – The Roles of Lawyers in Social Justice Movements” (2013) 14 *Loyola Journal of Public Interest Law* 375; Robin Jacobs, “Building Capacity Through Community Lawyering: Circumstances of the Leaders, Small Community Associations, and Their Attorneys” (2015) 24:1 *Journal of Affordable Housing* 29; and Arpeeta S Mizan, “Community Lawyering or Collaborative Lawyering? How Far Human Rights Advocacy Strategies Harbour the Theory of Change” (2016) 32:3 *Asian Journal of Legal Education* 188 [Mizan] (for discussions on “community” lawyering); López, *Rebellious Lawyering*, *supra* note 126; and Gerald P López, “Living and Lawyering Rebelliously” (2005) 73:5 *Fordham Law Review* 2041 (for discussions on “rebellious” lawyering); Ascanio Piomelli, “Sensibilities for Social Justice Lawyers” (2013) 10 *Hastings Race & Poverty Law Journal* 177 (for a discussion on “social justice” lawyering).

¹⁴⁴ Smith, *Everyday World*, *supra* note 123 at 19.

¹⁴⁵ White, “To Learn and Teach”, *supra* note 127 at 754.

¹⁴⁶ Tremblay, *supra* note 129 at 950.

¹⁴⁷ White, “To Learn and Teach”, *supra* note 127.

including the role of the law in creating and maintaining these structures. They acknowledge that unless we turn our attention to dismantling the “*processes of subordination*,”¹⁴⁸ we will never be able to address the root causes of subordination and oppression and therefore it will always exist in some form or another. Focusing on the root causes makes effective and lasting change possible by taking a preventative, rather than reactive, approach to subordination or oppression.

Because of this, progressive lawyers recognize that the law alone cannot eliminate or dismantle systems or structures of subordination and oppression and that they should not promote the law as *the* answer to systemic change. The second criteria of progressive lawyers to be effective agents for communities in resistance and social movements, then, is that lawyers be attentive to the ways that legal and social issues intertwine¹⁴⁹ and therefore adopt an expanded approach to how they engage with advocacy by introducing nontraditional, or non-legal, strategies. They recognize that “the law cannot eliminate the oppressive effects of poverty and discrimination...[and that] employing solely the law to eradicate such oppression is self-deluding and will frustrate clients.”¹⁵⁰ Although they engage with an expanded arsenal of tools and skills that go beyond traditional “legal” tools and skills, progressive lawyers also recognize the ways in which the law can serve as a useful tactic at various points and to address various issues in social change efforts and movements.¹⁵¹ Progressive lawyers therefore engage with a variety of legal and non-legal approaches, and apply whichever approach (legal or non-legal) is most appropriate to the task at hand.¹⁵²

¹⁴⁸ *Ibid* at 754.

¹⁴⁹ Diamond, *supra* note 143 at 79, 109.

¹⁵⁰ *Ibid* at 67.

¹⁵¹ Mizan, *supra* note 143 at 196.

¹⁵² See, Diamond, *supra* note 146; Gordon, *supra* note 6; Shin Imai, “A Counter-Pedagogy for Social Justice: Core Skills for Community-Based Lawyering” (2002-2003) 9 *Clinical L Rev* 195 at 196; Gerald P López, “An Aversion to Clients: Loving Humanity and Hating Human Beings” (1996) 31 *Harv CR-CL L Rev* 315 at 322 [López, “An Aversion to Clients”]; Mizan, *supra* note 143; Quigley, “Letter to a Law Student”, *supra* note 9; White, “To Learn and Teach”, *supra* note 127.

Similarly, a third criterion that progressive lawyers argue is necessary to be effective allies in community-led social change efforts and movements is recognizing that they are not the “protagonists.”¹⁵³ Progressive lawyers take a back seat to the communities leading the resistance, recognizing that they do not possess the narratives of these communities,¹⁵⁴ which can offer a more rich and nuanced understanding of the issues that lawyers, trapped in a “law-oriented”¹⁵⁵ world, fail to see. As Michael Diamond argues: “The community’s problems are the only context within which the proper role for such a lawyer can be understood.”¹⁵⁶ And it is only those who are part of the community who are able to fully understand these problems.¹⁵⁷ It is therefore important for lawyers to centre community voices to support, rather than undermine or co-opt, the struggle.

Finally, progressive lawyers recognize that we can never escape the power and risk of coercion and complicity inherent in the lawyering relationship,¹⁵⁸ but argue that we can engage in *collaborative* lawyering relationships to challenge this and shift the balance of power as much as possible in favour of the community. Gary Bellows defines a collaborative relationship as one where we: “add to each other’s knowledge easily and serenely [while also maintaining] a desire to question what each knows and a willingness to put to use whatever seems suited to the task at hand.”¹⁵⁹ This requires viewing the lawyering relationship as a consciousness-raising process that is both pedagogic and non-hierarchical.¹⁶⁰

¹⁵³ Gordon, *ibid.*

¹⁵⁴ Ashar, “Deep Critique”, *supra* note 143 at 219.

¹⁵⁵ Tremblay, *supra* note 129 at 953.

¹⁵⁶ Diamond, *supra* note 143 at 75.

¹⁵⁷ See, Ashar, “Deep Critique”, *supra* note 143.

¹⁵⁸ Gordon, *supra* note 6 at 2144.

¹⁵⁹ López, “An Aversion to Clients”, *supra* note 152 at 322.

¹⁶⁰ Diamond, *supra* note 143 at 89.

Progressive lawyering theory suggests that applying these criteria – acknowledging the root causes of subordination, not relying exclusively on traditional legal advocacy tactics, centering community voices, and working collaboratively and non-hierarchically with community – allows lawyers to work with communities towards systemic change, however, they must also be mindful of the dangers that are inherent in this approach.

First, recognizing the law’s implicit role in creating and maintaining structures of subordination and oppression challenges the notion that we can work against this as legal actors. “Relying upon the language of law and legal rights to bring change legitimates an ideological system that masks inequality.”¹⁶¹ Under this view, even in instances where legal remedies have resulted in “success” for community-led social change efforts or movements, these “victories” simultaneously undermine the work of community by reinforcing the legitimacy of a state structure established to subordinate and oppress.¹⁶²

Progressive lawyers are also always in a position to co-opt the work of community. Orly Lobel defines this process of “legal co-optation” as one “by which the focus on legal reform narrows the causes, deradicalizes the agenda, legitimizes ongoing injustices and diverts energies away from more effective and *transformative* alternatives.”¹⁶³ Legal remedies and the lawyers championing them often take centre stage and displace or eclipse the impact of community organizing work.¹⁶⁴ When lawyers’ voices are the central focus, “the community’s struggle becomes the lawyer’s struggle and not the people’s struggle,”¹⁶⁵ where lawyers “receive

¹⁶¹ Orly Lobel, “The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics” (2007) 120 Harv L Rev 937 at 957 [Lobel].

¹⁶² See, White, “To Learn and Teach”, *supra* note 127 at 740-741; see also, Wendy Brown & Janet E Halley, *Left Legalism/Left Critique* (Durham: Duke University Press, 2002); and Lobel, *ibid*.

¹⁶³ Lobel, *supra* note 161 at 939.

¹⁶⁴ See, Mizan, *supra* note 143.

¹⁶⁵ William P Quigley, “Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations” (1994-1995) 21 Ohio N U L Rev 455 at 462-463 [Quigley, “Reflections”].

attention and remain the focus.”¹⁶⁶ Looking to the law as the avenue for change “snatches the power play from [the community’s] control to place it with the lawyer. This can indirectly disempower the community,”¹⁶⁷ which is antithetical to the goal of dismantling the oppressive systems and structures of subordination that disempower communities. This “may find [communities] pleading for permission to conform to the *status quo*,”¹⁶⁸ as they become “absorbed by the system even as they struggle against it.”¹⁶⁹

Finally, progressive lawyers are necessarily reinforcing hierarchies of dominance by occupying a privileged role where their knowledge and expertise is valued in the dominant or status quo narrative that these movements are seeking to challenge.¹⁷⁰ “It is a reality that lawyers, with our privilege, our access to power, and our closely held set of tools, all too often have negative effects when we intervene in community processes...[t]he issue of power pervades all aspects of the community lawyer’s job.”¹⁷¹ This power, “or the possibility of coercion and complicity with group domination”¹⁷² is particularly a concern where the lawyer’s identity mirrors or aligns with the privileged or dominant identities of the status quo, which continue to occupy the majority of this space.¹⁷³

Those who work and write as progressive lawyers challenge the way we think about lawyering using a critical lens that allows us to see the ways that traditional lawyering

¹⁶⁶ Mizan, *supra* note 143 at 193.

¹⁶⁷ *Ibid* at 196-197.

¹⁶⁸ White, “To Learn and Teach”, *supra* note 127 at 757.

¹⁶⁹ Lobel, *supra* note 161 at 939.

¹⁷⁰ See, *ibid* at 952-954.

¹⁷¹ Gordon, *supra* note 6 at 2144.

¹⁷² *Ibid*.

¹⁷³ See, for example, Sabrina Lyon & Lorne Sossin, “Data and Diversity in the Canadian Justice Community” (2014) *Osgoode Legal Studies Research Paper Series* 63 (for a discussion on the lack of diversity in the Canadian legal profession: “[t]he Canadian judiciary is overwhelmingly white at a time when Canadian society is more diverse than ever before” at 4; and “[m]inority lawyers, LGBT lawyers and lawyers with disabilities face strong resistance and bias (whether conscious or unconscious) to entry and advancement in the legal profession” at 24).

approaches can undermine or co-opt the work being led by community advocates for social change. Their work forces us to think about how our approach to lawyering can be altered to better serve our clients, our communities, and ourselves by working towards systemic change and seeking to mitigate the impacts of unequal power relationships that privilege lawyers. They help us to broaden our understanding of what lawyers can and should be doing in order to contribute to broad social change work, but also acknowledge the challenges of doing so from a position that is privileged and designed to uphold the very structures progressive lawyers are working against.

Although the progressive lawyering literature has some important and critical discussions about lawyers working for social justice, it is centered around the voices of lawyers and legal academics, ignoring or glossing over the crucial standpoint that communities and persons with lived experience bring to these discussions. The literature therefore critiques power hierarchies from the perspective of lawyers and legal academics, which overemphasizes the power held by lawyers and its impacts, and minimizes the power held in communities and potential for transformative power relationships. So, while the literature provides us with a critical alternative to traditional lawyering, it still obscures the full potential for a transformative relationship between lawyers and communities, which can only be understood when we look outside of the perspectives of lawyers and legal academics. How can we know the best way for lawyers to support community-based social justice work without turning to the communities we're seeking to support? “[H]ow can you do it without consulting the people who need the help or the change?”¹⁷⁴

¹⁷⁴ Participant C, “Interview Transcript,” (2 May 2017) at 8.

CHAPTER 3

METHODOLOGY

Reviewing the literature on progressive lawyering revealed a significant limitation in whose voices are given space as “experts” in discussions around how lawyers can best support community-led systemic change work. These discussions have been dominated by legal professionals and academics, with little attention to the knowledge and wisdom that is held outside of these “elite” discourses. Seeking to contribute to addressing this gap in a way that was transformative in its approach and limited in its potential to reinforce traditional power hierarchies – understanding that theory, method, and action are inseparable – I moved beyond the literature and turned to the community to explore how lawyers can best support community-led systemic change work. Specifically, I worked with one group of community advocates with lived experience of poverty to elevate their voices and share their wisdom on how they felt lawyers might best support their work and how they might reimagine their relationship to transform the power lawyers hold by virtue of their location and privilege into opportunities of resistance towards a more even distribution of power.

With a goal to better understand how lawyers can best support community-led systemic change work towards the elimination of poverty while being attentive to the ways in which they might undermine or co-opt the work of advocates with lived experience, I conducted qualitative research informed by a critical research paradigm, incorporating elements of collaborative or participatory research, including participatory action and community-based participatory

research methodologies.¹⁷⁵ This was a deliberate, political choice,¹⁷⁶ meant to reflect the social change purpose of the research by centering the perspectives of community advocates with lived experience of poverty, challenging traditionally held beliefs about who counts as “expert,” where someone with lived experience who is “an expert...[because they] know what poverty is. [They] felt it, [they] lived it. [They’ve] experienced it...need[s] a credential in order for people to listen.”¹⁷⁷ This approach allowed me to both recognize and validate the knowledge and expertise held by the participants as advocates with lived experience of poverty, while also providing space for their voices to be heard where lawyers and legal academics have dominated. The research was also shaped by my practice of reflexivity,¹⁷⁸ which allowed me to better understand and convey the ways in which the research, as it is presented in this thesis, represents by own biases and subjectivities both in the process of conducting research with participants, and, importantly, in the analysis of the data and conclusions drawn from it.

There is an urgency for change born out of the current social and political climate requiring an approach to research that will both recognize this context and model more equal social relationships and distributions of power allowing for the research process itself to be an act of social change.¹⁷⁹ Recognizing that “the path or route we choose for research is as

¹⁷⁵ Stephanie Baker Collins, “An Understanding of Poverty From Those Who Are Poor” (2005) 3:1 Action Research 9 at 11 [Collins, “An Understanding”]: (“The goal in this study was for participation to be a *principle* of research rather than a *technique*” [emphasis added]).

¹⁷⁶ Sandra L Kirby, Lorraine Greaves, & Colleen Reid, *Experience Research Social Change: Methods Beyond the Mainstream*, 2d ed (Canada: Broadview Press, 2006) at 11 [Kirby]: “The methods appropriate for researching beyond the mainstream are grounded in a political awareness of a need for change. Hence, choosing an approach and method becomes a political choice.”

¹⁷⁷ Participant C, “Interview Transcript,” (2 May 2017) at 1.

¹⁷⁸ I am using a definition of reflexivity from the social work literature that refers to a “self-critical approach that questions how knowledge about clients [or research participants] is generated and, further, how relations of power operate in this process.” Heather D’Cruz, Philip Gillingham & Sebastien Melendez, “Reflexivity: A Concept and Its Meanings for Practitioners Working with Children and Families” (2007) 8:1 Critical Social Work.

¹⁷⁹ Brett G Stoudt, Madeline Fox & Michelle Fine, “Contesting Privilege with Critical Participatory Action Research” (2012) 68:1 Journal of Social Issues 178 at 179 [Stoudt]: (“We write in the midst of a severe global economic crisis in which poor and working class people are losing jobs, homes, family stability and healthcare, ever

important as the meanings or substance we might discover,”¹⁸⁰ adopting a critical research paradigm, supported by collaborative methodologies, allowed the research path to align with the goal of critically examining unequal social relationships and distributions of power.

Understanding that method, theory, and action cannot be divorced from one another, incorporating elements of collaborative research methodologies was intended to both recognize and validate the knowledge and expertise held by the participants as advocates with lived experience of poverty, while also providing space for their voices to be heard where lawyers and legal academics have dominated. Thus, in order to contribute to more equal social relationships and distributions of power, this research was designed to not only understand but to be a process to challenge these relationships as well.

Integrating elements of collaborative methodologies into my critical framework allowed me to explore how lawyers could best support community-led systemic change work towards the elimination of poverty by centering perspectives of community advocates with lived experience who are engaged in this work; perspectives typically left to the margins of these discussions despite their importance to fully understanding meaningful paths forward.¹⁸¹ It is these voices, from their standpoint, that provide a more complete understanding of our everyday world¹⁸² and the relationships within it, including those relationships that are between community advocacy

more vulnerable to mass incarceration, deportation and occupation, while corporations and elites are gifted with tax breaks. We are concerned, therefore, that in our scholarship and activism the deep and knotty relations of privilege and injustice be made explicit. We rely on the epistemologies of participatory action research (PAR) to make evident these *circuits of dispossession and privilege*. This essay joins a growing number of scholars and activists concerned with the insidious role of privilege in producing, sustaining, naturalizing, and framing injustice.”)

¹⁸⁰ Kirby, *surpa* note 176 at 64.

¹⁸¹ Although community advocates with lived experience are surely engaged in these discussions, debating the role of lawyers in their work, their voices are not reflected in the literature and are therefore often ignored in the ways we teach and train social justice oriented lawyers, which shapes how lawyers engage in this kind of work. Therefore, it is important to bring discussions that are likely already happening on the ground into the literature so that it can no longer be ignored.

¹⁸² See Smith, *Everyday World*, *supra* note 123.

groups and the lawyers who support them. To this end, I relied on group meetings and in-depth interviews with participants to learn from one group of community advocates with lived experience of poverty about how they envisioned lawyers to best support their work towards systemic change.

Critical Paradigm

Being explicit and intentional about one's research paradigm is important because it is the research paradigm that "ultimately determines or directs all other decisions made within a particular research endeavour."¹⁸³ A research paradigm – the worldview or perspective from which to approach your research¹⁸⁴ – generally falls under one of three loose categories: instrumental; interactive; or critical.¹⁸⁵ Questions surrounding power relations, societal structures and resulting inequalities underscore this research, and thus a critical research paradigm is appropriate to begin an exploration into the ways lawyers might be most effective in supporting community advocates with lived experience seeking systemic or structural change.¹⁸⁶ A critical "paradigm examines societal structures and power relations and how they play a role in promoting inequalities and disabling people while promoting reflection and action on what is right and just."¹⁸⁷

Similarly, Kristin Esterberg frames a critical research paradigm as one that can be understood as "a moral and political activity"¹⁸⁸ meant "to help people change oppressive conditions...the goal of critical social research is to work toward human emancipation."¹⁸⁹

¹⁸³ Kirby, *supra* note 176 at 13.

¹⁸⁴ *Ibid* at 12.

¹⁸⁵ *Ibid* at 13: (However, it is important to note, as Kirby, Greaves and Reid do, that categories are fluid and overlapping and can be "interbred" or conflated).

¹⁸⁶ *Ibid* at 14.

¹⁸⁷ *Ibid*.

¹⁸⁸ Kristin G Esterberg, *Qualitative Methods in Social Research* (Boston: McGraw Hill, 2001) [Esterberg].

¹⁸⁹ *Ibid*.

Critical social researchers, she tells us, “want to examine the nature of inequality and work toward the empowerment of those with less power.”¹⁹⁰ To this end, critical social researchers must be attentive to whose perspectives are included in the research process, recognizing that research is not a neutral process and knowledge is created by those included and centered in this process.¹⁹¹ It is especially important to ensure that the perspectives of those who are traditionally marginalized in research and knowledge production be included if empowerment and social change are ultimate goals in critical social research.¹⁹² Failing to seek out and centre these perspectives not only reinforces whose knowledge is considered “legitimate”, but also risks further entrenching the dominant power imbalances we are seeking to change. Thus, it was important for this research project to include the perspectives of community advocates and persons with lived experience throughout the research process as these are the perspectives that have typically been excluded from these discussions despite the necessary understanding they bring to this discussion.

Theory: Feminist Standpoint Theories & Knowledge/Power Nexus

I relied on feminist standpoint theories, particularly the work of sociologists Dorothy Smith and Patricia Hill Collins, and Michel Foucault’s knowledge/power nexus to inform my critical research paradigm. Both feminist standpoint theories and the knowledge/power nexus are useful to better understand the relationship between knowledge and power, how this relationship has been used to maintain the status quo, and how it might be co-opted to challenge power hierarchies and dominance.¹⁹³ Understanding the importance of beginning from the standpoint of

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid*; Kirby, *supra* note 176 at 14.

¹⁹² Esterberg, *supra* note 188.

¹⁹³ Although the theoretical framework for this work stems from questions about the politicized nature of knowledge creation and use rather than from a class analysis, a Marxist class analysis could also be layered to think about how class shapes our standpoints.

communities and the relationship between knowledge and power and its transformative potential was particularly important as it is these elements that are missing from the literature. Feminist standpoint theories and the knowledge/power nexus can be used together to show how questioning knowledge or what is considered valid or objective truth, is a way forward to resist unequal power hierarchies that privilege a dominant class.

Feminist standpoint theories help to uncover how power is distributed based on what is considered valid knowledge and ultimately whose voices get heard. Feminist standpoint theories “renounc[e] theoretical projects that seek full development and coherence prior to an encounter with the world...[by] moving from the actualities [we] begin to see, to formulations intended to explicate them, and back again.”¹⁹⁴ Thus, I was able to use tenants of feminist standpoint theories and begin from the voices of community advocates while also bringing in the theoretical discussions that inform how we think about a lawyering relationship and the implications of this understanding in shaping the everyday world and our relationships in it. I was also able to use the work of Michel Foucault as understood by progressive lawyers,¹⁹⁵ borrowing from Foucault’s “toolkit”¹⁹⁶ to better understand the role the power/knowledge nexus plays in relationships between community advocates with lived experience and the lawyers who support them. Foucault’s work helps to uncover the transformative potential of these relationships in moving towards more equitable distributions of power.

¹⁹⁴ Smith, *Everyday World*, *supra* note 123 at 11.

¹⁹⁵ Asciano Piomelli, “Foucault’s Approach to Power: Its Allure and Limits for Collaborative Lawyering” (2004) Utah L Rev 395 [Piomelli, “Foucault’s Approach to Power”].

