

John

WEST
STEPNEY

1974
JOHN
HOBSON

THE CONCEPT OF LAW CENTRES

Lawyers have traditionally concerned themselves with protecting the established order of society. They defend the private interests of their wealthy clients whether these are individuals or larger corporations. It is not surprising that they are to be found occupying the most powerful positions in society. There is a disproportionately large number of them occupying seats in legislatures controlling the drafting of Acts of Parliament, particularly monopolising all debates concerned with the extension of legal services. They are to be found in Local Government serving the functions of the Authority and are not available to assist individuals or small group of ratepayers. The Judiciary are appointed exclusively from the legal profession. In private practice lawyers are bought by those who can best afford them.

Historically, lawyers are the creation of those anxious to defend their interests in property. A lawyer's education is a training to serve those interests and his work is not just to maintain but also to reinforce and extend the privileged position of his clients. Of course lawyers have made themselves as indispensable to wealth and power as it is to them. The lawyer's fortunes are bound up with his clients and this determines the areas of work he will undertake, restricting the range of skills he is prepared to develop. It is no matter of chance that so much legal time is spent drawing up wills, forming trusts, constituting companies and arranging amalgamations. It is not just because they are too busy, expensive or ignorant that lawyers are not available to poor clients but basically because they cannot afford the risk of being seen to be helping those oppressed by the system to which they are a prop and mainstay. The plea of professional impartiality disappears as a hollow myth in an area where lawyers are, for whatever reason, simply unavailable. Those that do move into the areas hitherto neglected by their profession will discover a parochial atmosphere where, in a theoretically competitive situation there is a close knit band of property owners who would make it economic suicide for the lawyer to be seen involving himself with tenants, consumers and debtors.

The existence of legal aid since 1949 has gone some way to mitigating the effects of some aspects of the existing power structure. However the strict limitations on its availability to certain areas of legal practice only emphasises the frustration of those outside its scope. It is true that while some lawyers now do have a working experience in hitherto undeveloped areas of law that experience is not available to those who fall outside its extremely low financial limits. In addition there are wide areas of legal processes which are not covered by the Legal Aid Scheme particularly Rent, Supplementary Benefits, National Insurance and Industrial Tribunals. These tribunals are more likely to involve the lives of ordinary people than the Lands Tribunal which is the only one presently covered by Legal Aid. One consequence of this of course is that most lawyers are totally inexperienced in the scope and performance of these tribunals.

If that is part of the picture it would be fair to say however that there is a change in the climate of the legal profession that is not restricted to those who wish to see the development of Law Centres. There is an increasing social conscience on the part of many in the profession who wish to stay in the ranks of private practice. (Incidentally many of the younger ones can be found giving up their free time to man advice centres and the evening surgeries of Law Centres). They are perturbed because they see their work as it grows more and more specialised in the complicated intricacies of commercial practice, become more and more out of touch with the needs of ordinary people. Many of them are not content with remaining in practice in the inner city areas but hopeful of the assistance of the legal aid scheme, are moving into the poorer neighbourhoods. Of course from my knowledge of East London I know that these liberal lawyers are still in the minority. Most of the private lawyers are there for the rich takings provided by a substantial criminal law practice and some are there simply because they are not good enough to get a job in a central city firm. But increasingly the young partners and assistant solicitors discuss with me their motives for choosing to practice in East London and I find that they are positive social reasons.

These motives are shared more generally and I have heard of a branch office being opened by a central city firm on a Council Estate. This may be in response to the suggestions urged principally by Michael Zander (see his article in the Law Society's Gazette) that

large private firms should follow the American example and either manpower resources to poor neighbourhoods either by setting up branch offices or to provide the time of their lawyers to work with advice centres taking work back to their offices on the cases taken up.

If the attitudes are changing and these proposals are being put forward, is it permissible to say they are enough, encourage them, and be content with them. Why are law centres necessary at all? The truth is that compared to the achievements of law centres these efforts are a poor token and should be rejected. My own experience is relevant. When I was working in the United States I came across one of the examples cited by Zander. The firm Saul Ewing & Saul opened an office in Mantua a poor, predominantly black, part of Philadelphia and staffed it (part-time) with their bright young attorneys. About the same time Community Legal Services opened Law Center West about half a mile away. After a while Saul Ewing closed down their office and on asking why I was told that it was because they didn't receive enough clients to justify keeping it open any longer. At that same time Law Center West was so overloaded with work that they were obliged to give non-urgent clients appointments two months ahead. In England at about the time that the North Kensington Law Centre opened the Holborn Law Society started their scheme providing a rota of volunteers to attend Citizens Advice Bureaux taking cases back to their offices. If the North Kensington Law Centre hasn't exactly prospered financially it is certainly overburdened with prospering the cause of its clients, while the Holborn scheme once so vaunted has dwindled into non-existence.

