

Introduction

Community-based and participatory methods are often marginalized within knowledge building institutions. Implicitly- and sometimes explicitly – there is an established hierarchy that privileges the objective outsider employing quantitative methods when considering valid and impactful evidence. Ideas around objectivity, rigor, and validity have emphasized a positivistic epistemology, as exemplified by the fact that randomized control trial is the gold standard in research. This pattern reaches into the global human rights conversation, including legal empowerment. Briefly, legal empowerment centers individuals and communities to gain knowledge and skills to know, use, and shape laws that impact their lives. Community paralegals are a well-known and practiced model of legal empowerment. Though not formally recognized as lawyers, community paralegals have an understanding of local laws and can use this training to support their fellow community members with legal struggles.

In this article, we – a group of lawyers, scholars, researchers, and advocates from across the globe including Thailand, India, Uganda, Zimbabwe, Brazil, Italy, and the United States – have gathered ways that community based, participatory legal empowerment has been delegitimized across these contexts. We will share these examples and lift common strategies of delegitimizing. Our aim is to systematically name and thematically organize these strategies in which community-based, participatory work has been invalidated. These techniques of delegitimizing that seek to disempower the lived experiences of community members involved in legal empowerment allow us to better understand techniques of silencing and oppression, and to trace the ways that systems of power reinforce their standing through these immediate

and interpersonal responses to the voice of the collective. Finally, we will end with practical ways that these efforts to delegitimize participatory knowledge building may be interrupted.

Documenting Strategies of Invalidation

One strategy for delegitimizing community-based and participatory responses to shifting the legal landscape based on the needs and experiences of those most impacted is simply refusing to allow new evidence by building a gate from previously established and therefore considered to be more scientific evidence. In an effort to reimagine abusive institutions warehousing people labeled as intellectually disabled, people advocated for ethical treatments for themselves – including the right to access trauma-aware therapies and other healing modalities. Yet, in response to the demands of people who were asking for certain practices (such as aversion therapy) to no longer be implemented because they were dehumanizing and impacting people negatively, advocates were told that psychological literature has demonstrated impact and therefore only those approaches will be used. This very deliberate refusal to hear people’s lived experiences demanding more ethical options ensures that long-standing (and often outdated) evidence is further reinforced. In effect, this strategy solidifies past practices and extends them into the present and future.

Similar to this reification of existing bodies of “scientific” evidence, is the discounting of local knowledge as unscientific. After being displaced by diamond mining companies, community members in Zimbabwe noticed that their cattle – which had also been displaced – began to die. The government officials discounted their experiences as “crazy” and “made up”

stories. In an effort to prevent more cattle from dying, the community refused to let their livestock be transported by the government trucks. Eventually, a veterinarian confirmed that the animals were dying of trauma. Yet, the knowledge of the community members were easily discounted by the government officials as crazy and unscientific. This refusal to allow someone's experiences to be legible to existing systems of power, is an established technique of erasure.

In part to address the erasure of community wisdom, community led research in legal empowerment often provides extensive training to community members on established research practices, who then not only conceive of the work but also complete it and analyze it. Regardless, we have found that government officials will often meet the community led research with refusal to allow it or with questions seeking to delegitimize not only the data itself, but also the community members. Raising questions around the community members' education, training, prior experiences is a way to disregard the data that is rooted in relevance to the community. The more the data is rooted in the direct experiences of community members, the more government officials will raise questions about distortion. Armed by constructs like objectivity and validity based in the fantasy that good science is the product of a mythical unbiased outside observer's scholarly work, community led research is branded a lie.

These constructs of scientific validity and objectivity are defined by the government and often in a way to more easily discount the perspectives of the community. In the formation of a law intended to protect children against sexual offenses, a legal advocacy group in India gathered the perspectives of experts and survivors of childhood sexual abuse. To collect testimonials, the community opted to use an online survey tool. They invited these stories as part of the legal empowerment research without asking for specific identifiers, honoring the

sensitive nature of these histories. The government and other official groups rejected the work wholesale because they claimed that without doing face-to-face interviews the stories could not be trusted. Similarly, in the United States, a legal-empowerment training curriculum has been developed in collaboration with formerly incarcerated jailhouse lawyers. This holistic curriculum was shaped by the issues that are central to people who have the lived experience of incarceration, who shared the skills that they wish they could have had while incarcerated. To allow this program to be brought to prisons there is an expectation that efficacy will be demonstrated. However, these benchmarks are not allowed to be set by the incarcerated people themselves. Rather than measuring agency or empowerment, or power building, the institution expects the metrics to be about reducing the likelihood of crime and about the safety of the institution. These metrics recenter the wellbeing of the institution rather than the impacted person. This forces the entire participatory legal empowerment work to negotiate whether to address these government led metrics at the risk of compromising the commitment of the process or to center the lived experiences of people at the risk of potentially not being considered efficacious and therefore not being allowed inside prisons.

