

POWER-CONSCIOUS LEGAL WORK: BUILDING A ROADMAP FOR RURAL ACCESS TO JUSTICE THROUGH TRUST, ACCOUNTABILITY, & TRAUMA- INFORMED PRACTICES

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ABSTRACT

The importance of trauma-informed practices has never been greater. In the United States, most of the population has experienced at least one traumatic event in their life. Experiencing a traumatic event may have long-lasting impacts on physical health, including disruption to all major system functioning. Mental health impacts may include behavior changes, memory challenges, inability to complete routine tasks, difficulty with interpersonal relationships, and other symptoms associated with Post Traumatic Stress Disorder. Extant literature examines the association between past trauma experiences and later interactions with the civil justice system, including

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litigant conceptualizations of legal system engagement as a traumatic event in and of itself. While the prevalence of traumatic experiences is staggering, there are practices that legal service providers can implement to mitigate the effects of trauma and the risk of retraumatization. Additionally, these trauma-informed and trauma-responsive practices have been shown to help lessen the effects that “trauma exposure response” – the impact from working with those in trauma – have on the practitioner.

A unique reality of service provision in legal vacuums is the dual geographic and social proximity of providers to the communities that they serve. We intentionally use the term legal vacuum in lieu of legal desert because “desert” connotes a naturally occurring environment, whereas absence of legal help should not be considered natural. This is true for service providers in both rural areas, generally, and in large states with remote areas, in particular. Scholarship-activism at this intersection of human need and legal power emphasizes the importance of place-conscious advocacy that centers rural communities’ understandings of and existing practices for problem-resolution; as rural communities know well, rural needs require rural- and community-responsive services. In recognition of the convergent ways that trauma, legal vacuums, and community harm are replicated by place-based forms of power, this piece provides a roadmap for advancing “power-conscious legal work,” or legal problem-solving that is grounded in linked values of trust, community accountability, and trauma-informed practices.

In examining the intersecting harms that are navigated by legal practitioners, we can understand trauma-informed practices and place-based notions of accountability as service benefits – not labor burdens – to the work of all service providers. By centering rural, Native, and historically marginalized notions of power, this Article looks to Alaska as a source for deep reflection on how the U.S. legal profession might advance access to justice for rural communities through concrete forms of power- and place-conscious work. Reflecting on our own work to advance community-accountable legal empowerment initiatives, we join fellow innovators in reimagining the place and potential of justice-making everywhere.

I. INTRODUCTION

We come to this Article as multidisciplinary researchers, community-accountable educators, and cross-jurisdictional service designers who are dedicated to realizing a democratized legal future. For us, this means that we have no choice but to begin this piece with an unsettling truth: the traditional ways by which U.S. legal education and legal services are rendered in this country are not and will never be enough. It is because of this truth that we are fiercely committed in our

work to repairing the law's harms as well as advancing a shared vision for its reimagining. At Innovation for Justice, we work as a community law lab, directly involving members of the community in both the design and scope of research projects and service models.¹ Through this service designing with and within the community, our work has sought to create the community law school—formalized educational pathways for individuals who do not have a JD but are authorized in their jurisdiction to learn and use the law through the provision of limited-scope legal help.² These efforts seek to build a world where everyone can know, use, and shape the laws that (dis)order their lives. Consistent with research and systemic change in child protective and mental health services, we start our discussion of power, people, and place with the strong belief that “[s]ystems that interact with vulnerable populations have an *obligation* to be trauma informed.”³ In short, this piece serves as an open invitation for the U.S. legal profession to reflect and rethink how and where justice happens.

Drawing on our work in Arizona and Utah to advance community-accountable legal empowerment initiatives and to reform settler legal systems, this invited piece of scholarship aims to identify lessons from building community legal power. By looking to Alaska as a triumph and source for deep reflection on rural access to justice, we focus on the ways that our own states—and the greater legal profession—are in a moment of great reckoning on the value and potential of community-based solutions to interlocked legal crises.⁴ We recognize and honor that there is no one-size-fits-all or “silver bullet” solution to the nation's access to justice crisis. The access to justice crisis has reached the magnitude where low-income individuals in the United States do not receive enough, or any, legal help for 93% of their civil legal problems.⁵ In most states, only

1. *Service Impact Area*, INNOVATION FOR JUST., <https://www.innovation4justice.org/work/service> (last visited Aug. 4, 2024); *Process*, INNOVATION FOR JUST., <https://www.innovation4justice.org/about/process> (last visited Sept. 30, 2024).