The reason for the failures of private practice in meeting the need of the neighbourhoods in which they are located, is also evidenced by the refusal of many firms to become involved in many areas of work where they could be of most help. Not only have they ignored available opportunities to expand their practices into providing representation before tribunals but they are even rarely inclined to appear at the county court. Oh yes, they can be seen sitting in a row on Judgment summons day - but they are all appearing for the creditors (most often finance companies).

I have been in Shoreditch County Court on possession day and observed the Registrar deal with some 50 cases before lunch. There were plenty of lawyers there but I was the only one appearing for a tenant. No tenant, apart from my client, put up a fight. One young married couple tried to: whereupon the Registrar treated them to a lecture on the costs which they were thereby increasing and which they would have to pay if they lost. This frightened them into withdrawing and they consented^{to}/Judgment. My client also lost. It is in recognition of this state of affairs that the Lord Chancellor introduced new rules to try and compensate for the lack of legal assistance in these courts. There will now be no costs awarded in all claims below £75, and the litigant who cannot afford a lawyer can request arbitration by the County Court Registrar. Thus the client need no longer fear that he will have to pay the costs of the finance companies expensive lawyer. However, in view of my experience with the Registrar, he may be forgiven for feeling not altogether sanguine about his chances on the arbitration.

Whether subsidized branch office or full time legal aid financed practice it will not successfully satisfy the needs of the poorer neighbourhood basically because the office will never be able to fully perceive what those needs are. The lawyer practising in the poor area may feel part of the community because he lunches in a pub on the street corner every day and people nod to him as he walks to it. But his contact with his clients is 9 till 5 and always in court or at his office, never in their home or at their tenants association meeting.

The mere expansion of legal services by the provision of a law firm on every street corner or a set of barristers chambers in every provincial town is therefore going to be inadequate. It will never compensate for what I believe is really required, which is the spread of law centres until they themselves are provided on a national network.

What is it therefore that marks the difference between standard private practice, the various experiments for extending that practice and the neighbourhood law centre?

Fundamentally it is the difference of approach of the lawyers and others working in the centre. They will want to use the law in a

different way and will feel that in establishing a law centre in a neighbourhood it is not because there is a need for assistance in claiming those rights and benefits to which people are entitled but also that clients should reach the position individually and collectively when they are able to assert their own claim and where no rights exist at present, then be able to demand that they be granted.

That is a very different objective from those lawyers whose principle loyalties are to private practice and it will obviously involve a wholly different way of working from a traditional law firm.

The neighbourhood law centre lawyer will certainly wish to provide himself exclusively as the servant of those for whom legal help has been out of reach. He will inevitably discriminate both in his choice of clients and of the cases he will undertake with them. He is not concerned with the representation of landlords and finance companies but will be anxious to work with tenants, claimants and defendants. He realises that many of these are not used to approaching a lawyer's office and so he is prepared to attend meetings of tenants associations and other community groups where he will see that his clients problem is rarely unique but is often endemic to the situation of the neighbourhood. Thus through taking up individual cases he will often discover the wider issues and work not only with the individuals but groups and organisations. It is through the collective strength of the group situation that the issues will emerge which can be taken up in active pursuit of rights rather than the customary passive role of say tenants who wait while the landlords pick them off one by one,

In his discrimination of the categories of case that he will undertake the law centre lawyer will be anxious not to duplicate those legal services which are already available, although there will be times when complaints he receives from people make him aware that the quality of the service provided by his neighbours is very poor. However, he must guard against the dissipation of his skill which is a scarce resource and generally adopt a rigorous policy. Otherwise he will be overburdened and subside into merely providing a poor service, no better than the traditional poor mans lawyer. This is not to say that there will not be the time when as a matter of policy he will choose to extend his service to the point of

duplication where by this tactic he can force an improvement in the availability or administration of justice in the area. For example in our area we chose in our early stages to concentrate largely on juveniles on criminal charges and therefore frequently attended the local juvenile court. A court which traditionally had one of the lowest proportion of represented cases coming before it. As a result the court itself has become familiar with representation and now expects juveniles to have lawyers and the private lawyers in turn are coming to the court more frequently. The court itself has now the highest proportion of represented defendants in the Inner London Area which the Chief Clerk has said is largely due to our activity. So that now the gap is being filled in accordance with our overall policy, we shall reduce our intake of juvenile cases.

In order to achieve the active pursuit of rights referred to earlier it will be necessary not simply to take on all cases which the traditional firm will not handle for whatever reason, but to concentrate on those areas of law where successful litigation will have the greater impact. For us these are landlord and tenant, employment, consumer and welfare benefits. But any law centre must establish its priorities by reference to its policies and the needs of the area in which it works.

In choosing to take up an issue the Law Centre lawyer has to be free from those constraints which inhibit say local solicitors from antagonising their regular clients by acting for tenants or consumer. This is a point that should be borne in mind and preserved by those working in and managing a law centre regardless of who finances it. The centre will not only campaign on issues but will also campaign and tout for clients to take up those issues.