¹⁹⁶ *Ibid.*

Feminist Standpoint Theories

Feminist standpoint theories begin from “the view that all attempts to know are socially situated”¹⁹⁷ – “our ruling¹⁹⁸ [and] the systematically developed knowledge that has entered into it”¹⁹⁹ are “designed to represent the interests of those privileged by hierarchical power relations of race, economic class, gender, sexuality, and nationality.”²⁰⁰ The “legislations, policies, mindsets...all these exclusionary forces...degrade, demoralize, stigmatize and punish people for their situations.”²⁰¹ Uncovering the ways “elite White men control Western structures of knowledge validation,”²⁰² feminist standpoint theories are particularly useful to “map how social and political disadvantage can be turned into an epistemic, scientific and political advantage.”²⁰³

According to the basic tenants of feminist standpoint theories, “[t]he social situation of the epistemic agent...plays a role in forming what we know and limiting what we are able to know. They can affect what we are capable of knowing and what we are permitted to know.”²⁰⁴ Those who are “inside the box” can be limited to the four walls of that box, but those “outside the box” are able to see more than what is “in front of [them].”²⁰⁵ Our socio-political positions

¹⁹⁷ T. Bowell, “Feminist Standpoint Theories” (nd) *Internet Encyclopedia of Philosophy*, online: <<http://www.iep.utm.edu/fem-stan/>> [Bowell].

¹⁹⁸ The concept of “ruling” is one “that grasps power, organization, direction, and regulation as pervasively structured than can be expressed in traditional concepts provided by the discourses of power,” and refers to “a complex of organized practices, including government, law, business and financial management, professional organization, and educational institutions as well as the discourse in texts that interpenetrate the multiple sites of power.” (Smith, *Everyday World*, *supra* note 123 at 3).

¹⁹⁹ *Ibid* at 17-18.

²⁰⁰ Patricia Hill Collins, *Fighting Words: Black Women and the Search for Justice* (University of Minnesota Press, 1998) at 44-45.

²⁰¹ Participant B, “Interview Transcript,” (27 April 2017) at 14.

²⁰² Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (Routledge, 2008) at 251.

²⁰³ Bowell, *supra* note 197; citing Sandra Harding, ed, *The Feminist Standpoint Theory Reader* (New York and London: Routledge, 2004) at 7-8.

²⁰⁴ *Ibid*.

²⁰⁵ Participant A, “Interview Transcript,” (26 April 2017) at 4.

thus inform our perspectives and offer a potential entry point into the achievement of a standpoint.

Distinguishing between a *perspective*, which “is occupied as a matter of fact of one’s socio-historical position,”²⁰⁶ and a *standpoint*, which may emerge from one’s socio-historical position, but is “earned through the experience of collective political struggle,”²⁰⁷ feminist standpoint theories claim that it is those who occupy space in marginalized groups who “are much more successfully placed to achieve a standpoint.”²⁰⁸ It is their “access to both public and hidden knowledge on both sides of power positions”²⁰⁹ that allows marginalized groups who are “outside the box” to “develop distinctive standpoints on hierarchical power relations,”²¹⁰ from an “epistemic advantage of insights into social relations that are unavailable to the non-marginalized [“inside the box”].”²¹¹ They are able to “see both the flaws and the ways that people can get hurt, as well as the other, in the same bureaucratic lens, as some of the bureaucrats.”²¹² This “epistemic advantage,” “double vision,” or “wisdom” is necessary for marginalized groups “to survive in social structures in which one is oppressed,”²¹³ an advantage not required of the non-marginalized who are, by design, privileged by those same social structures: “Knowledge without wisdom is adequate for the powerful, but wisdom is essential to the survival of the subordinate.”²¹⁴

²⁰⁶ *Bowell, supra* note 197.

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid.*

²⁰⁹ Collins, *Fighting Words, supra* note 200 at 50.

²¹⁰ *Ibid.*

²¹¹ *Bowell, supra* note 197.

²¹² Participant B, “Interview Transcript,” (27 April 2017) at 18.

²¹³ *Bowell, supra* note 197.

²¹⁴ Collins, *Black Feminist Thought, supra* note 202 at 257.

Feminist standpoint theories tell us that “[t]he present structure of local social relations is organized by social relations external to it;”²¹⁵ the local actualities of our lives, “our everyday worlds are organized by social relations that extend beyond them.”²¹⁶ Ideology, knowledge, and culture²¹⁷ are created and maintained by a dominant, elite, or ruling class of “affluent White men” who “control[] schools, the news media, and other social institutions that legitimate what counts as truth,”²¹⁸ leaving the experiences, interests, and ways of knowing²¹⁹ of marginalized groups “excluded from what counts as knowledge.”²²⁰ This exclusion is a significant issue, particularly for those who are marginalized, because “if you’re excluded from the policies and the program structures that impact you, you’re also gonna get hurt by them in a lot of ways.”²²¹

To shape “how our everyday worlds are organized,”²²² the ruling class takes an “extralocal” viewpoint, “something like a bird’s-eye view, a viewpoint not situated in the local and particular places and not located in actual, particularistic social relations.”²²³ This results in “the transcription of the local and particular actualities of our lives into abstracted and generalized forms,”²²⁴ a process designed to maintain social inequality by universalizing “elite discourses [and] measur[ing] everyone else’s accomplishments in light of how much they deviate from this ideal.”²²⁵ It is under this “view of social reality that elevates the ideas and actions of highly educated White men as normative and superior,”²²⁶ where the “ideological apparatus” that

²¹⁵ Smith, *Everyday World*, *supra* note 123 at 94.

²¹⁶ *Ibid* at 121.

²¹⁷ *Ibid* at 17-18.

²¹⁸ Collins, *Black Feminist Thought*, *supra* note 202 at 229-230.

²¹⁹ Smith, *Everyday World*, *supra* note 123 at 17-18.

²²⁰ Collins, *Black Feminist Thought*, *supra* note 202 at 251.

²²¹ Participant B, “Interview Transcript,” (27 April 2017) at 2.

²²² Smith, *Everyday World*, *supra* note 123 at 121.

²²³ *Ibid* at 77.

²²⁴ *Ibid* at 3.

²²⁵ Collins, *Fighting Words*, *supra* note 200 at 44-45.

²²⁶ *Ibid*.

organizes and gives meaning to our lives comes from the perspectives and interests of this ruling class who are necessarily outside of our local, actualized lives. In holding the ability to “legitimate what counts as truth, [the ruling class] possesses the authority to obscure its own power and to redefine its own special interests as being national interests.”²²⁷ The standpoint of the ruling class, “a standpoint in the everyday world,”²²⁸ thus “comes to be seen as natural, obvious, and general, and a one-sided set of interests preoccupy intellectual and creative work.”²²⁹

This creates the conditions whereby stereotypes of identity emerge to define those who are excluded from the elite discourse or ruling class. The experiences of those who are “outside the box” are “routinely distorted”²³⁰ and placed “into niches within hierarchical power relations.”²³¹ In the context of poverty, elite discourses create categories like, for example, the “deserving” and “undeserving” poor where people “have to fit a certain parameter [delineated in the extralocal] to get help and be deserving of it.”²³² There is a “denial that this problem [poverty] exists,”²³³ and misconceptions that “people are just lazy, people just don’t want to work”²³⁴ which shape the way people understand what poverty means and how it is experienced. These stereotypes shape “how things are framed and how people come to understand stuff,”²³⁵ including those on whom these stereotypes are imposed, disempowering them and creating “a state of mind where it’s like ‘I can’t do nothing, I’m worthless’,”²³⁶ where “you feel like you’re a

²²⁷ Collins, *Black Feminist Thought*, *supra* note 202 at 229-230.

²²⁸ Smith, *Everyday World*, *supra* note 123 at 108.

²²⁹ *Ibid* at 20.

²³⁰ Collins, *Black Feminist Thought*, *supra* note 202 at 251.

²³¹ Collins, *Fighting Words*, *supra* note 200 at 58.

²³² Participant B, “Interview Transcript,” (27 April 2017) at 14.

²³³ Participant C, “Interview Transcript,” (2 May 2017) at 1.

²³⁴ *Ibid*.

²³⁵ *Ibid*.

²³⁶ Participant A, “Interview Transcript,” (26 April 2017) at 3.

personal failure.”²³⁷ Here we can see “how the ideas produced by a ruling class...dominate and penetrate the social consciousness of the society in general, and thus...effectively control the social process of consciousness in ways that deny expression to the actual experience people have in the working relations of their everyday world.”²³⁸

This ideological apparatus is obscured both to those existing in socio-political positions outside and within the ruling class. The invisibility of the ideological apparatus and its structure gives it the appearance of neutrality, universality, and objectivity, making it seem natural and inevitable that the way we conceptualize the local actualities of our lives is influenced and shaped by the perspectives of the ruling class. It gives those who are “governed” or “ruled” by an abstracted ideological apparatus a feeling of being “stuck. Stuck, I’ll say on stupid. It’s not because they are stupid, but it feels like you’re in this cycle and you can’t get out.”²³⁹ It contributes to feelings of powerlessness “because they feel that there is no way out.”²⁴⁰ Further, those who exist within it “view the world in distinctive ways by virtue of their participation in the ruling structure,”²⁴¹ and are unable to see “[t]he social organization of the forms of consciousness characteristic of [the] ruling class” precisely because of their position in it.²⁴² They “isolate themselves from the problem, and they can’t do that.”²⁴³

However, standpoint theories do not merely make known the ways in which ideological structures serve to perpetuate social inequalities. They also provide a lens to “map how social and political disadvantage can be turned into an epistemic, scientific and political advantage,”²⁴⁴

²³⁷ Participant C, “Interview Transcript,” (2 May 2017) at 1.

²³⁸ Smith, *Everyday World*, *supra* note 123 at 55.

²³⁹ Participant C, “Interview Transcript,” (2 May 2017) at 1.

²⁴⁰ Participant C, “Interview Transcript,” (2 May 2017) at 10.

²⁴¹ Smith, *Everyday World*, *supra* note 123 at 56.

²⁴² *Ibid* at 80.

²⁴³ Participant E, “Interview Transcript,” (16 May 2017) at 2.

²⁴⁴ Bowell, *supra* note 197, citing Sandra Harding, ed, *The Feminist Standpoint Theory Reader* (New York and London: Routledge, 2004) at 7-8.

that challenges the “false universalism” of the extralocal modes of ruling. Feminist standpoint theories argue that the achievement of a standpoint earned through collective political struggle allows marginalized groups to begin to “make visible aspects of social relations and of the natural world that are unavailable from dominant perspectives,”²⁴⁵ and in doing so they are able to “challenge those identities imposed by conventional stereotypes that form part of hegemonic ways of thinking from the point of view of the socially and politically dominated.”²⁴⁶ Self-definition and self-assertion “adds to a body of knowledge about how my life is and how I experience the world,”²⁴⁷ and in doing so “debunk[s] myths about me, about my relationship to the world, and about my relationship with others in that world that”²⁴⁸ were created by the ruling class and accepted as truth. “Thus, the epistemic process whereby a standpoint emerges enables the occupants of that standpoint to gain an element of power and control over knowledge about their lives. In becoming occupants of a standpoint, they also become knowing subjects in their own right, rather than merely objects that are known by others.”²⁴⁹

Further, in “mak[ing] visible aspects of social relations and of the natural world that are unavailable from dominant perspectives,”²⁵⁰ through self-definition and self-assertion towards the achievement of a standpoint, marginalized groups “generate the kinds of questions that will lead to a more complete and true account of [social] relations.”²⁵¹ Thus, in looking to the standpoint of marginalized groups, we can better understand the ways in which our everyday worlds are governed by extralocal modes of ruling.

²⁴⁵ *Ibid.*

²⁴⁶ *Ibid.*

²⁴⁷ *Ibid.*

²⁴⁸ *Ibid.*

²⁴⁹ *Ibid.*

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*

Both Smith and Collins speak to the ways in which the “master’s tools”²⁵² have been evoked as a strategic tool to create space for standpoints to be heard. “To be recognized as a proper participant,” Dorothy Smith tells us, “the members [of a standpoint] must produce work that conforms to appropriate styles and terminologies, makes the appropriate deferences, and is locatable by these and other devices in the traditions, factions, and schools whose themes it elaborates, whose interpretive procedures it intends, and by whose criteria it is to be evaluated.”²⁵³ This can be further explained as: “the way the establishment structure works, the group itself has to have credibility within the establishment and do something successful engaging in the way the bureaucracy wants you to engage with before they’ll recognize you and engage when you’re trying to help other people.”²⁵⁴ However, it is important to remember that “the more you engage within the established bureaucracy, the more you’re removed from the core need of the issue... the more you’re getting in that system, you’re co-opting against that you’re trying to advocate around changing and that’s a tough one.”²⁵⁵ This requires, as Collins tells us, that while “engaging in the way the bureaucracy wants you to engage,”²⁵⁶ we must “simultaneously challenge the same structure that grant[s us] legitimacy.”²⁵⁷

Smith also cautions that we do not simply replace one set of ideologies with another; we cannot just replace the ideologies of the ruling class with those of persons in their actual and localized lives. Instead, she argues that we must begin our inquiry from the local and move into extralocal, shifting back and forth between the two. This stands in contrast to standard ways of inquiry which call for us to begin with an understanding of the conceptual and then move into

²⁵² Audre Lorde, *Sister Outsider* (Berkeley: The Crossing Press, 2007) at 110-113 [Lorde].

²⁵³ Smith, *Everyday World*, *supra* note 123 at 61.

²⁵⁴ Participant B, “Interview Transcript,” (27 April 2017) at 19.

²⁵⁵ *Ibid* at 25.

²⁵⁶ *Ibid* at 19.

²⁵⁷ Collins, *Black Feminist Thought*, *supra* note 202 at 256.

the local, trying to make fit what we learn in the local into an ideological apparatus designed in the extralocal. In starting with the local, we are better able to see things that are unseeable from the position of the extralocal and can ground our analysis in the actualities of people's lives, while still being attentive the ways these actualities are organized by ideological apparatuses of the extralocal. In this way we also acknowledge that "[t]hey have a certain experience, we have a certain experience,"²⁵⁸ which together can bring us closer to a more complete understanding of our world. Smith's idea is to inform a starting point to begin "creating a way of seeing, from where we actually live, into the powers, processes, and relations that organize and determine the everyday context of that seeing."²⁵⁹

Knowledge/Power Nexus

Similarly, "Foucault argued that to understand and to change ourselves and our societies, we must fundamentally reshape the ways that we think about power and relationship – and where we search for this new understanding."²⁶⁰ The way to do this, he shared, was "not to look to politics to understand power, but to everyday life and everyday relationships."²⁶¹ In line with feminist standpoint theories, Foucault sees a starting point rooted in the everyday world, in the local actualities of our everyday relationships, as important to understanding power and being able to challenge hierarchical or unequal power relationships.

Power, to Foucault, "*means a set of relationships in which actors strategically seek to govern, shape, or manage the behavior of others* by reacting to what others have done or might do in the future."²⁶² He further explains power as malleable, taking different shapes and forms in

²⁵⁸ Participant C, "Interview Transcript," (2 May 2017) at 16.

²⁵⁹ Smith, *Everyday World*, *supra* note 123 at 9.

²⁶⁰ Piomelli, "Foucault's Approach to Power", *supra* note 195 at 397.

²⁶¹ *Ibid* at 428.

²⁶² *Ibid* at 425.

different contexts.²⁶³ “[P]ower does not belong to anyone,”²⁶⁴ nor is it “all-or-nothing... a capacity or tool of the dominant,”²⁶⁵ rather it is a “process in which participants *attempt* to shape the conduct of others.”²⁶⁶ Foucault’s understanding of power suggests “there is always some possibility of modifications or reversal – even if just momentary – of the terms of the relationship,”²⁶⁷ seeing resistance as an ever-present “part of every relation of power.”²⁶⁸ This understanding of power and relationships is an understanding that offers space for the transformation of the social conditions that oppress and marginalize, because “if power is everywhere, so too is the possibility of resistance.”²⁶⁹

One way forward using Foucault’s understanding of power is to question knowledge “in terms of the role it plays in shaping or undergirding our practices, institutions, and our very selves.”²⁷⁰ This is important because of the interconnectedness of power and knowledge, which, while not equated with one another, “directly imply one another [such that] there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations.”²⁷¹ Challenging knowledge, or what is imposed as “true knowledge”²⁷² and reconstituting our everyday relationships helps us to “resist being governed in the ways we currently are, to reject the identity and subjectivity... that is presented to and imposed on us,” and reshape “and resist the specific techniques of power at play in a particular historical moment.”²⁷³ Essentially, Foucault’s understanding of power

²⁶³ *Ibid* at 421.

²⁶⁴ *Ibid* at 422.

²⁶⁵ *Ibid* at 423.

²⁶⁶ *Ibid* at 428.

²⁶⁷ *Ibid* at 426.

²⁶⁸ *Ibid*.

²⁶⁹ *Ibid* at 428.

²⁷⁰ *Ibid* at 441.

²⁷¹ *Ibid* at 439.

²⁷² *Ibid* at 441.

²⁷³ *Ibid* at 449.

suggests that we can challenge the extralocal ideological apparatuses that shape our everyday worlds and are imposed on the local actualities of our lives in ways that are designed to benefit the ruling class, by beginning with our local, everyday relationships and questioning what counts as objective truth.

Smith and Collins, along with Foucault help to explain the importance of turning towards community as a starting place to understand and ultimately challenge hierarchical power relationships that exist to maintain the interests of the ruling class. They articulate the ways in which knowledge and power have been used to uphold these hierarchies, but also provide a way forward by suggesting how knowledge and power can be transformed to dismantle these hierarchies and challenge oppression. This means changing how we approach relationships and working towards a more complete understanding of our everyday worlds, which is best accomplished by beginning with the standpoint of the local actualities of our lives and *then* moving into the abstract ideologies that shape them. And it is through their earned standpoint that marginalized groups can begin to make visible these ideological structures that shape and influence their everyday world. They are able to see both the actualities of their local world, as well as the abstracted ideologies that govern their everyday lives and challenge what is imposed upon them as objective truth, and thus can co-opt or transform power hierarchies that privilege dominant groups towards more equitable distributions of power.

Qualitative Research

Exploring how lawyers can best support community-led systemic change work from this critical paradigm called for a qualitative methodology. Qualitative research allowed for an exploration of the perspectives of the community advocates and persons with lived experience who are typically excluded from the knowledge creation process because qualitative research

aims “to uncover the world through another’s eyes, in a discovery and exploratory process that is deeply experienced.”²⁷⁴ Seeking to “describe and understand... [q]ualitative methods focus on the whole of human experience and the meanings ascribed by individuals living the experience; broader understanding and deeper insight into complex human behaviours thus occurs as a result.”²⁷⁵ It involves “watching people in their own territory and interacting with them in their own language, on their own terms,”²⁷⁶ while also employing participatory practices where “research subjects pla[y] an active part in the process.”²⁷⁷ This approach allows us to share lived experiences while being attentive to the knowledge that these experiences shape multiple realities and thus there is no one objective truth.²⁷⁸ Qualitative research methodologies, therefore, provide the framework for challenging the way we think about lawyers engaged in systemic change work, and who we understand to be experts in theorizing about this. It allows for the community advocates and persons with lived experience to share their perspectives and worldview “in their own language, on their own terms.”²⁷⁹

Additionally, qualitative research methodologies acknowledge the role the researcher plays throughout the research process. Rather than ignoring the ways researchers “express and represent elements of [themselves] in every research situation,”²⁸⁰ qualitative methodologies allow for the researcher to reflect on the influences their worldviews have on the ways information is gathered, understood, analyzed and presented.²⁸¹ Being attentive to the ways my

²⁷⁴ Cathy MacDonald, “Understanding Participatory Action Research: A Qualitative Research Methodology Option” (2012) 13:2 Canadian Journal of Action Research 34 at 35 (citing K R Gilbert, *The Emotional Nature of Qualitative Research* (London: CRC, 2001)) [MacDonald].

²⁷⁵ *Ibid* at 34-35.

²⁷⁶ Lisa Webley, “Qualitative Approaches to Empirical Legal Research,” in Peter Cane & Herbert M. Kritzer, eds, *The Oxford Handbook of Empirical Legal Research* (Oxford: Oxford University Press, 2010) 926 at 927 [Webley].

²⁷⁷ *Ibid* at 927.

²⁷⁸ MacDonald, *supra* note 274 at 35; Webley, *ibid* at 931.

²⁷⁹ Webley, *ibid* at 927.

²⁸⁰ Kirby, *supra* note 176 at 36.

²⁸¹ *Ibid* at 35-36.

own experiences and biases influenced the research process, through the practice of reflexivity, was an important element for this project because it allowed me to be honest about my relationship to the research and to “deeply consider[] the implications of [my own] power”²⁸² throughout this process. Understanding my position as a law student, and importantly a white, settler, cis-hetero, female, temporarily able-bodied law student with no lived experience of poverty or community-led advocacy experience, allowed me to better position myself in relation to the participants and to think about where I might hold or be perceived to hold power, and where my worldview would be insufficient to accurately understand and represent the voices of participants. This understanding helped inform the research design and how I approached participants. My ability to be reflexive throughout the research process was limited, however, by my own challenges in recognizing some of the nuances of my positionality, obscured by my position in the ruling structure,²⁸³ and inaccessible to me.²⁸⁴

Relying on a qualitative methodology was not only necessary to better understand the perspectives of the participants, and the ways in which my own worldviews influenced my understanding of these perspectives, but it was also important because the research questions have been underexplored. There is not a substantive body of research available on the ways in which lawyers fit into systemic advocacy work in ways that neither undermine or co-opt work being done by community advocates, and there is even less from the perspective of community advocates with lived experience. The lack of a strong, cohesive body of work to build upon called for a methodological approach that provided openness to explore these questions in a way

²⁸² *Ibid* at 39.

