

**COMMUNITY PLANNING, SHARING LAW
AND THE CREATION OF INTENTIONAL
COMMUNITIES: PROMOTING
ALTERNATIVE ECONOMIES AND
ECONOMIC SELF-SUFFICIENCY AMONG
LOW-INCOME COMMUNITIES**

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This paper argues for the development of an intentional community comprised of low-income people in urban areas who build social capital through the deliberate formation of a culture based on bartering, time-sharing, and mutual credit clearing in order to supplement their low-income capital and promote economic self-sufficiency. This paper shows how low-income communities are marginalized from the broader political economy,

communities by adopting the principles found in *rebellious lawyering and sharing law*.

I. AN ILLUSTRATION OF THE LIMITATIONS OF THE BROADER POLITICAL ECONOMIC SYSTEM

The judicial, political, and economic systems collectively form the broader political economic system. Through an analysis of the U.S. Supreme Court case *Kelo v. City of New London* (2005), this section will show how the broader political economic system disadvantages low-income communities and why it is necessary for these communities to form an alternative system in order to make stronger and more productive communities. These limitations are especially seen in municipal redevelopment plans in the name of economic development. These plans often favor labor, consumerism, and money over entrepreneurialism and community development; majoritarian interests over minority interests, including the most wealthiest interests over the least wealthiest; and rational basis judicial review over strict scrutiny judicial review. The stated purpose of these plans is often to increase tax revenue and this purpose is deemed legitimate by the courts even where lower socioeconomic communities are harmed in the process.⁶

Politically and economically disadvantaged communities, including low-income communities, are disproportionately and negatively affected by economic redevelopment plans.⁷ Justice Thomas highlighted this fact in his dissent in *Kelo v. City of New London*, where he argued that “any economically beneficial goal guarantees that these losses will fall disproportionately on poor minority communities.”⁸ The losses that Thomas is referring to are the condemnations of lower economically productive properties “for the benefit of other private interests that will put it to a higher use.”⁹ Here, low-income communities are disadvantaged by economic redevelopment plans because they favor majority interests, including more financially powerful interests of large corporations over the interests of less powerful minority communities. Furthermore, low-income communities affected by these plans are at an even greater disadvantage within the courts where such plans are reviewed on a rational-basis, and deemed legitimate and

6. See *Kelo v. City of New London*, 545 U.S. 469, 505, 521-22 (2005) (Thomas, J., dissenting).

7. *Id.* at 521.

8. *Id.* at 505, 521-22 (2005) (Thomas, J., dissenting).

9. *Id.* at 504-05 (O’Conner, J., dissenting) (quoting *Poletown Neighborhood Council v. City of Detroit*, 304 N.W.2d 455, 464 (Mich. 1981)).

by the courts.¹⁸ Instead, the government has to prove the legitimacy of its actions by showing, among other factors, that there were no other less discriminatory alternatives available.¹⁹ However, economic state action, including economic redevelopment plans, is reviewed under rational basis instead of strict scrutiny.²⁰ This was especially seen in *Kelo* where the

of production.²⁵ In fact, a small number of companies own virtually “everything” where only 737 companies own 80% of the wealth found within the broader economy.²⁶ This is also true for individuals where only a few own the means of production, primarily in the form of land.²⁷ However, unlike private firms, individuals do not own an overwhelming majority of the wealth found in the broader economic system. Instead, an overwhelming majority of individuals are laborers who depend on these firms for sustenance through consumption and wages.²⁸

To this fact, labor is central to the broader economic system. Nonetheless, the system’s “laissez-faire” or “free market” principle makes unemployment inevitable.²⁹ In fact, unemployment is often a desired economic policy to keep inflation low.³⁰ 1 463.87 746-6er¶, an

low-income communities at a disadvantage where such communities have limited money and low consumption power.

In addition, money is generally derived from wages and property incomes under the broader economic system.³⁶ However, consumers often have little control over their wages and very few own property that they can rely on as a sufficient means of income as seen by the housing foreclosure crisis of 2009.³⁷ In fact, a minority of consumers own any property outright

force, cooperation on behalf of everyone involved as an inevitable outcome, and economic activity that goes beyond money as the primary medium of exchange. An alternative economic system structured this way is likely to make low-income communities sufficiently, and independently productive through cooperation, sharing, and local control and ownership.

For instance, this alternative economic system would promote communal or cooperative entrepreneurialism where members share costs and resources through micro-financing institutions and co-operatives; exchange goods and services through a mutual credit-clearing, barter and time-banking system; and circulate gifts through a circular gifting system.⁴³ The above are just a few ways low-income communities can structure an alternative economic system that will allow them to be sufficiently productive. The goal of an alternative economic system is to make low-income communities productive even in the midst of unemployment and limited economic resources. On the contrary, dominant theorists have proposed solutions for making low-income communities productive within the broader economic system. However, these dominant theories of “solutions” are not without their shortcomings.

