

1993

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Citation Information

Timms, H. Grant. "Social Welfare Programs Under Pressure: The Role of Legal Clinics as Facilitators of Poverty Law Reform Activities." *Journal of Law and Social Policy* 9. (1993): 116-122.
<https://digitalcommons.osgoode.yorku.ca/jlsp/vol9/iss1/4>

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SOCIAL WELFARE PROGRAMS UNDER PRESSURE:

The Role of Legal Clinics as Facilitators of Poverty Law Reform Activities

H. GRANT TIMMS*

RÉSUMÉ

L'auteur note que de fortes pressions s'exercent en ce qui a trait au démantèlement des programmes sociaux. Les cliniques juridiques ont un rôle à jouer en résistant aux changements négatifs. Cela concerne l'ensemble des personnes qui participent aux affaires publiques. Les cliniques juridiques peuvent être responsables de l'organisation.

L'auteur résume son expérience avec un comité de la clinique juridique *Community Legal Assistance Sarnia*. Ce comité joue un rôle important en donnant aux pauvres un voix dans les affaires publiques locales et provinciales.

INTRODUCTION

The past year has seen a number of changes to social assistance in Ontario, all of which have had—and will continue to have—a detrimental effect on the province's poor. In imposing these changes (without, it must be noted, even a hint of prior consultation, or "negotiation," with stakeholders), the Rae government has set aside the recommendations of the "Time For Action" report only a year after it was released (May, 1992). The changes represent two steps back from the one step forward made when a number of the recommendations of the earlier "Transitions" report were implemented. And while the government's long awaited blueprint for social assistance reform ("Turning Point", released July 9/93) is presented in sanguine language, if its vagueness

* Copyright © 1993 H. Grant Timms. Grant Timms is a disabled artist, a former client of Community Legal Assistance Samia (C.L.A.S.), a Consumer Liaison Committee member, a member of the board of directors of C.L.A.S. since 1992 and vice-chair of the executive of C.L.A.S.

and general direction are interpreted in light of current, actual policies, there can be little cause for optimism.

The Ontario government's change of direction can be attributed, in large part, to the combined efforts of the federal government's "stealth agenda",¹ and a well-organized, well-funded campaign by the business community,² in an assault on Canada's social safety net. This, in turn, is part of a broader socio-economic and political phenomenon.

After a brief (historically speaking) period of progress toward social and economic equity—which saw the improvement of labour, health and safety, and wage standards, the implementation of social-welfare and income security programs, universal health care programs, and a start on environmental protection standards—we are now experiencing a return to something like the late 19th century socio-economic order. This is a return to a belief that wealth, and the "Invisible Hand" of the "free market", are the most natural, or expedient, ways of determining the social order.³ The rhetoric which supports the dogma has been given a late 20th century rationale and sophistication. The dictates of the market are presented as necessities. Social needs and concerns, and political policy, are subordinated to a new economic tripartite godhead: Productivity, Competitiveness, and Efficiency. At bottom, the "ethic" of the new economy is economic determinism as the blueprint for society—Marxism, private sector style.⁴

The poor and middle-classes are now being forced to pay the bill for a recession they did not create, and for massive government and corporate⁵ debt they did not run up. There is extreme downward pressure on everything from wages and labour standards to health care. The downward pressure on income security programs—welfare—is even more acute, made so by a resurgence of the negative "welfare" stereotypes and "spur of poverty" type arguments—a resurgence the corporate community, conservative politicians, and the business press have both helped to create, and have exploited. The result has been a de-stabilizing of our social-democratic

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1. L. McQuaig, "Tories stealth agenda seeks to marginalize the poor" *The [Toronto] Star* (11 July 1993).
 2. M. Hurtig, *The Betrayal of Canada* (Toronto: Stoddart, 1993) at 134-135.
 3. R.H. Tawney, "The Aquisitive Society," in *Great Books of the Western World*, Volume 57 (Chicago: Britannica, Inc., 1990) at 184.
 4. J.R. Saul, *Voltaire's Bastards* (Toronto: Viking/Penguin, 1993) at 7.
 5. *Ibid.* at 377.

structures, and a return to a "savage economics".⁶ This trend, in the words of one commentator, underscores our leaders' "deep pessimism about the ability of civilization to determine its own course."⁷

Historically, there has been but one way to reverse this sort of trend. Progress toward social and economic equity has been achieved only during periods when an educated and motivated citizenry becomes involved in public affairs.