²⁸³ Smith, *Everyday World*, *supra* note 123 at 80.

²⁸⁴ Natasha S Mauthner & Andrea Doucet, “Reflexive Accounts and Accounts of Reflexivity in Qualitative Data Analysis” (2003) 37:3 *Sociology* 413 at 425 [Mauthner & Doucet].

that allowed for unanticipated themes to emerge – one of the hallmarks of qualitative methodologies.

A qualitative approach also allows for a fluid research design as appropriate to the circumstances and purpose of the research project.²⁸⁵ Fluidity in the research design was necessary because, as will be outlined below, a collaborative approach was applied to the research process making it important that the research design would be flexible to allow space to incorporate the perspectives of all participants in a way that was respectful of their autonomy and choice throughout each stage of the research process, yet attentive to my own personal and institutional limitations as a researcher. Thus, the research was iterative, open to revision based on community perspectives as provided by participants, rather than being a rigid design based exclusively on my own understanding of what the research should be.

Collaborative Research

Approaching the research design using collaborative methodologies was crucial to ensuring that the voices of community advocates with lived experience were centered in this discussion. “Collaborative research is about both process and content and about producing useful knowledge,”²⁸⁶ built on the key components of: “inclusion, participation, individual and collective action, social change, and empowerment.”²⁸⁷ Collaborative research seeks to challenge the ways that dominant groups have typically co-opted research and knowledge production as “a tool...to help perpetuate and maintain current power relations of inequality...[b]y beginning with the experience and research needs of those who have traditionally been either silent or silenced.”²⁸⁸ It is built on the belief that subordinate groups bring with them a broader vision

²⁸⁵ Webley, *supra* note 276 at 932.

²⁸⁶ Kirby, *supra* note 176 at 30.

²⁸⁷ *Ibid* at 43.

²⁸⁸ *Ibid* at 2, 6.

than that of the dominant group because they are uniquely positioned to understand the dominant group *in addition* to themselves.²⁸⁹ Recognizing that community advocates and persons with lived experience are in the best position to more broadly understand systems and structures of subordination and oppression, and thus bring an important perspective to understanding how different actors, including lawyers, might be most effective in working to dismantle those structures, was one of the cornerstones of this research project.

Participatory Action Research

One of the most recognizable collaborative research methodologies is participatory action research [“PAR”]. Ultimately, PAR’s goal is “helping community people to become subjects instead of objects, acting on their community situation instead of simply reacting.”²⁹⁰ However, as the participants who collaborated on this research project were already active subjects, leaders in working to eliminate poverty in their community, rather than seeking to “empower” participants to shift from reactive to active, this research borrowed elements of PAR with the aim to *support* the work already being led by these community advocates and persons with lived experience. As its name suggests, PAR conceptualizes its core elements into two overlapping categories: participation and action. Although not a PAR project, this research project was designed with these core principles of PAR in mind.

The participatory element of this research is rooted in an understanding of knowledge and objectivity that challenges traditional views that “distance” is equated with objectivity, and “that

²⁸⁹ Kirby & Greaves share that traditionally marginalized groups hold a broader understanding of others through what Van Den Bergh (1995) has labelled “double knowledge”: “an awareness of what is ostensibly true according to the majority culture’s perception of reality as well as an understanding of additional truths based on their experiences as minority people.”; Kirby, *supra* note 176 at 37.

²⁹⁰ Randy Stoecker & David Beckwith, “Advancing Toledo’s Neighborhood Movement through Participatory Action Research: integrating Activist and Academic Approaches” (1992) 10:1 *Clinical Sociology Review* 198 at 200 [Stoecker].

only university-based or trained researchers have the right to research and possess the tools of theoretically informed inquiry.”²⁹¹ This means “pooling knowledge”²⁹² with “researchers and oppressed people [joining] in solidarity”²⁹³ to conduct research that aims to benefit those most impacted by the systems and structures of oppression.²⁹⁴ PAR begins with the community defining the research problem or question.²⁹⁵ However, due to institutional constraints – namely, the requirements of the graduate program and significant time limitations - the research need in this case was identified by my own (researcher) interests. Although I identified the need with the community in mind, it was important to include them in discussions about whether this was a useful research project for them in order to ensure that the research question was not restricted to my own limited worldview. By discussing the relevance of this question and being flexible in allowing participants to critique the research questions to be more relevant to their needs, I hoped to play a supportive role in allowing the community to address any concerns that fell within my resources and skills as a researcher while also being attentive to the needs articulated by the group.²⁹⁶ More in-line with PAR practices, interview questions were generated²⁹⁷ during a two-part “group meeting” where research questions and processes were tailored, where possible, based on the input of participants. This process allowed for participants to integrate what they found to be meaningful into the questions and, ultimately, the direction of the research, providing participants with more incentive to be invested in the research itself.

²⁹¹ Stoudt, *supra* note 179 at 180-181.

²⁹² MacDonald, *supra* note 274 at 36.

²⁹³ *Ibid* at 38-39.

²⁹⁴ Stoudt, *supra* note 179 at 180.

²⁹⁵ Stoecker, *supra* note 290 at 201.

²⁹⁶ *Ibid*.

²⁹⁷ *Ibid*.

The “action” element of PAR methodology is concerned “with creating mutually rewarding, democratic relationships with [...] participants.”²⁹⁸ To this end, action requires a commitment to do more than publish results in an academic journal. Results from action research should have “an impact on the people who are most affected,”²⁹⁹ and thus should be “put...to use in various fields: the academy, policy making, [...] organizing, on the streets, in popular education and on the stage.”³⁰⁰ Ideally, the community “become[s] involved in actually using research results.”³⁰¹ To this end, participants were asked at all stages of the research process what they would like to see as an outcome beyond a traditionally academic paper. Participants were also given the data they generated to use for their own purposes in the future.

Community-Based Participatory Research

Community-based participatory research [“CBPR”] is another collaborative approach to research that seeks to challenge the status quo by tackling inequities and disparities in the social, economic, political, health and environmental context.³⁰² It seeks to “confron[t] and chang[e] the living conditions of people who are commonly underserved, hidden and forgotten,”³⁰³ attentive to “creating [both] an empowering research *process*, as well as *outcomes*.”³⁰⁴ To this end, CBPR relies on four key, overlapping principles influenced by the thinking of Paulo Freire:

²⁹⁸ Esterberg, *supra* note 188.

²⁹⁹ *Ibid.*

³⁰⁰ Stoudt, *supra* note 179 at 185.

³⁰¹ Stoecker, *supra* note 290 at 201.

³⁰² Lorenda Belone, Julie E Lucero, Bonnie Duran, Greg Tafoya, Elizabeth A Baker, Domin Chan, Charlotte Chang, Ella Greene-Moton, Michele A Kelley & Nina Wallerstein, “Community-Based Participatory Research Conceptual Model: Community Partner Consultation and Face Validity” (2016) 26:1 Qualitative Health Research 117 at 117 [Belone]; Maria J Mayan & Christine H Dunn, “Worth the Risk? Muddled Relationship in Community-Based Participatory Research” (2016) 26:1 Qualitative Health Research 69 at 74 [Mayan].

³⁰³ Mayan, *ibid* at 74.

³⁰⁴ Rebecca Paradiso de Sayu & Amy Chanmugam, “Perceptions of Empowerment Within and Across Partnerships in Community-Based Participatory Research: A Dyadic Interview Analysis” (2016) 26:1 Qualitative Health Research 105 at 105 [Paradiso]: (“An empowering process refers to “intentional, informed participation, aimed at affecting change,” and an empowering outcome refers to the power resulting from this process used to satisfy needs and create social change. Empowerment suggests that individuals, organizations, and communities have control and influence over conditions in their lives.”).

“participation, knowledge creation, power and praxis.”³⁰⁵ Just as this research is not a PAR project, it is also not a CBPR project, however as with PAR, it is also informed by some of CBPR’s core elements.

Participation – “who is involved throughout the research process (e.g., academic partners, community partners, community members), to what extent and to what end”³⁰⁶ – in CBPR rests on the principle of collaboration.³⁰⁷ CBPR engages “community members, organizational representatives, and researchers”³⁰⁸ collaboratively throughout the research process, including research design, knowledge creation, and intervention development.³⁰⁹ Relying on each “partner”³¹⁰ to “contribute unique strengths and shared responsibilities,”³¹¹ towards a shared goal. This is based on the understanding that each partner brings important perspectives “to enhance the understanding of a given phenomenon and the social and cultural dynamics of the community.”³¹² It is particularly important in CBPR that community members with lived experience be involved in the project, “either formally as partnership members, as an ad hoc group, or as a contributor to the project in other ways.”³¹³ In this research project, participants – all individuals from the community with lived experience of poverty and community-led poverty elimination work – were involved not only as passive participants or subjects, but actively in their support of and engagement in the process of informing the research questions, sharing their knowledge, and in offering reflections at the initial stages of the data analysis portion.

³⁰⁵ *Ibid* at 106.

³⁰⁶ *Ibid*.

³⁰⁷ Belone, *supra* note 302 at 117; Mayan, *supra* note 302 at 69.

³⁰⁸ Mayan, *ibid* at 69-70.

³⁰⁹ Belone, *supra* note 302 at 117.

³¹⁰ Mayan, *supra* note 302 at 70: (A partnership is “a cooperative relationship between people who agree to share responsibility for achieving some specific goal...”).

³¹¹ *Ibid* at 69-70.

³¹² *Ibid*.

³¹³ *Ibid* at 70.

Involving community members, particularly those with lived experience, is not only important for *participation* in CBPR, but it is also integral to *knowledge creation* and legitimization. Knowledge is created and legitimized through the shared contribution of both “academic and community partners, as well as the community at large.”³¹⁴ CBPR values and understands that “community members provide insights into and interpretation of context (e.g., community’s past and present, systems), language, and culture, findings and recommendations [that] are more complete, relevant, and meaningful than if input was not obtained.”³¹⁵ The knowledge that community members bring to the research process allows for the creation of appropriate and respectful research materials and protocols to generate more meaningful data.³¹⁶ It is important that the academic and community partners have a strong, equitable relationship with recurring dialogue at all stages of the research to be meaningful.³¹⁷

To allow for this, participants were asked how they would like to be involved in the generation and analysis of the information. Rather than impose a responsibility on participants to engage throughout the research process and risk subjecting them to any additional burdens, participants were asked initially during the first group meeting, and again at the conclusion of each interview, if and how they would like to be involved. Providing the option, rather than creating a requirement, allowed for participants’ autonomy over how invested they would be in this project. This was particularly important for this project, which was not born out of the community or the participants themselves, but rather was asked of them. During the group meeting participants requested that an additional meeting be added following the collection and analysis of the data which would allow them an opportunity to respond to my analysis of the

³¹⁴ Paradiso, *supra* note 304 at 105.

³¹⁵ Mayan, *supra* note 302 at 71; Bowell, *supra* note 197.

³¹⁶ Mayan, *ibid.*

³¹⁷ *Ibid* at 71; Paradiso, *supra* note 304 at 105.

interviews as well as be an opportunity to reflect on this analysis and possible next steps. Additionally, at the conclusion of each interview participants were asked if and how they would like to be involved in the analysis. This elicited responses which varied from not wanting to be involved until the reflective group meeting, to others who chose to review a copy of their written transcript and provide any additional clarification they felt was needed to best reflect their voice. Although no participants requested changes be made to their transcripts or any additional clarifications be made, providing the opportunity to do so was important to give participants control over their knowledge.

The relationship between academic and community partners weaves into the way *power* is understood in CBPR. This relationship is inherently built on an imbalance of power born out the “sociocultural, economic, and political conditions in which research occurs,”³¹⁸ and CBPR recognizes that we must be attentive to this, regardless of how “well-meaning and socially conscious [the] university researchers [are].”³¹⁹ This requires that academic researchers be “honest, candid, and transparent about their roles and timelines for involvement,”³²⁰ practicing reciprocity and creating an atmosphere of informality,³²¹ all while recognizing that there is always the inherent risk of exploitation.³²² Although it would impossible to completely erase the power imbalance and inherent risk of exploitation in the academic-community partner relationship in the current context in which we were working, conscious effort was made on my part to provide participants with as much autonomy over their involvement, the process, and the outcomes of the research as possible by remaining flexible, offering choice, and maintaining a

³¹⁸ Paradiso, *supra* note 304 at 106.

³¹⁹ *Ibid.*

³²⁰ Mayan, *supra* note 302 at 73.

³²¹ *Ibid* at 71.

³²² *Ibid* at 73.

position of humility and respect of participants and their choices. Being honest and up front about my limitations, as well as being open and flexible with the process were some key practices that contributed towards a more equitable process.

The final element of CBPR is *praxis*, which “concerns the direct application of learnings using an “interventionist activist approach.””³²³ CBPR seeks to eliminate the inequities and disparities it uncovers,³²⁴ aiming for not only an empowering *process*, but empowering *outcomes* as well.³²⁵ This means that “the power resulting from [the] process [is] used to satisfy needs and create social change,”³²⁶ towards the dismantling of the status quo and addressing the root causes of the social, economic, and political disparities of the community.³²⁷ This research was driven by a desire to contribute to a larger project of addressing disparities in our communities by looking to leaders in this work and seeking their guidance for ways that lawyers might better support their work in a way that does not further entrench the systems that create and maintain those disparities. By beginning with and centering voices rooted in the community, and presenting them as experts, the research process itself became an act of social change.

Research Questions

The purpose of this research project is to better understand how lawyers might support community-led advocacy work towards systemic change by exploring the roles and qualities that make lawyers more or less effective in this work from the standpoint of communities. We have seen this question explored in various forms amongst lawyers and legal scholars for several decades, recently in questions from the legal profession, regulators and academics on lawyer

³²³ Paradiso, *supra* note 304 at 106.

³²⁴ Belone, *supra* note 302 at 117; Mayan, *supra* note 302 at 69.

³²⁵ Paradiso, *supra* note 304 at 105.

³²⁶ *Ibid.*

³²⁷ Mayan, *supra* note 302 at 74.

competencies.³²⁸ Questions from the legal profession coupled with today's social and political context calls for a deeper understanding of whether lawyers have a role to play in community-led advocacy work, and whether they can engage in this work without undermining or co-opting the work of community advocates with lived experience. In order to broaden our understanding of this debate, it was important to bring in the voices of community advocates with lived experience who are leading these movements and whose voices have not been centered in this debate to date. Thus, this research aimed to centre these voices by asking: *how do community advocates with lived experience working towards systemic change envision lawyers to be able to support them in their work tackling systems and structures that create and maintain inequality in their community?*

The purpose of this exploratory, qualitative study was to centre the knowledge of community advocates with lived experience addressing the root causes of poverty as to whether they saw lawyers as (potentially) useful in their work, and if so, what roles lawyers might take and qualities they should be attentive to in order to best support this work without reinforcing power hierarchies. I therefore sought to explore: (1) whether these community advocates saw a role for lawyers in their advocacy work, (2) if the community advocates envisioned lawyers to be able to engage in that role in a way that didn't undermine or co-opt their work, and (3) what roles lawyers could play and what qualities they need in order to mitigate lawyers' potential to undermine or co-opt the work of the community advocates? By exploring these questions with one group of community advocates with lived experience, I hoped to centre critical perspectives that have traditionally been excluded from formal debates and discussions on this issue so that

³²⁸ See, for example, Alli Gerkman & Logan Cornett, "Foundations for Practice: The Whole Lawyer and the Character Quotient" (Denver, CO: Institute for the Advancement of the American Legal System, 2016); see, also Federation of Law Societies of Canada, "National Requirement" (2011), online: < <http://flsc.ca/wp-content/uploads/2014/10/National-Requirement-2011.pdf>>.

we can begin to better understand how lawyers can be most effective in supporting the systemic change work being led by our communities in a meaningful way.

Research Participants

The purpose of this research was to centre the voices of community advocates with lived experience who are leading systemic change work but whose voices are traditionally excluded or ignored in the broader discussion of how lawyers can be most supportive to their work.

Community advocates who have lived experience of the systemic or structural oppression and subordination they are leading resistance efforts to tackle, hold a unique and important *positionality* to better understand the dominant group *in addition* to themselves.³²⁹ As persons with lived experience of poverty, these participants understand poverty in deep and nuanced ways that cannot be imagined by those who do not have this experience informing their worldview. In addition to holding a deep understanding of the impacts of poverty at the individual level, these participants also have a strong sense of the structural nature of poverty and thus bring a more nuanced perspective to this issue. However, despite the complex and unique ways that they understand the issue, their voices are often ignored or forgotten in these conversations.

In order to bring in these perspectives, I applied a purposive sampling approach to participant selection. As this research was focused in Windsor, Ontario, I reached out to one active, grassroots advocacy group local to the Windsor area to participate in this research to better understand how they envisioned lawyers to be most useful to their work. This group was selected based on their active engagement in systemic change work and their lived experiences

³²⁹ Kirby, *supra* note 176 at 37; Bowell, *supra* note 197.

with social justice issues.³³⁰ The group, VAP,³³¹ was one that I had been introduced to during a social work internship I completed in the year prior to beginning this research. I had attended one of their monthly meetings where I met a few of the members of the group who were active at that time and who continued to be active in the group at the time of this research. In addition to having a small introduction to the group, I also knew some of the members through their work engaging in education initiatives and presentations, specifically those geared towards educating students at the University of Windsor on experiences of poverty where I was a student. Having an introduction to the group and knowing them to be one of the more active and engaged groups in the community, uniquely led by persons with lived experience of poverty, I knew they would bring an important and necessary perspective to this research. Although the group interviewed was small in scope and thus limits the generalizability of the data, the richness of the data provided and the importance of listening to and centering these voices in a meaningful way was weighed against a larger sample which would not allow for the same depth or equitable approach to the research.

Research Design

A critical paradigm applying collaborative research methodologies relies on the participation or collaboration of research participants throughout the research process, including research design. Ideally, the research question would come from the community and the academic researcher would work collaboratively with the community to design and engage in the research process to address this question. However, due to the nature of thesis-based research,

³³⁰ A common experience for all participants was lived experience of poverty, either in their past, or for many at the time of the interviews. It is also important to acknowledge that each participant experienced poverty in unique ways informed by the various ways their identities and experiences intersect. So, while there was a shared experience of poverty for all participants, each person's experience of poverty was unique within the group.

³³¹ *Supra* at 12, "Voices Against Poverty".

“the initial goals and plan for the research topics [had] already been outlined by the researcher,”³³² without the input of the community participants, a limitation in participatory research.³³³ To address this limitation, the first goal when reaching out to potential research participants was to determine if the focus of this research project would be useful to them, and if so, if they would be interested in working together to explore the topic further. I reached out to a member of the group who knew me and would be able to connect me with the group as a whole, explaining my idea for the research and asking whether the group would be interested in participating. I was invited to one of the group’s monthly meetings to share my idea for the research and to discuss whether the group as a whole, or individual members, would be interested in participating. Fewer than half of the members were able to attend this meeting, but of those who were there, all expressed interest in participating and believed that the absent members would also be interested. Having been given a sense that this research was of general interest to the group, I sent an invitation³³⁴ to the group and our first meeting was arranged.

The community advocates that collaborated on this research were “not just fodder for the researchers or data source but [were] contributors to the research process.”³³⁵ More accurately, the participants were engaged in the development of the research design through collaboration by offering critiques to be considered on the flow and direction of in-depth interviews, which provided the data to inform the research project. I worked closely with the research participants

³³² Collins, “An Understanding”, *supra* note 175 at 12.

³³³ Esterberg, *supra* note 188: (“The point is, if you look around at your own environment, you may find the beginnings of a research topic...[but] in framing research questions, it’s important to remember that how people select research problems is not a neutral process. Rather, research questions always reflect *someone’s* interests and priorities... While this is not necessarily a bad thing, you do need to think about the variety of perspectives that different people bring to research projects...How researchers choose to frame their research questions reflects their sense of what “the” problem is.”).

³³⁴ Collins, “An Understanding”, *supra* note 175 at 15: (“It needs to be recognized that participation by its very nature must be an invitation, not a requirement. It must meet the needs of those who are asked to participate”).

³³⁵ Kirby, *supra* note 176 at 46.

over two evenings where we participated in collaborative group meetings to design an interview guide³³⁶ that reflected the group's understanding of the issue and the ways in which this research would be useful to them. This would be the interview guide we would follow when I met with each participant individually for our in-depth interviews. It was important to design the interview guide in this collaborative way for two reasons. First, it helped to frame the research from the perspective of the community advocates who participated in this research. Because "[w]e express and represent elements of ourselves in every research situation, [and the] questions we ask, the observations we make, the emotions we feel, the impressions we form, and the hunches we follow all reflect some part of who we are as persons and researcher,"³³⁷ it was necessary to expand participation in the research design beyond myself and the other legal academics engaged in this work, to be able to present a broader understanding on this topic. The importance of ensuring that the research questions were framed by the participants became clear as I learned that I did not share the language and therefore had been relying on terminology that did not reflect the realities of the group.³³⁸ By engaging participants in the question development process, we were able to reframe questions to ensure that the language reflected the group's experiences, making questions more clear and providing me with some insight into the worldview of participants.

Second, collaboration on the interview guide helped to share power and ownership over the research with participants. By including participants in decision-making, they were able to

³³⁶ See Appendix A.

