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THE IRISH REVIEW OF COMMUNITY ECONOMIC DEVELOPMENT LAW AND POLICY

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

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EDITORIAL

Colin Daly & Maria Antonietta Nestor

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To date, in Ireland, there is little convergence of research in the areas of social policy, law and community development, thus the idea to create a journal that would create a platform for interaction which would encourage greater scholarly and academic collaboration between social policy, law and community development seemed timely. We considered that through this journal, we could contribute to the development of legal education by the use of innovative and multifaceted research approaches into non-traditional areas of law, policy and community development while at the same time improving the economic development and well-being of local communities. We want to be part of the solution to our current social and economic problems. We also feel that the journal will create international interest in what is going on in Ireland in relation to community economic development law and policy as well as for us to learn about what is happening in other countries.

Our mission therefore, is to offer an insight into how we can address issues of social inclusion by establishing more scholarly research into the whole area of community economic development law and policy. Moreover, we seek to create greater awareness of the role played by community economic development law and policy in building sustainable communities in Ireland as well as abroad.

We hope that this new publication will encourage and create further academic research and collaborations as well as to create public awareness as to the possibilities this multi-faceted approach can offer. Providing a space for community economic development law and policy to develop, we hope, will offer innovative approaches as to how, as a society, we can combat poverty and social exclusion. Moreover, by creating greater connections between the corporate world and communities, between government, law, business and communities a new dialogue can ensue - a dialogue that can also promote better and more sustainable communities.

Setting up the framework from which to start this dialogue is key and this is reflected in the articles published in this first inaugural volume. Maria Antonietta Nestor provides the platform for the discussion to take place, summarising what is meant by community economic development (CED), CED law and CED lawyering and discussing the subject in an Irish context. The article by Scott Cummings offers an overview of CED as it applies in the United States as well as presenting a case-study that illustrates the process and outcome of collaboration between lawyers and different community groups. Next, Dr. Eileen Humphreys describes the current position of local development in Ireland and its future challenges, presenting a number of conclusions and identifying a number of lessons. And lastly, Anastasia Crickley and Oonagh McArdle inform us about the importance of using standards for ensuring quality community work, concluding that they should also be applied to the practice of CED.

Understanding the role of local development and its interaction with local government, the use of standards and what is meant by CED, CED law and CED lawyering either in Ireland or abroad are a must for anyone interested in CED law and policy. We hope all the articles provided in this first issue will help the reader to understand the platform which subsequent issues of the journal will build upon.

We thank the authors for their contributions and hope we have set the scene for many more contributions to come and encourage each one of you to be part of this dialogue.

Le Meas,

The Editors

Colin Daly and Maria Antonietta Nestor

THE RESEARCH OF CED LAWYERING IN IRELAND: AN OVERVIEW¹

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Abstract

In addressing the social realities brought on by the current economic crisis in Ireland, this paper seeks to introduce a novel public interest law strategy. A strategy aimed at widening our understanding of how a combination of law, social policy and community development principles can further influence social change. Community Economic Development (CED) as a movement, as a concept and as a lawyering strategy, originated in the United States during the 1960s, amidst the social, economic and political changes brought by the War on Poverty of the Kennedy and Johnson administrations. Although there is no exact definition for CED, at its core one finds a composite, mixed-recipe of legal, social policy and community development tools all of which interact to address issues of poverty and disempowerment within communities. CED lawyering therefore, can be described as a strategy for redressing urban poverty that acts as a facilitator by building and empowering communities through the use of different legal tools and approaches. These tools and approaches can be directed towards the improvement of the socio-economic infrastructure and personal development of those communities. The present article, therefore, offers an overview of CED lawyering in Ireland, aimed at formulating ideas for further research which can elucidate how CED lawyering is, or can be, applied within an Irish context.

¹ The author would like to thank Professors Scott Cummings, Susan Bennett and Gerry Whyte for their comments on earlier drafts.

Introduction

In addressing the social realities brought on by the current economic crisis, the research of Community Economic Development lawyering (hereafter "CED lawyering") in Ireland seeks to introduce a novel public interest law concept and strategy, aimed at widening our understanding of access to justice, and how lawyers and the legal profession can further influence social change and address issues of poverty and economic justice.

In the United States, the responses created by the Community Economic Development movement (hereafter "CED movement"), partly as a reaction to the weakness of the social welfare state and partly because of disinvestment, together with the combination of community action and law² and law and organising³, made the practice of Community Economic Development law (hereafter "CED law") a tantalising reality when addressing issues of poverty and equitable development. In contrast, the influences of the social welfare traditions and investment approaches in Ireland, together with that of the European Union⁴, offer a different angle as to how the CED lawyering concept has developed in this side of the world.⁵ In Ireland, the Community Law Centre Movement (hereafter CLC movement) and the quest for alternative provisions to the statutory civil legal aid scheme are the main factors that have enabled the development of CED lawyering as a whole rather than a CED movement per se.⁶ What follows is a number of definitions as to what is meant by CED, CED law and CED lawyering respectively and how they apply, or can be applied, to an Irish context.

Definitions, applicability and development within the Irish context

1. Definitions

1a. What is CED?

Although there is no exact definition or single theory that dominates Community Economic Development ("CED")⁷, at its core is a composite, mixed-recipe of legal, social policy and community development tools all of which interact to address issues of poverty and disempowerment within communities.

- 2 Community Action was the "conceptual framework" from which to fight the "War on Poverty". It included participation from the local residents in local projects so the local community could have greater control on antipoverty initiatives. Overtime, more organised approaches ensued, making community-based organisations to consider different lawyering strategies in the achievement of their goals. Lawyers could now use their business and commercial experiences aimed at eradicating urban poverty.
- 3 In the late 1980s and early 1990s scholars found that the connection between law and social change had diminished among lawyers and that litigation had taken away the "power" of people in bringing about social change. As a result, lawyers started to use their skills in the fight for urban poverty and to the benefit of economic justice movements. See Scott L Cummings and Ingrid Eagly 'A Critical Reflection on Law and Organizing' 48 UCLA Law Review 443 (2001).
- 4 For example, the National Development Plan and the investment of the European Structural and Cohesion Funds.
- 5 E-mail correspondence with Professor Susan Bennett, Director, Community and Economic Development Law Clinic, Washington College of Law, American University (Washington, DC, 16 December 2010).
- 6 Under an Irish context, to date, it is uncertain if CED as a movement was also facilitated by the same factors as CED lawyering. This is why the author refers to the development of CED lawyering only. It is suggested a more thorough research about CED as a movement in Ireland is needed but it is outside the scope of this article.
- 7 William H. Simon, *The Community Economic Development Movement: Law, Business, and the New Social Policy* (2nd edn, Duke University Press 2005) 412.

To say that there is no single dominant theory that defines CED does not mean that all economic development equates with CED.⁸ On the contrary, the array of elements that characterise CED means that not all community development falls under the auspices of CED. For CED to take place, it is essential for practitioners to have contact with the local community, either by face-to face encounters or by being part of a geographical focus as well as by making the community the recipients of development.⁹ Moreover, local development has to be accountable to the community it serves.¹⁰

1b. What is CED law?

CED law is said to include matters of corporate, real property, contract and tax laws, all of which act singly or in conjunction to support community projects. CED law also entails the use of legal regulatory frameworks that sustain its existence. CED law therefore embraces all those efforts aimed at developing "housing, jobs, or business opportunities for low income people... in which a leading role is played by non-profit, nongovernmental organizations... that are accountable to residentially defined communities."¹¹ CED law also has an evolving nature and as such, it also includes other initiatives such as those that provide services to fight homelessness, unemployment, drug abuse, violence and crime.¹²

1c. What is CED lawyering?

CED lawyering has been described as a strategy for redressing urban poverty in which economic justice initiatives can receive input from lawyers, where points of legal intervention can be addressed and where issues of accountability can come to the fore. CED lawyering therefore acts as a facilitator, building and empowering communities by the use of different legal tools and approaches, all of which are directed towards the improvement of the socio-economic infrastructure and personal development of those communities.

2. Applicability and development within the Irish context

The applicability of CED, CED law and CED lawyering in Ireland starts from the premise that although there is no exact definition of what is meant by these concepts there is a general understanding of what they imply.¹³ Moreover, these understandings or "definitions" give enough latitude to embrace the different welfare traditions and investment

8 *ibid* 69.

9 *ibid* 41-42. Simon, one of the proponents describing the CED movement in 2001, concluded that not all community development was part of CED, as for CED to take place three essential characteristics were needed:

1) CED needs to have a "relational density and synergy" meaning that people meet in different roles, not just as neighbours but as sellers and consumers, employers and employees, administrators and service recipients, etc., therefore "CED links economic development to residency";

2) CED needs to have a "geographic focus" meaning it brings a new social policy under the umbrella of new urbanism to a particular area. That is, there needs to be a sense of place, of detail, of identity within the community and

3) CED needs to have "face-to-face encounters" rather than isolated and "remote impersonal relations".

10 Scott Cummings, CED law lecture, UCLA School of Law (Los Angeles, California, 2009).

11 William H. Simon, *The Community Economic Development Movement: Law, Business, and the New Social Policy* (n 7) 3

12 Roger A. Clay Jr. and Susan R. Jones, 'What is Community Economic Development' in *Building Healthy Communities: A Guide to Community Economic Development for Advocates, Lawyers, and Policy Makers* (American Bar Association 2009) 3.

13 I would like to thank Professors Susan Bennett, Scott Cummings and Fred Rooney for ensuring these definitions properly depict the overall understanding of what is meant by CED, CED law and CED lawyering in the United States. Email correspondence to Susan Bennett, Scott Cummings and Fred Rooney from author (September, 2011).

approaches of Ireland and the United States and explain how CED lawyering in Ireland developed vis-à-vis the United States.

The different approaches used towards the financing of development between the United States, on the one hand, and Ireland on the other, offer an initial platform from which to aid in the understanding of the development of Irish CED law and its practice. In the United States, the private market has greatly influenced contemporary CED lawyering, as “innovative financial tools”¹⁴ had to be created in order to channel capital to poor areas.

Furthermore, poverty lawyers had to add market techniques to their “antipoverty arsenal”, changing the landscape in the delivery of legal services to the poor.¹⁵

*In an effort to improve the physical infrastructure and strengthen the economic fabric of distressed communities, practitioners have provided transactional legal assistance in the areas of real estate, tax, and corporate law to community-based organizations engaged in neighbourhood revitalization initiatives.*¹⁶

In Ireland, in contrast, the government’s approach of funding development in poor areas, including, for instance, the regeneration of social housing¹⁷ has meant that market-based techniques have played less of a role in the development of CED lawyering.¹⁸ Instead, poverty lawyers, inspired by the CLC movement, have used transactional legal assistance¹⁹ on an ad-hoc basis and focused more on innovative tools to gain access to justice such as efforts and initiatives that provide legal (and non-legal) services to the poor²⁰ which in turn facilitate the building and empowering of communities.

A further feature, not found in the United States but present in Ireland, is the role of governmental departments and government structures in overseeing development at a national and local levels. For example, at the Federal level in the United States, there is no equivalent to the recently created Local and Community Development Programme²¹

14 For example, New Market Tax Credits (NMTC) and Tax Increment Financing (TIF).

15 Scott Cummings describes the role played by the market-based strategies in CED, indicating that “[a]t the national policy level, a private sector approach has defined the federal government’s response to poverty issues, as support programs have yielded to market-based antipoverty initiatives, such as the Empowerment Zone Program and the New Markets Tax Credit.” See Scott L Cummings, ‘Community Economic Development as Progressive Politics: Towards a Grass Root Movement for Social Justice’ (2002) 54 Stanford Law Review 400-493, 402-403.

16 *ibid* 403.

17 The Limerick Regeneration Agencies for example do not have private funding to regenerate the area rather it is the government the one that has committed funding as there is a lack of private investment. Interview with Brendan Kenny, CEO, Limerick Regeneration Agencies (Limerick, 2010).

18 In Ireland, for example, the aim of the Local and Community Development Programme is “to tackle poverty and social exclusion via the formation of partnerships and constructive engagement between Government, its agencies and people in disadvantaged communities”. <<http://www.pobail.ie/Funding%20Programmes/LCDP/Pages/Background.aspx>> accessed 5 October 2011.

19 Transactional law is broadly defined as the body of legal knowledge and skills use in business and commercial transactions such as tax law, property, contract law, mergers and acquisitions and corporate finance among others.

20 For example, community legal education on housing law and policy or consumer law and group work enabling women to have a voice (Women’s group).

21 Under the Department of Community, Equality and Gaeltacht Affairs, there was a re-design of two programmes, namely, Local Development Social Inclusion and the Community Development Programme. They came to an end on December 31, 2009. The Local and Community Development Programme superseded. See <<http://www.pobail.ie>> accessed 5 October 2011.

in Ireland, a feature which may explain the important role played by poverty lawyers in the process of development in the United States— a role that made CED as a legal practice and as a lawyering strategy, since the 1990s, a “significant new area of public interest law”²² in their jurisdiction. In contrast, CED as an area of public interest law in Ireland has not yet been explored (until now).

Moreover, the dearth of research into public interest law and the alternatives it can offer²³ is another factor that, when compared to the United States, seems to have lessened the use of non-litigious approaches to public interest law in Ireland – approaches in which lawyers, for example, can use their experiences of transactional lawyering techniques in tackling urban poverty and promoting a better urban economy²⁴ as well as producing a shift from a confrontational to a collaborative method of law.²⁵ As a result, the development of CED as a lawyering concept, in Ireland, has gone largely unnoticed.

Conclusion

The experience of current economic conditions calls for the advancement of a better urban economy and the tackling urban poverty. Advocates have responded to the crisis through a variety of strategies. These include the formation of grass-roots groups and alliances with a legal²⁶/non-legal objective²⁷. One critical strategy relies on the use of community legal education²⁸ in addressing poverty issues (such as debt, mortgages, housing, and unemployment) together with the social and political changes they bring. The challenges which CED lawyers face and the tools they are developing to meet them, make the research of CED in Ireland timely.

In Ireland, bibliography in relation to the role of social policy and community development in tackling poverty and empowering communities is broad²⁹ yet the role of law and the legal profession in the process of community development and community empowerment seems absent.³⁰

Thus, the understanding of CED, CED law and CED lawyering, it is envisaged, will facilitate research into these concepts in the Irish context, enriching our understanding of public interest law and policy within Ireland as well as enabling new ideas to emerge.

22 B Glick and M Rossman, 'Neighborhood Legal Services as House Counsel to Community-Based Efforts to Achieve Economic Justice' (1997) 23 N.Y.U. Rev. L. & Soc. Change 105-133, 110.

23 For example, research into law and community action.

24 N Liegeois, F Baxa, and B Corkrey, 'Helping Low-Income People Get Decent Jobs: One Legal Services Program's Approach' (Sept - Oct 1999) 33 Clearinghouse Rev. 279.