Legal clinics, obviously, cannot become advocates for the regulation of the world of high finance, or for international labour standards. Clinics, however, do deal with these trends on the other end of the scale (a sort of trickle-down effect), and have something of a dual interest. As an integral part of the broader social safety net, clinics are subject to the same downward pressure on government programs—as the current "social contract" demands will attest.

More importantly, legal clinics are experts on poverty law and the deficiencies of income maintenance programs. They deal first hand with the people who are affected most by the recession and the dismantling of social programs. These are the laws and programs which, ultimately, act as the foundation for minimum wage and labour standards, pay equity, anti-discrimination, and other social legislation. If social assistance is rationalized, the way is smoothed for the erosion of other standards.

Again, legal clinics are certainly not immune to changes in social, and economic, policy. Being subject to government policy, legal clinics are involved in the political (and so the social and economic) arguments of the day. The choice is between being passive, having politics thrust upon their client constituency, and being unresistingly adjusting, or becoming pro-active.

In Sarnia, the choice has been to be pro-active.

MEANS AND METHOD

The instrument of Community Legal Assistance Sarnia's (C.L.A.S.) pro-active approach to social welfare issues is its Consumer Liaison Committee. Formally, the Consumer Liaison Committee (CLC) is a committee of the Board of Directors, comprised of (a maximum of) 10 members from the clinic's client community. Members are nominally approved and appointed by the Board,

6. *Ibid.* at 368.

7. *Ibid.*

though in practice the committee has become self-recruiting. In addition to the 10 members, a Board member—who is also a former or potential user of the clinic's services—serves as chairperson, with the clinic's Community Legal Worker (CLW) acting as both vice-chair and facilitator. The committee is then, except for the CLW, made up entirely of people who are now or have been poor. A list of "Goals and Objectives", formulated each year, is submitted to the Board for its approval. CLC activities, and its "Goals and Objectives" are a part of the clinic's overall community education and development activities.

The CLC's mandate includes:

- working with the Board and Staff to facilitate, and participate in, efforts to support the rights of low-income people;
- acting as an advisory body to the Board and Staff on poverty issues;
- reflecting back to the Board ways in which the clinic's services are perceived by the community, and offering input on improvements to service, changing needs in the community, etc.;
- providing the CLW with the opportunity to network with potential users of the clinic's services, and encouraging educational opportunities between Staff and community groups on income maintenance, landlord and tenant, and other law issues;
- being looked to by the Board as a pool for potential, future Board members, to represent the clinic's client community on the Board of Directors.

The CLC grew out of the original Steering Committee, which was formed (1986/1987) to bring a legal clinic to the Sarnia area. At the urging of one of the Steering Committee's founding members, people from the clinic's potential client community were invited to sit on the committee and contribute to the start-up process. It was at this level that the clinic's mandate was formulated, and this included both a commitment to community education and development and the commitment to the continuing participation of potential and/or former clients at the Board level.

However, the Board recognized there may be barriers to meaningful participation by members of the client community. Some might feel "out of place", having had little or no experience with formal meetings, or with the issues involved in the operation of an organization. The Consumer Liaison Committee, then, would provide a "pre-Board" experience, and an opportunity to become familiar with the clinic's services, how it functioned, legal issues, and so on.

The CLC also would be a means to spread the word about the clinic's services. As a new service in the community, this was a way in which trust could be established in the client community, with the clinic becoming known as a place where people would be treated fairly, and their needs dealt with seriously.

Thus the CLC would serve as a conduit, for the Board and Staff, to the client community, as a means of keeping in touch with community needs. Conversely, the CLC could act as a consumer "watchdog", advising the Board and Staff on problem areas, and helping to ensure that clients continued to be treated fairly. And, as a natural consequence of community activity, it was thought that the CLC could organize around poverty issues.