³³⁷ Kirby, *supra* note 176 at 36.

³³⁸ For example, I had originally approached the group asking about their experiences doing systemic advocacy work, believing that this was the best way to describe the work of the group. However, participants disagreed with my use of the term "systemic advocacy" to describe their work, each having a different understanding of the term. It was important then, that these disconnects were clarified prior to our interviews in order to ensure that participants were clear what I was asking of them, and that I was clear about how they were approaching their responses.

take leadership of, and control important aspects of the research process.³³⁹ For example, participants expressed interest in adding an additional group meeting following the individual interviews to reflect on the findings and provide feedback on my analysis to date. Participants were offered opportunity to participate in the data analysis, but asserted their preference to remain removed from this process until the reflective group meeting, which followed my initial analysis. Providing this option was important to allow for participants to control their involvement in the process.³⁴⁰

Data Collection

Using the research design outlined above, approved by the University of Windsor Research Ethics Board,³⁴¹ the purpose of engaging in interviews for this research was to understand what the participants thought or felt³⁴² about how lawyers fit into their work towards the elimination of poverty and empowerment of persons with lived experience, and how lawyers could best support the work of the group. The initial group meetings where we worked together to redesign the interview guide to better reflect the experiences and needs of the participants was also an opportunity to gather knowledge about the group, the way it operates, the participants and their worldviews. In addition to acting as a starting place for me to begin to learn about some of the themes that would later emerge during individual interviews, these meetings also provided opportunities to see how the group interacted with one another and how they discussed their work as a group in comparison to during the individual interviews.

³³⁹ Kirby, *supra* note 176 at 36.

³⁴⁰ *Ibid* at 44: (“It is essential that researchers in partnership with communities be clear about the level of participation they are expecting and inviting. It is also important to question *who* is participating, *why* they are participating, to what degree and in what phase of the project they are participating, and where the true power lies.”).

³⁴¹ REB #16-213 (on file with author).

³⁴² Esterberg, *supra* note 188.

I facilitated individual, in-depth interviews with each participant, following the interview guide that we developed collaboratively during our initial group meetings. Using in-depth interviews designed with the participants allowed us to “jointly construct meaning,”³⁴³ on how lawyers fit, or possibly did not fit, into the group’s work. It was important that the data collection process was active and collaborative and did not take “the traditional focus on extracting information from passive research subjects”³⁴⁴ so as not to “treat those being researched as objects.”³⁴⁵ To achieve active and collaborative interviews that respected the participants and encouraged an equal relationship in the research process, some degree of reciprocity was necessary, and to that end I was open and candid with respondents when discussing my motivations for the research and answered questions when asked.

In-depth interviews also allowed for participants to have the opportunity to share how they saw lawyers fitting into their work. Because this group has traditionally been left out of these discussions, it was important to keep the interviews as unstructured as possible, and to allow the participants to include what they saw was necessary, so that they could have the opportunity to shape the discussion through their stories and thoughts.³⁴⁶ Since the interviews followed an interview guide designed collaboratively with the participants, and was conducted in a semi-structured format, we were also able to tailor each interview to the participant being interviewed. This gave each individual an opportunity to bring in their own perspective and use their own words to help correct against homogenizing all participants as subscribing to one worldview.³⁴⁷ This was a particular concern for these participants who were clear that although

³⁴³ *Ibid.*

³⁴⁴ *Ibid.*

³⁴⁵ *Ibid.*

³⁴⁶ *Ibid.*

³⁴⁷ MacDonald, *supra* note 274 at 42.

they work collectively as a group with one shared mission, they exist on a spectrum³⁴⁸ and hold, at times, conflicting ideas about their work.

I interviewed five members, individually, who were part of what was described as the “core” group³⁴⁹ of VAP, which typically ranges anywhere from six to eight active members at a given time. All participants in the interviews had been present for at least one of the collaborative group meetings, and one member who had attended both collaborative group meetings was unavailable to be interviewed. During the interviews, which lasted between one and two hours, participants were given a copy of the interview guide to follow along with if they chose to do so. This was done intentionally to provide greater autonomy to participants who were able to follow along and make decisions about their willingness to engage with a question and to prepare for how they wanted to share information. Each interview was audio-recorded³⁵⁰ with permission of the participant, and cleared by the University of Windsor Research Ethics Board, which allowed me to actively listen to each person without compromising my ability to ensure that I was accurately reflecting the language of the participants.

Data Analysis

Kirby, Greaves and Reid suggest that “[a]nalysis is usually demonstrated by answering the research question with a description, an explanation, and an answer to the questions “So what?” and “So, what are we going to do about it?”,”³⁵¹ for which I relied on the principles of a

³⁴⁸ Voices Against Poverty, “Group Meeting Notes,” (23 March 2017) at 3.

³⁴⁹ Participants described Voices Against Poverty as an open, egalitarian group, primarily driven by a small “core group” of individuals who attend monthly meetings, work together to solve problems and plan and discuss current and future work to be done by the group. However, they also noted that there is a wider network of members who choose to be involved in a more peripheral capacity, receiving emails from the group’s mailing list and attending larger group events like rallies and consultations. This research focused on the “core group” due to their deep commitment to this work, their experience as leaders in their community, as well as time and resource concerns which limited the scope of the research.

³⁵⁰ All audio-recordings were deleted after being transcribed and names were removed from the transcriptions to protect the anonymity of participants.

³⁵¹ Kirby, *supra* note 176 at 219.

critical research paradigm. Because this is an underexplored area of inquiry, an interactive analysis applying a grounded theory approach was most useful. This allowed me to “search for common patterns (similarities), uncommon patterns (dissimilarities), and satellites (unique information) to provide an overall description and explanation of what is being studied.”³⁵² A grounded theory approach requires a close reading of the ways that the data and theories drawn from the data interact with one another, allowing greater opportunity for new and unanticipated connections to emerge.³⁵³ This analytical method was chosen not only because of the exploratory nature of the research, but also in light of the possibility for a broad array of themes that may interact in unique and undiscovered ways leading to unanticipated “action” areas or suggestions for future work in this area.³⁵⁴

Additionally, recognizing, as Margaret Kovach and Sarah Buhler have highlighted for me, “we can only interpret the world from the place of our own experience,”³⁵⁵ and therefore I can only provide “my own critical reading of the [research], noting that other interpretations would certainly be possible,”³⁵⁶ I also strove to practice reflexivity in my analysis, to the extent that I was able to, aware of the limitations on my ability to engage in such a practice due to institutional constraints and my own inexperience with reflexive practice. Practicing a ‘degree of reflexivity’³⁵⁷ during my analysis was important because it allowed me to begin to recognize and make known in the research “[t]he partial, provisional and perspectival nature of knowledge claims.”³⁵⁸ It limited my eagerness to suggest I was “representing the ‘voices’ of respondents as

³⁵² *Ibid* at 220-221.

³⁵³ *Ibid* at 224.

³⁵⁴ *Ibid* at 221.

³⁵⁵ Kovach, *supra* note 1.

³⁵⁶ Buhler, “Don’t Want to Get Exposed”, *supra* note 14 at 71-72.

³⁵⁷ Mauthner & Doucet, *supra* note 284.

³⁵⁸ *Ibid* at 416.

though those voices speak on their own, rather than through [myself as] research who makes choices about how to interpret these voices with transcript extracts to present as evidence.”³⁵⁹

Thus, practicing reflexivity while using Kirby, Greaves & Reid’s three priority areas for a grounded theory analysis from a critical perspective, or, “beyond the mainstream – *intersubjectivity, researcher’s role, and critical edge*”³⁶⁰ – I sought to provide an analysis that was framed to centre the voices of the participants while remaining critical of how my own biases played a role throughout the research process including during data analysis, all while being attentive to the broader social reality or context.³⁶¹

As a sole researcher, the issue of *intersubjectivity* was a challenging one and posed a significant limitation for the research. However, in attempts to address this within the time and resource constraints on this project, I offered participants an opportunity to be involved in the data analysis process. Instead, participants opted to review their interview transcripts and check for any instances where they felt they were not accurately reflected. Participants also suggested a follow-up meeting be held where I would share my organization of the data with the group and provide an opportunity for feedback. This meeting was held early in the data analysis process and only occurred once due to time limitations. However upon reflection having more than one of these meetings throughout the analysis stage would have allowed for more transparency on my part and provided greater opportunity for participation, ensuring that my analysis did not misrepresent the participant’s experiences in any significant or detrimental way.

Another important approach to the analysis of the data was giving “participants’ data priority over that of the researcher’s.”³⁶² Centering these voices in the analysis was one way that

³⁵⁹ *Ibid* at 418.

³⁶⁰ Kirby, *supra* note 176 at 222.

³⁶¹ *Ibid* at 223-224.

³⁶² *Ibid* at 223.

this research worked towards challenging traditionally unequal power relations through the validation of participant knowledge as “expert.” Recognizing that not only was it not possible to present the participants’ voices without it first being filtered through my own subjectivities, but also that the interviews and group meetings did not give “direct access to [participants’] subjectivity and lived experiences,”³⁶³ this process of prioritizing participants’ data was most useful to contribute towards redistributing power hierarchies in research and knowledge validation, rather than in claims of accurately representing the voices of participants.

Recognizing that “each *researcher is an instrument* in the research process,”³⁶⁴ I worked with the data in a reflective and iterative way, remaining attentive to “both the data and the process of analysis”³⁶⁵ and moving “back and forth between data and concepts.”³⁶⁶ This approach allowed me to better understand how the data and the process of analysis were connected, and how the data and concepts informed and shaped one another. It was therefore my role to look at the data, processes and concepts from different angles to find new connections and insights until “the analysis is saturated and the data have spoken.”³⁶⁷ Further, situating myself “socially, emotionally and intellectually”³⁶⁸ in relation to the research allowed me “to retain some grasp over the blurred boundary between respondent’s narrative and [my] interpretation.”³⁶⁹ Making myself visible in the research helped me to limit claims that I had “captured [participant’s] experiences...and that [my] account was a direct reflection of these experiences,”³⁷⁰ and allowed me to highlight, to the extent I was capable, this in the research.

³⁶³ Mauthner & Doucet, *supra* note 284 at 423.

³⁶⁴ Kirby, *supra* note 176 at 223.

³⁶⁵ *Ibid* at 223.

³⁶⁶ *Ibid.*

³⁶⁷ *Ibid.*

³⁶⁸ Mauthner & Doucet, *supra* note 284 at 419.

³⁶⁹ *Ibid.*

³⁷⁰ *Ibid* at 420.

It was also important to have a critical edge throughout the analysis, understanding that “social context is the fabric or structure in which participants’ experiences have occurred.”³⁷¹ Without an understanding of the social context and the ways in which it helps to shape the data and the processes of data analysis, the connections and insights understood will be less reflective of the participants’ experiences and of the ways in which my positionality as a researcher shaped the analysis. Practicing reflexivity means understanding that it is more than “our personal or academic biographies...[but the] interpersonal, political and institutional contexts in which [I am] embedded also play a key role”³⁷² in the analysis. A critical edge offers a clearer understanding of these connections providing a greater opportunity to challenge dominant narratives that serve the status quo. Relying on the participants’ understanding of their social context, along with my own positionality within this social context, I was able to discover patterns within the data that may have been invisible to me had this approach not been taken and to account for the ways in which this shaped my understanding of what I heard from participants in my analysis.

In order to represent the voices of participants as accurately as possible, direct quotations were used frequently and this data was used to frame the analysis, rather than trying to fit VAP’s experiences into preformed concepts. All data is presented anonymously, with participants simply referred to as “group member” or “participant” and each participant was assigned a letter (i.e. Participant A, Participant B, etc.) for citation purposes.

Limitations

One of the limitations of this research is that it is not generalizable due to the small number of participants. The scope of participants was limited to the members of one group of

³⁷¹ Kirby, *supra* note 176 at 224.

³⁷² Mauthner & Doucet, *supra* note 284 at 421.

community advocates in Windsor, Ontario, who agreed to participate in the research. The findings from this research are therefore limited to the participants and cannot be said to speak beyond what is presented. However, one of the defining perspectives of this project is the idea that in order to have a more complete understanding of the issues we face, we have to begin with the local actualities of our everyday world. This project was not intended to speak for all communities, but is instead meant to contribute to a wider project of creating space for the voices of marginalized groups and persons with lived experience in thinking about the role of lawyers in community-led advocacy work.

A second limitation was born out of the combination of time restraints and the underexplored nature of the research topic. Having more resources and time to spend with participants would have allowed for more knowledge to be shared by participants and for more opportunity to tailor the research to their needs as a group. Similarly, another limitation of this project is that the data analysis was completed as an individual endeavour without the contribution of the research participants. Due to the one-year length of the program for which this project was completed, the length of time required to go through the Research Ethics Board for approval, coupled with the scheduling and time restrictions for myself and the research participants, the time available to engage in data analysis was limited. The condensed time period for data analysis limited my ability to provide participants with an opportunity to be involved in this aspect of the project in a way that was attentive to their own time limitations. Not engaging closely with participants during the data analysis limited the ideal of a truly participatory research design where there would be more opportunity for the self-determination of participants. Instead, I engaged in the data analysis process individually. This has resulted in interpretations that are necessarily rooted in my own perspectives and worldviews. Having only

one perspective reflected in the analysis limited the insight that would have come from more diverse perspectives and standpoints.

This project is further limited in not offering a deeper understanding of the diversity of participants. Although participants were clear about their cohesiveness as a group, they also talked about their diversity. Learning more about each participant would have offered an opportunity to understand the nuances of their standpoints, rather than the homogenized picture I presented here.

There are also the limitations that are inherent in attempts towards reflexivity, because “[n]o matter how aware and reflexive we try to be... ‘the author’s intentions, emotions, psyche, and interiority are not only inaccessible to readers, they are likely to be inaccessible to the author herself.’ [Thus] there may be limits to reflexivity, and to the extent to which we can be aware of the influences on our research both at the time of conducting it and in the years that follow.”³⁷³ Although I aimed to integrate a reflexive lens into my analysis, my inexperience in this area led to difficult roadblocks in my own understanding of my influence on the research. I am only beginning to understand my own positionality, and thus could not provide a clear illustration of my intention to myself or to the reader.

³⁷³ *Ibid* at 425.

CHAPTER 4

FINDINGS & ANALYSIS

The question of whether there is space for lawyers to support grassroots, systemic change work and, if so, how they might engage in this work without undermining or co-opting the work of community advocates and persons with lived experience is one that is best answered by beginning with and centering the voices of community advocates and persons with lived experience. This was a central tenant of this research, and one that was validated by the participants whose work with VAP comes from a perspective that asks: “how can you do it without consulting the people who need the help or the change?”³⁷⁴ Feminist standpoint theories argue further that when they “develop distinctive standpoints on hierarchical power relations,”³⁷⁵ the way that the members of VAP have done, marginalized groups hold an “epistemic advantage of insights into social relations that are unavailable to the non-marginalized.”³⁷⁶ From their standpoint, members of VAP are able to see what non-marginalized persons and groups are unable to. So, one member told me, “[t]he principle matter is looking at finding, looking, finding, talking to those who are in need, ‘cause you would think that everything would be fine, everything is not fine.”³⁷⁷ Not only does VAP hold an epistemic advantage which allows them greater insight into social relations, but from an understanding of power that recognizes the ways that knowledge and power are intertwined, beginning from the standpoint of marginalized groups – valuing their knowledge, and questioning ideological structures that shape our lives – allows us to challenge power inequities inherent in lawyering relationships, particularly with marginalized groups.

³⁷⁴ Participant C, “Interview Transcript,” (2 May 2017) at 8.

³⁷⁵ Collins, *Fighting Words*, *supra* note 200 at 50.

³⁷⁶ Howell, *supra* note 197.

³⁷⁷ Participant A, “Interview Transcript,” (26 April 2017) at 4.

The importance of beginning from “the people who need the help or the change,”³⁷⁸ is also recognized in the progressive lawyering literature. For progressive lawyers, this means beginning with the community, because “[t]he community’s problems are the only context within which the proper role for such a lawyer can be understood.”³⁷⁹ And it is only those who are part of the community who are able to fully understand these problems;³⁸⁰ as the people most affected, they “have the greatest understanding of their own communities.”³⁸¹ Further, it has been argued that “even the most left-leaning lawyers fall into the trap of regnant lawyering; they become too attached to their role as experts and professionals, [and] too detached from the lives of their clients.”³⁸² Recognizing the limitations lawyers face in being able to understand the experiences and standpoints of the community,³⁸³ “[t]he goal of the progressive practice of law is to ensure that the voices and stories of subordinated people are heard,”³⁸⁴ a goal which, if it is to be realized, requires that we consult with and listen to these voices.

Coming from an understanding of the importance of beginning from the community it was necessary to make that a central component of all aspects of the research process. To this end I asked one group of community advocates with lived experience working towards systemic change, how they envision lawyers to be able to support them in their work empowering persons with lived experience and tackling systems and structures that create and maintain poverty in their community. What roles do they want lawyers to take, and what qualities should those lawyers possess in doing this work to challenge power inequities and mitigate their potential to undermine or co-opt the work being done by community advocates with lived experience?

³⁷⁸ Participant C, “Interview Transcript,” (2 May 2017) at 8.

³⁷⁹ Diamond, “Community Lawyering”, *supra* note 143 at 75.

³⁸⁰ See, Ashar, “Deep Critique”, *supra* note 143.

³⁸¹ Ancheta, “Community Lawyering”, *supra* note 132 at 1393.

³⁸² *Ibid* at 1367.

³⁸³ *Ibid* at 1393.

³⁸⁴ *Ibid* at 1374-1375.

Before turning to these questions, the following section will take a step back and ask whether there is space for lawyers in community-led advocacy work from the perspective of community advocates with lived experience. Understanding whether they want or need the support of lawyers is important before moving onto discussions on how lawyers might be involved and what a supportive role might look like. Rather than begin from the assumption that lawyers should be involved in this work, as is often the case in the progressive lawyering literature, or assuming that lawyers should not be involved, as I did prior to this research, this discussion will focus on the local actualities of one group of community advocates with lived experience who did see a place for lawyers in their work, but recognized that whether and how they would want lawyers included in their work was dependent on weighing the potential risks with the potential benefits of doing so.

Lawyers Should Be Involved

While there is an ongoing debate as to what roles lawyers should play and what qualities they should demonstrate in their relationships with community-led advocacy groups and persons with lived experience, many of these discussions come with a presumption that lawyers are necessary and should play supportive roles in this work. However, in beginning with the community itself, these discussions must take a step back and ask whether lawyers have a space at all in this work before moving onto looking at how best they might be involved. Assuming that lawyers do have a place in this work without first consulting with the communities they are working with imposes an ideology that is born from the extralocal, abstracted perspective that privileges the knowledge of professionals as experts, rather than one rooted in the local actualities of everyday life, which acknowledges the expertise held outside the ruling class. It

risks ignoring or glossing over the risks that community advocates with lived experience attribute to working with lawyers.

Risks of Involving Lawyers

For VAP, the concerns that they raised as to why they would not choose to engage with lawyers to support their work stemmed from an understanding of lawyers as part of the establishment, and therefore that they are not going to be on the side of the community. As one member shared, “[t]here’s a fear of lawyers for being establishment, so when they come in and they talk the discourse of the law and they present by the discourse and the bureaucracy, there’s a fear among the people who need their help most...they’d rather go it alone because they figure they’re gonna get back-stepped anyways, so why add an extra layer of hurt?”³⁸⁵ Engaging with lawyers, then, brought with it a risk of them misusing or disclosing information, exploiting persons with lived experience, and of the group becoming removed from the issue as they gained greater access to the establishment itself. This list represents concerns that I saw emerge from my conversations with participants. I shared this with participants in a report³⁸⁶ provided to the group and during a follow-up meeting where participants were given the opportunity to critique the way the data was presented. Participants did not request any changes be made, but it is important to note here that this does not mean that what is presented below is a complete and accurate reflection of the experiences or standpoints of the participants; it is still only my interpretation of what this one group shared with me.

Members shared that working with lawyers meant a risk that a lawyer would “report” or misuse personal information that might be disclosed about an advocate or person in the community during work with the lawyer, which could have a negative impact on the advocacy

³⁸⁵ Participant B, “Interview Transcript,” (27 April 2017) at 22.

³⁸⁶ See Appendix B.

work, or personally for that individual. This was seen to be a concern because of how the group perceived, “[c]onflict of issues...I know one of the risks when we’ve talked about this with groups is the whole disclosure and what lawyers are legally bound to by disclosing.”³⁸⁷ This risk of, “disclosure of information,” was an issue for one member who shared that, “because I can choose to use a lawyer, but I also choose not to disclose certain information. Because I guess it can be very, very, in some ways it can be very, very dangerous...it could go from one to the other, to the other, to the other, and then back to you and by the time it gets back to you, you got this great big shit storm coming at you.”³⁸⁸ One member shared an example where working with CERA meant that some people chose not to participate precisely because of this risk of disclosure: “There’s legal ramifications and issues, and bridging that is one of those risks...But once you start some of this other advocacy stuff, even like with the CERA, some of them didn’t want to engage, and that was fine, in our group, and people didn’t want to come out because there were lawyers, because the mentality that they might still be there to report on you.”³⁸⁹

Concerns surrounding the disclosure of information that might be shared when working with a lawyer in a community advocacy setting revealed a connection between information and power that added a layer to how I had personally understood information and power to be connected. We gain power through access to information about ourselves, in addition to information about the systems and structures that govern our lives. However, I had not considered that *controlling* information about oneself, particularly protecting it from those who are insiders to the systems and structures that subordinate and oppress, is a way to control and hold onto power. By making a decision to not engage with a lawyer in order to protect

³⁸⁷ Participant B, “Interview Transcript,” (27 April 2017) at 24.