25 The term “collaborative method” is also known as “rebellious lawyering” or “community lawyering” and it is understood to be the different lawyering techniques used within CED law and public interest law such as facilitative lawyering, integrative lawyering and others. The collaborative method does not equate with ADR or mediation although it may use them as part of its technique. Note that the term community lawyering is not used in this research as it creates confusion. In Ireland, community lawyering is equated with EU law.

26 New Beginning was formed to address the needs of vulnerable home owners <www.newbeginning.ie> accessed 5 October 2011.

27 Claiming Our Future <www.claimingourfuture.ie> accessed 5 October 2011.

28 For example, Ballymun Community Law Centre offers legal education on housing law and policy issues and Northside Community Law Centre offers legal education to community groups.

29 See for example, Dr. Brian Motherway, *The Role of Community Development in Tackling Poverty in Ireland: A literary review for the Combat Poverty Agency* (Combat Poverty Agency 2006).

30 There are a few scholars who have published articles in relation to law and poverty in Ireland such as G Whyte but nothing is found when it comes to community economic development and empowerment as lawyering strategies. See Gerry Whyte, 'Law and Poverty in Ireland' in *Law and Social Policy: Some Current Problems in Irish Law* (Dublin University Law Journal 1987).

MOBILIZATION LAWYERING: COMMUNITY ECONOMIC DEVELOPMENT IN THE FIGUEROA CORRIDOR

Scott L. Cummings

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Shifts in the American political system away from hard regulation and toward soft governance have provoked a reassessment of the role of cause lawyers in the United States. This reassessment reflects real changes on the ground, as trends of decentralization and privatization have reconfigured the terrain of cause lawyering (see Handler 1996; Freeman 1997; Minow 2002; Lobel 2004), producing new modes of legal advocacy and raising challenges to conventional rights-based practices (Trubek 2005). These field-level changes, in turn, have given rise to an emerging scholarly literature describing the arrival of a new style of cause lawyering that promotes stakeholder participation in designing flexible solutions to social problems and thus stands in contrast to the top-down impact litigation model of traditional public interest law (Simon 2004; Trubek 2005).

These developments draw attention to the importance of the state in structuring the relationship between cause lawyers and the mobilization of marginalized groups. The state sets the terms of legal intervention—supplying substantive rights, procedural rules, and legal resources—while also providing a primary target for reform. A central focus of cause lawyering scholarship has been on examining the effectiveness of lawyers in asserting the rights of marginalized groups as a means of moving state power on their behalf. This body of research largely calls into question the viability of legal rights strategies as a vehicle for social reform, emphasizing the demobilizing effect of law on political action (see McCann 1998: 76–77). The decentralization of political decision making and the expansion of public–private partnerships create new opportunities for cause lawyers to promote the type of community mobilization found lacking in the public interest law reform approach. Yet the decentered state also erects new challenges and reshapes traditional meanings (Handler 1996). A key issue concerns the kind of community mobilization that cause lawyers help to advance under localized, market-oriented governance structures. In particular, although new models of cause lawyering have the potential to promote participation and empowerment, they can also channel political action into processes of collaboration and negotiation that shape a more quiescent form of mobilization, resulting in the political disadvantage and co-optation of weaker groups.

The emergence of Community Economic Development (CED) as a distinct field of cause lawyering highlights the complexities of community mobilization in the postregulatory state. Defined by a set of social policies and grassroots practices that promote neighborhood revitalization, CED is associated with a transactional model of cause lawyering focused on negotiating deals between community-based nonprofit organizations, public funders, and private investors (Cummings 2001; Simon 2001). Whereas cause lawyers have traditionally sought to mobilize claims of legal rights to advance systemic reform, CED lawyers attempt to mobilize community participation to change local economic circumstances through the creation of innovative institutional structures.

However, CED does not neatly remove barriers to mobilization; rather it presents a different set of opportunities and constraints. For instance, CED is not connected with broad-based social movements. Instead, it is parochial, seeking to preserve community boundaries and increase community control of resources. Moreover, although CED establishes legal mechanisms for ongoing community participation in local governance, it does so through the design of partnerships with government and business elites that create disincentives for political confrontation seeking reforms in state practice or increased resources from private sector institutions. For this reason, the modus operandi of CED practice is not one of protest and disruption. Nor is CED designed to challenge the existing rules of the game; rather, it seeks to build partnerships and distribute resources within the framework of the law as constituted. As a technique of institutional design that extends contractual relationships between the community, the market, and the state, CED therefore fosters a version of mobilization that tends to de-emphasize adversarial organizing in favor of collaboration with business and governmental partners.

At the grassroots level, however, there are important recent examples of community mobilization within CED that depart from the collaborative model. In particular, the emergence of an “accountable development” movement in Los Angeles—where community–labor coalitions have pressured publicly subsidized developers into a series of agreements to provide benefits to low income communities—has focused attention on more confrontational forms of collective action, flowing out of the traditions of community organizing and social movement activism (see Cummings and Eagly 2001). This chapter uses the advent of accountable development to reexamine the relationship between cause lawyering and community mobilization. It begins by describing the emergence of CED as a nonadversarial cause lawyering model, situating it within the context of the reaction against the social movements and legal rights strategies of the 1960s and 1970s. Drawing upon insights from social movement theory, it then analyzes the constraints that collaborative CED can impose on collective action by low-income communities. A case study of accountable development in Los Angeles follows, revealing an alternative approach to CED that mobilizes adversarial organizing to extract developer concessions and governmental reforms. It concludes with an analysis of cause lawyering in the accountable development context, suggesting continuities with conventional CED practice, while highlighting the ways in which the more confrontational approach of accountable development reshapes the lawyering role.

Community Economic Development as Cause Lawyering: A Genealogy

CED as a cause lawyering strategy that uses transactional skills to foster locally accountable development is a product of both the success and failures of the classic public interest law model of the 1960s and 1970s (Trubek 2005), which focused primarily on the use of impact litigation to achieve broad social reform through the courts (Handler, Hollingsworth, and Erlanger 1978). During this period, the configuration of governmental power created incentives for the rise of public interest law—with federal courts receptive to civil rights claims against the states, centralized administrative agencies susceptible to reform through impact lawsuits, and a system of welfare entitlements open to enforcement and expansion (Trubek 2005; McCann and Dudas 2006). Within this environment, public interest law was viewed as a means of advancing the interests of underrepresented groups in court, thus responding to the failures of majoritarian political processes (Weisbrod 1978: 22) and complementing social movement activism (Handler 1978).

The Politics of Community Economic Development

It was, in part, the very success of the public interest law model that fueled a conservative political reaction seeking to limit the federal governmental role in the areas of civil rights and civil liberties, economic regulation, and social welfare (Trubek 2005; see also McCann and Dudas 2006). As a conservative coalition gained political power in the 1980s and 1990s, the structure of the federal government was reshaped: An increasingly conservative federal judiciary became less hospitable to civil rights claims; federal agencies, criticized as inefficient and unaccountable, were decentralized and increasingly delegated decision-making power and service provision to private entities (Handler 1996; Freeman 2000); and core federal entitlements, most notably welfare, were curtailed (Handler and Hasenfeld 1997). These structural changes foreclosed legal advocacy opportunities for liberal public interest organizations at the federal level, while opening the door to claims by the growing number of conservative advocacy groups (Southworth 2005). In addition, the tools of public interest lawyers were restricted: Congress prevented federally funded legal services lawyers from bringing class actions, lobbying, collecting attorney's fees, and engaging in political advocacy; the Supreme Court limited attorney's fee awards in civil rights and environmental cases; and some states enacted caps on attorney's fees and damage awards, while restricting the ability of law school clinics to undertake controversial cases (Minow 2002; Luban, 2003).

At the same time, the changing political environment also generated new roles and opportunities for cause lawyers. In particular, the shift in social policy design from centralized federal regulation toward local, market-oriented governance brought a new emphasis on stakeholder participation in decision making, public–private partnerships, and negotiated rules (Lobel 2004). CED, focused on mobilizing community participation in economic revitalization efforts and creating public–private partnerships to promote affordable housing and job creation goals, emerged as an important component of this new social policy regime.

The theme of community participation in the design and implementation of urban poverty programs runs through CED policy, evolving in reaction to the failures of prior federal efforts to support local action (Simon 2001). The Urban Renewal program of the 1950s, which provided federal loans and grants to redevelop “blighted” neighborhoods, was criticized for subsidizing private development without sufficient input by affected low-income community members, leading to their displacement by high-end housing and commercial projects (Anderson 1964). The Community Action Program (CAP) of 1964 was faulted both for achieving too much and too little: Its mobilizing activities proved too confrontational for local municipal officials, who persuaded the federal government to assert greater control over militant community action agencies, while its goal of “maximum feasible participation” of community members was never fully realized (Halpern 1995: 114; Simon 2001: 14–15).

The urban policies and community organizations that grew out of these experiments shaped the terrain of modern CED, which created greater opportunities for community participation in the process of local development, while channeling that participation in ways that promoted collaboration with local governmental officials and private sector actors. The process of redevelopment is now undertaken primarily by local agencies, which finance private development through property tax increases and provide stronger requirements for community participation than Urban Renewal (Simon 2001:10–11). The major federal urban policies since CAP—Model Cities, Community Development Block Grants, Urban Development Action Grants, Empowerment Zones, HOME Investment Partnerships—have allocated funding for housing and economic development to local governments, while mandating specific requirements for community participation in the planning process.

CED is also defined by the centrality of private actors. Nonprofit community development corporations (CDCs) have been key vehicles for developing housing, creating jobs, and providing social services like child care, health care, and job training. Growing out of diverse strains of community activism, CDCs expanded in number and size in the beginning in the 1970s, spurred by federal funding as well as heavy investments by the Ford Foundation. Over the next two decades, CDCs became deeply involved in housing development, supported community businesses, and became highly professionalized, favoring collaborative partnerships with local institutions over adversarial organizing (Halpern 1995: 133–39).

In order to encourage private investment in low-income communities, CED policy has also created incentives to promote for-profit business involvement in local development activities. For example, the Low-Income Housing Tax Credit Program, which since its creation in 1986 has been the largest supply-side affordable housing program, subsidizes private development through the sale of federal tax credits to private investors. A similar program, called the New Markets Tax Credit, is now in place to subsidize business development in low-income neighborhoods. The HOPE VI program, which funds major public housing demolition and rehabilitation, is also designed to leverage private investment to develop mixed-income, low-density, affordable housing (Pindell 2003). In addition, there are federal subsidies available for community development financial institutions that leverage private resources to meet the banking needs of poor areas (Lento 1994).

The emergence of CED has thus called for a distinct type of lawyering in poor communities—one that, in contrast to litigation, is focused on helping community organizations develop accountable governance structures, access resources through CED programs, negotiate deals with private sector investors, and facilitate complex housing and commercial development projects.

From Rights to Empowerment

Although CED lawyering is a product of political changes driven in significant part by the right, it has also gained currency among activists and academics as a model of legal advocacy that responds to the critique of public interest law on the left. There were two main categories of criticism leveled by scholars at the legal rights strategies of the public interest law era. First, scholars articulated an efficacy critique, drawing on empirical research to demonstrate the inadequacy of law reform as a vehicle of social change. Handler's (1978) assessment of public interest law concluded that litigation alone could not reform field-level practice in the consumer, environmental, civil rights, and welfare rights arenas due to the exercise of vast administrative discretion by government bureaucracies—what he called the "bureaucratic contingency." Rosenberg's study (1991: 338) concluded that courts could "almost never be effective producers of significant social reform" because of their dependence on other political institutions and their lack of enforcement powers.

There was also a related political critique. Scheingold (1974) warned against the tendency of activists to mythologize rights, which he contended contributed to the breakdown of political organization and diverted attention from the political roots of social problems. Bell (1976) struck at the heart of the civil rights establishment, questioning whether the National Association for the Advancement of Colored People's commitment to desegregation—supported by its middle-class white and black constituents—ignored the needs of black communities by privileging litigation efforts designed to achieve integration over political strategies to promote educational quality. Other scholars suggested that litigation drained scarce movement resources, created confusion between “symbolic” and “substantive” victories (Rosenberg 1991), and co-opted potential movement leaders by paying them off with monetary awards (Gordon 1995:438–39). Critical legal scholars went further, suggesting that the inherently individualistic nature of legal rights tended to “undermine collectivities rather than build them” (Abel 1985: 8–9), and that translating grievances into rights claims legitimated inequities inscribed in the legal status quo (Gabel and Harris 1982–83). Poverty law scholars warned of the potential of lawyers deploying legal expertise across dimensions of race and class to reinforce the marginalization of clients and argued for increased client participation in legal problem solving as a way of promoting client empowerment (White 1990; Alfieri 1991; López 1992).

CED lawyering responds to both categories of the critique of rights. With respect to the efficacy critique, CED, unlike rights strategies, does not rely on bureaucratic enforcement, but rather is a form of self-help that leverages existing community resources to gain access to outside investment, while mobilizing ongoing community participation to ensure project implementation. CED is also designed to promote collaboration with outside institutions in order to redress economic disparities that are resistant to law reform techniques. From a political perspective, CED values grassroots organization, accountability to community members, leadership development, and creative problem solving. CED has also been viewed as a model for promoting client empowerment: Because CED representation is focused on helping community-controlled groups design and implement local development projects, lawyer accountability to broad community interests is enhanced while the potential for lawyer domination recedes (Southworth 1996: 1154–55; Shah 1999: 232–33; Cummings 2001: 446; see also Southworth 1999).

Cause Lawyering Between Community, Market, and State

Scheingold and Sarat (2004: 101–02) suggest that cause lawyers can be arrayed along a spectrum according to their “dramatically different democratic dreams.” Yet the picture is complicated within CED, which does not break down neatly along traditional political lines, but rather is characterized by its broad political appeal – claimed by proponents of free-market capitalism, radical egalitarianism, and civic republicanism. This is owing in part to the wide range of CED activities, but also to the ideological ambiguity of CED itself, which means that the same activity can have a different political valence depending on the advocate's views. Moreover, CED's legal complexity and potential for generating fees also means that it is undertaken by lawyers in different practice sites: corporate lawyers in large law firms, staff attorneys in nonprofit legal services groups, and solo and small-firm practitioners. The diversity of political viewpoints and professional roles within CED generates divergent conceptions of cause. For some, CED reflects a “grassroots” or “emancipatory” practice that promotes social justice, robust community participation, and nonhierarchical decision making (see Hilbink 2004: 683; Scheingold and Sarat 2004: 104). For others, CED's concern with providing under-resourced community groups with access to legal services also draws it toward a “proceduralist” vision of cause lawyering that seeks to achieve the best outcome possible for clients within the constraints of the existing political system (Hilbink 2004: 669).

With respect to professional role, the fact that the community organizations are the driving force of CED means that the lawyer–client relationship tends to be shaped by the norm of client-centeredness, with the client group making key decisions about goals and strategies. There remains considerable variation in the degree of lawyer–client collaboration, ranging from more passive facilitation of client projects (Marsico 1995) to greater lawyer participation in defining and executing community goals (Diamond 2000). The degree of lawyer participation in client decision making is a function of the governance style of the client organizations, the personal commitments of the lawyers (see Ellman 1992), and the influence of the lawyers’ practice settings.