Community led research can also reveal the way powerful entities, like international corporations seeking to profit off of people's lands, perceive citizens. In a recent encounter between the residents of a small village in Haiti and a major mining company based in the United States, the inaccessibility of documents was taken advantage of to dispossess people of their land. When an advocacy organization translated the document which people had been coerced into signing, the community was deeply outraged at the deliberate effort to steal their land without providing proper information. An investigation was conducted and the results

were presented to the international mining corporation who then responded that people who do not read, do not remember anyways. Saying that it was not that the document was not read to them but that they just don't remember. Their disregard for the community was made more evident by the upsetting view they expressed with that attempt at delegitimizing. Fortunately, the legal empowerment efforts were able to demonstrate that the form was unenforceable and an illegitimate agreement. As this brief case demonstrates, efforts to delimitize legal empowerment processes can often take the shape of dehumanizing and delegitimizing people themselves.

Community based and participatory legal empowerment mobilizes the collective to address the needs of the whole community. To delegitimize the entire effort of legal empowerment movements, officials and those wielding power in existing systems can single out and target individuals. By targeting individuals, they attempt to interrupt the wellbeing of the collective. A case to illustrate how this mechanism of delegitimizing operates is a legal empowerment project in India led by women on the issue of right to housing. A group of women attended an advocacy meeting with government authorities who deal with housing and urban populations, especially with issues related to rehabilitating migrant populations and homeless populations. This meeting was the culmination of many months and years of effort to gather documentation for the right to housing. Having presented all the proper documentation, the lawyer accompanying the women asked what more can be done given that they provided all the documentation asked for. In response to this question, the official targeted the woman who spoke and told them they should stop the "social work" and instead focus on their career. By singling out a single person from the collective, the government official sought to remove the

focus from the concerns presented by women to a single person. By emphasizing a single individual, they aimed to disrupt the collective power of the women from the community. Singling out a person from the collective – whether to attack during an advocacy meeting or to use as a photograph on top of an NGO’s brochure – is an effort to delegitimize the power of the collective.

Branding the entire effort of a community-led legal empowerment movement of the collective as “simply activism” is another strategy of invalidation that we have observed in our contexts. A community led effort in a southern state in the United States against a new women’s jail was met with this response. The movement against the jail gathered evidence from nearly 100 community based advocacy groups and the entire campaign was referred to as the response from “the advocates” as one single entity. This technique aimed to dismiss all of the perspectives that were brought to the conversation of all the people that directly contributed evidence against the jail, those most impacted by the violence of incarceration.

There are also structural efforts to prevent community led participatory legal empowerment movements from building that simultaneously appear to support while also implementing systemic barriers. We have witnessed this strategy of invalidation when working with the international community in the United States on advocacy related to Syria. There was a call to hear from the Syrians themselves. Authorities wanted to hear from people on the ground, to hear their authentic stories as parts of these global conversations. Yet, over and over again, the government refused to give visas to people to come to participate. Simultaneously requesting participating and simultaneously barring participation appears to be a way of negotiating appearances while sustaining the status quo.

Forging an inaccessible system is another structural mechanism of the delegitimation of community-led and participatory legal empowerment. Authorities find creative ways to discount evidence submitted. In certain contexts, survivors of domestic violence are not recognized as presenting credible evidence if they had not gone to the police and generated a police report through that visit. Even medical evidence can be discounted by claiming that it does not use the proper legal terminology. These techniques reinforce existing power dynamics instead of allowing the perspectives of those who experience issues to be acknowledged.

These efforts of deligitimation are not limited to encounters with government officials. Academics and formal knowledge building institutions – including community based legal empowerment lawyers - can delegitimize community and participatory based legal empowerment efforts. In one of our communities that include undocumented community members, a recent collaborative project with a university resulted in the exclusion of valuable perspectives because of the arbitrary parameters the university researchers set for who is considered as able to tell the story of the community. While engaging in a community mapping exercise, the academic researchers collaborating with the community members and community organizations asked individuals how long they have been living in the community indicating that they were not interested in the experiences of those who were in the community less than five years. They explained their reasoning that it is not possible to fully know the context of the community and therefore their way of navigating their communities was not going to be considered. By creating these parameters, the researchers erased the valuable perspectives of all who were willing to enter this space of collective knowledge creation. In another one of our communities, an organization supporting Syrian refugees in Iraq conducted a survey and in it

there were questions about experiences with domestic violence. When the results were analyzed, no one acknowledged a single instance of domestic violence. This revealed the way the survey was not able to accurately invite the experiences of the families surveyed. As a knowledge generating tool, the survey failed to fully invite the lived experiences of people, inadvertently delegitimizing their perspectives and histories.