³⁸⁸ Participant A, “Interview Transcript,” (26 April 2017) at 19.

³⁸⁹ Participant B, “Interview Transcript,” (27 April 2017) at 25.

information that could be used against them, community advocates and persons with lived experience can resist against opportunities for lawyers to “govern, shape, or manage [their] behaviour.”³⁹⁰

The group also talked about the risks that could arise if they chose to work with a lawyer and the lawyer either turned their back on the group, or exploited them or others with lived experience. One member shared, “[w]e just wanna make sure that we’re not exploiting those people in the lived experience, that we’re not exposing them to something that is not beneficial for them.”³⁹¹ This was an important consideration for working with law students as well, because as another member said, “Legal students, sometimes, are very condescending, they don’t mean it, they’re young, they’re anxious. They’re well-educated...but they came across as very arrogant at times.”³⁹²

These concerns highlighted the ways participants viewed how lawyers, as members of a ruling class, are able to wield their power to harm or exploit persons with lived experience. An ideological structure that puts lawyers on a higher level in a power hierarchy allows for instances where a lawyer, or law student, could be condescending and exploitative to persons who are seen with this ideological structure to be subordinate. When lawyers are seen to be able to “turn their back...all of a sudden,”³⁹³ this can take control away from the community advocates who have turned to lawyers for their help but cannot be sure that they will be supported by them.

The group primarily focused on work with pro bono students and lawyers, sharing, as one member did, that we would likely not work with a paying lawyer: “If this is like a paying lawyer,

³⁹⁰ Piomelli, “Foucault’s Approach to Power”, *supra* note 195 at 425.

³⁹¹ Participant D, “Interview Transcript,” (15 May 2017) at 11.

³⁹² Participant C, “Interview Transcript,” (2 May 2017) at 11.

³⁹³ Participant A, “Interview Transcript,” (26 April 2017) at 20.

which I probably won't.”³⁹⁴ However, the group was clear that any relationship they would have with a lawyer would be a “two-way street”³⁹⁵ which would allow for greater respect for the group and contribute to the group's self-determination. This meant that the group also had a concern around what they could offer lawyers: “It's kind of a mutual relationship [with pro bono students], if it was a lawyer, what kind of mutual are we giving [them]?”³⁹⁶ For one member there was a worry about that mutual: “I'm scared about that return, what does that return look like?”³⁹⁷

Interestingly, participants were confident about the type of return that they could offer law students for pro bono work, but did not have the same confidence about what they could offer lawyers. I struggled with understanding this disconnect, not clear why the knowledge and expertise that VAP could offer law students would not translate the same way to lawyers. However, the perspective I hold from my position as a law student but one who has turned away from fully integrating into the legal profession, helped lead me to understand where the difference might lie. Collins argued, “[k]nowledge without wisdom is adequate for the powerful, but wisdom is essential to the survival of the subordinate.”³⁹⁸ Law students, who have not yet fully integrated into the ruling apparatus, still rely, to some extent, on the wisdom groups like VAP offer by virtue of their standpoints. Lawyers, however, do not require this wisdom in order to maintain their position in the ruling structure, and if lawyers are seen as wanting to maintain rather than challenge these structures it can be difficult to see how the wisdom held in communities could benefit them.

³⁹⁴ *Ibid* at 18.

³⁹⁵ Participant D, “Interview Transcript,” (15 May 2017) at 12.

³⁹⁶ Participant C, “Interview Transcript,” (2 May 2017) at 12.

³⁹⁷ *Ibid* at 18.

³⁹⁸ Collins, *Black Feminist Thought*, *supra* note 202 at 257.

Similarly, there was the concern that by engaging with lawyers that it would remove the group from the issue by bringing them into the establishment, which necessarily shifts away from the grassroots nature of the group. As one member shared, “[t]he more you engage within the established bureaucracy, the more you’re removed from the core need of the issue we’re trying to solve.”³⁹⁹ Working with a lawyer could change the dynamics and tactics of the group, and not always in a positive way: “If lawyers are part of the [advocacy], you can’t really get away with playing stupid, it changes the dynamic. And it changes the expectations, and it changes the flow, and it changes the – so with the legitimacy you lose a lot of other things that way.”⁴⁰⁰

Unlike the other risks pointed out by participants that focused on the ways in which lawyers could use their power to harm, this concern reveals the power that participants have from their standpoint rooted in their local, lived experience. Becoming removed from the issue can be seen as also losing the epistemic advantage that members of VAP hold by virtue of their standpoint rooted in their everyday world. Interestingly, it was also seen to mean limiting the tactics available to members in their advocacy work which reveals one of the ways this epistemic advantage is seen to benefit the group.

Benefits of Working with Lawyers

Despite recognizing some important risks that VAP considers for whether lawyers should be involved in their work, the group also noted some important benefits that they could gain from working with lawyers. Here, the group’s willingness to work with lawyers shows that while they may view lawyers as being on the side of the establishment, they also see the potential for lawyers to be supportive in their work. To better understand why participants might want to work

³⁹⁹ Participant B, “Interview Transcript,” (27 April 2017) at 25.

⁴⁰⁰ *Ibid* at 25.

with a lawyer, I organized the benefits they shared with me into nine categories that I saw emerge from the data, and discussed these categories with the participants in a report⁴⁰¹ provided to the group and during a follow-up meeting where participants were given the opportunity to critique the way the data was presented. Besides a change in language for one category, which will be discussed below, participants did not request that any changes be made to the categories as presented. However, like the risks presented above, it is important to note here that this does not mean that what is presented below is a complete and accurate reflection of the experiences or standpoints of the participants, but is still only my interpretation of what this one group shared with me. My own worldview and biases have influenced how these benefits have been presented, and the weight given to each one. With that in mind, the benefits that participants discussed have thus been organized into the following categories: remaining legally safe; legal expertise; knowledge exchange and dissemination; mutual education; new perspectives; access to the bureaucracy or establishment; expanding their networks; self empowerment; and exposing lawyers to the human element of the issue.

“Well, the most obvious benefit is staying out of prison,”⁴⁰² one participant stated when asked about potential benefits to working with lawyers to support VAP’s advocacy work. Consulting with a lawyer is one way that members saw that they could ensure that their advocacy falls within the limits of the law, and they could remain “legally safe.”⁴⁰³ Lawyers were viewed as useful supports who could provide legal advice “for some of the direct advocacy things that [the group] could touch on.”⁴⁰⁴ In these instances, where the group would be concerned that their advocacy tactics might push up against the boundaries of the law, all participants agreed that

⁴⁰¹ See Appendix B.

⁴⁰² Participant E, “Interview Transcript,” (16 May 2017) at 7.

⁴⁰³ Participant C, “Interview Transcript,” (2 May 2017) at 20.

⁴⁰⁴ Participant B, “Interview Transcript,” (27 April 2017) at 20.

consulting with a lawyer would be helpful. However, while some participants spoke of losing their effectiveness as a group if they stepped outside of the law and so “[i]f we need legal advice we go, you have to, if you need legal advice you have to go talk to a lawyer. We need to know if what we’re about to do is legal,”⁴⁰⁵ and thus saw lawyers as advisors to ensure the legality of the group’s actions, others also imagined lawyers might be needed if “maybe one day [they] might be civilly disobedient and get arrested because [they] won’t move out of the front of something.”⁴⁰⁶ While group members sit on a spectrum⁴⁰⁷ in regards to their advocacy approach, the benefits of protecting themselves legally through the use of a lawyer was something that all participants highlighted.

Having access to the legal expertise lawyers possess that allows them to navigate the law and understand “the legalities of knowing what’s going on,”⁴⁰⁸ was shared to be a helpful benefit that could come from working with a lawyer. Working with a lawyer could help the group to “know the legal aspects of a lot of things,”⁴⁰⁹ and to understand “the little nuances with staying within the limitations [of the law].”⁴¹⁰ Specifically, one group member highlighted that lawyers could be most useful to help navigate “federal [and provincial] law because there are things you can figure out municipally. But when it comes to provincial [and federal] law, there’s so much, you could think of numerous things, you look at it, and there’s red and yellow tape wrapped around it so many times, and it’s like, how do you cut through that?”⁴¹¹ Lawyers can provide the legal expertise to navigate that “red and yellow tape”⁴¹² when the group is working with

⁴⁰⁵ Participant E, “Interview Transcript,” (16 May 2017) at 6.

⁴⁰⁶ Participant C, “Interview Transcript,” (2 May 2017) at 12.

⁴⁰⁷ Voices Against Poverty, “Group Meeting Notes,” (23 March 2017) at 3.

⁴⁰⁸ Participant D, “Interview Transcript,” (15 May 2017) at 11.

⁴⁰⁹ *Ibid* at 8.

⁴¹⁰ Participant E, “Interview Transcript,” (16 May 2017) at 7.

⁴¹¹ Participant A, “Interview Transcript,” (26 April 2017) at 17.

⁴¹² *Ibid*.

provincial or federal law. Navigating the “red and yellow tape”⁴¹³ of civil matters was also cited as a way that lawyers can be beneficial to the group: “Civil cases, we’re talking about people here, we’re not just criminals. We’re talking about people that have problems and people have all this red and yellow tape that they gotta go through.”⁴¹⁴ One member also spoke of the group’s experience working with pro bono students, citing one of the benefits of working with them was that the students, “actually have the legal expertise”⁴¹⁵ that allows them to understand and work with the law in ways that those without that legal knowledge cannot.

Similarly, members shared that access to information through knowledge exchange and knowledge dissemination was a benefit that could be realized when they had relationships, or chose to work, with lawyers. The high cost of legal information was cited as one reason for the importance of knowledge exchange with lawyers: “Knowledge exchange...legal work and that’s so expensive now and different things and just the general knowledge exchange has been very helpful.”⁴¹⁶ Knowledge exchange with lawyers was a way, as one member shared, of, “Getting some more knowledge of breaking through certain aspects at certain angles.”⁴¹⁷ Being able to access legal information that the group can then share with the broader community, or having access to lawyers who are able to disseminate legal information, as one member shared, “not in clinical words, but in regular people words so that if somebody wanted to know information about this, we would be able to share the information with somebody in laymen terms.”⁴¹⁸

Another member cited the usefulness of knowledge dissemination from lawyers: “And then disseminating information is useful to us too. There’s new knowledge for our members to learn,

⁴¹³ *Ibid.*

⁴¹⁴ *Ibid.*

⁴¹⁵ Participant B, “Interview Transcript,” (27 April 2017) at 18.

⁴¹⁶ *Ibid* at 19.

⁴¹⁷ Participant A, “Interview Transcript,” (26 April 2017) at 19.

⁴¹⁸ Participant C, “Interview Transcript,” (2 May 2017) at 10.

and to share with the communities.”⁴¹⁹ Being able to share knowledge gleaned from lawyers with the broader community was cited by one member as aligning with the “core purpose” of the group: “We’re looking for more information that we can share, or information that we can have ourselves, so for the core purpose it’s been very helpful.”⁴²⁰ One member spoke of the group as a conduit for those in the community who need access to this information, citing the work of pro bono students whom the group has an ongoing relationship with as an example of how this could be achieved, while allowing for the law students to learn as well: “I think that a lot of people in poverty need information, and if they’re not gonna go out to the community to reach for it, maybe a group like ours could provide that information...so that’s why I thought pro bono students would be an excellent way to incorporate them into the poverty aspect of the society, helping us out.”⁴²¹

Additionally, “education, like learning, mutual education,”⁴²² was shared to be a benefit emerging from a relationship with a lawyer where both parties “learn different things from each other,”⁴²³ benefiting not only the group, but the lawyer and the wider community as well: “I think [lawyers] would definitely benefit from learning from the community, especially if they’re gonna participate in community activities.”⁴²⁴ One member shared how their relationship with a local community legal clinic allowed for this: “Legal Assistance of Windsor has been a good thing ‘cause we get to hear what is legal and what is not legal. They hear what our voices are and then try to find a way to deal with it through the law.”⁴²⁵ Another member shared how working with pro bono students could offer a similar experience of mutual education: “I think pro bono

⁴¹⁹ Participant B, “Interview Transcript,” (27 April 2017) at 19.

⁴²⁰ *Ibid* at 20.

⁴²¹ Participant C, “Interview Transcript,” (2 May 2017) at 10.

⁴²² *Ibid* at 14.

⁴²³ Participant D, “Interview Transcript,” (15 May 2017) at 7.

⁴²⁴ Participant C, “Interview Transcript,” (2 May 2017) at 13.

⁴²⁵ Participant D, “Interview Transcript,” (15 May 2017) at 6.

students can learn a lot from being engaged in the community at that level before they become lawyers because I think it gives them some real world experience of understanding some social issues, it gives them understanding of how they have to approach certain things like how do we talk about this issue in a legal way that makes, or that benefits or clears up some of the jargon so that people can understand the law.”⁴²⁶

Not only was access to legal information and advice seen as a benefit to working with lawyers for this community-led advocacy group, but there were also members who saw access to the “establishment” as a useful outcome that could come from working with a lawyer. Having a relationship with a lawyer, someone who is necessarily an insider to the establishment, can serve as a gateway into these structures for community advocates and persons with lived experience who may not have that access: “Then collectively gets the group to think of things in a different way, even though we don’t have a true mission, it helps us integrate into the establishment, the bureaucracy, the way of changing mechanisms in a way...it’s one of these things that ticks me off, but when you’re looking at credibility down the road...it gives the group credibility where they get heard.”⁴²⁷

Similarly, working with lawyers contributes to a broader project of network and relationship building, which offers the opportunity for greater access to support and to share the group’s message. For some, the network building was another way for the group to access information: “Maybe they might know of an agency, or maybe something they’re doing themselves that can help in the group...lawyers can help in that area is just let us know what’s out there...but they can say ‘we know this group knows how to do this, you can see them, if not

⁴²⁶ Participant C, “Interview Transcript,” (2 May 2017) at 12.

⁴²⁷ Participant B, “Interview Transcript,” (27 April 2017) at 19.

then come back and we'll figure something else out."⁴²⁸ For others, it was access to a network of support that was useful: "On another level I think it's very good because it helps create that link with Voices Against Poverty and other community organizations, it engages with the law school at the University. It builds a network of people that we can trust and go to...when I say we have to have a Windsor-Essex focus, it kind of creates that footprint for that focus...But it also gives them people they can call when they see really dire and bad things going on and pass on information."⁴²⁹ Beyond this, the group shared that working with lawyers contributed to the group's broader relationship building goals:

Well actually, that's the whole point, building a relationship. See the idea, is to bring as many people together as possible, so the more lawyers we can bring into the group, sooner or later some of those lawyers are gonna become politicians...so if they're already with us we've already got people in the camp of the enemy that we can use to break the camp of the enemy. That's the fundamental requirement. If we have lawyers eventually we're gonna have people in Ottawa, or Toronto, or even City Hall who are sympathetic to our cause. And that's what we need. Politicians have to be sympathetic, they have to be involved, they have to be or ultimately we're going to fail. We can get all these little sidebars accomplished but eventually the war is gonna end with a loss. Everybody has to get involved or everybody loses...I mean we're gonna need politicians somewhere down the line, but we need the people first. And the lawyers make it possible because people recognize a lawyer first, and me, not at all.⁴³⁰

Building and expanding their network also leads to more access to new perspectives to inform the group's advocacy tactics or approaches, another benefit to working with lawyers highlighted by the group. One member shared how,

The pro bono students actually have the legal expertise, so working with them I think is good because they can do the search from kind of the perspective of people who don't know the issues generally, although some of them have had lived experience in their own lives, but beyond that, they look at it with clean eyes. So if we're asking them to follow a trail on whatever subject it is, they're going in clean without the jaded, and the stigma, it's different kind of lenses than us that have been advocating.⁴³¹

⁴²⁸ Participant D, "Interview Transcript," (15 May 2017) at 12.

⁴²⁹ Participant B, "Interview Transcript," (27 April 2017) at 19.

⁴³⁰ Participant E, "Interview Transcript," (16 May 2017) at 8.

⁴³¹ Participant B, "Interview Transcript," (27 April 2017) at 18-19.

Lawyers and law students were not only seen to be a benefit because they come with “clean eyes,” but they also bring with them a perspective shaped by being insiders to the system which can be useful, as one member shared, “[t]hen collectively gets the group to think of things in a different way...I think collectively we can change our advocacy role a bit, to try and address some of those core crisis issues, collectively as a group which would be a good idea, but we would need the legal backing to figure out how to do that.”⁴³² Not only does working with lawyers, as one member stated, give “us ways and idea about how we can change the system,”⁴³³ but it can also provide new perspectives for how to get people involved in their work: “You want people to sort of see what’s out there, learn something, and then do something, and that’s the most important thing right there, is opening up your mind and see what’s out there and figure is there a way I can help, is there a way the group I’m part of can help, what can we do?”⁴³⁴

Lawyers were also seen by the group as useful resource for empowerment when they support the advocacy work of those in the community through information on how to self-advocate and work as non-lawyers through self-empowerment: “That’s one of those areas where there isn’t funded legal advice now, and if we can even have people telling us and training⁴³⁵ us how to act as non-lawyers to engage in advocacy, that’d be helpful.”⁴³⁶ An example given was the group’s work with CERA: “What was good about engaging with CERA, part of that was how to train tenants, how to self-advocate around some of these by-law issues and know how to do it locally.”⁴³⁷ Working with lawyers can be useful, “[t]o train more and more people to do

⁴³² *Ibid* at 20.

⁴³³ *Ibid*.

⁴³⁴ Participant D, “Interview Transcript,” (15 May 2017) at 11.

⁴³⁵ During our follow-up meeting the group expressed that they felt the word “training” did not accurately reflect what they had intended to say and instead chose to refer “self-empowerment” as the role lawyers could play. Although direct quotes have not been changed, the label for the benefit presented here has been changed from “training” which was in the original analysis, to “self-empowerment.”

⁴³⁶ Participant B, “Interview Transcript,” (27 April 2017) at 22.

⁴³⁷ *Ibid* at 20.

[advocacy], or have an access point for information,”⁴³⁸ which was seen as significant for this community in particular as one member shared, “I think we would really use help that way locally.”⁴³⁹

A final, though important, theme that came up throughout the entire research process, was the ways that having relationships with lawyers exposes those lawyers to the human element of the issues they are working on: “The students are learning and we’re learning at the same time. And they get a view of what the group is about, they get a view of what some of the people are about that’s being helped, and hopefully that brings a human element to all these people so they’re not thinking in books, they’re thinking and looking at a person.”⁴⁴⁰

Hearing that VAP saw the ways the benefits that they might see from working with lawyers outweigh the potential risks, challenged my own thoughts about the question of whether lawyers should be involved in community-led advocacy work. I had approached this project skeptical that lawyers could or should be involved at all, placing more weight on the potential for “legal co-optation,”⁴⁴¹ believing that working with a lawyer would necessarily “snatch[] the play from [the community’s] control to place it with the lawyer.”⁴⁴² However, what I learned from speaking with VAP, was that there can be space, and sometimes needs to be, for the participation of lawyers to support their work. This perspective will not necessarily be shared by all community advocates with lived experience, but it does highlight the importance of beginning with the knowledge and experience of the local, everyday world, rather than from assumptions that come from the extralocal.

⁴³⁸ *Ibid* at 21.

⁴³⁹ *Ibid*.

⁴⁴⁰ Participant D, “Interview Transcript,” (15 May 2017) at 7.

⁴⁴¹ Lobel, *supra* note 161 at 939.

⁴⁴² Mizan, *supra* note 143 at 196-197.

Seeing space for lawyers in their work is part of the inclusive approach to change that VAP practices. Explaining who the group engages with towards their mission, one member of the group shared: “We get different people coming from different areas. Different walks of life. People in agencies, lawyers, people, students, social work, different things like that. They all, we all, have a part in it because it all affects the people we’re trying to help.”⁴⁴³ The group is open to “working with any group who’s looking to end poverty, and in so doing, we make it a bigger organization, we make the voice louder, and that’s the point. Make the voice really loud. And that’s what we’re trying to do.”⁴⁴⁴ However, while the participants all agreed that lawyers could be involved in their work, they saw lawyers playing more of a supportive role, engaging in types of work that would contribute to the mission of the group, rather than adopting a leadership role where “the community’s struggle becomes the lawyer’s struggle and not the people’s struggle.”⁴⁴⁵

Although VAP is focused around centering persons with lived experience in discussions and movements towards the elimination of poverty, their willingness to work with dominant groups and professions, such as lawyers, seems to head Dorothy Smith’s warning that we do not simply replace one set of ideologies with another.⁴⁴⁶ Rather, by beginning with the local through the centering and empowerment of persons with lived experience of poverty, and then moving to the extralocal by engaging with the ruling class, or establishment, of which lawyers are a part, shifting back and forth between the two, we can uncover a more complete understanding of our everyday worlds and uncover new ways to transform power hierarchies for more equal relationships.

⁴⁴³ Participant D, “Interview Transcript,” (15 May 2017) at 11.

⁴⁴⁴ Participant E, “Interview Transcript,” (16 May 2017) at 2.