With respect to legal tactics, CED differs sharply from its litigation counterpart. In the litigation context, lawyers file claims of legal rights in an adversarial process to either change state practice vis-à-vis marginalized groups or invoke the power of the state to reform private conduct. The CED lawyer’s role, in contrast, requires the type of nonadversarial transactional skills that are the stock-in-trade of the corporate bar: structuring business entities, arranging access to capital, counseling compliance with tax and corporate regulations, negotiating partnerships and other legal agreements, and navigating the process of real estate development (Southworth 1996; see also Glick and Rossman 1997; Shah 1999).

Scholars of cause lawyering have identified other models of collaborative practice, such as lobbying the state for passage of a new statute (Ziv 2001) or working closely with legal adversaries to advance the rule of law (Dotan 2001). However, in contrast to these examples, CED operates squarely within the context of the decentered state, where the focus of collaboration is not with central state authorities designated to enact legislation or defend state practices, but with the local governmental entities and private market actors empowered under the governance regime. Whereas other depictions of collaboration involve lawyers who are, at bottom, asking the state to redress a legal wrong, CED involves collaboration between community-based clients and state and market funders as a means to generate solutions to the problems of poverty and urban disinvestment.

CED’s emphasis on collaboration as a form of legal action reflects its distinct orientation toward the fairness of the legal system (see Hilbink 2004: 666–81). In the cause lawyering literature, a contrast is typically drawn between procedural and substantive fairness, with substantive fairness associated with the domain of public law—the question being whether or not courts adequately use the power of the state to vindicate the rights of marginalized groups (Hilbink 2004). CED lawyering, however, is not directly concerned with the fairness of the legal system in this sense. Instead of looking to public law as a source of regulation or rights expansion, CED looks to private law as a resource for building collaborative institutional relationships in order to increase access to outside investment and expand community participation in development decisions. To be sure, CED relationships do not operate exclusively within private law: They purposefully cut across the traditional public–private divide, linking “private” sector activities, such as business operations and real estate development, with “public” sector financial and technical support. However, CED does not seek to reform public law rules through judicial decree or legislative change. Therefore, in contrast to more traditional rights-oriented cause lawyering, which was designed to achieve universal public benefits, the goal of CED is the more modest production of partial private benefits.

Community Economic Development: A Social Movement Perspective

The allure of CED lies in its potential to reconcile legal action and collective action. And because CED is itself a set of social policies and community practices designed to promote collaboration, there is a well-defined role for lawyers to play in advancing CED's mobilization goals. Although CED's emphasis on collaboration offers opportunities for innovative problem solving, it also imposes constraints on more adversarial forms of mobilization that seek structural reforms. This part uses the lens of social movement theory as a framework for examining the nature of mobilization within CED. The focus is on the political context within which CED operates and the resources CED actors are able to mobilize and deploy (McCann 1998: 80).

Social movement scholars emphasize the importance of the "political opportunity structure" in generating collective action (McAdam 1982; Kriesi 2004:69). Formal political institutions constitute the key structural element, with the degree of political centralization shaping both the opportunity for intervention and the ability of the state to meet movement demands (Kriesi 2004: 70). Within CED, the benefit of decentralization is that community groups are closer to the decision makers they seek to influence and therefore may be able to more effectively hold them to account for community needs. On the other hand, decentralization localizes activism at the community level and routes it through market channels. There are opportunities for information-sharing and cooperation among CDCs, which may be generated by the need to respond collectively to policy initiatives or facilitated by intermediary groups. However, the local orientation of CED focuses mobilization on internal community-building strategies, rather than viewing economic inequality and racial segregation from a regional or even a national policy perspective (Foster-Bey 1997: 40; Barron 2003).

In order to take advantage of political opportunities, mobilization depends heavily on the capacity to gain access to resources and convert them into tools for advancing collective goals (Edwards and McCarthy 2004: 116). Resources are necessary to overcome the free rider problem faced by groups attempting to organize themselves to provide collective goods (McCarthy and Zald 1973; Jenkins 1983: 537–38) and also to sustain organizational activity and mount campaigns to achieve strategic goals (Jenkins 1983: 533; Edwards and McCarthy 2004: 116). A critical insight of resource mobilization theory is that resources come with strings attached: They not only enable collective action, but also may steer it into channels favored by important resource suppliers (Edwards and McCarthy 2004: 135).

In the CED context, a key resource is organizational. CED values organizational formality, which can best be seen in the structure of CDCs, which typically incorporate community participation in governance, either through resident participation on the board or membership-based structures. Simon (2001: 60) argues in favor of organization, contending that "[a]t high levels of organization, the community has the capacity not only to prevent disruption that impairs the investment, but to facilitate support for investment and to bargain for a share of the returns." Within CED, organization is supported by a lattice of external institutional support designed to "induce" community participation (Simon 2001: 168). Legal rules play a critical role, promoting participation through an "ex ante structural approach," in which federal tax rules require charitable organizations to demonstrate a wide base of financial support and government funding programs require CED grantees to demonstrate community participation in governance (Simon 2001: 169–78). The government and private sectors also promote community accountability through an "ex post competitive approach" under which community organizations engaged in CED are graded on their performance in meeting community goals in the competitive process of applying for funding (Simon 2001: 178).

However, the same public and private actors whose funding induces mobilization in the CED context also impose significant constraints on its nature and scope (see Edwards and McCarthy 2004: 135). The National Congress for Community Economic Development's census of US CDCs reported that almost all received some type of government

financing, almost one-half received money from banks, and nearly one-quarter were funded by corporations (The National Congress for Community Economic Development 1999: 6). Critics have charged that these relationships hamstring more adversarial tactics against government and business targets (Shah 1999), which can easily pull the plug on financial resources and partner instead with more cooperative community actors. The issue of constraints imposed by funding sources is not unique to CED organizations. The social movement organizations of the civil rights period relied not only on indigenous support from black churches and local organizations (Morris 1984), but also came to depend increasingly on a "conscience constituency" of Northern liberals and college students, and benefited significantly from the federal government (Jenkins 1983: 533–35; Barkan 1984: 553). However, unlike in the civil rights context where outside support was provided, at least in part, to promote confrontational organizing tactics, CED funders typically expect nonadversarial collaboration in order to achieve development aims.

The focus on cultivating and maintaining relationships with external state and market elites thus influences the nature of mobilization within CED, privileging collaboration over systemic disruption. In this sense, CED stands in contrast to social movements, which have historically been defined by direct challenges to "existing institutional authority—whether it is located in the political,

corporate, religious, or educational realm" (Snow, Soule, and Kriesi 2004: 9). Moreover, unlike social movements that rely on "disruptive 'symbolic' tactics such as protests, marches, strikes, and the like that halt or upset ongoing social practices" (McCann 2004: 509), CED adheres closely to institutional channels of collective action. There are instances of disruptive activity within CED: Residents of Boston's Dudley Street Neighborhood Initiative, for instance, mounted a public demonstration to halt illegal trash dumping (Medoff and Sklar 1994: 81–86), and bank watchdog groups like the Greenlining Institute use the threat of disruption to compel compliance with the Community Reinvestment Act (CRA). However, disruptive activity is de-emphasized among CDCs (Dreier 1999: 180). The National Congress for Community Economic Development reported that while 82 percent of CDCs had engaged in housing development (National Congress for Community Economic Development 1999: 7), only 56 percent reported engaging in "advocacy and community organizing" (National Congress for Community Economic Development 1999: 15). Vidal's national study shows relatively more advocacy, reporting that 87 percent of CDCs engaged in housing development, while 75 percent conducted advocacy around housing issues (Vidal 1992: 64). However, Stoecker (1997: 11) has suggested that such advocacy may simply reflect CDCs "joining coalitions of other organizations and advocating around housing issues" not "bringing residents together to press for their needs collectively."

CED's collaborative approach to collective action reflects its political goals. Unlike many social movements, CED is not "state-oriented": It does not seek change in state practices, either through legislative enactment or rule enforcement (see Amenta and Caren 2004: 461). Instead, the goal of CED is neighborhood revitalization through the creation of public–private partnerships that leverage government programs. These partnerships may reconfigure the interests of the participants and therefore possibly reform their practices (Simon 2004: 182). Yet such reforms are "soft" and more difficult to measure than the "hard" regulatory reforms traditionally sought by movement actors. There is a redistributive element to CED, but it is built upon a preexisting legal framework. For example, the Low-Income Housing Tax Credit Program allocated approximately \$50 billion in tax credits over its first fifteen years to build affordable housing units. However, the goal of CED is to implement such laws to create change at the neighborhood level, not to mobilize community groups to advance a radically different urban agenda.

The Accountable Development Movement

CED is therefore defined by a focus on localism, a commitment to bottom-up neighborhood revitalization over state-sponsored redistributive reform, and a version of mobilization that emphasizes collaboration over confrontation. Yet within CED, grassroots organizations have begun to experiment with different forms of practice that both extend and challenge these central CED principles, building upon community organizing, labor organizing, and social movement models to “redefine redevelopment” and promote “economic justice” (Cummings 2001: 478–83; Gibbons and Haas 2002). A prominent example has been the emergence of the “accountable development” movement in Los Angeles, which has sought to change city redevelopment practices through more confrontational grassroots campaigns aimed at increasing community participation in the planning process and forcing local developers and governmental officials to commit to redevelopment projects that are responsive to the needs of low-income residents. One important outcome of these campaigns has been the negotiation of “community benefits agreements” under which developers agree to provide specific levels of affordable housing, jobs, and other benefits in exchange for community support for project approvals and public subsidies. This part examines the first major community benefits agreement (CBA) campaign in Los Angeles and examines the role of cause lawyers within it.

Context

The campaign grew out of efforts to redevelop the Figueroa Corridor, a predominantly Latino working-class neighborhood that cuts southward from downtown Los Angeles along a 2.5 mile stretch of Figueroa Street toward the University of Southern California (USC). Strategically located between the Los Angeles Convention Center downtown and the Los Angeles Memorial Coliseum just south of USC, the Figueroa Corridor has become a flashpoint for accountable development activism as city officials have sought to remake the Figueroa Corridor into Los Angeles’s sports and entertainment hub. The key mechanism for implementing this plan is the state law of redevelopment, which empowers community redevelopment agencies to designate “blighted” neighborhoods as project areas, assemble private property through eminent domain, and subsidize private development by issuing debt backed by future property tax increases (known as “tax increment”).

Situated at the intersection of five redevelopment project areas, the Figueroa Corridor has been shaped by the Los Angeles Community Redevelopment Agency (CRA). The southern part of the Figueroa Corridor lies within a redevelopment area established in the 1960s to allow USC to expand its campus borders and eliminate surrounding community blight as an inducement to remain at its South Los Angeles location. With the help of the CRA, USC has become the largest landowner in the Figueroa Corridor, with a real estate portfolio of over 100 properties, many of which are devoted to student housing. One of the most controversial sites is a property near the northeast border of campus, where the CRA helped USC to purchase property that it plans to use to build a \$70 million sports arena to house its basketball and volleyball teams, having scrapped an earlier commitment to build a commercial center projected to create 2,700 jobs for local residents and generate \$1.6 million per year in tax increment. The Memorial Coliseum, a 90,000 seat stadium located just south of the USC campus in Exposition Park, is another key site in the city’s plan to promote the Figueroa Corridor as a sports and entertainment zone. The current home of USC football, the Coliseum is on the short list of stadium sites for a National Football League franchise, which the city has been working to attract by developing a subsidy package.

To the north, development pressures on the Figueroa Corridor have emanated from the redevelopment of downtown Los Angeles. The critical event was the 1997 announcement of a plan by Los Angeles real estate developer Ed Roski Jr. and Denver billionaire Phillip Anschutz of Qwest Communications (who together owned the Los Angeles Kings professional hockey team and part of the Los Angeles Lakers professional basketball franchise) to build the

20,000-seat Staples Center, which would become home of the Kings and Lakers and a venue for concerts and other entertainment events. The \$375 million project, located immediately north of the Los Angeles Convention Center, was developed by the L.A. Arena Land Company (a Roski–Anschutz partnership) in a complex public–private deal that involved billionaire Rupert Murdoch’s Fox Group purchasing a 40 percent interest in the arena. The deal was completed with a \$70 million city subsidy, which included a \$58 million loan from the city to the developer (to be repaid through the dedication of revenues from parking fees and a tax imposed on ticket sales) and a \$12 million grant from the CRA, which went to fund environmental approvals and assist in the acquisition of thirty acres of property north and east of the arena to be used for interim parking. The Staples Center project, which was completed in 1999, reconfigured the terrain of downtown development, rising as a monument to the new vision of downtown Los Angeles as a dynamic destination for affluent Angelenos and tourists. It also disrupted the fabric of the existing low-income community, resulting in the relocation of approximately 130 households and thirty-five businesses.

Coalition

Although the organizing that began after the Staples Center development directly out of the resident response to the disruption, it was built upon a foundation of community–labor cooperation that had evolved over several years. On the labor side, part of the collaboration was the result of a deliberate strategy by national labor leaders, who promoted grassroots coalitions through programs like Union Cities and organizations like Good Jobs First, which was created to build networks of local activists who would advance accountable development (Goodno 2004). But there were local factors as well. Los Angeles was the site of innovative labor organizing among immigrant workers in the service sector, with the Service Employees International Union (SEIU) receiving national attention for its Justice for Janitors and home health care workers campaigns (Gordon 2005: 62–63; Stone 2004: 224–25). The SEIU organizing model forged ties between union organizers, workers, community activists, students, and religious leaders in Los Angeles, and expanded union membership among immigrant workers, many of whom lived in the Figueroa Corridor (Community Scholars Program 2004). In addition, the Los Angeles Alliance for a New Economy (LAANE), a group created by the Hotel Employees and Restaurant Employees (HERE) union in 1993, brought together grassroots organizations, faith-based groups, environmental organizations, labor leaders, and worker representatives in its successful 1997 campaign to pass the Los Angeles Living Wage Ordinance (Zabin and Martin 1999; Erskine and Marblestone 2006).

On the community organizing side, the key group in the Figueroa Corridor was Strategic Actions for a Just Economy (SAJE), an economic justice and popular education center established in 1996 to build “economic power for working class people in Los Angeles” (Strategic Actions for a Just Economy 2005). SAJE was responsible for uniting the first community–labor network in the Figueroa Corridor, which grew out of a labor dispute at USC that began in 1995 when about 350 food and service workers, represented by HERE Local 11, demanded a guarantee from USC that it would not subcontract out their jobs. In 1998, SAJE organized USC employees, students, local clergy, community activists, and neighborhood residents as the Coalition for a Responsible USC (Haas 2002), initiating a series of protests, which included a rolling hunger strike, in support of the union’s demands. After the City Council amended its worker retention ordinance in 1999 to prevent Los Angeles contractors, like USC, from firing workers within ninety days of contracting out their work, the dispute was settled, with USC retaining the right to subcontract, but agreeing to a consultation process with the union in order to avoid doing so.