2. *Community Legal Education*, INNOVATION FOR JUST., <https://www.innovation4justice.org/education/community> (last visited Aug. 5, 2024).

3. Maegan Rides At The Door & Ashley Trautman, *Considerations for Implementing Culturally Grounded Trauma-Informed Child Welfare Services: Recommendations for Working with American Indian/Alaska Native Populations*, 13 J. PUB. CHILD WELFARE 368, 368 (2019) (emphasis added).

4. See, e.g., Coronado et al., *Re-Regulating Justice: Realizing Housing Stability Through Community Legal Advocacy*, 32 ABA J. AFFORDABLE HOUS. & CMTY. DEV. L. 393, 409 (2024) (“[T]he U.S. legal profession's traditional approach is dismally failing tenants, particularly given the catastrophic under-resourcing of current legal aid efforts. Our current lawyers-only model to legal aid has devastating implications for lower-income communities in need of legal services . . .”).

5. LEGAL SERVS. CORP., *THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF*

those who have completed a four-year degree and three years of law school, have passed the bar exam, and have undergone a character and fitness evaluation to be deemed worthy are permitted to engage in the practice of law.⁶ This monopoly on legal power has created an access to justice crisis of horrific proportions. In recognition of this manufactured crisis of locked-away legal power, we reflect on the foundational importance of trust, accountability, and trauma-informed practices in any service work that seeks to address the justice crisis.

Both authors have a lived and learned understanding of the intrinsically personal-political nature of any discussion of power; our experiences guide us in this inquiry. Between us, we bring over four decades of experience working with systemically disinvested⁷ community members in various personal, educational, and community-serving roles. Within our work as community legal educators, we have designed, built, and implemented innovative legal service models spanning jurisdictions.⁸ We have created know-your-rights programs partnering with legal service providers,⁹ developed unauthorized practice of law (UPL) reform-based legal service models in two jurisdictions, and created strong working relationships with other UPL-reformers across the country. It is because of our prior place-based advocacy as well as the rich, and violent, history of legal systems in America that we acknowledge up front the inherent limitations of this piece: each jurisdiction has a blooming diversity of peoples and needs.

As Indigenous scholars have maintained for time immemorial, place and space—themselves re- and dis-ordered by settler legal violence—arrange our relationships with self, with our bodies, with others, and with

LOW-INCOME AMERICANS 48 (2022), <https://lsc-live.box.com/s/xl2v2uraiotbbzrhwtjlgioemp3myz1>.

6. Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L.J. SOC. JUST. 66, 67 (2023) [hereinafter Balser, *Leveraging*].

7. We are mindful and deliberate to use the language of “disinvested” to name the grammatical, historical, and structural relationship between the U.S., as a settler nation, and the communities most directly and continuously impacted by the harms of U.S. legal systems.

8. For more information about these service models, see *Service Impact Area*, INNOVATION FOR JUST., <https://www.innovation4justice.org/work/service> (last visited Aug. 4, 2024).

9. Before beginning their formal journey into legal work, author Antonio Coronado supported the programmatic development and evaluation of the *Tucson RENT Project*, a county-specific know-your-rights initiative in southern Arizona that sought to empower renter-attendees in knowing and asserting their rights under the law. See, e.g., INNOVATION FOR JUST. & STEP UP TO JUST., *THE TUCSON RENT PROJECT* (2021), <https://static1.squarespace.com/static/5810387837c581ee0ce2b116/t/606ba606436edf7bcead7b70/1617667593306/Final+Report+on+the+Tucson+RENT+Project.pdf> (last visited Aug. 6, 2024).

the land. For Diné, second-generation Laotian, Queer, Trans, and Nadleeh (Two-Spirit) scholar Dr. Souksavanh T. Keovorabout, home is as much a place as it is a future still in practice:

Indigenous communities have a history of forced removal, displacement and relocation. In the poem *Prayer 4*, Morgan writes: “when you lose place, because your ancestors did what they needed to do so you’d survive, your body, your community, becomes your home and sovereignty . . .” The connections to survivability and trauma lead to our ancestors caring and loving our existence. Our bodies and communities, even ones that we can create ourselves, become our homes. It is through imagining queer Indigenous multi-racial futures where we can fully have home and sovereignty.¹⁰

While such violence is not unique to any one part of the U.S. as a settler legal entity, the legacy of Native residential (mis/re)education schools serve as reminders of the ways that educational institutions, the law, and settler violence are self-reinforcing.¹¹ Accordingly, we share our lessons as co-conspirators, non-Alaskans, and non-Native authors aligned with the work of collective liberation everywhere.

This Article discusses the potential of power-conscious legal work across four sections. In Part II, we position the lived realities of rural communities, nationally, and in Alaska, specifically to explore the importance of rural legal power. Part III provides a grounding understanding of trauma-informed practices. Part IV explores notions of community accountability in legal service delivery. Finally, Part V reflects on guiding lessons for place-based service delivery, synthesizing both place- and power-conscious practices in the domains of trauma and community accountability.

II. RURAL COMMUNITIES, NATIONALLY AND IN ALASKA

As a necessary foreground to any discussion of ruralness, we start by noting that the definition of “rural communities” that we use

10. Souksavanh T. Keovorabout, *Queer Multi-Racial Sovereign Networks: Conceptualising Indigenous and Asian Multi-Racial Identities for Understanding the World and Futures*, in GLOBAL NETWORKS OF INDIGENITY: PEOPLES, SOVEREIGNTY AND FUTURES 214, 225 (Bronwyn Carlson, Tristan Kennedy & Madi Day eds., 2023).

11. See, e.g., Fred John Jr. & Gwendolyne John Jenkins, *I Was No. 77 at an Alaska Boarding School. My Children Gave Me the Strength to Tell My Story*, ANCHORAGE DAILY NEWS (June 12, 2018), <https://www.adn.com/opinions/2018/06/12/i-was-no-77-at-an-alaska-boarding-school-my-children-gave-me-the-strength-to-tell-my-story/> (providing one account of an Alaska Native’s journey in surviving Alaska’s Native residential (mis/re)education schools).

throughout this Article is consistent with the U.S. Census Bureau. The U.S. Census Bureau defines “rural” as any area that is not defined as urban.¹² This is the settler nation-state’s parceling of place. We address the limitations of this construction of rurality more fully in Part IV, but begin with federal language to unpack federal data. According to the U.S. Census, about 1-in-5 Americans—or 60 million people—live in rural areas.¹³ In the U.S. in 2017, only about 3% of land area was urban, which housed 80% of the population.¹⁴ It follows that 19.3% of the population lived in rural areas, which made up about 97% of the land mass.¹⁵ In 2020, the percentage of the U.S. population grew to 20%.¹⁶ Such is the federal designation of the rural-urban divide.

Understanding this rural and urban makeup is central to fully exploring how the access to justice crisis may be addressed and how developments across Alaska’s unique civil legal ecosystem might guide rural advocacy elsewhere. Since 1960, the population in Alaska’s urban areas has grown by 285%, while rural areas have grown by only 84%.¹⁷ Since 1990, the rural population has only grown by 5% compared to the urban population growth of 42%.¹⁸ Between 2012 and 2016, “[a]bout 55% of the population of Alaska’s rural areas . . . was Alaska Native.”¹⁹ The largest portions of rural populations in Alaska, as of 2018, are located in Southeast Alaska with 22% and the Arctic region with 21%.²⁰ Next largest is the Western region with 20%, the Southwest with 13%, the Kodiak

12. See, e.g., Michael Ratcliffe et al., *Defining Rural at the U.S. Census Bureau: American Community Survey and Geography Brief*, U.S. CENSUS BUREAU 1, 1 (2016), <https://www.census.gov/content/dam/Census/library/publications/2016/ac s/acsgeo-1.pdf> (The U.S. Census Bureau defines rural as what is not urban—that is, after defining individual urban areas, rural is what is left. Other federal agencies and researchers may use a different definition of rural. For example, the U.S. Department of Agriculture’s Economic Research Service illustrates that there are several different ways to measure rural communities).