⁴⁴⁵ Quigley, “Reflections”, *supra* note 165 at 462-463.

⁴⁴⁶ Smith, *Everyday World*, *supra* note 123.

Roles for Lawyers

Although participants were clear that there is space for lawyers in their work, our discussions also revealed the importance of lawyers playing supportive, rather than leading roles, and of beginning with the needs articulated by the community, rather than those theorized from an abstracted, birds-eye view of the local realities of peoples' lives. This next section is an analysis of what I heard from participants on how lawyers can best support their community advocacy work towards the inclusion of persons with lived experience of poverty and the elimination of poverty. It is important to note that the analysis presented below is limited to my own interpretations of what the participants chose to share with me, and thus cannot fully or accurately capture their voices. However, in an effort to elevate and centre their voices as much as possible, the participants' responses are used to frame and form the starting point for the following discussion on the role of lawyers in supporting community advocates with lived experience working towards systemic change.

Beginning with the voices of participants and using feminist standpoint theories and Foucault's knowledge/power nexus as my lens, I will outline potential roles that lawyers might play in supporting community-led advocacy work. I will also integrate the literature on progressive lawyering theory to demonstrate that while approaching this question from the perspective of social justice focused lawyers and legal academics has provided important critiques on how we understand the role of lawyers, their perspectives are insufficient unless we are using them alongside the standpoints of communities and persons with lived experience. I will use this analysis to demonstrate how the role lawyers play, or the roles they might play in supporting community advocates with lived experience, can be adopted as a means of resistance against power inequities.

My interviews with members of VAP revealed four roles that they articulated lawyers have played or could play to support their work. These four roles – legal representative; knowledge partner; gatekeeper; and supporting self-empowerment – stood out to me as roles that fall within the domain of lawyers traditionally (namely, legal representative), or as non-traditional roles that have been understood to fall under the category of “progressive lawyering” (namely, knowledge partner, gatekeeper, and supporting self-empowerment). Having read the progressive lawyering literature prior to these interviews and conducting my analysis, it is likely that these roles stood out to me as ones that were familiar to me from the literature. Although I returned to the data with this bias in mind, I did not uncover other roles that may have been hidden to me. However, this is not to say that the roles presented below are the only possible interpretation, rather, they represent my own interpretation, influenced by what I already understood about various approaches to lawyering. These four roles, if adopted as imagined by VAP, each have the potential to be employed as a means of resistance against power hierarchies that privilege lawyers and devalue communities and persons with lived experience.

Legal Representative

Unsurprisingly, participants shared that lawyers could support VAP in their role as a legal representative, providing legal advice and support. Helping the group to “know the legal aspects of a lot of things”⁴⁴⁷ and navigate the “red and yellow tape wrapped around [laws],”⁴⁴⁸ and to “remain legally safe”⁴⁴⁹ are commonly understood roles that fall almost exclusively within the domain of lawyers. The group shared that lawyers would be useful supports by helping the group to understand “the legalities of knowing what’s going on,”⁴⁵⁰ and to understand “the little

⁴⁴⁷ Participant D, “Interview Transcript,” (15 May 2017) at 8.

⁴⁴⁸ Participant A, “Interview Transcript,” (26 April 2017) at 17.

⁴⁴⁹ Participant B, “Interview Transcript,” (27 April 2017) at 20.

⁴⁵⁰ Participant D, “Interview Transcript,” (15 May 2017) at 11.

nuances with staying within the limitations [of the law].”⁴⁵¹ This being a ubiquitous understanding of what lawyers do, it is expected that participants would recognize this as a possible role that lawyers would take in support of their work. However, although this might be the most commonly understood and overall accepted understanding of what a lawyer is supposed to do, this was the role that the group had experienced the least based on what they shared with me. The group explicitly noted legal support in civil cases as an area where they would benefit from the advice or representation of a lawyer. “Civil cases, we’re talking about people here, we’re not just criminals. We’re talking about people that have problems and people have all this red and yellow tape that they gotta go through.”⁴⁵² This is an example of a disconnect between what lawyers say they do, and what people actually experience or have access to.

In recognizing that lawyers could support their work by providing legal support to navigate and protect them against the law, participants reminded me of the practical realities that structures that are part of the ruling apparatus, such as the law, have on their everyday advocacy work, and the ways that the “master’s tools”⁴⁵³ can be used as a form of resistance. Participants recognized the law as something that they need to engage with, but also as something that could limit their advocacy, or even harm them, if they employed certain tactics for their advocacy. They are conscious of the power the law has, although the language they use to describe engaging with the law, such as wanting to remain “legally safe,”⁴⁵⁴ and referring to engaging with the law as “dismantling a bomb,”⁴⁵⁵ suggests that they can see past the false narrative of the

⁴⁵¹ Participant E, “Interview Transcript,” (16 May 2017) at 7.

⁴⁵² Participant A, “Interview Transcript,” (26 April 2017) at 17.

⁴⁵³ Lorde, *supra* note 179.

⁴⁵⁴ Participant B, “Interview Transcript,” (27 April 2017) at 20.

⁴⁵⁵ Participant A, “Interview Transcript,” (26 April 2017) at 17.

law as objective or neutral. This wisdom emerges from their standpoint, and in beginning to make the subjectivity of the law visible, they gain power.

Some participants cited a loss of effectiveness to their advocacy work if they stepped outside the boundaries of the law, which was why seeking out the support of a lawyer to play this role was cited by VAP. For participants who shared that civil disobedience may be a tactic they would use in their work, this role was described similarly, with the additional suggestion that lawyers could also provide protection should they cross that boundary. This suggests that some participants view legitimacy in the system as necessary to their advocacy, and others see the potential harm that they would need support against if they clashed with the law. For those who saw the necessity of staying within the boundaries of the law to maintain the group's effectiveness, a lawyer was one way to maintain this legitimacy. However, this requires that the lawyers also maintain legitimacy themselves. Contributing her own reflection on this relationship from the position of someone who is both part of the community she represents, and an insider to the system they are advocating against, Nancy Polikoff notes that lawyers are able to protect clients legally when they maintain a "legitimacy within the legal system,"⁴⁵⁶ which gives them "access within the legal system that [] clients do not have...[which clients' view] as essential to representing their interests."⁴⁵⁷ Further, "[t]o be recognized as a proper participant," Dorothy Smith tells us, "the members [of a standpoint] must produce work that conforms to appropriate styles and terminologies, makes the appropriate deferences, and is locatable by these and other devices in the traditions, factions, and schools whose themes it elaborates, whose interpretive procedures it intends, and by whose criteria it is to be evaluated."⁴⁵⁸

⁴⁵⁶ Nancy D Polikoff, "Am I My Client?: The Role Confusion of a Lawyer Activist" (1996) 31 Harv CR-CL L Rev 443 at 446 [Polikoff, "Am I My Client?"].

⁴⁵⁷ *Ibid* at 448.

⁴⁵⁸ Smith, *Everyday World*, *supra* note 123 at 61.

Knowledge Partner

Another role that is commonly understood to fall within the domain of lawyers (although not exclusively) is that of someone who can provide legal information. Participants shared that they had benefited from having access to legal information through their experience with pro bono students, and that they would benefit from having access to this information from lawyers as well. However, participants did not limit the knowledge dissemination as a one-way street from lawyer to community. Instead, participants highlighted the expertise and wisdom that they held by virtue of their lived experience and standpoint that would benefit the law students and lawyers they have, and could, work with. Rather than seeing legal information as the be all and end all, or completely ignoring the ways that legal information can be useful, participants saw, as progressive lawyering does, “that lawyers and clients each have skills and knowledge to teach to and to learn from one another.”⁴⁵⁹ It is a,

fundamental assumption of this approach to lawyering [] that lawyers and clients each have skills and knowledge to teach to and to learn from one another. Lawyers have useful expertise in the law, in the types of persuasive strategies and tactics to which legal actors generally respond, and in the types of outcomes that the legal system can and cannot deliver. Clients have useful knowledge of those who purport to be their “superiors,” of how they think and react, of how and to what extent they can be maneuvered around, and of who else might be able to influence them.⁴⁶⁰

One participant described that access to “[k]nowledge exchange...legal work and that’s so expensive now and different things and just the general knowledge exchange has been very helpful.”⁴⁶¹ This was something the group had experience with, specifically through their relationship with pro bono students who were cited as “actually hav[ing] the legal expertise”⁴⁶² that allows them to understand and work with the law in ways that those without that legal

⁴⁵⁹ Piomelli, “Foucault’s Approach to Power”, *supra* note 195 at 446-447.

⁴⁶⁰ *Ibid.*

⁴⁶¹ Participant B, “Interview Transcript,” (27 April 2017) at 19.

⁴⁶² *Ibid* at 18.

knowledge cannot. Referring to law students as having legal expertise reveals an interesting and important perception about what it means to be seen as a member of the ruling structure. Law students are given “expert status” by virtue of their connection to the ruling structure regardless of their actual, held expertise. Yet the same status is not often afforded in the reverse, with those inside of the ruling structure attributing an “expert status” to persons with lived experience, despite the epistemic advantage they hold because of this experience.

One member shared how,

[w]orking with [pro bono students] I think is good because they can do the search from kind of the perspective of people who don’t know the issues generally, although some of them have had lived experience in their own lives, but beyond that, they look at it with clean eyes. So if we’re asking them to follow a trail on whatever subject it is, they’re going in clean without the jaded, and the stigma, it’s different kind of lenses than us that have been advocating.⁴⁶³

This comment revealed that achieving a standpoint is a process that does not reveal the ideological apparatus and its structure that shapes our everyday worlds, at once. Instead, aspects of it may continue to be obscured where being part of a structure like the law is viewed as a neutral, objective position in comparison to the “jaded” position that comes from living the issues you are advocating against.

Lawyers and law students not only were viewed as having “clean eyes,” but they were also seen to bring with them a perspective shaped by being insiders to the system which can be useful, as one member shared, “[t]hen collectively gets the group to think of things in a different way...I think collectively we can change our advocacy role a bit, to try and address some of those core crisis issues, collectively as a group which would be a good idea, but we would need the legal backing to figure out how to do that.”⁴⁶⁴ Not only does working with lawyers, as one

⁴⁶³ *Ibid* at 18-19.

⁴⁶⁴ *Ibid* at 20.

member stated, give “us ways and idea about how we can change the system,”⁴⁶⁵ but it can also provide new perspectives for how to get people involved in their work: “You want people to sort of see what’s out there, learn something, and then do something, and that’s the most important thing right there, is opening up your mind and see what’s out there and figure is there a way I can help, is there a way the group I’m part of can help, what can we do?”⁴⁶⁶ Having access to lawyers who are able to disseminate legal information, as one member shared, “not in clinical words, but in regular people words so that if somebody wanted to know information about this, we would be able to share the information with somebody in laymen terms.”⁴⁶⁷ Another member cited the usefulness of knowledge dissemination from lawyers: “And then disseminating information is useful to us too. There’s new knowledge for our members to learn, and to share with the communities.”⁴⁶⁸

What is particularly important here is the fact that while participants viewed law students and lawyers as experts, they were also aware of their own expertise and knowledge and thus referred often to “knowledge exchange”⁴⁶⁹ and a “two-way street.”⁴⁷⁰ One participant recognized that not only did members of the group hold an epistemic advantage, but that this advantage put them in a position to understand and navigate the law using their own expertise and knowledge, “because there are things you can figure out municipally”⁴⁷¹ – referring here to municipal laws that they were able to navigate without relying on lawyers or law students. However, this participant also shared that lawyers would be helpful to navigate “federal [and provincial] law [because] when it comes to provincial [and federal] law, there’s so much, you could think of

⁴⁶⁵ *Ibid.*

⁴⁶⁶ Participant D, “Interview Transcript,” (15 May 2017) at 11.

⁴⁶⁷ Participant C, “Interview Transcript,” (2 May 2017) at 10.

⁴⁶⁸ Participant B, “Interview Transcript,” (27 April 2017) at 19.

⁴⁶⁹ *Ibid.*

⁴⁷⁰ Participant D, “Interview Transcript,” (15 May 2017) at 11.

⁴⁷¹ Participant A, “Interview Transcript,” (26 April 2017) at 17.

numerous things, you look at it, and there's red and yellow tape wrapped around it so many times, and it's like, how do you cut through that,"⁴⁷² revealing limitations they saw in their ability to navigate the law on their own.

One member spoke of the group as a conduit for those in the community who need access to this information, citing the work of pro bono students, whom the group has an ongoing relationship with, as an example of how this could be achieved, while allowing for the law students to learn as well: "I think that a lot of people in poverty need information, and if they're not gonna go out to the community to reach for it, maybe a group like ours could provide that information...so that's why I thought pro bono students would be an excellent way to incorporate them into the poverty aspect of the society, helping us out."⁴⁷³ So, while the group saw access to legal information as important for their own advocacy purposes and generally for persons experiencing poverty, they also saw that the knowledge and experience they have with poverty is valuable to the pro bono students they are working with. Learning about the issues from persons who are advocating in that area and have lived experience was also seen as important for lawyers. An example one participant gave was, "if I'm an environmental lawyer, I might want to get in touch with environmental groups around."⁴⁷⁴

⁴⁷² *Ibid.*

⁴⁷³ Participant C, "Interview Transcript," (2 May 2017) at 10.

⁴⁷⁴ *Ibid* at 17.

Gatekeeper

Participants also spoke of lawyers as able to provide access to the “establishment” and to offer useful networking and relationship building opportunities. Having a relationship with a lawyer, someone who is necessarily an insider to the establishment, can serve as a gateway into these structures for community advocates and persons with lived experience who may not have that access: “Then collectively gets the group to think of things in a different way, even though we don’t have a true mission, it helps us integrate into the establishment, the bureaucracy, the way of changing mechanisms in a way...it’s one of these things that ticks me off, but when you’re looking at credibility down the road...it gives the group credibility where they get heard.”⁴⁷⁵ Using lawyers as a means “[t]o be recognized as a proper participant”⁴⁷⁶ allows VAP to make visible the local actualities of their lives and the lives of their communities within a ruling structure that serves to erase or devalue these voices.

Similarly, working with lawyers contributes to a broader project of network and relationship building, which offers the opportunity for greater access to support and to share the group’s message. For some, the network building was another way for the group to access information: “Maybe they might know of an agency, or maybe something they’re doing themselves that can help in the group...lawyers can help in that area is just let us know what’s out there...but they can say ‘we know this group knows how to do this, you can see them, if not then come back and we’ll figure something else out.’”⁴⁷⁷ For others, it was access to a network of support that was useful: “On another level I think it’s very good because it helps create that link with Voices Against Poverty and other community organizations, it engages with the law

⁴⁷⁵ Participant B, “Interview Transcript,” (27 April 2017) at 19.

⁴⁷⁶ Smith, *Everyday World*, *supra* note 123 at 61.

⁴⁷⁷ Participant D, “Interview Transcript,” (15 May 2017) at 10.

school at the University. It builds a network of people that we can trust and go to...when I say we have to have a Windsor-Essex focus, it kind of creates that footprint for that focus...But it also gives them people they can call when they see really dire and bad things going on and pass on information.”⁴⁷⁸ Beyond this, the group shared that working with lawyers contributed to the group’s broader relationship building goals:

Well actually, that’s the whole point, building a relationship. See the idea, is to bring as many people together as possible, so the more lawyers we can bring into the group, sooner or later some of those lawyers are gonna become politicians...so if they’re already with us we’ve already got people in the camp of the enemy that we can use to break the camp of the enemy. That’s the fundamental requirement. If we have lawyers eventually we’re gonna have people in Ottawa, or Toronto, or even City Hall who are sympathetic to our cause. And that’s what we need. Politicians have to be sympathetic, they have to be involved, they have to be or ultimately we’re going to fail. We can get all these little sidebars accomplished but eventually the war is gonna end with a loss. Everybody has to get involved or everybody loses...I mean we’re gonna need politicians somewhere down the line, but we need the people first. And the lawyers make it possible because people recognize a lawyer first, and me, not at all.⁴⁷⁹

Within the progressive lawyering literature there is a similar understanding of the role of lawyers to “elevat[e] the stories and the voices of the people we work with,”⁴⁸⁰ and “to create space for our clients to speak in settings where traditionally they are kept silent.”⁴⁸¹ Being “trained in the language of power...makes it possible for [lawyers] to translate the stories of our clients in a way that gives them legitimacy in the eyes of policymakers.”⁴⁸² There is a recognition from progressive lawyers to “be hyper-conscious...[to not] dominat[e] community struggles and usurp[] community voices,”⁴⁸³ in this role.

⁴⁷⁸ Participant B, “Interview Transcript,” (27 April 2017) at 19.

⁴⁷⁹ Participant E, “Interview Transcript,” (16 May 2017) at 8.

⁴⁸⁰ Marika Dias, “Stepping Outside, Standing Back, and Raising Up: Lawyering within Grassroots Community Movements” (2015) XXII:2 *Georgetown Journal on Poverty Law & Policy* 405 at 414 [Dias].

⁴⁸¹ *Ibid* at 414.

⁴⁸² *Ibid* at 415.

⁴⁸³ *Ibid* at 415.

This was a more difficult role for me to understand from my position theorizing in the abstracted, extralocal realm. I had not considered the ways power can be modified, and had placed more weight on the potential for legal co-optation that participants shared with me. Instead, VAP articulated how they might co-opt the power held by lawyers for their own benefit.

Supporting Self-Empowerment

Lawyers were also seen by the group as useful resource for empowerment when they support the advocacy work of those in the community through information on how to self-advocate and work as non-lawyers: “That’s one of those areas where there isn’t funded legal advice now, and if we can even have people telling us and training⁴⁸⁴ us how to act as non-lawyers to engage in advocacy, that’d be helpful.”⁴⁸⁵ Sharing, “how to self-advocate around some of these by-law issues and know how to do it locally,”⁴⁸⁶ was one way lawyers could support the group. Lawyers could help, “[t]o train more and more people to do [advocacy], or have an access point for information.”⁴⁸⁷

Interestingly, the group saw lawyers as being able to empower community advocates by offering self-advocacy training. This is also described as a role for lawyers in the progressive lawyering literature, where lawyers are encouraged to empower clients by “[r]ealizing that our clients can learn the law, and that they can be effective advocates,”⁴⁸⁸ and “help[ing] clients appreciate the worth and utility of their knowledge and its transferability to new situations.”⁴⁸⁹ This approach to lawyering not only works towards empowering clients, but it also challenges a

⁴⁸⁴ During our follow-up meeting the group expressed that they felt the word “training” did not accurately reflect what they had intended to say and instead chose to refer “self-empowerment” as the role lawyers could play. Although direct quotes have not been changed, the label for the role presented here has been changed from “training” which was in the original analysis, to “self-empowerment.”

⁴⁸⁵ Participant B, “Interview Transcript,” (27 April 2017) at 22.

⁴⁸⁶ *Ibid* at 20.

⁴⁸⁷ *Ibid* at 21.

⁴⁸⁸ Dias, *supra* note 480 at 413.

⁴⁸⁹ *Ibid*.

dominant ideology that presents society as meritocratic, but does not view persons who are categorized outside elite or ruling classes “as thinking, acting agents – nor as at all effective problem solvers.”⁴⁹⁰

Importance of Trust

Beginning with communities and adopting roles that they articulate such as the ones laid out above are important ways lawyers can support community advocates. In order to ensure that the practices and roles adopted are truly transformative and serve to resist rather than reinforce power hierarchies, lawyers must also be attentive to how they engage in relationships with communities. There are inherent risks that come with engaging with lawyers due to their position within the ruling structure, yet the group saw being able to use this position to their advantage. For VAP, offsetting these risks and reimagining their relationship with lawyers to resist is possible if the relationship that they have with lawyers is one that is built on trust. Trust, they tell us, is the only way that lawyers can support communities in a way that does not, at the same time, harm the work being led by community advocates and persons with lived experience. Trust is also one important way that the relationship between lawyers and community advocates can be transformative towards more equitable power relationships. Trust was, therefore, seen to be important because it mitigated the risks of working with lawyers, but it also allowed for a feeling of safety when working with lawyers and allowed for a way for the group to move forward meaningfully.

A trusting relationship was seen as a necessary element for mitigating the risks that come with working with lawyers. As one member shared, “The whole thing about trust, how can we establish trust, is a great thing that you need to establish with the lawyer first because that’s one

⁴⁹⁰ *Ibid.*

of the risks, again, let's go back to the question before, what are some of the risks of involving lawyers in some of the work is the trust issue, because you can tell them, and then another time they'll turn their back and then all of a sudden you're screwed."⁴⁹¹ A trusting relationship allowed for a check on the power that lawyers can often hold over community advocates and persons with lived experience. As one member shared, "We have to create trusting relationships with individuals because sometimes you hold the power over someone, and how're you gonna use that power?"⁴⁹²

For those who saw the danger or felt fear when working with lawyers, trust was shared to be an important element that allowed them to feel safe to engage in that work. In instances where, "people didn't want to come out because they were lawyers,"⁴⁹³ trust was one way to get those people engaged. One member suggested that if their group had a trusting relationship with a lawyer or, a group like pro bono students, "people would come because they'd get to know them because they'd trust not only our organization, but the ones that come kind of would match with us, like we trust the pro bono, everyone in our group now, we kind of know they're safe."⁴⁹⁴

Importantly, trust was shared to be a necessary component of any relationship with a lawyer if the work was to move forward meaningfully, "[c]ause if there's not trust then there's no way of going forward,"⁴⁹⁵ one member shared. Trust would allow the group to work with a lawyer and not be impeded by doubt: "Well, first of all, in a group like ours, trust is essential. You have to be able to trust the people around you. You have to. And for lawyers the same thing. You have to be able to, because if you can't trust the lawyer you're gonna be thinking 'is he

⁴⁹¹ Participant A, "Interview Transcript," (26 April 2017) at 20.