Even community based, participatory legal empowerment research can impose unintended burden on community members in ways that result in the erasure of the agency of community members. A deeply community-based project was trying to do participatory research in a community of Buenos Aires. When approaching a community member to engage in the project, she responded with a clear rejection of the idea, explaining that they would only experience more burden from this involvement. This response is distinctly different from the acts of delegitimation we have experienced but yet it is a compelling invitation for us to question not only our methodologies but also our assumptions. Because sometimes, we think that our partners are very involved, and they have the same priorities as we have. This kind of response, not uncommon when engaging with the community, allows us to reflect on the assumptions we might be carrying into the work about what is best for the community. This also allows us to acknowledge that participatory methods may not be necessarily what the community wants or needs. Ironically, this reflection may allow whatever data is produced to be more participatory and therefore relevant to the community.

Similarly, delegitimizing can be a deeply systemic process in which phenomenal acts of advocacy are not recognized by the professional structures and result in insidious impacts of invalidation in the communities who are leading movements. This technique of invalidation is

illustrated by the experience of a jailhouse lawyer who worked for years on the inside. However, this person did not consider themselves a jailhouse lawyer, saying only that she was an advocate for others. Yet, when describing some of her experiences, she shared that she was able to change the law for how people with disabilities are treated when incarcerated after witnessing horrific abuses while in solitary confinement. Despite the fact that she invested significant energy, gathered enormous evidence, built up a movement that resulted in the changing of a law, she did not consider herself a lawyer. The legal system and the professionalization of lawyers can present itself in such an elite and inaccessible manner that it is made totally inhospitable to even people who are accomplishing legal advocacy at the highest levels.

Responding to Acts of Invalidation

Naming these acts of deligitimation can act as a profoundly powerful strategy of refusing to be silenced. In addition to the value of lifting and describing instances of invalidation, we will offer specific strategies to consider when encountering similar experiences as legal empowerment practitioners, lawyers, academics and community members. One important issue to bring up is whether engaging with resistant and dehumanizing authorities is necessary in the first place. This question raises a significant point that touches on a number of techniques of invalidation explored in this article. When government officials are so against what the community needs, why is it valuable to obtain their input? Often, the perspectives of government officials are sought to show a “balanced”, “unbiased” way of doing research and data collection, and yet it is often clear that authorities themselves are full of biases and

resistant to any sort of meaningful change and dialogue. It is worth considering, in the spirit of PAR which is about power and is inherently loaded with emotions/histories/biases, that legal empowerment movements may reject interacting with the authorities of power. Gathering data with community establishes an ethical framework for evidence that does not need to be legitimated by the stamp of government officials.

When necessary to engage with government officials and other entities of power, it is helpful to anticipate attempts at distraction and ways that bureaucratic responses may be launched to derail the efforts of the community. Simply rehearsing the stances that might be presented to invalidate participatory legal empowerment efforts allows all parties to be prepared to respond effectively. Some helpful responses to consider may be to prepare questions that request the authorities to provide an accounting of their responsibilities to the community members, to ask authorities to share their commitments, and what they are able to deliver. These prompts are able to clarify roles without allowing authorities to dismantle the efforts of the community. Also, these prompts can act as a refusal to be sidelined by personal attacks. Identifying a single member of the community is, as noted above, a common strategy of delegitimizing the perspective of the collective. However, anticipating this and meeting this response that holds the government accountable to the community is a strategy we believe can support legal empowerment movements across the globe.

When particular data sets are targeted as illegitimate, a systematic response can be constructed to counter and fight back against these issues. When met with data delegitimizing it may be useful to respond with principles grounded in human rights law that states should

apply when gathering data. It is important to provide evidence against the assumptions of what counts as qualitative data and to push back on tendency to hierarchically organize types of data.

Finally, we want to acknowledge that resistance does not necessary always look like a collective movement. We write this during the ongoing COVID-19 pandemic that is impacting all of our contexts in dramatically and unjustly different ways. It is important to note that feelings of exhaustion and frustration and even hopelessness can be instances of radical resistance that refuses to participate in dehumanization. In our reflections on strategies of invalidation that we experience in our community-based, participatory legal empowerment efforts, we frequently vacillated between feelings of hope and desperation. We have each experienced delegitimizing not just from government authorities but also from within our own communities of practice. Acknowledging each other's humanity, our own humanity by acknowledging our feelings has profound impacts on collective survival and resilience.