There was some reluctance, or even resistance, to the formation of the CLC on the part of some Board members concerning the "watchdog" and activist roles. Some envisioned C.L.A.S. as a professional organization concentrating almost exclusively on casework. There was anxiety that CLC activities might reflect negatively on the clinic. A degree of tension was thus created between the Board and the CLC. However, this tension (and the Board's anxiety) was somewhat relieved, in part by the fact that Ross Irwin, then head of Clinic Funding, expressed enthusiasm for the idea, and in part by the character of the CLC's early extra-Board activities. These included participation in a Union of Unemployed Workers demonstration in London, Ontario, followed, in March, 1990, by a CLC organized march promoting drug benefits for the working poor. During these activities, and in all activities since then, CLC members have remained conscious of the fact that they are representing—even if only at arms length—Community Legal Assistance Sarnia, and that they are responsible to the Board.

Since 1990/91, the CLC has become a focal point for anti-poverty/poverty law reform activities in Sarnia. It has been active in networking with other anti-poverty advocacy groups in the province, attended various conferences pertaining to poverty law reform, and performed liaison work with government and social service agencies in the Sarnia/Lambton area. Its agenda has ranged from petitioning Lambton County Council to reinstate free bus passes for the poor, to, currently, addressing Sarnia City Council on the issue of subsidized housing:

However, the CLC's primary activity has revolved around law reform. Members participated in the consultation process of the Advisory Group on New Social Assistance Legislation, and prepared briefs on discretion by caseworkers, the disability adjudication process, and on the creation of a "council for consumers". The CLC was the source of the only written draft of what a

“Preamble” and “Declaration of Rights” (of the poor) for the new legislation might look like. The principles of this draft were based on the concept of “inherent right” and the “security of the person” provisions in the *Canadian Charter of Rights and Freedoms*.

The CLC has maintained a close contact with Sarnia’s MPP, and there has been an ongoing process of consultation, commentary, and analysis of social assistance issues. A brief has been drafted, commenting on the current changes to social assistance, and a review of “Turning Point” is now underway.

An integral part of this activity is the CLC’s relationship with the newly created Ministry of Community and Social Services Council of Consumers. In January of this year, one of the CLC’s original (and current) members was named to the 15 member Council, and the CLC will no doubt be involved when the Council’s regional sub-committees are formed. In the meantime, the CLC has been presented with the opportunity for access to the higher levels of the Ministry at a critical juncture.

Despite the degree to which CLC activities have become self-directed, its involvement with the Board has not diminished. Throughout its existence, at least two CLC members have sat on the Board of Directors, and at present, there are three. These members also serve (or have served) on other Board committees, such as Eligibility Review, Complaints, Planning, Personnel, and the Executive.

SUMMARY

The agenda of the Consumer Liaison Committee has developed over time, and both its approach and response to the issues on that agenda have become more sophisticated. Little of this would be possible without the resources made available by the clinic, a certain latitude given it by the Board, and, even more importantly, the commitment of the clinic’s staff. Committee members are especially indebted to the CLW for guidance (especially in matters of the law), organizational support, and a great deal in the way of time commitment.

The establishment of the CLC at the Sarnia clinic almost coincided with the opening of the clinic itself. Caseloads were not nearly as high, to say the least. It would be difficult for the Board and Staff to conceive having to begin such an endeavour now, given the volume of case work, and budget constraints. However, in continuing with the CLC, the clinic has been able to fulfill the community education and development part of its mandate, even though other activities (speaking engagements, seminars) have been—temporarily, it is hoped—sacrificed.

As an instrument of a pro-active approach to poverty law and related social issues, the combination of a grass-roots community group and a community oriented legal clinic, is one that seems ideally suited to the times. It is no longer sufficient for anti-poverty groups (or the poor themselves) to appeal to government for adequate social welfare programs on the grounds of fairness, equity, or even need. It is no longer sufficient for advocates of poverty law reform to appeal for that reform on the grounds of social justice. Demonstrations or protests are of limited effect. So too are abstract, intellectual arguments based on social theories.

What is needed now are social policy advocates with practical experience, in addition to a working knowledge of economic facts, of how government works (and communicates)—and of the law. The staffs and resources of legal clinics are ideally suited to translate the personal experience, and channel the energies of former and/or potential clients into effective advocates for change. At the same time clinics can help to empower their client communities, and thus provide a forum for involvement in public affairs for a segment of society that is too often on the margins of the democratic process.