⁴⁹² Participant B, "Interview Transcript," (27 April 2017) at 16.

⁴⁹³ *Ibid* at 25.

⁴⁹⁴ *Ibid* at 23.

⁴⁹⁵ Participant D, "Interview Transcript," (15 May 2017) at 10.

leading us down the garden path or what?’ Trust is essential, ok?’⁴⁹⁶ Building a trusting relationship was also said to be a part of the larger networking goal of the group: “Well, actually that’s the whole point, building a relationship. See the idea is to bring as many people together as possible, so the more lawyers we can bring into the group, sooner or later some of those lawyers are gonna become politicians.”⁴⁹⁷

Knowing that trust is an important and arguably necessary element in a relationship with lawyers, particularly for this group of community advocates with lived experience, it is essential that we understand what is meant by trust. This is difficult, as trust is complicated and diversely understood concept to pin down. Therefore, to allow us to better understand what is meant by “trust”, VAP offers five elements that define what trust is for them when applied towards a transformative relationship with lawyers: (1) humility; (2) honesty; (3) empathy; (4) listening; and (5) support.

Humility was an important element discussed by all members of the group who were interviewed. This means, as one member suggested, “[a]pproach them in a way that ‘I want to learn more about you’ and give them lots of space and time to talk to you, and be open-minded about that conversation.”⁴⁹⁸ It is, another shared, “Looking at individuals as experts. You don’t need a degree to be an expert on poverty.”⁴⁹⁹ Approaching community advocates and persons with lived experience as experts requires humility about your own credentials. One member spoke to this from the group’s experience working with law students:

Another thing is, they don’t mean to, legal students, sometimes are very condescending, they don’t mean it, they’re young, they’re anxious, they’re well-educated...but they came across as very arrogant at times and it’s always good to be humble, no matter who you are and what your credentials are, always be humble...they didn’t do anything wrong, and

⁴⁹⁶ Participant E, “Interview Transcript,” (16 May 2017) at 9.

⁴⁹⁷ *Ibid* at 8.

⁴⁹⁸ Participant C, “Interview Transcript,” (2 May 2017) at 14.

⁴⁹⁹ *Ibid* at 15.

maybe they don't know that they're condescending. Some people just really don't know their personality. It might just be their personality, who they are, and that's ok, but you need to be careful, always be careful.⁵⁰⁰

False humility was easy to spot for the group as well, as one member highlighted: "You can always tell when someone's just doing it for glory. You can tell when someone's just focused on bringing themselves up."⁵⁰¹ One member shared that, "...we care about who you are as a person. So you could have a million degrees but we want to know who you are, 'cause you the most important part of this. So I think also like just coming as a person, not necessarily throwing your credentials around...we're not interested in that, we're interested in you, who you are as a person, are you genuine, do you mean this, are you in it for the long haul?"⁵⁰²

Honesty is also essential for trust in these relationships, as one member stated, "We have to come to a place where we're focused on the issue, we respect each other, we have proper expectations, we're honest with each other."⁵⁰³ Honesty was discussed as, "talking the talk, walking the walk,"⁵⁰⁴ and doing what you said you were going to do: "And how do you get trust? You get trust, you gain trust and you give trust by doing what you said you're going to do. When I can trust you, you give me your word, you do what you said you were going to do, that's it, we're good. That's trust."⁵⁰⁵ This also means, "Being realistic about expectations...so if a lawyer does want to work and you know the community group is asking them for something they can't do, to be very honest, always be honest. But I think lawyers can be honest with the people that they're working with to tell them their limitations and tell them their expectations."⁵⁰⁶

⁵⁰⁰ *Ibid* at 11.

⁵⁰¹ *Ibid* at 16.

⁵⁰² *Ibid*.

⁵⁰³ *Ibid*.

⁵⁰⁴ Participant B, "Interview Transcript," (27 April 2017) at 23.

⁵⁰⁵ Participant E, "Interview Transcript," (16 May 2017) at 9.

⁵⁰⁶ Participant C, "Interview Transcript," (2 May 2017) at 14.

A third and significant element discussed by the group was that: “Trust relationships are also based on empathetic relationships. So you have to be able to push aside ego, push aside your own personal beliefs to concentrate on what we’re doing...learning to push aside things that don’t matter, to focus on the things that do matter. That’s another part of trust, is really caring about the issue.”⁵⁰⁷ CERA was given as an example of a group who really cares about the issue, because, “their mission statement ties back to the whole idea of equality, and their focus is a rights-based focus. Some of it also ties in with the organizational focus too...based on what their mandate is, we trust them, we share their mandate.”⁵⁰⁸ Having a shared mission was important to show empathy: “There’s gotta be some kind of core focus, without that core directional things that ties in kind of with what we’re doing as our mission, it doesn’t really work.”⁵⁰⁹ For one member, “if you’re just talking community service to just kind of build the resume, it’s different than having a background, or an interest, in the community service as well as being willing to engage.”⁵¹⁰ Beyond caring about the issue, empathy also meant that, “You have to look at a person in order to help them. If you can’t and you think they’re a number, you’re in the wrong job...A lot of us have a human heart, we just have to access it once in a while.”⁵¹¹ One member elaborated, “You don’t have to be a butt-kisser, or ‘yes ma’am, no ma’am,’ no, we’re not saying that. We’re just saying that when you come and talk, make sure that you feel that you’re equal with that person.”⁵¹² Which requires, “[t]reating you with respect,”⁵¹³ exemplified by the pro bono students, one member shared, because, “[w]e trust the pro bono organization now because we know the lawyers that have come have never taken on that stigmatizing role. We know we

⁵⁰⁷ *Ibid* at 15.

⁵⁰⁸ Participant B, “Interview Transcript,” (27 April 2017) at 23.

⁵⁰⁹ *Ibid* at 24.

⁵¹⁰ *Ibid* at 23.

⁵¹¹ Participant D, “Interview Transcript,” (15 May 2017) at 7.

⁵¹² Participant C, “Interview Transcript,” (2 May 2017) at 12.

⁵¹³ Participant B, “Interview Transcript,” (27 April 2017) at 24.

can trust them collectively. Some of them might be coming from their own points of privilege, but they never treat members bad...they've never been cruel, stigmatizing, any of the 'isms', racism, derogatory..."⁵¹⁴

An important element of trust was listening: "And listen to them, genuinely listen to them. Listening is the most important thing. People think talking is the most important, listening is the key, active listening, can't stress that enough."⁵¹⁵ Giving people space to tell their stories and doing so in a way that allows them to feel heard is one way to give value to the knowledge they share.

Additionally, being a reliable support for the group contributed to a trusting relationship. This means showing up and, one member shared: "Just be there, do a job that's gonna help me accomplish whatever I'm after. Beyond that, nothing else matters."⁵¹⁶ For another, support was there, "as long as they're willing to help."⁵¹⁷ Being willing to help, and, "[t]he minute they're willing to participate, to help, makes it easier to relate to them. See they're part of the solution. It's trying to be part of the solution and that's what we want."⁵¹⁸ Being part of the solution, or working towards a solution was a way to show support: "And that's where the trust has to come in. What can each bring, like the lawyers bring to Voices and Voices brings to other people and that we're all talking. And it's providing a solution, or at least a means to one."⁵¹⁹ But showing up and being part of the solution, for some members, also requires being reliable in your support. One member shared: "I don't think you have to have this great big huge relationship, like buddy-buddy, ok let's-go-out-for-lunch-do-this, but what needs to happen is you need to have that good

⁵¹⁴ *Ibid* at 22-23.

⁵¹⁵ Participant C, "Interview Transcript," (2 May 2017) at 12.

⁵¹⁶ Participant E, "Interview Transcript," (16 May 2017) at 8.

⁵¹⁷ *Ibid*.

⁵¹⁸ *Ibid*.

⁵¹⁹ Participant D, "Interview Transcript," (15 May 2017) at 11.

working relationship where you can you know, keep that base thing and get work done.”⁵²⁰ To have trust, “[y]ou wanna have that working relationship, you wanna have that good relationship, something you can fall back on...I want something to fall back on, I don’t need something that’ll sit there and go, ‘well yeah, that’s shot to shit.’”⁵²¹ Being reliable was important, “[b]ecause sometimes things can get overlooked or sometimes they want to find just the solution and walk away. And that’s where the trust has to be. We have to trust that they’re gonna be there if we need information, you know it’s out there.”⁵²²

And while it was clear from the group that there is no magic formula for establishing trust and that developing trust is context dependent, they did share some ways that lawyers can approach their work with community advocates and persons with lived experience working for systemic change that will contribute to developing more trusting relationships. These include: supporting the work of the group; being connected to the community; being willing to learn; practicing open communication; following through; and knowing that it will take time. Approaching their roles in this way towards a trusting relationship will allow lawyers to help transform power hierarchies in order to better support community-led advocacy work.

⁵²⁰ Participant A, “Interview Transcript,” (26 April 2017) at 18.

⁵²¹ *Ibid* at 19.

⁵²² Participant D, “Interview Transcript,” (15 May 2017) at 11.

CHAPTER 5

CONCLUSION

Jennifer Gordon wrote that, “[i]t is a reality that lawyers, with our privilege, our access to power, and our closely held set of tools, all too often have negative effects when we intervene in community processes...[t]he issue of power pervades all aspects of the [] lawyer’s job.”⁵²³ But what does that mean when our current political climate is seeing the rise of regressive movements occupying positions of power and control, reinforcing and upholding a colonial state structure that privileges a dominant or ruling class? If “[e]verybody has to get involved, or everybody loses,”⁵²⁴ how can we reimagine the role of lawyers to be able to support, rather than harm, community-led social change work? Is it possible to transform the relationship between communities and lawyers so that lawyers are challenging, rather than reinforcing hierarchies of dominance that privilege “professional” knowledge and expertise over the expertise held by persons with lived experience?

Although the progressive lawyering literature offers a useful entry point to begin to think critically about the role of lawyers in social change work, it is limited by only offering the standpoint of lawyers and legal academics, exemplifying how it is the knowledge or expertise of “professionals” that is valued over that of persons with lived experience. Feminist standpoint theories tell us the importance of beginning from the standpoint of communities, and when coupled with Foucault’s knowledge/power nexus, they show us how beginning from the standpoint of communities allows us to challenge power hierarchies to shift the balance of power for a more equitable distribution.

⁵²³ Gordon, *supra* note 6 at 2144.

⁵²⁴ Participant E, “Interview Transcript,” (16 May 2017) at 8.

This thesis was designed to centre the voices of community advocates with lived experience in this discussion, one that has been dominated by lawyers and legal scholars. The question of what role lawyers might play to best support community-led advocacy work towards systemic change, being mindful of the effects of their position within the ruling structure, has not been explored from this standpoint. This has limited the discussion to the worldview of lawyers and legal scholars who, by virtue of their position in the ruling structure, are unable to see what marginalized groups and persons with lived experience are able to with their epistemic advantage.

Beginning with the standpoint of community advocates with lived experience, this project revealed the potential for lawyers to support community-led advocacy work in a way that could challenge power hierarchies rather than reinforce them. This conclusion aligns with the literature on progressive lawyering in that it sees space for lawyers to support communities in their work towards systemic change. This research contributes to the progressive lawyering literature by coming to this conclusion from the standpoint of community advocates with lived experience, offering a more complete understanding that cannot be revealed when we begin our inquiry from extralocal positions. This is important because rather than presuming that lawyers have a space in this work (as the literature does), or even presuming that they cannot engage in this work without causing harm (as I did prior to this project), a conclusion drawn from the local actualities of peoples' lives brings us closer to an understanding that is rooted in these realities and reveals what may be obscured or limited from extralocal standpoints. For example, this project revealed more about the ways the relationship between lawyers and community advocates with lived experience can be transformed, revealing opportunities to resist or challenge power hierarchies that were missed in the literature. The roles the participants shared they would like to see lawyers

take to support their work brought with them potential risks identified by the group if the relationship they had with the lawyer was not itself a transformative one. VAP shared that by approaching communities in a way that fosters trust, lawyers can mitigate the risks inherent in their positions in the ruling structure and together they can resist power hierarchies that subordinate and oppress.

Although there are some clear limitations in this project, it does provide important and unique insights that can help to guide future work. This thesis is only the beginning of what should really be an ongoing process of engaging with communities and persons with lived experience to learn how lawyers might best support them in their work towards systemic change. Rather than continuing to develop “lawyer competencies” or theorize around different lawyering types from the perspective of lawyers and legal academics, we should be building trusting relationships with our communities where we are able to learn from them and reimagine our relationships in more equitable ways. More research needs to be done that comes from standpoints rooted in the local, everyday world, listening to and valuing the knowledge held in communities that can offer a deeper understanding of the ways in which lawyers can work towards social change without causing harm to those they are seeking to support. This research needs to model the transformative relationships that it is working to uncover. Importantly, we should be asking whose knowledge we are valuing as expert and whose voices are missing when we only turn to “professionals” to answer our questions. We must work towards validating the expertise that is held in communities, which will help us contribute to a larger project towards more equitable distributions of power.

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APPENDIX A: INTERVIEW GUIDE

Interview Guide

Overall/Broad Research Question

- Is there a role for lawyers in work addressing poverty in the community? Can lawyers engage in/support this work without undermining or co-opting the work done by community groups and persons with lived experience of poverty?
- Do you think lawyers are, or have the potential to be (if they're not already), useful in supporting your advocacy work? What makes them more supportive? Less supportive?

Background Questions

- How do you define or understand “poverty”? How is poverty experienced in Windsor-Essex?
- Can you tell me about Voices Against Poverty? What sort of work does Voices Against Poverty do? What word(s) would you use to describe the type of work done by Voices Against Poverty?
- How would describe the people who are engaged with Voices Against Poverty? Who are they? Why are they involved? (not about identifying individual members, but to get a general sense of the group)
- Who is at the table? Who do you want to see at the table? How do we bring them to the table?
- How are you involved in Voices Against Poverty? How would you describe your role in the group?
- How would you describe the “culture” of Voices Against Poverty? How are decisions made? Conflicts resolved?

- Why is the work of Voices Against Poverty important to you? To your community?
- How do you define systemic advocacy, and what do you count as systemic advocacy?
- Can you tell me about some of the systemic advocacy initiatives you've engaged with through your work with Voices Against Poverty?
- How would you describe the other work you do with Voices Against Poverty that you don't consider systemic advocacy? Can you tell me about some of this work?
- What other groups do you work with in the community? How do you choose?

Lawyers & Voices Against Poverty

- Has any of the work you've engaged in with Voices Against Poverty involved a lawyer?
- If you have, can you describe how you came to engage with them? Were they private lawyers, part of a clinic or non-profit, or students? Did you know whether they were private lawyers, part of a clinic or non-profit, or students? Is this something that is important to know?
- Why did you agree to engage with lawyers for this work? What benefits did you hope would come from the lawyer's involvement? Were those benefits realized? Was the experience what you expected?
- Has there ever been a time when you haven't involved a lawyer, but feel a lawyer would have helped your work?
- What could lawyers do (if anything) that would make you think it would be beneficial to include them in your work?

- Are there different ways that lawyers can play a role in your work? How engaged do they need to be?
- What are the costs/benefits of working with a lawyer for your work with Voices Against Poverty? What other benefits do you see, besides what you've shared already? What are some of the risks of involving lawyers in your work?
- How can we establish relationships between Voices Against Poverty and lawyers? How can we establish trust?
- Have you ever engaged with other community professionals as part of your work with Voices Against Poverty? Why or why not?

Wrap-up

- Let's talk about how the conclusions of this research would be useful to you. Is there anything you'd like to see come out of this research?
- How do you want to be involved in reviewing the conclusions of the research?
- Can I contact you with the results of this study and information about any presentations and papers that result from this research? And how?

Any final comments?

APPENDIX B: REPORT TO VOICES AGAINST POVERTY

Report on Findings: Lawyers & Voices Against Poverty

From: *Britney De Costa*

To: *Voices Against Poverty*

Date: *16 June 2017*

Re: *Findings from group meetings and interviews with members of Voices Against Poverty conducted between February-June 2017 on the role of lawyers in work with Voices Against Poverty, or similar community-lead groups*

Voices Against Poverty

Grassroots

- *“With Voices we have people who are lived experience, but they’re lived experience in different stages. Some are in jobs now, others have been in education, there’s a few looking for work, and then we have people who are actually on the assistance, and we bring something together. We join different groups in what they have to do.”*
- *“Voices Against Poverty is a group of people...we’ve lived experience, some of us are still living in poverty, so we have lived experience, we know what it’s like, and we came together to try and improve things...when we first got started it was minimum, welfare, ODSP, low end CPP, anybody who was living in poverty we tried to get them out of that.”*

Non-hierarchical

- *“The group we have, we’ve been together so long it’s almost like a family...we’re close knit, we’re loyal, and when we need to get something done, if you need something done, the whole group is gonna do it. We think like one person, we act like one person.”*

Advocacy

- *“When I think about Voices Against Poverty, I do think that’s kind of the core mission statement of all of it – advocacy for change.”*

Reducing/Eliminating Poverty

- *“It’s a group that you know, stands for itself, Voices Against Poverty, it’s people who want to address their feelings about poverty and how poverty affects them and how poverty needs to be either reduced or eliminated.”*
- *“We’re a group that’s trying to literally eliminate poverty. That’s our goal, get rid of it. And hope some clown doesn’t come along and create it again.”*

- *“The core group is really hardcore. If it needs to get done, we do it. And it may take us a little longer, because we’re limited, but we get the job done.”*

Voice

- *“Giving people that person to talk to, that person who won’t judge people...people don’t want to be judged.”*
- *“Combating the negative stereotypes and having that voice, giving people that voice.”*
- *“I really like the name Voices Against Poverty because it does speak to the idea of a voice, and I think that’s an important aspect.”*
- *“The idea is to get people communicating, and I mean everybody, and I think we’re doing that. It’s what we started doing, and we haven’t stopped.”*
- *“We’re working with any group who’s looking to end poverty, and in so doing, we make it a bigger organization, we make the voice louder, and that’s the point. Make the voice really loud.”*

Engagement

- *“So the type of work is that community engagement, that community advocacy, lived experience and the being part of the process and trying to address not only the financial, but more that inclusionary aspect, and that stigmatization aspect.”*
- *“Some of our work has advanced our ability to change the way poverty is viewed and to teach people, you know, this is how you get out. Talk to your politicians, talk to bureaucrats, talk to anybody who’ll listen, talk to your neighbours.”*
- *“We spoke to politicians, we spoke to bureaucrats, we spoke to the news, we spoke to anybody who’d listen And the idea was to get people to join...to do something to help, and that’s what we were there for, to try and help.”*

Inclusion

- *“But basically the single sole force is advocacy around inclusion of people with lived experience in the dialogue, in the process, in the leadership.”*
- *“Collectively the basic thing we’re asking for is inclusion and finding a means of actually reducing poverty.”*

Self-determination

- *“It’s just to help people empower things, give that sense of empowerment.”*
- *“The people who are engaged with Voices Against Poverty, they’re proactive, ready to go people...they’re people of society who are striving just to kick something right in the ass.”*
- *“I learned some things. I learned what I’m capable of, I learned what other people are capable of. And you can’t tell people that they can’t do something when you don’t give them a chance to do it. That’s the whole idea. Give a person a chance to do it. And that’s why we try to get as many people coming to Voices Against Poverty as we can, and to work on that.”*

Open to working with a lawyer/s to support the work of Voices Against Poverty**

Aligns with inclusive approach taken by Voices Against Poverty

- *“We get different people coming from different areas. Different walks of life. People in agencies, lawyers, people, students, social work, different things like that. They all, we all, have a part in it because it all affects the people we’re trying to help.”*

Benefits cited for working with a lawyer/s included:

Legal expertise

- Lawyers understand the law and have expertise on legal issues that can be useful
 - *“Probably federal [and provincial] law because there are things you can figure out municipally. But when it comes to provincial law, there’s so much, you could think of numerous things, you look at it, and there’s red and yellow tape wrapped around it so many times, and it’s like, how do you cut through that?”*
 - *“Civil cases, we’re talking about people here, we’re not just criminals. We’re talking about people that have problems and people have all this red and yellow tape that they gotta go through.”*
 - *“The pro bono students actually have the legal expertise, so working with them I think is good because they can do the search from kind of the perspective of people who don’t know the issues generally, although some of them have had lived experience in their own lives, but beyond that, they look at it with clean eyes.”*
 - *“You know where you can really help with a lawyer, because we’ll know the legal aspects of a lot of things.”*
 - *“And the legalities of knowing what’s going on, that’s helpful.”*
 - *“I mean they help you with the little nuances with staying within the limitations, eh? But that’s what they’re there for, so it helps.”*

Knowledge exchange/dissemination

- *“Getting some more knowledge of breaking through certain aspects at certain angles.”*
- *“And then disseminating information is useful to us too. There’s new knowledge for our members to learn, and to share with the communities.”*
- *“Knowledge exchange...legal work and that’s so expensive now and different things and just the general knowledge exchange has been very helpful.”*
- *“We’re looking more for information that we can share, or information that we can have ourselves, so for the core purpose it’s been very helpful.”*

** The category “lawyer” also includes “law students”.

- *“Can you make a fact sheet, not in clinical words, but in regular people words so that if somebody wanted to know information about this, we would be able to share the information with somebody in laymen terms... ’cause that’s the way I saw using the pro bono students, was to help us create legal awareness, ’cause a lot of times people don’t know their rights as tenants.”*
- *“ I think that a lot of people in poverty need information, and if they’re not gonna go out to the community to reach for it, maybe a group like ours could provide that information...so that’s why I though pro bono students would be an excellent way to incorporate them into the poverty aspect of the society, helping us out.”*

Remaining legally safe

- Consulting with a lawyer is a way to ensure that advocacy falls within the limits of the law and that members advocate in a legally safe way
 - *“But for some of the direct advocacy things that we could touch on we would need lawyers who could help provide the advice, how to keep us legally safe as a group.”*
 - *“It’s not to say that we might never need a lawyer, because maybe one day we might be civilly disobedient and get arrested because we won’t move out of the front of something.”*
 - *“If we need legal advice we go, you have to, if you need legal advice you have to go talk to a lawyer. We need to know if what we’re about to do is legal...if we get in trouble with the law then we cease to be an effective group. So you can’t step outside the law.”*
 - *“Well, the most obvious benefit is staying out of prison.”*

New perspectives

- Working with a lawyer could bring in a different perspective to the group that may inform advocacy tactics or approaches
 - *“The pro bono students actually have the legal expertise, so working with them I think is good because they can do the search from kind of the perspective of people who don’t know the issues generally, although some of them have had lived experience in their own lives, but beyond that, they look at it with clean eyes. So if we’re asking them to follow a trail on whatever subject it is, they’re going in clean without the jaded, and the stigma, it’s different kind of lenses than use that have been advocating.”*
 - *“Then collectively gets the group to think of things in a different way, even though we don’t have a true mission, it helps us integrate into the establishment, the bureaucracy, the way of changing mechanisms in a way...it’s one of these things that ticks me off, but when you’re looking at credibility down the road...it gives the group credibility where they get heard.”*
 - *“I think collectively we can change our advocacy role a bit, to try and address some of those core crisis issues, collectively as a group which*

would be a good idea, but we would need the legal backing to figure out how to do that.”