13. America Counts Staff, *What is Rural America?*, U.S. CENSUS BUREAU (Aug. 9, 2017), <https://www.census.gov/library/stories/2017/08/rural-america.html>.

14. *Id.*

15. *Id.*

16. This change is largely due to change in urban definition, not due to actual migration. See Press Release, U.S. Census Bureau, *Nation’s Urban and Rural Populations Shift Following 2020 Census* (Dec. 29, 2022), [https://www.census.gov/newsroom/press-releases/2022/urban-rural-populations.html#:~:text=\("This small decline \[in urban population\] was largely the result of changes to the criteria for defining urban areas as implemented by the Census Bureau"\)](https://www.census.gov/newsroom/press-releases/2022/urban-rural-populations.html#:~:text=("This%20small%20decline%20[in%20urban%20population]%20was%20largely%20the%20result%20of%20changes%20to%20the%20criteria%20for%20defining%20urban%20areas%20as%20implemented%20by%20the%20Census%20Bureau%20...".)).

17. James A. Fall, *Alaska Population Trends and Patterns, 1960–2018*, ALASKA DEPT. OF FISH & GAME, 1, 11 (2019), https://www.adfg.alaska.gov/static/home/library/pdfs/subsistence/Trends_in_Population_Summary_2019.pdf.

18. *Id.*

19. *Id.*

20. *Id.*

Island Borough with 11%, the Interior with 8%, and Southcentral with 6%.²¹ Of great note is the fact that many tribes, towns, and villages in Alaska are inaccessible by the road system.²² Being inaccessible by road systems means that they are harder for service providers who do not live within the community to reach.

This brings us to the role that Alaska plays in advancing rural access to justice across the United States. Alaska, we argue, serves as a unique vignette of how all states must grapple with questions of power and place when advancing novel forms of justice-making. As a clear example of this, Alaska Legal Services Corporation's Community Justice Worker program has done an exemplary job of utilizing the existing infrastructure of state service provision to embed "community-based justice workers" in areas that are otherwise inaccessible by legal aid.²³ To do this, the Alaska court system completed a mapping project that included identification of Alaskan networks for (i) legal service providers, (ii) social service providers, (iii) medical service providers, as well as (iv) information service providers.²⁴ The centralization of Alaska's legal aid infrastructure,²⁵ the relatively high rate of legal aid attorneys per residents in poverty,²⁶ and the unique nature of the state's unauthorized practice of

21. *Id.*

22. See Stacey Marz et al., *Alaska's Justice Ecosystem: Building a Partnership of Providers*, ALASKA CT. SYS. ACCESS TO JUST. COMM. 1, 1 (Dec. 22, 2017), https://www.ncsc.org/_data/assets/pdf_file/0022/25519/ak-jfa-plan.pdf ("Many of the approximately 250 small communities that dot Alaska's landscape are not connected to a road system . . .").

23. See, e.g., Talk Justice, *Taking Community Justice Workers Nationwide*, LEGAL SERVS. CORP. (Jan. 9, 2024), <https://www.lsc.gov/media/podcasts/talk-justice/talk-justice-episode-74> (discussing Alaska's Community Justice Worker Program); see Cayley Balser & Stacy Rupprecht Jane, *The Diverse Landscape of Community-Based Justice Workers*, INST. ADVANCEMENT AM. L. SYS. (Feb. 22, 2024), <https://iaals.du.edu/blog/diverse-landscape-community-based-justice-workers> (discussing all community-based justice worker programs authorized in the U.S. as of February 2024, with a discussion of important design questions to ask when proposing these types of service models).

24. See Marz et al., *supra* note 22, at 9; Tanina Rostain & James Teufel, *Measures of Justice: Researching and Evaluating Lay Legal Assistance Programs*, 51 FORDHAM URB. L.J. 1481, 1487 (2024) (providing an overview of the "network analysis" engaged in by the Alaska Legal Services Corporation in 2019).

25. See ABA, 2023 PROFILE OF THE LEGAL PROFESSION 11 (2023), <https://www.americanbar.org/content/dam/aba/administrative/news/2023/potlp-2023.pdf> ("One large organization - the Alaska Legal Services Corporation - accounts for nearly all of those lawyers (32) and they are scattered among 11 offices across the huge state, from metropolitan Anchorage to tiny Kotzebue (population 3,100).").