The USC campaign reinforced community–labor relationships, highlighting the common economic concerns of union and nonunion community residents and forging a sense of shared purpose among local block clubs, churches, and other community organizations that had not previously worked together. The campaign also led to changes

in the coalition itself. As news stories began to circulate in 1999 about plans to further redevelop the area around the Staples Center, the coalition expanded its mission to focus on development pressures in the Figueroa Corridor, formally restructuring as the Figueroa Corridor Coalition for Economic Justice (FCCEJ) (Haas 2002).

The announcement in May 2000 by the owners of the Staples Center of plans to develop a Los Angeles Sports and Entertainment District adjacent to the arena set FCCEJ into motion on what would become its first major campaign. The plans for the proposed four million square foot, one billion dollar project—known as “L.A. Live”—included a forty-five story 1,200-room convention center hotel (with 100 condominium units) to be located directly north of the Staples Center, a second smaller 300-room high-end hotel, two apartment towers consisting of 800 units, a 7,400-seat live theater, restaurants, nightclubs, an office tower, a 40,000 square foot open-air plaza, and a 250,000 square foot Convention Center expansion. When the project was announced, FCCEJ initiated a community planning process and SAJE began organizing neighborhood tenants in buildings in the area of the proposed Sports and Entertainment District.

Then came the Democratic National Convention at the Staples Center in August 2000. The convention itself, though mostly peaceful, was marked by ugly moments, with armored police using rubber bullets and pepper spray in clashes with protesters in cordoned-off streets. After the convention ended, FCCEJ intensified its community organizing efforts, convening meetings at the First United Methodist Church for community members upset about the convention violence, as well as the ongoing nuisance of reckless drivers, unruly fans, vandalism, and increased parking tickets that were the byproducts of Staples Center events. By the time that FCCEJ held its first annual assembly meeting in late 2000, the focus of the coalition began to crystallize around one goal: forcing the Staples Center developers to address community needs in their plans for the Sports and Entertainment District. As this campaign began to take shape, FCCEJ expanded to its full size of twenty-nine organizations and approximately 300 residents. Reflecting the broad range of community concerns at stake, there were several categories of groups, which included economic justice organizations like SAJE and LAANE, the environmental group Environmental Defense, community organizing groups like the Association of Community Organizations for Reform Now (ACORN), and Action for Grassroots Empowerment and Neighborhood Development Alternatives (AGENDA); community services groups; churches; housing and community development organizations such as Esperanza Community Housing Corporation; health advocacy groups; immigrant rights groups like the Coalition for Humane Immigrant Rights of Los Angeles and the Central American Resource Center; neighborhood groups; the student group Student Coalition Against Labor Exploitation; and the unions HERE Local 11, and SEIU Local 1877.

Campaign

FCCEJ's relationship with the local unions proved to be one of its critical points of leverage with the developer, L.A. Arena Land Company. The FCCEJ campaign occurred against the backdrop of labor negotiations between the developer and five unions—HERE Local 11, SEIU Local 1877, Operating Engineers Local 501, Teamsters Local 911, and the International Alliance of Local Stage Employees Local 33—which were attempting to secure union contracts on the project. In contrast to the separate negotiations each union conducted during the original Staples Center development, the unions entered the negotiations on the Sports and Entertainment District project committed to a united front, agreeing under the leadership of the Los Angeles County Federation of Labor that “no one would sign an agreement until everyone had an agreement to sign” (Haas 2002: 93). Eager to demonstrate that labor and community groups could work together to achieve broad gains for working people, the five unions and the Federation, whose leaders had strong connections to LAANE and other coalition members, agreed to support FCCEJ in its own negotiations for community benefits. As a sign of union support, a labor representative was present at all of

the meetings between L.A. Arena Land Company and FCCEJ. Meanwhile, as the unions worked to advance the goals of FCCEJ, LAANE was making efforts to help organize the unions.

The developer, which understood that organized labor's influence with local government officials could jeopardize city approval of the deal in the event of labor strife, was eager to reach an accord with the unions that would move the project forward. Not concerned with FCCEJ as such, the developer was nevertheless forced to recognize the coalition's concerns in order to garner the support of the unions that had come out behind FCCEJ's efforts. Although union leverage brought FCCEJ to the table with the developer, it also constrained its options in responding to the proposed project. Because the union partners were concerned with seeing through a project that would create jobs for their members, there were strong pressures on FCCEJ to negotiate a deal. In this process, FCCEJ could wield the threat of delay, but any expression of outright opposition to the project would have risked union support and weakened its bargaining position.

FCCEJ therefore focused its campaign on the negotiation of a CBA – a legally binding contract under which the developer provides specific community benefits in exchange for the coalition's promise to support the project (Gross, LeRoy, and Janis-Aparicio 2005). The CBA idea grew out of different strands of activism. Its formal legal structure mirrored the types of agreements entered into in the CRA context, where community organizations commit to supporting bank applications for mergers or branch relocations in front of federal regulators in exchange for bank promises to increase loan activity and banking services in poor neighborhoods. SAJE's executive director Gilda Haas, who had been an organizer for the Center for Community Change, had extensive experience negotiating CRA agreements with banks and brought expertise on this approach to the CBA process. The concept of the CBA – which used the leverage afforded by future developments to exact developer concessions – grew directly out of the strategy pioneered by the HERE and the SEIU, which used such an approach in their efforts to win card check neutrality and living wage jobs for immigrant workers.

A series of agreements between government entities and developers to target benefits to low-income communities also proved to be important precedents for CBAs (see Liegeois and Carson 2003: 174). In 1998, the public transit authority overseeing the Alameda Corridor transportation project – a twenty-mile railway linking the ports of Los Angeles and Long Beach with downtown Los Angeles – bowed to community organizing pressure in requiring the project's general contractor to provide \$5 million for job training and to set aside construction jobs for low-income residents (Liegeois, Baxa, and Corkrey 1999: 290). That same year, LAANE worked to incorporate a community benefits package – which included provisions for living wage jobs, card check neutrality, local hiring, and job training – into the city's agreement with the developer of a large entertainment and retail project in Hollywood (Los Angeles Alliance for a New Economy 2005; Erskine and Marblestone 2006). Then, in 1999, AGENDA successfully pressured the Los Angeles City Council to require Dreamworks to fund a job training and placement program for low-income workers in exchange for public subsidies approved for the development of a new Dreamworks studio (Liegeois, Baxa, and Corkrey 1999: 286–89). However, the tactic of embedding community benefits within development agreements did not include a mechanism for direct enforcement by community organizations, instead relying on government officials to hold developers to their obligations – which, after subsidies were awarded and projects were built, they often had little incentive to do. In response to this problem, LAANE came up with the idea of the CBA in connection with organizing it began in 2000 around a proposed mixed-use project next to the North Hollywood subway station, which was to receive public subsidies. That organizing eventually resulted in a CBA in late 2001, but not until after events had thrust the Sports and Entertainment District CBA to the fore.

As FCCEJ entered its crucial negotiation phase in 2001, its leverage against the developer was structured by law in key ways. First, there was the issue of term limits. In 1993, Los Angeles voters passed propositions restricting the mayor and City Council members to two four-year terms. That meant that Republican Mayor Richard Riordan, a staunch supporter of the project who had pushed the City Planning Commission for fast-track permitting approvals, was set to be termed out of office as of July 1, 2001, with a very tight run-off race underway between Democrats James Hahn and Antonio Villaraigosa, a strong pro-labor candidate (Padwa 2001). In addition, City Council—which also supported the Sports and Entertainment District—was about to be transformed, with six of its fifteen members—including Council member Rita Walters, whose district encompassed the project—termed out. As a result, the developer was pressing to secure all city entitlements before July 1, 2001, which meant ensuring that FCCEJ was on board and would not delay key approvals.

In addition to the leverage gained from timing, FCCEJ benefited from public participation rights embedded in the legal process for approving development. California state law sets the legal framework governing how cities structure the process of granting development entitlements such as land use and building approvals. In Los Angeles, developers typically must go through the City Planning Commission to obtain discretionary land use approvals, with a process for appeal to the City Council generally available. The structure of the entitlements process permits well-organized opposition groups with strong political connections to delay or even prevent key approvals. With labor unions as coalition members, FCCEJ could make a credible threat of disrupting the entitlements process for the Sports and Entertainment District deal, which would have increased costs and uncertainty for the developer. Moreover, the deal was from the beginning based on the assumption of public financing, which could only be approved by City Council after public hearings, providing another political opportunity for FCCEJ and its union supporters to disrupt the deal.

FCCEJ used the threat of disruption implicit in its participation rights to bring the developer to the negotiating table, where the goal was to hammer out a CBA. It was here that lawyers contributed key skills in moving negotiations forward and finalizing the agreement. Julian Gross was the coalition attorney primarily responsible for drafting the CBA. Gross had started out as a Skadden Fellow at the Employment Law Center in San Francisco, where he worked on developing the local hiring policy for the redevelopment agency in East Palo Alto and was involved in the Alameda Corridor Jobs Coalition project in Los Angeles. In 1999, Gross set up his own solo practice and began working with LAANE on the North Hollywood mixed-use development organizing campaign. When the Sports and Entertainment District deal was announced, Gross was retained by LAANE to represent the group and generally provided legal support to the negotiation team throughout the process.

The negotiation team itself was selected by FCCEJ members on the basis of expertise and negotiating skill. The key members were SAJE's Gilda Haas and Madeline Janis-Aparicio, the executive director of LAANE. Although not an attorney, Haas, who had a master's degree in Urban Planning from UCLA, had started the CED unit at the Los Angeles Legal Aid Foundation. Janis-Aparicio was a nonpracticing attorney who had previously done slum housing litigation and, after graduating from UCLA Law School, had worked as an associate at the Los Angeles firm of Latham & Watkins (which was representing the developer against FCCEJ in the CBA negotiations). The stringent criteria for selection to the negotiating team excluded Figueroa Corridor residents. To address this omission, FCCEJ put together a team of neighborhood leaders who attended all of the meetings with the developer, provided feedback on developer proposals, and conveyed information on the process back to the community (Leavitt 2006).

Another lawyer on the negotiating team who played an important role was Jerilyn López Mendoza, a graduate of UCLA Law School with law firm experience, who was an attorney in the Environmental Justice Project at Environmental Defense. In California, the process for gaining environmental clearance for development projects centers on

the California Environmental Quality Act (CEQA), which requires that a public agency, such as the City Planning Commission, evaluate the environmental impact of projects before issuing discretionary development approvals or providing public subsidies. If the project is determined to have a significant environmental impact, an environmental impact report (EIR) must be prepared and circulated for public comment. The final approval of a project may be challenged in court on the grounds that it does not meet the substantive and procedural requirements of CEQA, forcing the agency to repeat the EIR process.

Knowing that a defective EIR could significantly delay the project, the FCCEJ environmental team, coordinated by López Mendoza, carefully reviewed the developer's draft EIR when it was issued in January 2001. FCCEJ's comprehensive forty-six-page response to the draft EIR was submitted to the City Planning Commission in late February highlighting a number of inadequacies, including the developer's failure to include an analysis of the energy impact of the project, which—coming on the heels of Southern California's 2000 energy crisis—was a significant omission. With the prospect of a CEQA lawsuit that could derail the project until well after the July 1 political transition suddenly a realistic possibility, the developer responded by intensifying the pace of negotiations with FCCEJ.

A final agreement was reached between FCCEJ and the developer on May 30, 2001. Under the agreement, FCCEJ agreed both to release its right to oppose the development project (which included bringing lawsuits, taking administrative actions, and expressing public opposition) and to provide affirmative support for the project (which included issuing a press release and testifying in support of administrative approvals). There was a split over the final terms of the agreement, with AGENDA and the Community Coalition refusing to sign on as Coalition members, citing the waiver of the right to oppose the project as incompatible with their organizational missions. This created a problem for the developer, which wanted to make sure that a few close FCCEJ allies could not opt out of the agreement and protest the project, while the developer bore the full contractual obligations. This was dealt with by designating FCCEJ members that did not sign the agreement as Interested Organizations, which—although technically not bound to the agreement—could nevertheless relieve the developer of its community benefits obligations by bringing a suit against the project. In exchange for FCCEJ's cooperation, the developer agreed to the following Community Benefits Program, which was also incorporated as part of the development agreement between the city and the developer:

- ▶ **Parks and Recreation:** The developer will provide between \$50,000 and \$75,000 to fund “an assessment of the need for parks, open space, and recreational facilities” in the area and subsequently “fund or cause to be privately funded at least one million dollars (\$1,000,000) for the creation or improvement of one or more park and recreation facilities.”
- ▶ **Parking Permit Area:** The developer will “support” FCCEJ's efforts to have the city establish a residential parking permit district, providing funding of \$25,000 per year for five years to the city to develop and implement the program.
- ▶ **Living Wage Program:** The developer “shall make all reasonable efforts to maximize the number of living wage jobs” in the project and agree to a 70 percent Living Wage Goal for the anticipated 5,500 jobs.
- ▶ **Local Hiring and Job Training:** The developer will provide \$100,000 in seed funding to establish a First Source Referral System, a nonprofit organization that will recruit targeted job applicants – giving first priority to applicants displaced by the Staples Center or living within a one-half mile radius of the project – and refer them to project employers. The employers, in turn, will provide notice of job openings to the First Source Referral System and agree to hire only targeted job applicants for a designated period of time after notice of the jobs are provided. An employer who fills 50 percent of available jobs within a six-month period with targeted job applicants shall be deemed in compliance with the first source hiring policy.

- ▶ **Affordable Housing:** The developer “shall develop or cause to be developed affordable housing equal to 20% of the units constructed” within the project (100–160 affordable units in total). The units shall be targeted as follows: 30 percent to families earning 50 percent or less of Area Median Income (AMI); 35 percent to families earning from 51 to 60 percent of AMI; and 35 percent to families earning from 61 to 80 percent of AMI. Units may be built within the project area or off-site, provided that off-site housing is located “in redevelopment areas within a three-mile radius” of the Staples Center. Residents displaced by the Staples Center shall be given priority in housing selection. In addition, the developer must work cooperatively with community organizations to provide additional affordable housing by contributing up to \$650,000 in three-year, interest-free loans to nonprofit housing developers that are building projects in the area.

Despite the timeliness of the CBA, the project itself did not receive the sought after approval before the July 1 political transition because newly elected City Council members asked for a delay so that they could review the deal. The city made a number of attempts to move the project forward, which culminated with the 2005 approval of a \$177 million subsidy for the hotel, consisting of \$110 to \$140 million in foregone revenue from hotel bed taxes, \$22 million in city loans, \$10 million in public improvements, and \$5 million in building fees. Although construction is not set for completion until 2008, the developer has already made good on some of its CBA promises. In particular, the developer has gained commitments for nearly \$1 million to fund Hope and Peace Park and a free family recreational facility in the neighborhood (Leavitt 2006). The developer also assisted in the establishment of Los Angeles’s first Poor People’s Preferential Parking District, which reserves evening parking for local residents, and paid for the first five years of resident permits (Leavitt 2006). The developer further provided \$650,000 in low-interest loans to community-based affordable housing developers (Leavitt 2006), which have already opened some affordable units.