- *“...giving us ways and ideas about how we can change the system.”*
- *“You want people to sort of see what’s out there, learn something, and then do something, and that is the most important things right there, is opening up, opening up your mind and see what’s out there and figure is there a way I can help, is there a way the group I’m part of can help, what can we do?”*
- *“[Working with pro bono], actually it’s helped a lot too. I mean some of the stuff they did for us we’d never got done.”*

Advocacy training

- Lawyers can provide advocacy (and other) training to Voices Against Poverty and to the community more broadly
 - *“What was good about engaging with CERA, part of that was how to train tenants, how to self-advocate around some of these by-law issues and know how to do it locally.”*
 - *“To train more and more people to do it, or have an access point for information, I think we would really use help that way locally.”*
 - *“That’s one of those areas where there isn’t funded legal advice now, and if we can even have people telling us and training us how to act as non-lawyers to engage in advocacy, that’s be helpful.”*

Access to bureaucracy/establishment

- Working with a lawyer/s could be an access point to structures that might normally be inaccessible
 - *“Then collectively gets the group to think of things in a different way, even though we don’t have a true mission, it helps us integrate into the establishment, the bureaucracy, the way of changing mechanisms in a way...it’s one of these things that ticks me off, but when you’re looking at credibility down the road...it gives the group credibility where they get heard.”*

Expanding networks

- Having a relationship with a lawyer/s contributes to a broader project of network and relationship building, which offers the opportunity for greater access to support
 - *“On another level I think it’s very good because it helps create that link with Voices Against Poverty and other community organizations, it engages with the law school at the University. It builds a network of people that we can trust and go to...when I say we have to have a Windsor-Essex focus, it kind of creates that footprint for that focus.”*
 - *“But it also gives them people they can call when they see really dire and bad things going on and pass on information.” (re: whistleblowing)*

- *“Maybe they might know of an agency, or maybe something they’re doing themselves that can help in the group...lawyers can help in that area is just let us know what’s out there...but they can say ‘we know this group knows how to do this, you can see them, if not then come back and we’ll figure something else out.’”*
- *“Well actually, that’s the whole point, building a relationship/ See the idea, is to bring as many people together as possible, so the more lawyers we can bring into the group, sooner or later some of those lawyers are gonna become politicians...so if they’re already with us we’ve already got people in the camp of the enemy that we can use to break the camp of the enemy. That’s the fundamental requirement. If we have lawyers eventually we’re gonna have people in Ottawa, or Toronto, or even City Hall who are sympathetic to our cause. And that’s what we need. Politicians have to be sympathetic, they have to be involved, they have to be or ultimately we’re going to fail. We can get all these little sidebars accomplished but eventually the war is gonna end with a loss. Everybody has to get involved or everybody loses.”*
- *“I mean we’re gonna need politicians somewhere down the line, but we need the people first. And the lawyers make it possible because people recognize a lawyer first, and me, not at all.”*

Mutual education

- Having a relationship with a lawyer/s is an opportunity for both parties to learn from one another, which benefits not only the community, but as well
 - *“I think pro bono students can learn a lot from being engaged in the community at that level before they become lawyers because I think it gives them some real world experience of understanding some social issues, it gives them understanding of how they have to approach certain things like how do we talk about this issue in a legal way that makes, or that benefits or clears up some of the jargon so that people can understand the law.”*
 - *“I think [lawyers] would definitely benefit from learning from the community, especially if they’re gonna participate in community activities.”*
 - *“...education, like learning, mutual education.”*
 - *“Legal Assistance of Windsor has been a good thing ‘cause we get to hear what is legal and what is not legal. They hear what our voices are and then try to find a way to deal with it through the law.”*
 - *“So we learn different things from each other.”*

Exposing lawyers to human element of issue

- *“The students are learning and we’re learning at the same time. And they get a view of what the group is about, they get a view of what some of the people are about that’s being helped, and hopefully that brings a*

human element to all these people so they're not thinking in books, they're thinking and looking at a person."

Reasons for not working with a lawyer/s (i.e., risks or challenges) included:

Misusing/disclosing information/conflicts

- When working with a lawyer/s there is the risk that they will "report" or misuse information that you might disclose during your work with them that could have a negative impact on you or your work
 - *"Disclosure of information because I can choose to use a lawyer, but I also choose not to disclose certain information. Because I guess it can be very, very, in some ways it can be very, very dangerous...it could go from one to the other, to the other, to the other, and then back to you and by the time it gets back to you, you got this great big shit storm coming at you."*
 - *"Conflict of issues...I know one of the risks when we've talked about this with groups is the whole disclosure and what lawyers are legally bound to by disclosing."*

Turning their back

- *"Because you know, you can tell them and then another time they'll turn their back and then all of a sudden, you know, you're screwed." (trust)*

Being on the side of the establishment

- *"There's a fear of lawyers for being establishment, so when they come in and they talk the discourse of the law and they present by the discourse and the bureaucracy, there's a fear among the people who need their help most...they'd rather go it alone because they figure they're gonna get back-stepped anyways, so why add an extra layer of hurt?"*
- *"There's legal ramifications and issues, and bridging that is one of those risks...But once you start some of this other advocacy stuff, even like with the CERA, some of them didn't want to engage, and that was fine, in our group, and people didn't want to come out because there were lawyers, because the mentality that they might still be there to report on you, or if they say something, there's that whole..."*

Exploiting persons with lived experience

- *"We just wanna make sure that we're not exploiting those people in the lived experience, that we're not exposing them to something that is not beneficial for them."*
- *"Legal students, sometimes, are very condescending, they don't mean it, they're young, they're anxious. They're well-educated...but they came across as very arrogant at times."*

Becoming removed from the issue

- *“The more you engage within the established bureaucracy, the more you’re removed from the core need of the issue we’re trying to solve.”*

Changing dynamic/tactics

- *“If lawyers are part of the thing, you can’t really get away with playing stupid, it changes the dynamic. And it changes the expectations, and it changes the flow, and it changes the – so with the legitimacy you lose a lot of other things that way.”*

Reciprocity (what is expected in return?)

- *“It’s kind of a mutual relationship [with pro bono students], if it was a lawyer, what kind of mutual are we giving [them]?”*
- *“I’m scared about that return, what does that return look like?”*
- *“If this is like a paying lawyer, which I probably won’t.”*

So, if there is a willingness to work with lawyers and there are noted benefits but also clear risks, what would help to balance this out or mitigate the risks so that the benefits of working with a lawyer are accessible in a way that would be worth it for the group?

The Importance of Relationships and Trust

Mitigates some of the risks

- *“We have to create trusting relationships with individuals because sometimes you hold the power over someone, and how’re you gonna use that power?”*
- *“The whole thing about trust, how can we establish trust, is a great thing that you need to establish with the lawyer first because that’s one of the risks, again, let’s go back to the question before, what are some of the risks of involving lawyers in some of the work is the trust issue, because you can tell them, and then another time they’ll turn their back and then all of a sudden you’re screwed.”*

Feeling safe to engage

- *“...and people would come because they’d get to know them because they’d trust not only our organization, but the ones that come kind of would match with us, like we trust the pro bono everyone in our group now we kind of know they’re safe.”*
- *“...and people didn’t want to come out because they were lawyers.”*

Move forward meaningfully

- *“Well, actually that’s the whole point, building a relationship. See the idea is to bring as many people together as possible, so the more lawyers we can bring into the group, sooner or later some of those lawyers are gonna become politicians.”*
- *“Well, first of all, in a group like ours, trust is essential. You have to be able to trust the people around you. You have to. And for lawyers the same thing. You have to be able to, because if you can’t trust the lawyer you’re gonna be thinking ‘is he leading us down the garden path or what?’ Trust is essential, ok?”*
- *“‘Cause if there’s no trust then there’s no way of going forward.”*

What Is Trust?

Humility

- *“Another thing is, they don’t mean to, legal students, sometimes are very condescending, they don’t mean it, they’re young, they’re anxious, they’re well-educated...but they came across as very arrogant at times and it’s always good to be humble, no matter who you are and what your credentials are, always be humble.”*
- *“...they didn’t do anything wrong, and maybe they don’t know that they’re condescending. Some people just really don’t know their personality. It might just be their personality, who they are, and that’s ok, but you need to be careful, always be careful.”*
- *“Approach them in a way that ‘I want to learn more about you,’ and give them lots of space and time to talk to you, and be open-minded about that conversation.”*
- *“...we care about who you are as a person. So you could have a million degrees but we want to know who you are, ‘cause you are the most important part of this.”*

So I think also like just coming as a person, not necessarily throwing your credentials around...we're not interested in that, we're interested in you, who you are as a person, are you genuine, do you mean this, are you in it for the long haul?"

- *"Looking at individuals as experts. You don't need a degree to be an expert on poverty."*

Honesty

- *"Being realistic about expectations...so if a lawyer does want to work and you know the community group is asking them for something they can't do, to be very honest, always be honest. But I think lawyers can be honest with the people that they're working with to tell them their limitations and tell them their expectations."*
- *"See them talking the talk, walking the walk."*
- *"We have to come to a place where we're focused on the issue, we respect each other, we have proper expectations, we're honest with each other."*
- *"And how do you get trust? You get trust, you gain trust and you give trust by doing what you said you're going to do. When I can trust you, you give me your word, you do what you said you were going to do, that's it, we're good. That's trust."*

Empathy

- *"Trust relationships are also based on empathetic relationships. So you have to be able to push aside ego, push aside your own personal beliefs to concentrate on what we're doing...learning to push aside things that don't matter, to focus on the things that do matter. That's another part of trust, is really caring about the issue."*
- *"I don't think it's just any lawyer, I think it has to kind of be the intention...if you're just talking community service to just kind of build the resume, it's different than having a background, or an interest, in the community service as well as being willing to engage."*
- *"Centre for Equality Rights & Accommodations – their mission statement ties back to the whole idea of equality, and their focus is a rights-based focus. Some of it also ties in with the organizational focus too...based on what their mandate is, we trust them, we share their mandate."*
- *"There's gotta be some kind of core focus, without that core directional things that ties in kind of with what we're doing as our mission, it doesn't really work."*
- *"You have to look at a person in order to help them. If you can't and you think they're a number, you're in the wrong job...A lot of us have a human heart, we just have to access it once in a while."*
- *"We trust the pro bono organization now because we know the lawyers that have come have never taken on that stigmatizing role. We know we can trust them collectively. Some of them might be coming from their own points of privilege, but*

they never treat members bad...they've never been cruel, stigmatizing, any of the 'isms', racism, derogatory..."

- *"Treating you with respect."*
- *"You don't have to be a butt-kisser, or 'yes ma'am, no ma'am,' no, we're not saying that. We're just saying that when you come and talk, make sure that you feel that you're equal with that person."*

Listening

- *"And listen to them, genuinely listen to them. Listening is the most important thing. People think talking is the most important, listening is the key, active listening, can't stress that enough."*

Support

- *"I don't think you have to have this great big huge relationship, like buddy-buddy, ok let's-go-out-for-lunch-do-this, but what needs to happen is you need to have that good working relationship where you can you know, keep that base thing and get work done."*
- *"You wanna have that working relationship, you wanna have that good relationship, something you can fall back on...I want something to fall back on, I don't need something that'll sit there and go, 'well yeah, that's shot to shit.'"*
- *"And that's where the trust has to come in. What can each bring, like the lawyers bring to Voices and Voices brings to other people and that we're all talking. And it's providing a solution, or at least a means to one."*
- *"Because sometimes things can get overlooked or sometimes they want to find just the solution and walk away. And that's where the trust has to be. We have to trust that they're gonna be there if we need information, you know it's out there."*
- *"The minute they're willing to participate, to help, makes it easier to relate to them. See they're part of the solution. It's trying to be part of the solution and that's what we want."*
- *"But like I said, as long as they're willing to help."*
- *"Just be there, do a job that's gonna help me accomplish whatever I'm after. Beyond that, nothing else matters."*

What Trust is Not

Arrogance

- *"Another thing is, they don't mean to, legal students, sometimes are very condescending, they don't mean it, they're young, they're anxious, they're well-educated...but they came across as very arrogant at times and it's always good to be humble, no matter who you are and what your credentials are, always be humble."*

- *“...they didn’t do anything wrong, and maybe they don’t know that they’re condescending. Some people just really don’t know their personality. It might just be their personality, who they are, and that’s ok, but you need to be careful, always be careful.”*

Selfish intention

- *“You can always tell when someone’s just doing it for glory. You can tell when someone’s just focused on bringing themselves up.”*
- *“I don’t think it’s just any lawyer, I think it has to kind of be the intention...if you’re just talking community service to just kind of build the resume, it’s different than having a background, or an interest, in the community service as well as being willing to engage.”*

Quick to walk away

- *“Because sometimes things can get overlooked or sometimes they want to find just the solution and walk away. And that’s where the trust has to be. We have to trust that they’re gonna be there if we need information, you know it’s out there.”*

Expectation of unequal/unclear reciprocity

- *“I’m scared about that return, what does that look like?”*

How Do We Establish Trust?

Following through

- *“And how do you get trust? You get trust, you gain trust and you give trust by doing what you said you’re going to do. When I can trust you, you give me your word, you do what you said you were going to do, that’s it, we’re good. That’s trust.”*

Open communication

- *“Just keeping an open conversation. That is the most important thing, you have to have communication, if you don’t, it’s not gonna get you anywhere.”*
- *“Well, if they make themselves approachable. That’s the main thing, they have to be approachable.”*
- *“If the lawyer reached out to us and said I want to know more about community groups like yours and how you function...like if they did the outreach, then definitely we’d respond.”*
- *“And that’s getting the people on the same page. And that’s why we say we need to be invited to the table to know what’s going on. And if there’s something we can do, we go back. It’s a two-way street, going back and forth.”*
- *“I just want you to do your job, and if there’s problems, please talk to me, I’m very open.”*

Willingness to learn

- *“Well, I know that after about the third year of working with the law students, the law school approached me and our group to do an educational video. So they did an educational video with us and I know that they use it regularly at the University to talk to law students, and I think it was a great step, especially if some of them are coming to work with us. So they kinda know upfront who we are and what we’re looking at and how we see that relationship...I think that educating them helps.”*
- *“So as far as pro bono students, it’s, again, the education, pre-education, expectations, what are we gonna expect from this relationship...and maybe just a gentle reminder that when you’re going into an agency or working with a community group, always keep in mind they’re the expert, you’re there to help them, so you should be a little more humble.”*
- *“So if I’m an environmental lawyer, I might want to get in touch with environmental groups around, right?”*

Supporting work of group

- *“Just be there, do a job that’s gonna help me accomplish whatever I’m after. Beyond that, nothing else matters.”*
- *“Lawyers can help in that area is to just let us know what’s out there, but they don’t have to get that personally involved if they don’t want to. But they can say, ‘we know this group knows how to do this, you can see them, if not then come back and we’ll figure something else out.’”*
- *“I just want you to do your job, and if there’s problems, please talk to me, I’m very open.”*
- *“I’m not saying let them walk all over, but at the same time, a stepping stone just means, ‘I have access to something, I have power, I have this, I have that, I have clout, whatever, I can help you in this department, so let me try to help you so you can move forward.’”*

Being connected to the community

- *“Different ways the lawyers can kind of be engaged, I think ties into creating a core group of them that we know are part of a community group like VAP, that start getting recognition...and people would come because they’d get to know them because they’d trust not only our organization, but the ones that come kind of would match with us...we kind of know they’re safe.”*

***It takes time, and there is no magic formula**

- *“It takes time and everyone’s gonna have a different threshold...I mean everyone’s got their different sticking points or their different fear points, so I think the only way is to kind of try and see how it works and kind of build upon that...And take it day-by-day. It’s not like jumping into a pool, you’re not all in at once.”*

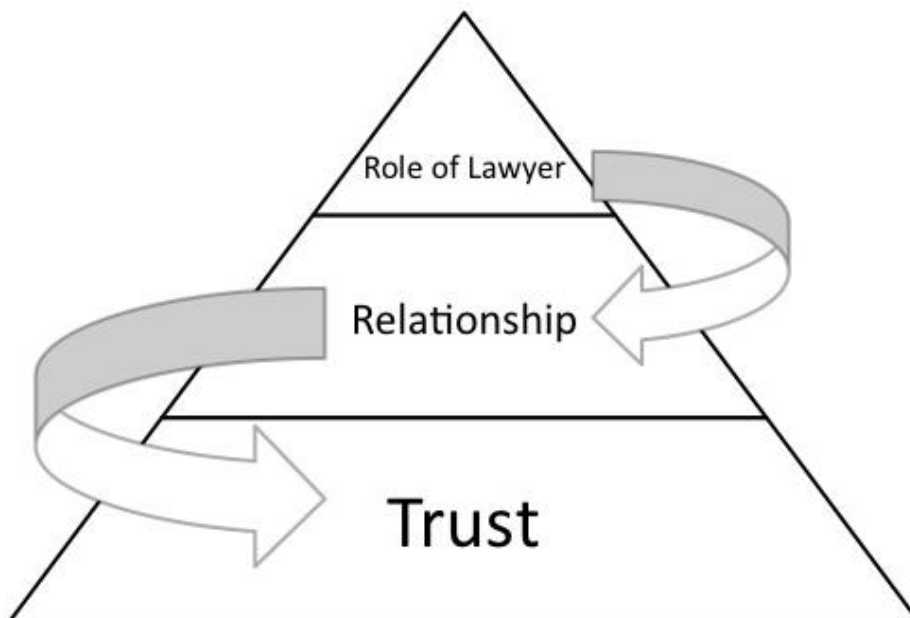
Conclusion

Lawyers can play a role in community-led efforts to address social justice issues at the systems level, but there isn't one, easily defined role for lawyers to take in this work. Each community, each group, might need lawyers to take on different roles depending on the current work of the community/group and their goals. Roles can range from providing legal information or advice, disseminating that information to the community, offering training on self-advocacy, or strategizing on advocacy approaches and goals.

Looking at these different roles, it is clear that there can be some valuable benefits to working with a lawyer/s, but that there are also very clear and present risks or challenges that can undercut the benefits and make working with a lawyer/s either simply impractical, or in some cases, even dangerous.

So how do we mitigate or address these risks or challenges so that community-led groups can utilize the benefits that lawyers can bring without putting their work or themselves at risk? Having good relationships built on trust with their communities is one way that lawyers can put themselves in a position to help in a meaningful way, in whichever role they are asked to take by the community.

The role they take will be informed by the community need, and will also inform the type of relationship (i.e., whether the relationship needs to be a close and engaged one, or whether just a good "working" relationship is enough). However, regardless of the role or type of relationship, trust is necessary.



VITA AUCTORIS

NAME: Britney De Costa

PLACE OF BIRTH Toronto, Ontario

YEAR OF BIRTH 1989

EDUCATION Port Perry High School, Port Perry, Ontario
2003-2007
University of Guelph, Guelph, Ontario
2007-2011 B.A.Hon., Sociology
University of Windsor, Windsor, Ontario
2012-2016 M.S.W.
University of Windsor, Windsor, Ontario
2012-2016 J.D.