26. See *id.* ("Alaska has a poverty rate of 11.5%, exactly the national average. And yet it has 4.5 legal aid lawyers per 10,000 residents in poverty - sixth highest among the 50 states. Alaska has only 36 legal aid lawyers total, according to our survey, but that's in a state with 81,000 people in poverty.").

law restrictions²⁷ on legal advice-giving collectively positioned Alaska as a comparative national outlier²⁸ and ideal candidate for advancing much-needed civil legal problem-solving through a legal-aid-centric model. Nationally, this localized and community-grounded approach is cited as one of many similar models driving the now ever-growing national movement toward “community-based justice work.”²⁹

We frame our discussion of trauma-informed and community-accountable legal work through the triumph of Alaska’s Community Justice Worker program to (re)localize scholarship on the broader topic of community-based justice-making and to emphasize the ways that our fates—as community legal educators repairing state-sanctioned legal disempowerment—are “linked.”³⁰ This is to say that we honor our fellow

27. While many U.S. states’ unauthorized practice of law restrictions prohibit and penalize “the practice of law” as an umbrella of conduct that is otherwise the exclusive right of licensed and barred attorneys, Alaska’s Bar Rule 63 prohibits only (1) “representing oneself” as an attorney, (2) representing another individual before a court or governmental body, and (3) legal advice or document preparation for a fee. See ALASKA BAR ASS’N, INTRODUCTION TO PROPOSED ALASKA BAR RULE 43.5 (2022), <https://alaskabar.org/wp-content/uploads/Memo-and-Proposed-Bar-Rule-43.5.pdf> (changing the three-prong regulatory structure in 2022 by providing a waiver to advocates other than lawyers who receive training and supervision from Alaska Legal Services); ALASKA SUP. CT. ORDER NO. 1994 (Nov. 29, 2022) (“Waiver to Engage in the Limited Practice of Law for Non-Lawyers Trained and Supervised by Alaska Legal Services Corporation.”). Compare Bruce A. Green, *Why State Courts Should Authorize Nonlawyers to Practice Law*, 91 FORDHAM L. REV. 1249, 1266 (2023) (stating that “most states . . . recognize only one category of legal professionals who are entitled to practice law independently: lawyers”), with ALASKA BAR R. 63 (defining the “practice of law”). Notably absent from Alaska’s rule is the provision of *free* legal help. ALASKA BAR R. 63. Prior to the 2022 rule change, however, Alaska Bar Rules permitted the provision of legal advice by advocates other than lawyers without need for unauthorized practice of law reform. See Balsler & Jane, *supra* note 23 (“Since securing the UPL waiver, ALSC has developed further training to augment the benefits and substantive legal need areas it had offered since 2019 . . .”).

28. Cayley Balsler et al., *The Potential of Unauthorized Practice of Law Reform to Advance Domestic Violence Advocacy: Methods and Findings*, ARIZ. LEGAL STUDS. (Sept. 10, 2024) [hereinafter Balsler, *The Potential*], https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4952640.

29. Balsler & Jane, *supra* note 23; see *How to Make the Civil Justice System Accessible to All Americans: Hearing Before the S. Comm. on the Judiciary*, 188th Cong. (2024) (statement of Nikole Nelson, CEO, Frontline Justice), https://www.judiciary.senate.gov/imo/media/doc/2024-07-09_-_testimony_-_nelson.pdf (introducing a legal “model that harnesses legal aid expertise . . . to transform [Alaska’s] legal aid delivery system”); Talk Justice, *supra* note 23, at 9:50 (explaining how the program “train[s] and recruit[s] community members . . . to learn how to address very simple legal procedures that were having a huge impact and left unresolved”).

30. For an example of the scholarship on linked fate, see Evelyn M. Simien, *Race, Gender, and Linked Fate*, 35 J. BLACK STUDS. 529, 529 (2005), writing:

Linked fate represents a stage of identification that starts with a feeling

legal teachers, legal workers, and legal innovators because we know that the work of Alaska's justice workers is bound up with the lawscape and political realities of justice workers in Arizona, and in Delaware, and in Hawaii, and in South Carolina, and in Utah,³¹ and in all of the many places where community-based justice-making processes flourish.