Needless to say the law centre charges no fees for the work it does nor does it expect to close at 5 o'clock as it realises not only that people tied to a job with set hours often cannot make appointments at normal office times, but also that the need for a lawyer is rarely more acute than at an arrest at 4. o'clock in the morning. Thus most centres maintain a 24 hour emergency service and their lawyers are used to getting up in the middle of the night to assist their clients in police stations.

A law centre cannot exist in a void. Its very credibility as a neighbourhood centre demands links with other community organisations. Their own contacts with the neighbourhood which they feed into the centre will be its lifelines in its initial stages of development. Their own experience and work has probably produced the demand for the additional professional skills which the centre can offer.

I feel that this was most important in the development of the West Stepney Neighbourhood Law Centre. The Family Advice Centre Workers in Tower Hamlets working with Tenants's Associations during 1966 to 1968 were increasingly asked why tenants could not have the easy access to lawyers that was available to landlords. Thus, together with tenants leaders, they set up a group to establish a law centre. Ideally, therefore, the initiative should not come from the lawyers who will be outside the community, but from those already there, who can create the sort of service that will suit the neighbourhood.

They will then, as they did with us, introduce the lawyers into the existing networks of community contacts. They will have to rely on social workers and tenants leaders to show them around. This is very important because a lawyers training and experience will generally not equip him for advising groups of tenants in meetings and also the tenants themselves will not be used to meeting a lawyer. Their preconceived notions may rather intimidate their approach to him. Consequently, an intermediary will be necessary at least in the short term to break down the barriers that make communication between ordinary people and lawyers so difficult. Certainly in my early work with juveniles the quality of representation I was able to provide was enhanced by accompanying a detached youth worker on camping trips and by playing football with the kids. Thus the initial contact with them was made on their territory and not mine.

The effect of this contact upon the lawyers will teach them the inadequacies of their traditional training and will help them to develop not simply better communication with their clients but also an awareness of the need to work with other skills in providing a genuinely accessible service. Thus we do not isolate the legal aspect of our clients total situation but work in a co-ordinated way with other relevant skills such as the youth workers on juvenile cases, the social workers on benefits claims, and the community workers

with the development of tenants associations. In addition we have drawn into our team other necessary skills which were totally unavailable before. For example, on our full time staff, we have a chartered surveyor with a wide range of experience on housing matters.

I have shown at the beginning of this paper that the traditional lawyer is a creature of those with an interest to protect. A neighbourhood law centre arises out of the needs of the area it serves. Just as the initiative for the centre comes from local demands so it must continue to respond to those demands. It is therefore important that the control of the future policy of the centre is not handed over to lawyers. They should be present on a management committee but always in a minority.

Community control is one of the most serious unresolved problems facing law centres. There are serious dangers in choosing which people are to represent the community on the managing body of the centre. Initially the choice will probably be made by those taking the initiative. Only the working experience of the Centre will show how representative they are. Certainly one must guard against an indulgence in what I term "tokenism"; inviting irrelevant uninterested and unrepresentative but probably prominent persons to control a neighbourhood project.

The centre is to be controlled by the community not simply because it is a community resource but because it must share its skills. This is the whole essence in the philosophy of the Neighbourhood Law Centre. It is at the root of the concept. Unless a Centre is determined to assist in the process of community development which is a whole world beyond merely having community groups as clients then it is no different from an ordinary law firm in a poor neighbourhood.

We have been involved in working with tenants on several large estates now faced with substantial rent increases which are inevitable under recent Housing Finance legislation. Typically we have sought to explain to them ^{the} scope of the legislation and the pattern of its implementation. We have advised on the general and detailed matters which will influence the ultimate rent levels and devised schemes for them to collect and present the relevant information. Using this

the tenants have carried out their own inspections and represented themselves at the hearings. Not only have they learned how to deal with the situation which will now recur every 3 years, they have also learned how to organise. One association which did not exist before we started working on their estate has now independently gone on to take an interest in planning matters as their estate is part of the dockland redevelopment area.

This technique of working with rather than for a client is also illustrated by the way we provide representation at tribunals, quite often with members of the claimants union, whereby, when agreed, we attend not as a representative but simply to assist them on technical legal points. In this way the Centre avoids making a mystique out of matters which can be dealt with as well by the client when he is supported in his confidence to do so.

Although all good lawyers may explain their skills and tactical analysis to their clients the Law Centre lawyer's approach is different. I have sought to show that he wishes to share the process with his client, assisting him to understand and develop the same skills that he himself possesses. As I say he acts with and not for his clients looking forward to the day when they can act without him. So that the law which was used to blind people with its mystique suddenly opens their eyes to its inadequacies.

Anatole France reminds us that "The Law in its majestic equality forbids the rich as well as the poor to sleep under bridges". The lawyer working in the neighbourhood law centre appreciates this and is therefore not prepared to accept that the mere extension of legal services to everybody will redress the basic inequalities in society. Rather he sees his role as assisting in the development of communities so that they themselves create the situation where no-one is reduced to having to sleep under bridges.

John G. Hobson (Director)
West Stepney Neighbourhood Law Centre
59 Watney Street
London E1 2QE

February 1974