In fact, such theories have been proven to be both ineffective and problematic for solving poverty within low-income communities. I would argue that this is due to the tendency of these “solutions” to push forth the

undesirable trade.”⁴⁸ In other words, money is used when goods or services are insufficient in order to continue or maximize exchange value among participants. For instance, when Person A desires a good that Person B possesses, Person A would give Person B something of value that Person B desires in exchange for that good. However, what if Person A does not have anything that Person B desires? Money is then used to solve this barter limitation by allowing Person A to provide Person B with a transferable payment instead of an undesirable good. Thus, money is simply a means to a higher end (acquiring a desired good or service). However, within low-

achieving productivity. To say it another way, money is not a necessary means to sufficient productivity.

Instead, communities can also be productive through non-monetary means, such as bartering, service-exchange, gift-giving, and a mutual credit-clearing system. Each of these alternatives prove that economic capital or money is not always necessary or the most efficient means to achieving productivity within low-income communities.⁵³ For instance, if person A is hungry, he or she can use money as a means to satisfy that hunger by buying food from Person B. However, money becomes unnecessary when one can obtain food through non-monetary means, such as through barter, where

Person A pays Person B in credit and then Person B's account is credited while Person A's account is debited in the same amount. Person B can later use his credit to exchange services or goods with other members within the community and his account will also be debited reflecting these exchanges.⁶²

to perform any service for Person A or have any goods that the hair dresser wants. For the sake of the community's productivity, Person A performs the haircut for B in exchange for credit. Person A's account is credited \$10 while Person B's account is debited \$10. Person B can still satisfy his debt on a communal level by performing a service or providing a good for another community member.

The circulation of gifts also has the ability to make low-income communities productive without the sole reliance on money or causing inequality. A gift, by definition, is something that is given without it being earned or produced by the receiver.⁶⁶ In addition, unlike the exchange of goods or services, or even a credit system, a gift is something that does not require something in exchange.⁶⁷ That is, Person A will not be debited for receiving something from B as a gift. However, gift-giving is often reciprocated, but not necessarily in a direct way. For instance, reciprocation of gifts can also occur indirectly where "they flow in circles. I give to you, you give to someone else . . . and eventually someone gives e.

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financing systems, and cooperatives. A savings pool, also called a “susu” in Caribbean, Asian, West African, and Latin American cultures, is a funding medium where members of a low-income community agree to contribute a fixed amount of money to a communal fund where each member of the community will have the opportunity to pull money from the pool.⁷⁰

Likewise, micro-financing is a system where money is extended to community members at little or no interest loans. This is typically done by a non-traditional bank.⁷¹ However, low-income communities can create their own entity that serves as a non-traditional bank where members collectively control its funds. For instance, a micro-financing entity can be structured as a nonprofit where members of the community play an active role in its decision-making both as directors of the board and members of the nonprofit. The nonprofit can then fundraise for entrepreneurial initiatives within the low-income community where such funding is given to members in the form of grants or low-cost loans.⁷²

Just as a micro-

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broader political economy. The broader political system is a majoritarian system with a majoritarian voting and decision-making model.⁹² This majoritarian model opens up debates and encourages participation by all members.⁹³ However, it does not ensure that everyone within the community actually participates or influences final decision-making. Nor does this system require that everyone benefit from the outcome of the decision. All that is required under a majoritarian decision-making model is that a majority of participants or members of the community come to a final decision.⁹⁴ Any decision made by the majority is deemed proper even if it harms or fails to benefit the minority populace.⁹⁵

Unlike a majoritarian decision-making model, a consensus-decision making model creates a cooperative community where all members participate in the decision-making process and influence the final decision. A consensus decision-making model can be long and in theory, members may never reach a full agreement. However, a consensus decision-making model is designed to promote full deliberation among members until an agreement is made, no matter how long it takes.⁹⁶ As such, consensus decision-making benefits all members of a community and prevents creating “disadvantaged losers.”

Likewise, a principle of reciprocity and mutual benefit will ensure self-reliance and self-sufficiency within the intentional community while a principle calling forth active participation promotes sufficient productivity. A consensus decision-making model requires active participation by all members in order to ensure desired outcomes for each member. This leads to a very productive community where the success of an alternative economy depends on every member working together through reciprocity and mutual benefit. Here, social capital is developed. An alternative economy within low-income communities will not be successful without the development of social capital since it depends largely on each member pooling together their resources and skills for mutual benefit. For instance, if a community member no longer remains active, he or she negatively affects the exchange of goods

mutual beneficial acts, low-income communities are less adept to leveraging their limited economic resources.

Lastly, a commitment to an alternative economy among low-income communities is necessary to ensure the sustainability of the community. Commitment allows for further production within the community where it ensures that the sharing economy continues even when cooperation becomes

advocacy that can be deemed “aggressive” advocacy planning.¹⁰² This paper’s definition of *community planning* consists of all four approaches.