Implementation of the CBA, however, has not been without difficulty. The main issue has involved the application of affordable housing obligations to developers that have purchased discrete parcels within the project from L.A. Arena Land Company. In September 2005, one such developer, Williams and Dame, asked the city to be relieved of its affordable housing obligations in light of a preexisting agreement to contribute \$8,000,000 toward the YWCA’s development of an affordable housing project in the downtown area. After a flurry of negotiations, the parties agreed to a plan under which Williams and Dame was given credit for 200 units of affordable housing in exchange for a \$400,000 contribution to the Figueroa Corridor Community Land Trust – an entity that FCCEJ had already established to build affordable housing in the neighborhood – as well as a commitment by Williams and Dame to potentially contribute another \$700,000 in connection with future development. In addition, the parties agreed going forward that new purchasers of development rights in the Sports and Entertainment District may discharge their affordable housing obligations by providing a \$40,000 payment for each required affordable unit to the Land Trust or other community-based developer in the Figueroa Corridor – an arrangement that could generate several million dollars in contributions.

FCCEJ’s success in negotiating the Sports and Entertainment District CBA has lent momentum to related accountable development campaigns and policy initiatives. One direct outgrowth is the Share the Wealth Coalition, a joint organizing effort by FCCEJ and the LA Coalition to End Hunger and Homelessness, which has advocated for the rights of residential hotel tenants while promoting inclusionary zoning and policies to prevent the net loss of affordable housing in the central core of downtown Los Angeles. In addition, there have been a series of subsequent CBAs negotiated in Los Angeles and elsewhere, the most significant of which was the recent agreement between Los Angeles World Airports, the city department that owns and operates the Los Angeles International Airport (LAX), and a coalition of school districts, churches, environmental organizations, and labor groups that earmarked nearly \$500

million for soundproofing homes and businesses, setting up job training programs, and conducting environmental studies in connection with the \$11 billion modernization of LAX (LAX Coalition 2004). Finally, there has been an effort to convert the success of the CBA strategy into local policy reforms (Goodno, 2004). In Los Angeles, community groups pushed the CRA to adopt a Community Impact Report policy, which would have required developers within redevelopment project areas to take into account the impact of projects on affordable housing and jobs along the lines of the current environmental review system, but that proposal was tabled after strong developer opposition. The California Partnership for Working Families – an accountable development coalition that includes LAANE and similar community–labor organizations across the state – has been working to pass community benefits policies in San Diego, San Jose, and Emeryville.

Cause Lawyering and Community Mobilization

As the FCCEJ case study shows, accountable development advocacy attempts to confront government and market elites, create alliances and build networks, and change the rules of the game for redevelopment practice. In contrast to the “deal” orientation of conventional CED, accountable development focuses on local campaigns to mobilize low-income communities to achieve organizing “wins.” It therefore presents distinct roles for cause lawyers who must navigate a complex set of organizational relationships and deploy a range of lawyering skills to advance mobilization goals. Drawing upon the lessons from the FCCEJ campaign, this part examines cause lawyering in the accountable development context, focusing on issues of professional role, legal tactics, and the impact of lawyering on community mobilization.

Professional Role

The picture of cause lawyering that emerges from the FCCEJ case resonates with Hilbink’s (Hilbink 2004: 681) description of the grassroots cause lawyer focused on politically sophisticated advocacy that supports mobilization around community-defined goals (see Kilwein 1998). In the FCCEJ campaign, lawyers were viewed as one set of political actors who knew their role and used their skills to advance strategic ends, deploying rights when necessary, but also recognizing when to back off from rights tactics to build alliances, broker deals, and craft policy.

In this context, typical concerns about the disempowering impact of legal expertise on client mobilization were diminished for two reasons. One was the self-conception of the lawyers. FCCEJ lawyers Gross and López Mendoza adopted a complex view of social change, with legal and political advocacy seen as complementary strategies—the utility of each dependent on the particular context of struggle. Instead of top-down legal strategists, they viewed themselves as team members who attempted to cede as much control as possible to the organizers, providing technical expertise only to the limited extent necessary to advance the organizing goal. They were, in short, quite mindful of the critique of public interest lawyering and careful not to repeat mistakes of the past.

The other factor constraining lawyer domination was the presence of a powerful and politically savvy leadership structure for the coalition. Although the strength of the leadership structure created accountability issues as between the coalition leaders and their constituencies, it tended to insulate the leadership itself from undue influence by outside lawyers. Moreover, in the FCCEJ campaign, the existence of relatively powerful grassroots organizations counteracted the tendency that Levitsky (2006) identifies for legal organizations to exert more influence in strategic decision making due to their disproportionate size and visibility. Because the FCCEJ clients came to the campaign as empowered political actors, the lawyering was focused on achieving a political result defined by the coalition rather than promoting goals envisioned by the lawyers. From a lawyering perspective, the FCCEJ campaign can therefore

be read as a story about the potency of legal advocacy operating within its appropriate sphere: FCCEJ's success in bringing the developer to the negotiating table, for example, was premised in large part on the threat that it could, in fact, successfully litigate the environmental claims.

Although it offered advantages from the perspective of community empowerment, the existence of a multigroup coalition as client also complicated the lawyer–client relationship (see Ellman 1992). This was apparent in the complex relationships that formed in the FCCEJ campaign. There was a loosely coordinated team of lawyers with different tasks – Gross focused on CBA drafting and López Mendoza on the environmental response – with a fluid specification of roles and no systematic effort to delineate the client. The lawyers themselves brought vastly different expertise to the project: Gross was trained as an employment attorney; Janis-Aparicio had experience in labor, immigration, and housing; and Lpezó Mendoza was an environmental lawyer. And there were times in which the lawyers were both outside and inside the coalition – providing legal advice to the group in their role as attorneys while hashing out policy issues and building group consensus in their role as coalition members.

Legal Tactics

The FCCEJ campaign also provides insights into the relationship between cause lawyering tactics and community mobilization. McCann defines legal mobilization as the translation of “a desire or want” into “an assertion of right or lawful claim” (McCann 2004: 508). In the litigation context, legal mobilization is achieved by bringing or threatening a lawsuit. Thus, legal mobilization can be an end in itself – lawyers filing an impact case to get “law on the books – or a means for broader community mobilization (McCann 2004: 508). Legal mobilization in the public interest law reform mode has been critiqued as undermining collective action (the “myth of rights”), although scholars like McCann (1994) and Gordon (2005) have documented the strategic use of legal mobilization to promote collective action (the “politics of rights”). When CED lawyers mobilize law, in contrast, they generally do so by creating legal frameworks for community organization – taking advantage of the background legal rules that provide financial incentives for CED projects and promote community participation in CED organizations to design nonprofit corporations, partnerships, and other associational forms that promote CED goals.

The FCCEJ accountable development campaign reveals another model of legal mobilization that shares much in common with the CED approach, but differs in notable ways. The background rules that proved most critical to the FCCEJ campaign were rights to participate in political decision making, particularly those embedded in the land use and environmental review process. These rights were a function of the relationship between the city and the developer, with the city providing permits and subsidies that required public approval in exchange for future tax revenues provided by the project. The participation rights provided an opportunity for legal intervention by FCCEJ, which exercised its right to comment upon the developer's EIR, with the potential threat of a lawsuit to prevent an inadequate EIR from being approved. In this way, FCCEJ lawyers were able to mobilize law through the identification and navigation of routes of legal participation for coalition members. Because the participation rights were backed by the threat of disruption, at the EIR stage of the campaign participation took on a confrontational tone, with the coalition positioned to derail a deal supported by the city and developer. In this sense, law was mobilized through what McCann (2004: 513–14) calls “legal leveraging”—the use of law “as a weapon to ‘push’ otherwise uncooperative foes into making concessions.” Indeed, it was the “unfulfilled threat” that FCCEJ would stall the project on the basis of the faulty environmental report, imposing substantial costs and the risk of lost political support, that ultimately forced the developer to negotiate.

The ability to deploy leveraging tactics was also a function of the client itself. Unlike in the typical CED deal where the organizational client is dependent on its public and private partners for ongoing financial support, the coalition was not financially dependent on the target of its organizing campaign, which gave it greater latitude to deploy more adversarial tactics.

The confrontational approach adopted by FCCEJ in the environmental review stage gave way to greater collaboration during the process of negotiating the CBA. Julian Gross's job as FCCEJ's lawyer was to help negotiate and draft a legal document that specified the rights and obligations of the coalition and developer—creating a legal framework for community participation in the development process. From a lawyering perspective, the skills deployed during this phase of the FCCEJ campaign closely resembled those of the conventional CED lawyer. However, the context and goals of the negotiation distinguished it from the typical CED process. Unlike a negotiation between a nonprofit housing developer and a private investor brought together by mutual financial incentives, the Sports and Entertainment District developer was pressured to the negotiating table through reinforcing political and legal threats. For this reason, the negotiation process in the FCCEJ context was at times more adversarial than the typical CED development deal, where the financial incentives promote a greater sense of cooperation and esprit de corp.

Community Mobilization

A key feature of accountable development is that the lawyering is undertaken to support community mobilization to change the redevelopment practices of private developers and city agencies. The immediate outcome of FCCEJ's community mobilization effort was the creation of a CBA. As a structural matter, a CBA operates like a development regulation in that it forces a private developer to action it would not otherwise undertake without the threat of community disruption. This outcome is redistributive because it extracts greater resources for the community through bargaining than it would otherwise be entitled to under law. It is true that the CBA represents a net gain for the developer to the extent that it calculates the costs of providing community benefits as less than the costs of delay, litigation, and the negative publicity associated with a contested approval process. But, in the absence of community challenge, the baseline position is that the developer can undertake the project without conferring benefits on the community. An agreement is struck only after organized community opposition to the project emerges. In this case, coordinated community participation constrains the developer's range of action, leveraging the background development rules in such a way that induces an agreement.

The CBA, however, is a complex tool – one that is highly dependent on the framework of governmental regulation of redevelopment while exposing its shortcomings. Although it operates within the domain of private law, the CBA strategy depends on state-created participation rights to confer negotiating power on community groups. The existing framework of legal rights thus operates to help induce negotiation, with the resulting CBA augmenting the current redevelopment regulatory scheme. The benefits of the CBA approach are that it constructs a public–private monitoring and enforcement mechanism. It allows both the community—through the CBA—and the city—through a development agreement that incorporates the CBA's terms—to watch over developer compliance and intervene to promote accountability. And even though many of the provisions do not provide for hard enforcement mechanisms, the goals and standards incorporated in the CBA provide political resources that can be used to pressure developer compliance by generating negative publicity when they are not met. From this perspective, the CBA highlights many of the advantages emphasized in the new governance literature (Lobel 2004; Simon 2004).

Yet the emphasis on multiple stakeholder accountability and the reliance on community persuasion to enforce benefits also raises questions about what is won and lost. For instance, the living wage provision in the FCCEJ CBA promises that the developer will use best efforts, imposes flexible benchmarks, and creates mechanisms for dispute resolution. Ultimately, failure to comply with the 70 percent living wage goal does not breach the agreement. Instead, the CBA provides that even if the living wage goal is not met, developer compliance is presumed so long as it makes annual living wage reports (detailing the problems of meeting the living wage goal), notifies the coalition before selecting project tenants, meets with the coalition and prospective tenants to discuss living wage requirements, and “within commercially reasonable limits” takes into account “as a substantial factor” the impact of tenant selection on the living wage goal. Similarly, the CBA’s first source hiring policy provides that businesses that do not meet the goal of hiring 50 percent of its workers from a pool of local applicants nevertheless are in compliance with the policy so long as they keep records, provide timely notice of job openings, and hold positions for targeted applicants open for designated periods.

In addition, although the FCCEJ CBA imposes strict support obligations on the coalition, the developer is allowed great flexibility in implementing benefits and in some cases is relieved of the direct obligation to fund aspects of the CBA. The provision for park and open space is an example. The developer was able to negotiate an agreement to “fund or cause to be privately funded” one million dollars for park space, which meant that it could use its foundation connections—which it did—to raise money for park construction without having to be out of pocket for the costs. Another example is the affordable housing provision, which requires the developer to “develop or cause to be developed” 20 percent of the total project units as affordable housing. Here again, the developer could use its access to philanthropic sources to reduce its out-of-pocket development costs. In addition, to the extent that nonprofit housing organizations build affordable units in the area with the assistance of interest-free loans provided by the developer, the developer’s obligation to build units directly may be reduced, although not below 15 percent. Thus, the strong bargaining power of the developer allowed it to negotiate a relatively soft set of obligations in exchange for a complete waiver of opposition rights by the coalition. From a regulatory perspective, then, the CBA could be read as a second-best solution reflecting the relative political weakness of accountable development actors to enact change through conventional political channels.

Moreover, the ultimate effect of the CBA approach on the mobilization of low-income communities is uncertain. Accountable development campaigns, although activating coalitions to move on targeted development projects, ultimately result in a waiver of the coalition’s mobilization rights in exchange for the material benefits contained in the CBA. In the FCCEJ context, this caused AGENDA and the Community Coalition to split off, refusing to waive their power to disrupt in exchange for the benefits provided in the settlement agreement. Rights-stripping CBA agreements may be the necessary byproduct of a mobilization strategy premised on the threat of disruption, but the constraining effect runs counter to the ideological goals of many of the grassroots organizations involved. The FCCEJ CBA also raises questions about community accountability. Although community members actively participated in the formulation of FCCEJ’s demands and attended negotiation meetings, it was inevitable in the heat of high-level negotiations under intense time pressure that community participation had to be compromised. There are also questions about the degree to which the CBA assigns financial rewards to groups involved in its negotiations, raising concerns about trading support for the promise of economic benefits (see Simon 2001: 182).

The longer term goals of accountable development advocacy seek to address some of the short-term trade-offs. FCCEJ and other accountable development coalitions around the state of California remain focused on the goal of passing community benefits policies, as well as other reforms such as no net loss housing policies guaranteeing that redevelopment does not result in the overall loss of affordable housing. More broadly, there are efforts to build upon the

success of individual CBAs to deepen organizational connections, expand community resources, and develop higher level coordination in order to exert a sustained political influence over development decisions. LAANE has provided some coordination of CBA campaigns in the Los Angeles area, while the California Partnership for Working Families has emerged as a vehicle for statewide coordination. One consequence of these efforts has been that developers in Los Angeles now recognize that negotiating over community benefits is part of the overall redevelopment process. However, due in part to the local nature of redevelopment, accountable development continues to be a decentralized movement, comprising a fluid network of individuals and organizations that share information and strategies, but as of yet do not closely collaborate to promote accountable development as a national strategy.