Jane Jacobs, author of *The Death and Life of Great American Cities*, one of the most influential writings on city planning, was instrumental for

naturalness found within these dense urban neighborhoods, such as the social vitality of humans interacting with one another or the actual physical nature unique to these urban areas.¹⁰⁸ As a result, these programs offered improper solutions to urban cities, which included the depopulation and destruction of neighborhoods through “slum clearance” and high-rise residential development. These improper solutions later caused decay as shown by deserted neighborhoods lacking social vitality and diversity.¹⁰⁹

Furthermore, studying cities as a problem in organized complexity “with a sizeable number of interrelated variables” allows for the direct participation and contribution of community members. According to Jacobs, planning at the particular neighborhood level allows community members to engage in the planning process because it involves gathering data from the personal experience of community members.¹¹⁰ The personal experience of community members can be gathered through qualitative research methods of observations, interviews, focus groups, and surveys.¹¹¹ On the other hand, the use of abstract statistical methods requires expertise in the field planning.¹¹² Thus, the latter makes it difficult or virtually impossible for community members to participate in the planning process while the former considers the reality of community members as a planning method for solving neighborhood problems. What better way to understand a city and find solutions to its problems than to utilize the experience of those actually living within? Therefore a community planner interested in supporting an alternative economy within low-income communities should employ the methods urged by Jacobs where planners focus on specific neighborhoods and use the personal experience of community members as planning tools.

In addition, Ebenezer Howard’s utopian urban design plan is useful for showing how community planners can support an alternative economy within low-income communities. Ebenezer’s utopian urban design plan is called the “Garden City” and includes designs that encourage cooperation and collective ownership by community members.¹¹³ This utopian design plan was an alternative to the dominant urban planning design of Howard’s time (1889-1892), which encouraged class segregation and concentration of land

108. *See id.* at 446.

109. *See id.* at 273.

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provisioning for the poor and other marginalized groups.”¹²⁹ An example of aggressive advocacy planning involves the planner designing community plans with community members that represent desired social/economic changes, organizing social movements that seek to transcend the broader political economy, and later presenting, advocating, and demanding for such plans at city hall meetings.

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forum for the transactions.”¹⁴⁵ This collaboration is essential where the sharing lawyer’s role is to support cooperative transactions that promote cooperation for mutual benefit.¹⁴⁶ This involves maintaining the cooperative relationship between members by encouraging parties to disclose all necessary information in order to come up with a solution that benefits all parties.¹⁴⁷ This is especially true where the parties desire to avoid the costly expense of litigation.¹⁴⁸

Like rebellious lawyering, sharing law also requires the lawyer to be open to various solutions to legal problems. This is especially important where many of the issues arising in the new economy do not fit neatly into traditional legal boxes.¹⁴⁹ This includes assisting communities in non-legal work, such as getting involved in the planning process of new sharing initiatives.¹⁵⁰ In addition, a sharing lawyer should also be open to “make new laws that could be beneficial for future participants in the sharing economy.”¹⁵¹ An example of this would be to push forth legislation that seeks to change current zoning laws that make sharing initiatives more feasible. Another example involves a sharing lawyer advocating for a more heightened judicial review of economic development projects so as to counter the limitations of the judicial system that legitimizes the displacement of low-income communities.¹⁵² Orsi describes this process as creating more “square holes” where assisting communities within the new economy through the use of traditional legal practices becomes more like “trying to fit a square peg in a round hole.”¹⁵³

Lastly, a lawyer supporting an alternative economy should also step outside of the traditional legal compensation framework in order to properly support the new economy movement. This involves the sharing lawyer being humble and sharing resources with other lawyers, including office space in order to save on overhead costs and legal documents in order to promote sharing and prevent unnecessary costs to clients.¹⁵⁴ Furthermore, a sharing lawyer should be open to receive non-monetary payments from clients, such

145. Janelle Orsi, *Cooperation Law for Sharing Economy*, YES! MAG. (Sept. 23, 2010), <http://www.yesmagazine.org/new-economy/cooperation-law-for-a-sharing-economy>.

146. See ORSI, *supra* note 139, at 28.

147. See *id.*

148. See *id.*

149. See *id.* at 12.

150. See *id.* at 59.

151. See *id.* at 26.

152. See discussion *supra* pp. 4-7.

153. Orsi, *supra* note 145.

154. See ORSI, *supra* note 139, at 24.

as goods and services.¹⁵⁵ This is especially true since clients of sharing lawyers are engaging in a new economy where clients engage in alternative economic exchanges.¹⁵⁶ Lastly, the sharing lawyer should “think small” and refrain from the dominant thought of lawyers getting rich from their practice,

community planning is an effective tool for supporting an alternative