It therefore remains to be seen whether accountable development can move beyond the particular circumstances of Los Angeles and take root in other urban centers and smaller scale jurisdictions. And it is an open question whether or not the CBAs as a legal tactic—one that is embedded in the existing framework of legal rights—can help to fundamentally alter power relations between community groups and the development industry over the long term. Yet, particularly as accountable development strategies are diffused through organizing networks and CED practice groups, the role of lawyers in disseminating models, sharing resources, and experimenting with different tactical approaches will be crucial to efforts to build a movement that is national in scope.

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LOCAL DEVELOPMENT IN IRELAND: THE CURRENT POSITION, LESSONS AND FUTURE CHALLENGES¹

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Abstract

Local development in Ireland, based on social partnership, has an international reputation of good experience. This review describes the recent history and evolution of local development in Ireland. It identifies lessons from the experience, and discusses future challenges against the backdrop of economic crisis in the state and other developments including reform of local government. This review is timely in that there are new opportunities for local development in the new legislative package for EU Structural Funds, 2014-2020. The development of the model and its mainstreaming in national policy in Ireland was strongly influenced by European Community policies in the first instance and the availability of EC funds throughout the 1990's in particular. Local development has recently been restructured in Ireland (2010), and the programmes in place since the early 1990's have been consolidated. This was the outcome of a lengthy process of state-imposed rationalisation, which produced comprehensive coverage of local development structures throughout the state, with more organisational uniformity, less emphasis now on social partnership and a more formal structure of objectives and programme of activities. Over the years, local development broadened its scope, to address multiple objectives and manage different sources of funds. It has a wealth of experience and "soft" results, which have proved to be difficult to quantify. The sector is now strongly dependent on state funding, and acts as a local delivery system for public programmes. While the local development structures have gained by establishing their place in the local institutional landscape, they may have lost in terms of capacity to be responsive to local needs and to engage in the innovation required particularly in times of crisis.

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1. Introduction

Cooperative working and mutual reciprocal support has been at the heart of rural communities in Ireland for a long time. These values are embodied in the tradition of neighbours helping each other with heavy seasonal farm work, in cooperative arrangements between neighbours known in the Irish language as “meitheal”.² The spirit of community entrepreneurship and self-help supportive of local initiative did not appear in Ireland with public funding for local development from the late 1980’s. Local development’s long history in Ireland is rooted in the Irish cooperative movement founded by Sir Horace Plunkett in the late 1880’s. The first dairy co-operative was set up in 1889 and by 1900 there were 87 co-operatives with 46 independent agricultural societies throughout the country.³ Community development, neighbourliness, self-help and self-reliance were also at the core of Muintir na Tire⁴, the national voluntary organisation established in 1937. This organisation promoted a rural movement organised from local parish level. Community development, particularly as practiced in Muintir na Tire, was seen as a “conservative movement” with close ties to the church (Lee, 2003: 49; see also Varley and Curtin, 2002 both cited in Motherway, 2006) and rooted in Catholic social teachings.

Over the last 20 years, local development has become an important arm of economic and social policy promoted by European Community policies, supported under the first wave of Community Initiatives (NOW, EUROFORM, HORIZON) and later mainstream EU Structural Funds. Local development expanded in scope over the years to place a strong emphasis on social inclusion as well as continuing to address objectives of local enterprise and employment development. It addressed cross-cutting issues including citizen and community participation in decision-making on public policy, multi-agency partnership and local service coordination.

This paper reviews the experience of local development in Ireland. It describes the origins and evolution of local development, its “institutionalisation” and mainstreaming in public policy and reviews recent changes. It identifies conclusions and lessons from experiences of local development, current issues and future challenges. With changes in the regulations to apply in the next period of EU Structural Funding (EU Cohesion Policy 2014-2020) and the draft legislative package recently published by the European Commission (October 2011), review of where we are now, what we have learnt and where “local development” fits in current conditions of economic crisis is timely.⁵

2. Origins and Evolution of Local Development

Local development structures have recently completed a restructuring process, and there has been a reformulation of the local development programme in Ireland. This section describes the origins of local development from the late 1980’s and its evolution to date.

2 This is frequently used in the title of cooperative working organisations in rural development and fishing communities including one of the former LEADER Groups in the West of Ireland.

3 <http://www.ucd.ie/archives/html/exhibit1.htm>

4 Translates as “community of the country”. The organisation was set up by Cannon John Hayes with the model based on experiences of agricultural cooperatives in NL.

5 The draft legislative package will now be discussed by the Council and the European Parliament, with a view to adoption by the end of 2012. The new regulations specify provision for local urban and rural development with two models indicated, namely community-led development and integrated urban development. http://ec.europa.eu/regional_policy/what/future/proposals_2014_2020_en.cfm#4

2.1 State Support for Local Development in Ireland

The origins of local development in the 1980's in advanced European states – initially in the form of local employment initiatives - to a large extent were rooted in problems of economic adjustment in local areas linked to the impact of globalisation and high unemployment in the advanced industrial countries of Europe. The model of local development was strongly influenced by policy developments at European Community level – in particular, the provision for local development, the identification of characteristics of an “endogenous development” approach and the introduction of the instrument of global grants in the reform of the Structural Funds of the European Community, 1989.

Ireland was a late industrialising country and well behind the EU average level of development in the 1970's when it joined the EEC (1973) and into the 1980's. Ireland did not have problems on the scale of the mono-industrial areas in the UK and advanced states in the core of Europe but problems of adjustment were experienced in various forms following EU accession in 1973. These included a major loss of jobs in manufacturing as domestic firms were fully exposed to international competition, and consolidation in agriculture towards larger and more efficient holdings resulting from the Common Agricultural Policy. Difficulties of adjustment at local level were reflected in the emergence in the 1980s of unemployment “blackspots” and high levels of long-term unemployment which particularly affected unskilled manual workers in urban areas (including relatively small towns). Long-term unemployment proved to be particularly intractable through the 1980s and into the early 1990s.

The first integrated area-based interventions in urban (and some rural) environments in Ireland, the Area-based Response to Long-term Unemployment, was specifically introduced to address to this issue. This involved setting up 12 partnership-based structures in 1991 by the Central Review Committee within the Office of the Taoiseach or Prime Minister. These were set up in different parts of the country based on two criteria: (i) areas with high rates of unemployment and long-term unemployment and (ii) where there was evidence of local capacity for action, a history of cooperation and some pre-existing structures. On their establishment, the 12 local partnerships were not allocated specific funding for local initiatives (the funding from the Department of the Taoiseach was provided to establish and operate the structures). In the first two years, the partnerships drew funding from sources including LEADER, HORIZON, Poverty III and national statutory sources.

The Area Based Response to Long-term Unemployment from 1992 was supported under a Global Grant for Local Socio-economic Development, co-financed by the European Commission. This initiative operated as a pilot project until the end of 1993. The initiative was introduced in the context of the social partnership agreement in place at the time, the Partnership for Economic and Social Progress (PESP) (Craig and McKeown, 1993). Following the pilot phase, the local partnership model was extended to other areas of the country, and supported under the Operational Programme for Local Urban and Rural Development in the Irish Community Support Framework (1994-99). Effectively, this involved the “mainstreaming” of local development in public policy in Ireland. A local development programme was included in successive round of EU Structural Funding from this time onwards to 2006. There is a local development programme in the current National Development Plan (2007-2013)⁶.

While the local partnerships were associated more with urban problems, some were also set up in rural areas. In rural areas, development problems were reflected in high levels of unemployment in some cases, but more typically under-employment and low rates of labour market participation linked to a lack of local economic opportunities, and imbalanced demographic structures associated with the exodus of young people and females.

6 In the current NDP (2007-2013), the Local Development and Social Inclusion Programme is wholly funded from the National Exchequer.

The first area programme for Integrated Rural Development (1988-90) was established by the Department of Agriculture in 12 pilot areas to respond to these problems, and pre-dated the Area-based Response to Long-term Unemployed (as described above) and the LEADER Community Initiative, launched in 1991 by the European Commission. The first Integrated Rural Development experiments had a particular focus on community and local enterprise (Walsh, Craig et al, 1998). LEADER I followed from this and fitted with that thinking.

Generally, the view in Europe is that LEADER has been successful (Metis GmbH with AEIDL and CEU, 2010); the “LEADER approach” has been extended into mainstream EU rural development policy (2007-2013); and the model of local action groups extended into EU fisheries policy, to promote the economic diversification and improved quality of life in local areas experiencing a decline in fisheries activities (FARNET, the European Fisheries Area Network). The Irish experience with LEADER and rural development partnerships are particularly positive (Moseley, Cherrett et al. 2010; Kearney, Boyle et. Al 1994; Kearney and Associates, 2001). LEADER in Ireland was constructed in a cultural context in rural areas that was particularly receptive to the approach of bottom-up cooperative working. The pilot phase of LEADER I (from 1992) supported 17 Local Action Groups; by LEADER II, from 1994, the Initiative was extended to 34 Local Action Groups. There was continuity into LEADER+, implemented through 35 Local Action Groups and three National Bodies. LEADER-type activities continue in the 2007-2013 period of EU funding (36 LEADER Partnerships) and are part of the broader Rural Development Programme for Ireland.

Focusing more on social issues, by the 1980's, poverty had emerged as a strong theme in community development (Motherway, 2006). While this is certainly associated with changing socio-economic conditions in the state from the 1970's and into the 1980's, it was also influenced by a new emphasis on poverty in policy and especially the influence European Commission initiatives at that time. The origins of the association between community development and poverty in Ireland are in the EC's Poverty I programme of the 1970s, “the first attempt by statutory authorities to promote, resource and support the development of community organisations to tackle poverty” (Cullen, 1994 cited in Motherway, 2006), then through the EU Poverty II programme (1985-1989) leading to the establishment of the community development fund in 1990 and then of the Community Development Programme (CDP) itself”.

2.2 Local Institutional Structures: Programmes and Funding

The recent restructuring of local development in Ireland involves a consolidation of two local and community development programmes in place since the early 1990's, namely (i) the Local Development and Social Inclusion Programme (Local Partnership Companies); and (ii) the Community Development Programme.

At the time of its restructuring (up to December 2009), the Local Development and Social Inclusion Programme was implemented through 37 Local Partnership Companies, 17 Urban Partnerships and two Employment Pacts.⁷ These structures, based on a social partnership model, had evolved from the original local structures supported under the PESP. The substantive agendas of the Local Partnerships changed over the years. As the policy priorities focused on the concept of social exclusion (i.e., multi-dimensional aspects of poverty and processes of exclusion), the Partnerships broaden the scope of action beyond employment and engaged with target groups beyond the unemployed. An important role of the Partnerships was to improve service delivery, including promoting more responsive and better coordinated local services, for those most disadvantaged in the labour market and in society

7 Employment Pacts emerged from the EC initiative to support Territorial Employment Pacts, launched by the European Commission in December 2006. They were set up to tackle unemployment and promote job creation, through local territorial and multi-stakeholder partnership. Successful Pacts were absorbed into Structural Funds' programmes 2000-2006.

and “give them a voice” in the process. The Local Partnerships accessed funding from various public funding sources including the Local Development and Social Inclusion Programme (2000-2006) and sources such as training and labour market services (FAS – the national training and employment services, Local Employment Services) and social and health initiatives (the Health Services Executive, Department of Education and Science) (Fitzpatrick Associates, 2007).

The Community Development Programme (CDPs), at the time of the restructuring in 2009, supported some 180 organisations which were also set up in local disadvantaged communities throughout the state. These organisations operated as local resource centres typically run by a small staff providing information, advice and support to disadvantaged social groups, including unemployed persons, lone parents, vulnerable young persons, young families and elderly people. They provided support for community development including practical assistance for community groups (places to meet, facilitation etc.) and capacity building; adult education courses and training opportunities; and support for participation in local development initiatives. The CDPs also promoted a civil society agenda.

Together these two programmes (the Local Partnership Companies and CDPs) accounted for some €72.64 million in state funding in 2009 and, based on returns for 2008, supported some 400,000 beneficiaries (Bamber, Owens et al. 2010). A review of the Special Group on Public Service Numbers and Expenditure Programmes, set up in 2008 to make recommendations for reducing public service numbers and ensure “a return to sustainable public finances”, estimated public expenditure in excess of €350 million per year on non-statutory local service organisations (including Local Partnership and LEADER Companies, CDPs, Community Service Projects, and other organisations). A further study to review area-based interventions in disadvantaged urban areas, based on 2006 data, identified 23 national-level programmes that, to varying degrees, could be counted as providers of local area-based interventions. They accounted for €968.8 million of public expenditure, of which €688 million was direct expenditure and €280 million consisted of tax breaks for commercial development in run-down urban areas (Fahey, Norris et al., 2011).

In addition to the Local Partnership Companies and CDPs, there were, as described above, 36 LEADER Groups in rural areas (and some overlap here with other local development structures). These have also been absorbed in the new arrangement in that they too are re-constituted as integrated Local Development Companies.

To complete the picture, there is a further set of local structures established in 51 disadvantaged urban areas in cities and towns under the RAPID (Revitalising Areas through Planning, Investment and Development) programme. The RAPID Programme was first launched in 1991 (Strand I, 25 areas), was extended over time (20 additional areas under Strand II and an additional 5 areas in 2009).⁸ RAPID is implemented in the designated local areas through a cross-sectoral Area Implementation Team (AIT), supported by a Coordinator who is employed by the relevant local authority. The City/County Development Board (within the local authority) monitors the programme locally. The main objectives of RAPID are to “fast track” and prioritise resource allocation and to coordinate funding from mainstream government programmes into these areas. Following on from the recent reforms of local development structures and reform of local government in process, it is not yet clear whether RAPID structures will be absorbed into the new local development arrangements.

8 Responsibility for RAPID is now held by the Department of Environment, Community and Local Government, and managed on behalf of the Department by Pobal.

2.3 Reform of Structures and Re-formulation of Local Development

The process of reform or consolidation of the local development structures was called “cohesion”, meaning more cohesion in the structures and rationalisation of administrative arrangements. It was first announced in 2004/2005 (Cohesion 1) and was completed in 2010 (Cohesion 2). The process was not without its difficulties in agreeing the precise re-constitution of the local development structures. Local personalities, the quality of local leadership and the distinctive profile of the individual companies (i.e. the extent to which they prioritised and engaged with certain issues) influenced the outcomes. In a small number of cases, agreement was not reached and there are local variations on the general model (e.g., for Travellers). In the rural context, a view is that cohesion was less of an issue, or less difficult to agree, in those areas where multi-functional organisations dealing with both social inclusion and rural development already existed. While operating within an overall national policy framework, at local level, all organisations do not operate in exactly the same way nor do they prioritise the same sets of issues. This is entirely in keeping with the thinking of local development.

From the central administration’s perspective, “cohesion” was driven by various factors including the perception of fragmentation and duplication in local development structures. Some of the existing structures were seen to overlap in terms of scope of activities, target areas and target groups while, at the same time, some territorial areas at local level were not within the remit of any such structures. It was also problematic that, over successive evaluations, it has proved to be difficult to identify and provide a quantification of the impact of local development programmes (NDP/CSF, 2003; Fitzpatrick Associates, 2007). This is in a context where there is increasing emphasis on strengthening accountability for public money and the evidence base for policy interventions. More recently, the need for financial rationalisation in view of the scale of the public debt crisis in Ireland were important factors driving the reform. In addition, based on some discussions with practitioners, there was a perspective that governance was weak in some cases. The cohesion process gave an opportunity for the Board structures of the delivery organisations to be re-configured.

2.4 “Cohesion”: Were these Local Structures Operating to the Same Objectives?

In practice, while the role of the organisations looked much the same on paper and there could be overlaps, the various local development structures (i.e., Local Partnerships, Community Development Programme organisations, LEADER Groups) often had different objectives, prioritised different issues and were dealing with different target groups. The overarching initiatives were driven by different priorities – for instance, social inclusion (Local Partnerships) versus economic development (LEADER). The more subtle differences between a strong focus on civil society development in the CDPs and social exclusion in the Local Partnerships were not so clearly articulated nor understood. The CDPs were more engaged with the grass-roots community associations and informal groupings. As all structures were “local” and operated in different conditions including different population densities, demographic profiles, local economic structure etc., there were locally-specific differences in terms of what these structures actually did “on the ground”. For instance, as one CDP manager commented recently as the new structures were being negotiated, local development may look “chaotic” on paper but “that is part of local development and the chaos works”.⁹ These types of views, however, are not particularly appreciated by central government, charged with the task of reform and rationalisation especially where the total impact of these local activities have not proved to be amenable to quantification.

9 Local interview data from the “Seven Estates” project (Fahey, Norris et al. 2011).

2.5 The New Local and Community Development Programme (2010): Overall Structure and Objectives

“Cohesion” has been completed and a new consolidated programme, namely the Local and Community Development Programme, managed by Pobal (which, as stated above, is itself an intermediary non-profit body managing programmes on behalf of government) has been agreed and is in operation from January 2010. This programme is co-financed by the EU under the current National Development Plan (up to 2013).

New integrated partnership structures are now in place comprising 52 Local Development Companies and other local development groups. Both the membership and governance arrangements of the Partnerships have been specified by central government. There is comprehensive geographic coverage of all areas of the state by the local development structures in that their geographic remit covers all urban and rural areas. The former LEADER Groups (36), now reconstituted as Local Development Companies, continue to be the local structures responsible for the administration of funds for LEADER-type actions under Axis 3 and 4 of the Rural Development Programme.

In terms of objectives, the new Local and Community Development Programme focuses on alleviating poverty and social exclusion, targeting especially most disadvantaged micro-areas and groups furthest from the labour market. Those companies which administer LEADER-type actions also have an economic diversification focus. As highlighted above, while some former LEADER Groups had a focus on social exclusion as well as rural diversification, some did not. The history of these companies, as such, influences their capacity to address the current social inclusion agenda. All companies have a more explicit role in promoting awareness and encouraging uptake of the wide range of statutory, voluntary and community services available to people, and active engagement of local communities in policy, practice and decision-making processes on matters affecting local communities (promoting the local governance agenda).

2.6 Implementation Arrangements in the New Local and Community Development Programme

In the framework of the new Local and Community Development Programme, the Local Development Companies operate within a more defined (some would say less flexible and more rigid) framework. They are required to prepare, drawing on a process of local consultations, local strategic plans for Social Inclusion (June 2011) to Pobal.

These plans address the following objectives.

- ▶ Promote awareness, knowledge and uptake of a wide range of statutory, voluntary and community services.
- ▶ Increase access to formal and informal educational, recreational and cultural activities and resources.
- ▶ Increase people’s work readiness and employment prospects.
- ▶ Promote active engagement with policy, practice and decision making processes on matters affecting local communities.

Each of these objectives is quantified (with some but rather limited scope for variance) in terms of the resources expected to be utilised under each objective. Following from a review of local and community development conducted by the Centre for Effective Services¹⁰, a logical framework for the monitoring and evaluation of the strategy and

10 The Centre for Effective Services is an independent not-for-profit company. The work of the Centre is supported by funding from the Atlantic Philanthropies, the Office of the Minister for State for Children and Youth Affairs and the Department of Community, Equality and Gaeltacht Affairs. The review was undertaken on behalf of the Department of Community, Equality and Gaeltacht Affairs.

action programme of the Local Development Companies has been put in place.¹¹

As part of the reformed governance arrangements, previous arrangements Local Partnership Companies put in place to engage with the local communities (e.g., sub-committees of the Board as working groups) have been abolished. In their place, the Local Development Companies have already or are in the process of setting up local "Community Advisory Councils" as consultation mechanisms. Participants on these structures receive information and feedback and present views but they have no decision-making role vis-à-vis the Partnership (decisions are taken by the Board).

2.7 How Does the New Programme Fit as Part of Evolution of the Partnerships?

To some extent, the reformulation of the objectives of the local development programme and the scope of the Local Partnership Companies in disadvantaged areas reflected the evolution of the Local Partnerships over time, to respond to changing conditions in the policy and institutional landscape and changing needs. The new structures also seek to encourage citizen participation in governance. This gap, increasingly, was seen as evidence of a democratic deficit. Community engagement was an area where the Local Partnerships, when they were first developed, were considered to offer strengths - i.e., they highlighted that they promoted the concept of participative democracy to complement representative democracy (Sable, OECD 1996).

The need for wider reaching reforms to strengthen local government and its resource base, including broadening powers of local authorities to raise own resources, and functions have been debated over many years in Ireland. While there have been new structures and initiatives, particularly to enhance the local authorities' role in economic development and local service coordination (most recently in the structures of the City and County Development Boards set up to integrate local development and local government, and Strategic Policy Committees involving participation of a wider range of views in local authority decision-making processes), the more extensive reforms have not happened to date. The latest experiments in integrating local development and local government, namely the City and County Development Boards, have not been particularly successful. Both public sector reform and wider-reaching institutional reforms of government and governance are on the current government's agenda and are being progressed. It is proposed, inter alia, to have new property-based taxes and some amalgamations of local authorities in place by 2014.

The dominant relationships in the public administration in terms of control and decision-making on remit and scope in the local arena are vertical relationships. Coordination across policy fields at central government level is weak. A policy / institutional framework for more productive relationships and locally autonomous decision-making are not in place. Local development structures still report upwards to the central administration (via Pobal). Pobal itself has taken on the management, on behalf of the central administration, of numerous programmes including many programmes formerly co-financed by the EU. There a view from the local level that the central administration still tries to "micro-manage" local development via highly centralised procedures for drawing down funding and reporting on activities, which influences what they can do. As such, truly integrated or more coordinated development across policy fields / types of intervention at local level, which has also been a central policy objective, has not happened to the extent required, particularly in view of the challenges now presenting in an advanced and increasingly more complex society.

11 <https://www.pobal.ie/Funding%20Programmes/LCDP/Pages/Background.aspx>

The changes in the scope of activities of local partnerships were influenced by changing contextual conditions in Ireland - from boom, to bust to "super bust". In conditions of economic boom (late 1990's to 2006) when there was considerable advancement in general living standards, reflected in changes in GDP per capita from well-below the EC average in the 1980's to now well above the EU average, some areas in the rural environment and particularly parts of urban areas were unable to benefit from the new opportunities because of the deeply embedded structural problems in these areas. Linked to this, there were changes in the profile and needs of disadvantaged target groups. Some sections of the population became much more excluded, particularly as the society in general advanced. The problem could not be articulated only or mainly in terms of exclusion from employment through long-term unemployment but in terms of greater distance from the mainstream society across a range of outcome indicators (education, health profile, social capital indicators such as trust, employment history). A small "hard core" had become effectively unemployable. With buoyant government revenues, a more generous welfare regime of primary (payments) and secondary social welfare benefits was possible. This, in turn, created a culture of dependency in certain section of the population, low expectations and the emergence of poverty and welfare traps. These areas of policy (e.g., within social protection policies) are relevant to and greatly influence conditions in which the local players operate, but any adaptation of the rules are outside of the domain of local development.

Over the years when there was no shortage of public money, there was a proliferation of small-scale social projects implemented by voluntary bodies. These were mainly funded by the state, particularly in the disadvantaged urban areas, to address a wider spectrum of needs such as poor family functioning, drug addiction, early school leaving, basic educational and skills deficits, financial indebtedness, poor health, housing estate management etc. These projects were and continue to be poorly resourced and operate from year-to-year, staffed by people on short-term employment contracts. While these initiatives and the new services they put in place may have achieved some good outcomes at a small scale, a macro-level impact has not been apparent from this pool of micro-level interventions; as these social initiatives were increasingly supported, the mainstream services of the state tended to "withdraw" from these areas and were to a lesser extent "on the front line" and in touch in terms of having a sense of the problems and empathy with the population affected. In addition, there is now a pattern of more fragmentation of services, wider scope of local action, and even greater need for improved coordination at local level (Fahey, Norris et al. 2011).

As they evolved, the local partnerships were placing themselves in a "different space" in the local institutional landscape and in terms of their role in policy delivery. Increasingly, they took on a more strategic role in the local development and local institutional environment. They had become more engaged in participation in local coordination and wider partnership structures, mainly ad hoc committees / sub-committees, with public agencies and voluntary sector bodies on a range of issues. These included the difficult social issues affecting most disadvantaged populations (e.g., mental health, crime, early education, school-based interventions to improve attainment level and encourage retention, family support and parenting etc.). The Partnership Companies were working to a lesser extent directly with unemployed and socially disadvantaged people and more with grass-roots organisations, supporting these groups through small grants and technical assistance or capacity building. The Partnerships engaged more in strategic level actions compared with the past, including research and information gathering, for instance, on local needs analysis and thematic issues and dissemination of information. Some of the Local Partnerships are more successful than others in terms of their profile in promoting social inclusion and social innovation. Participation in EU Initiatives such as LEADER and its continuity in the Rural Development Programme, and EQUAL, for instance, have been very important in promoting this agenda of innovation¹². In the framework of EQUAL, this has enabled or provided stimulus to further developing the local partnership model.

12 See website for examples of innovation and learning and project database from EU Member States
http://ec.europa.eu/employment_social/equal_consolidated/learning.html

The smaller-scale CDPs operating more at grass-roots level, on the other hand, had a stronger focus on civil society development, as stated above, but increasingly, were driven by funding criteria, into a stronger service delivery role in areas such as adult education, family support and services for elderly populations. Depending on local circumstances and local personalities, there could be tensions between the various structures – Local Partnerships, CDP, LEADER – in the local environment.

3. Conclusions and Discussion

This section presents conclusions, identifies lessons from the experience, current issues and future challenges.

3.1 Conclusions

Local and community development has had a long history in Ireland, initially rooted in a rural small farm culture, a conservative tradition, and strongly reflecting values of neighbourliness, self-help and self-reliance. Local development, as it emerged in changing conditions in the late 1980's, was developed in a culture supportive of collective action. It has evolved to respond to the great changes in socio-economic conditions linked to the impact of globalisation and exposure of Irish society to wider influences. Local and community development took on new issues as they emerged, particularly the problem of unemployment as it affected local areas and later problems of social exclusion.

Local development in the early years was influenced by a top-down supportive policy agenda, particularly from EC level. This involved the promotion of local development approaches (i) as part of the response to unemployment, poverty and later social exclusion and (ii) to address the challenges of under-employment, the narrow base of economic activity in rural areas and associated problems. Both strands of policy were promoted by the EC, initially in Community Initiatives and pilot programmes / projects, to complement the larger-scale strategic interventions in mainstream Structural Funds.

In Ireland, local development approaches made an early and quick transition from bottom-up local initiatives to formalised and mainstream programmes delivered through local partnerships. This process was linked to capacity to take advantage of the opportunities presented, particularly "a glut" of EU funds at the time, good capacity in the Irish public administration to access and manage EU funding (particularly compared with other Objective 1 Member States at that time), "gaps" in this area due to weak local government and other factors including a strong social entrepreneurship spirit, especially in rural areas and / or associated with a rural culture.

Local development in Ireland now has a long track record. Since the mid-1990's, it has been mainstreamed in state policy and institutionalised in local partnership-based and not-for-profit organisational structures. Local development operates with multi-purpose structures and multiple objectives (social inclusion, economic development, civic participation). It draws on various sources of funding and has been associated with a culture of innovation (Sable 1996). The concept of local development in Ireland now encapsulates the broadest agenda – local strategies, local partnership, multi-stakeholder and policy coordination, local initiative including promoting enterprise and employment, targeting most disadvantaged areas, social inclusion and local governance / promoting citizen participation in decision-making.

The local development sector now has a wealth of experience and “soft” results but it has been difficult to quantify outcomes and the impact of local development. This situation is not unique to Ireland but applies to complex local area-based programmes (Rhodes, Tyler et al. 2005).

The lengthy process of state-imposed rationalisation of local development structures and programming (2005-2010) has led to a single programme (from 2010) and more organisational uniformity with less emphasis on social partnership. Indeed, social partnership, which was a key feature of the model, is no longer so important. This is not a feature of the decision-making arrangements promoted by the current (new) government.

The findings of this review highlight what is gained by the restructuring and rationalisation, in particular, stronger and more strategic institutional structures at local level with a track record and capacity to manage funds and a programme of local action, operating within a more uniform top-down framework, and what is lost, the flexibility to be responsive to local needs particularly the complex needs of people who are socially excluded.

3.2 Lessons and Issues

While there are new structures, a new programme and new procedures in place, it will take some time to see how well these will function in promoting local development and social inclusion. In the current climate of great economic difficulties, problems of social exclusion in society (and people with low education, social problems, health problems and little experience of work falling further behind the mainstream) and much less public money, there is likely to be more pressure to show “hard” impact on the problems. With deeply embedded problems, less favourable economic conditions and, it seems, a dearth of new ideas on how we are going to create new sources of sustainable jobs, it may be more difficult to do so. In the interest of greater accountability, models of development which are less flexible and are not particularly amenable to the spirit of local development, taking local initiative and taking risks, and innovation are now in place. There are great challenges here.

The structures are established as not-for-profit bodies and so too is the central intermediary body, Pobal, responsible for management of these initiatives. To a large extent in the public mind, these are seen as an extension of the state apparatus. It could be argued that overdependence on state funding is incompatible with the role in promoting civil society development. Over recent years of social partnership, the whole approach is now seen to have been too much on a consensus model. Over-dependence on state funding has led to sterility in local development. This may be the result of local development being treated as a delivery system for public programmes. It has certainly evolved in this direction.

Linked to this and the new governance debate, the civil society agenda and the role of advocacy are likely to be diluted in the local development structures. However, it could be argued that the more strategic structures (local partnerships) were not strong on this in recent years. This space may be filled by more political activation, generally led by elites, and working to mobilise people from the grass roots - e.g., platforms to promote organisation and engage citizens, promote protest and alternative policies especially now linked to the substantial cuts in public expenditure on services and increased taxes associated with the EU/IMF bailout. More engagement by citizens and communities is desirable. It can be argued that genuine change requires a move away from consensus politics led by organisations almost totally dependent on state funding. In changed circumstances, community engagement might not be so elusive but different processes may be required to develop it. This is a further challenge.

The wider reform of local government is clearly on the agenda, is progressing but is still outstanding in terms of implementation. There is a view that as local government reforms evolves, the local development structures will be brought within the control of local government. At present, this is not a scenario favoured by the local development sector as it is considered that the sectors (local development versus local government) operate with very different institutional cultures. The latest reforms of local development (cohesion) may be one step before formal absorption into the state administrative structures. The structures are clearly moving in this direction but for the present, there could be important reasons for keeping local development out of the public administration.

While local development in the late 1980's / early 1990's developed in response to crises in local areas particularly unemployment, it took on its own momentum and developed in conditions of strong economic growth and advances in general living standards. The question is raised as to whether (i) there was greater justification for local development at this stage, particularly, to work with those who were unable to take advantage of the new opportunities or (ii) more tolerance towards local development in boom times. In this period, there were many opportunities for social integration and mobility, and no real shortage of public money. The question is raised as to whether local development in promoting the social inclusion agenda was used as a substitute or add-on for social protection and redistribution in society. Funding into this sector increased substantially in the late 1990's / 2000's and the agenda broadened in scope. The question has be raised as to whether local development has the capacity to make a significant impact on these serious structural problems, which are complex in terms of the inter-relationships between different aspects of the problem, and are deeply embedded.

The state, society and the economy are now in much more challenging times. The knowledge drawn from the past seems less relevant in these times when the solutions to employment problems and social cohesion are much less obvious but have an even higher place on the political agenda. It is not just about creating jobs but social, community and environmental sustainability and how we go about collective decision-making into the future. Perhaps there was never a greater need for social innovation and the re-invention of the spirit of local development?

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COMMUNITY WORK, COMMUNITY DEVELOPMENT: IRELAND 2011

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Abstract:

Towards Standards for Quality Community Work (Towards Standards Ad Hoc Group, 2008) aims to assemble in one place definitions and statements of the values and principles underpinning Irish community work.

In this article, using the standards and their development as a starting point, we focus on some of the features of the Irish community work tradition developed over the past three decades and of which the standards are themselves a reflection. We are conscious throughout of a climate which leaves little space for constructive challenge and the lack of a large body of Irish literature on community work itself. Our attempt, like that of Towards Standards for Quality Community Work, is to ground what we say in our experience as practitioners and educators and in the collective reflections and discussions we have been privileged to share with community development practitioners, participants and funders.

Positioning community work as a collective journey from the real towards the ideal, we tease out some of the implications of this for professionalism, participation and power issues, also outlining the progress made and initiatives established to endorse community work education and training in order to guarantee standards. Through the discussion we interweave suggestions on future issues and challenges.

Our concern is the development of a practice which integrates rights, recognition and re-distribution, removing the binary approach between anti-poverty and anti-racism work.

Towards Standards for Quality Community Work was the outcome of a process led by an ad hoc group consisting of community workers, educators and other stakeholders from a variety of background agencies and institutions in Northern Ireland and the Republic of Ireland, reflecting also north/south co-operation towards better understanding of community development and its contribution. The comments we make in the publication are generic, not linked to funders or programmes and therefore we hope capable also of overall relevance. In the discussion we use the terms community work and community development interchangeably although there are limitations to the traditional understanding of community development, which focused on self help, a "rising tide to lift all boats" and an unquestioned agreement with authority.

We are conscious that in Ireland and elsewhere, the term community development is used variously to describe the previously listed activities and others with considerably more aspirations and consequences.

Community

The aim of Towards Standards to contribute to a better understanding of community development is relevant and timely. The term community, as Margaret Stacey suggested in 1969 (*The Myth of Community Studies*, *British Journal of Sociology*, 20), can be subject to a variety of interpretations. Community can be, as feminists have articulated, a smokescreen for hiding oppressions, for example of women or of marginalised and minority groups. Focusing only on the overall disadvantages faced by, for example rural communities, becomes an easy mechanism for underplaying or ignoring the disadvantages, class divisions and marginalisation within those communities. What about Travellers who, as well as living their own community of interest, have been denied equal involvement in Irish communities north and south for centuries? Or new migrants and minorities on whose work so many communities depend, but who are often perceived as an add-on rather than essential part of the "real" community?

Ann Hindley's (*ACW Skills Manual*, 1997) understanding of community is helpful in focusing community beyond everything or nothing. She refers to "that web of personal relationships, group networks, traditions and patterns of behaviour that develops amongst those who share the same physical neighbourhood and its socio-economic situation, or common understandings and goals around a shared identity or interest". We also think Raymond Plant's practical proposal (*Community & Ideology* 1974) to distinguish clearly between the real and the ideal community remains a good starting point for all concerned with community development. The idealised space has a nice feel-good political currency but is aspirational rather than a current reality. Starting with confusion between how things are and how we might like them to be is a bit like beginning with our feet in mid-air (as opposed to having them firmly on the ground).

Community Work

Community work, as outlined in Towards Standards, is about that journey from the real towards the ideal, concerned with an analysis of social and economic situations and collective action for change based on that analysis. It is not reducible to just any form of activity, however meaningful, which happens in the community. Services provided in the community do not automatically have collective outcomes for all, for instance adult and community-based education is more likely to benefit individuals, helping them make important and useful individual progress. In addition, given the focus of this journal on Community Economic Development, it is useful to distinguish between general responses to issues facing communities and community work as an approach and response to issues. The latter involves working towards the transformed economic development of communities through the active participation in decision making by all and those more excluded in particular.

In effect, community work is based on collective analysis of the issues to be addressed. It is undertaken as the result of collective decisions and has collective outcomes for the whole community, working through empowering and participative processes where people have a real say in their development

The analysis, according to *Towards Standards*, is concerned with linking a socially cohesive society with one where human rights are promoted and all forms of oppression and discrimination challenged. This analysis, not least in the current challenging economic times, needs to be linked to action which acknowledges the partial rather than solo role of community development in creating the conditions for that just and equal society. Programmes and actions also have a tightrope to walk between funders' requirements, urgent immediate needs and overall community interests. State and other funders' increasing concern that communities should not challenge the hand that feeds them in our view will not serve the development of that socially cohesive society aspired to by all. The creative tension and innovation of challenges from community groups and participants, and the confidence and capacities they generated, were a very important catalyst in earlier difficult times.

Community projects and initiatives which "start where the people are at", as Saul Alinsky (*Rules for Radicals*, 1971) used to say, but do not create space for analysis tend to burn out focusing on the myriad of immediate needs which present themselves in any marginalised community. They must identify and work towards overall community interests rather than continue to respond only to presented needs. For example, women experiencing domestic violence need the safety of a refuge, but their long-term well-being requires a society where domestic violence is unacceptable and unusual.

This understanding of community development and the elements associated with it is reflected in the definitions of key funders and stakeholders in Ireland, including the former Department of Community, Rural and Gaeltacht Affairs; Pobal; the Combat Poverty Agency and the Community Workers Co-operative in the Republic as well as the Community Development Review Group Northern Ireland and the Lifelong Learning UK National Occupational Standards for Community Development Work, quoted in *Towards Standards*. It is further reinforced in the Budapest Declaration agreed by statutory and non-statutory delegates from 33 countries in Budapest, Hungary, in 2003. All point to community development as a unique activity. They present definitions which are challenging for everyone involved, particularly when put alongside what *Towards Standards* considers "the changing and often hidden nature of the structural inequalities based on race class, gender and disability to name but a few" which those concerned are called on to surface, analyse and address.

Discussion: Profession

The origin of recent Irish community work in local and strategic responses to inequalities, poverty and issues of concern was both vocational and professional, paid and unpaid, funded and unfunded. Over the past 30 years a distinct discipline has emerged. Concern to rightly include those undertaking community development work in an unpaid or voluntary capacity has been an important feature – being voluntary is not the same as being amateur. Confusion between inclusion and self-proclamation has emerged, however. By this we mean that those given community work positions or responsibility for community development management without any background in the field, sometimes automatically see themselves as experts, free to lead and define every and any task they undertake as community development. Such assertions are understandable from the point of view of individuals anxious to assert their legitimacy but they do little to promote the collective concerns of communities and may add to community development being perceived as confused and irrelevant.

Values and practice principles, such as those in Towards Standards, are essential for the process of developing the community work discipline, as are recognised education and training programmes. Community work should not become the poor cousin of other social professions but should continue to avoid professional self-interest as a main defining characteristic.

The recently reviewed UK Occupational Standards for Community Development and Towards Standards provide useful starting points for the comprehensive framework for professional endorsement of community development education and training which also facilitates routes from local participation to national management, as well as mechanisms for validating experience. The recently established Irish Endorsement Body for Community Work Education and Training seeks to ensure the principles for quality community work as laid out in Towards Standards are central to community work education and training at all levels. Such a framework is now, we believe, an urgent Irish requirement if community development is to maximise its value for all. Flexibility for education in community work we believe is important and not impossible for community work and training regimes, but flexibility should not be confused with “anything goes”, particularly given the further and higher education institutions’ concerns to maintain and enhance numbers as education costs rise and pools of potential participants drop.

Many speak of integrating community development practices into their work. Imitation is said to be the highest form of flattery. A tribute to the success of community development can be seen in the way its methods and capacity to build participation in, and ownership of initiatives, has been adopted by a variety of other disciplines and areas of work. Community employment and health initiatives are interesting examples. However, using community development methods to help deliver a community-based health programme to have better impact should not be confused with the continuing need to focus on health and health services as issues about which communities seek to transform. This could equally apply to Community Economic Development. A concern to maximise outcomes for communities also requires the Irish Endorsement Body to look to the training and education given to people using a community work approach at various levels. In the development of the framework, we will also look to endorsement of community work modules on such programmes.

Discussion: Participation

The values and practice principles in Towards Standards provide a useful framework for maintaining a focus on the tasks and processes central to community work. They look deceptively simple but there are many difficulties and cul-de-sacs hidden in their implementation. Participation, for example, rather than consultation or representation as a method for bringing people’s views on board, involves rethinking deep-seated ideas about how we organise. It needs to be distinguished from volunteering which focuses on service to others. Participation may mean serving others but also allows for collective gain and for growth by the individual who gets involved. It also requires a focus on the interests of marginalised groups, which are often obfuscated and hidden under their day-to-day needs which may require immediate attention but not change their overall situation. In the current economic climate, as fewer and fewer resources are available, even for the sticking plaster of essential services to meet people’s needs, attempting to articulate collective interests may be daunting. Yet we remember that it was from the cash-strapped recession of the 1980s that community-based women’s groups and Travellers’ rights organisations emerged.

Participation also requires acknowledgement of the right to dissent in a spirit of mutual acknowledgement of the views of all stakeholders. Reducing participation to only self-help whether covered up in the language of active citizenship, social capital or asset-based community development is not useful if significant change is the hoped-for outcome. Active citizenship (not our favourite term in a Europe where many are residents without being citizens)

social capital and asset-based community development are all tools which have their place. But tools are not neutral either and it is essential to get beyond their practical common sense surface to their less visible philosophical and ideological underpinnings. The roots of most problems faced by communities do not lie in the locality or in the group (for instance Travellers blamed for their own oppression) and cannot be resolved there.

Discussion: Power

Power is an important factor in any participatory process. The use and abuse of power, its transfer and transformation remain key features and much argued terrains in community development and community work. Tensions around power are, we believe, inevitable as is the resistance of power holders to passing or sharing it and our lack of capacity or inclination to recognise and reflect on when and how we actually hold power. Being seen as a professional community worker and working in a professional capacity are in themselves a source of power. Working with marginalised individuals and communities multiplies this power, which can be further enhanced by status and privilege arising from gender, ethnicity, colour, sexuality, class, age, educational background and so forth.

Margaret Ledwith (*Community Development: A Critical Approach*, 2005) provides useful pointers on how community workers might use power for the benefit of those communities with which we work. She says: "Community workers are privileged to be accepted into people's lives in community, and with this privilege comes a responsibility to develop relationships that are mutual, reciprocal, dignified and respectful. These underlying values emerge from an ideology of equality, and they shape every aspect of our practice, determining the way that we plan and conduct specific projects."

This is a question of ethics. Ensuring quality and ethical community work means developing a practice which is conscious, analytical, reflective and strategic in achieving our aims through working from an ideology and practice of equality. Conscious practice involves critical awareness and evaluation of our work; linking goals with actions, actions with goals; reflecting on our values and how they shine through our practice; creating and participating in spaces for challenge and dialogue and so on. Failure in this amounts to arrogance. Narrowing the gap between what we do and what we say we do, and working from a clear agenda and framework to ensure quality work will contribute to an ethical use of the power we hold. Towards Standards is welcomed as a step towards this end.

Ethically using our power also means maximising it, through shared power with others by working towards strong effective networks and alliances, across sectoral and geographical boundaries. While we are challenged to seek ways to maximise our power fully, shying away from this potential means shying away from the capacity of community work as a force for the transformation of community and society.

To the Future

Moving forward, we are reminded of the past ambitions of Irish community work and community sector organisations and of the way emerging practices and networks were shaped by the organisations of minority groups and communities. It was community groups and community workers north and south who played leading roles in securing direct targeting of local communities and community projects by EU Structural Funds and by the first Peace and Reconciliation Programme. It was Traveller organisations in the 1980s and 1990s which led the focus on racism in the Republic and the development of networks and initiatives to address it. At a European level, Irish organisations played and continue to play significant roles in the development of European networks and campaigns, EU legislation and initiatives to promote equality and inclusion.

Such achievements did not happen by accident and will not be repeated without strategic planning and consideration of the issues we have raised among others. Equality of engagement of women and men in community development is we think still assumed. We remain clear that equality of outcomes for women from community development initiatives is only possible where our issues are named and addressed.

The old women's movement mantra of "nothing about us without us" continues to challenge the "charisma" of minority and majority male community leaders globally but its relevance holds true for a variety of future challenges.

Ireland's anti-racism movement was unique in being started by Traveller organisations that continue to play significant roles both in it and the community sector. Such initiatives cannot claim to be of the community or concerned with the values and principles of community work if their concerns are restricted to one section and their internal focus on equality and social justice is absent. All of this demands linking equality and poverty/social inclusion concerns to reflect people's lived experiences – for example, working to address poverty with migrant women requires acknowledging and addressing multiple dimensions simultaneously. Human rights, always implicitly in the background of community work values and principles, provide also a useful explicit focus.

Conclusion

These comments about some dimensions of Irish community work seek to explore issues we consider important. Today's context for that exploration is difficult with changes to community programmes and an atmosphere which, to the detriment of democracy, seeks to make constructive challenge illegitimate. In that atmosphere community work's contribution and legitimacy requires clarity about what it is and what is required to do it, and honesty in addressing its internal dynamics. This is equally true for those who seek to take a community work approach to Community Economic Development.

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