With repair front and center, we now turn to the ways that trauma-informed practices must guide any work to advance community-accountable service delivery.

III. TRAUMA-INFORMED PRACTICES

A. Trauma Generally

Trauma is a public health epidemic.³² Approximately 82.7% of the U.S. population has experienced at least one traumatic event in their lifetime.³³ This means that most clients, practitioners, as well as readers of this Article have experienced a trauma at some point in their lives. Compounding this epidemic is the access to justice crisis. In the current civil legal problem-solving ecosystem, low-income Americans do not receive enough, or any, legal help for 93% of their civil legal problems.³⁴ What is more, interactions with the justice system can be traumatic events

of closeness to others who identify with the group label and involves the acceptance of the belief that individual life chances are inextricably tied to the group as a whole Linked fate can be defined as an acute sense of awareness (or recognition) that what happens to the group will also affect the individual member. Historically grounded, the cognitive factors underlying linked fate reflect a sense of belonging or conscious loyalty to the group in question.

31. See, e.g., Balser & Jane, *supra* note 23 (discussing the chronology of community-based justice work in the U.S. and the importance of designing in an opportunity space that will succeed in a given jurisdiction).

32. See Alicia F. Marvin & Rebecca Volino Robinson, *Implementing Trauma-Informed Care at a Non-Profit Human Service Agency in Alaska: Assessing Knowledge, Attitudes, and Readiness for Change*, 15 J. EVIDENCE-INFORMED SOC. WORK 550, 550 (2018) ("Trauma is so widespread that it has been referred to as a public health epidemic."); William E. Copeland et al., *Traumatic Events and Posttraumatic Stress in Childhood*, 64 ARCHIVES GEN. PSYCHIATRY 577 (2007) (exploring a "representative population sample" where "[m]ore than two thirds of children reported at least 1 traumatic event by 16 years of age"); Dean G. Kilpatrick et al., *National Estimates of Exposure to Traumatic Events and PTSD Prevalence Using DSM-IV and DSM-5 Criteria*, 26 J. TRAUMATIC STRESS 537, 541 (2013) (reporting that 89.7% of the study's respondents "reported exposure to at least one DSM-5 Criterion A event[s]").

33. Sandro Galea, *Trauma and Its Aftermath*, B.U. SCH. PUB. HEALTH (July 13, 2018), <https://www.bu.edu/sph/news/articles/2018/trauma-and-its-aftermath/> (discussing traumatic events as "a near-ubiquitous human experience").

34. LEGAL SERVS. CORP., *supra* note 5, at 48.

themselves.³⁵

The definition of trauma used in this Article comes from social worker, author, somatic abolitionist, and trauma specialist Resmaa Menakem. “Trauma,” they write, “is a response to anything that’s overwhelming, that happens too much, too fast, too soon, or too long – [it is] coupled with a lack of protection or support. It lives in the body, stored as sensation: pain, or tension—or lack of sensation, like numbness.”³⁶ Trauma is an integrated experience, meaning that it is simultaneously a psychological, emotional, and physiological experience. There are different types of trauma, including acute, chronic, vicarious, collective, intergenerational, complex, and historical.³⁷ This Article intentionally focuses on intergenerational and historical traumas as they are particularly salient to community members and the work of advancing community-accountable justice-making in Alaska.

Trauma, as an integrated experience, has long-lasting impacts that extend beyond the person who has experienced the trauma.³⁸ This may be referred to as intergenerational trauma, or trauma experiences that are

35. See Dorislee Gilbert & Emily Bonistall Postel, *Truth Without Trauma: Reducing Re-Traumatization Throughout the Justice System*, 60 U. LOUISVILLE L. REV. 521, 523–25 (2024) (discussing the current reality of courts causing trauma and the need to implement practices to reduce retraumatization); Negar Katirai, *Retraumatized in Court*, 62 ARIZ. L. REV. 81, 89–91 (2020) (discussing the retraumatization of domestic violence survivors in courts).

36. RESMAA MENAKEM, *MY GRANDMOTHER’S HANDS: RACIALIZED TRAUMA AND THE PATHWAY TO MENDING OUR HEARTS AND BODIES* 10 (Central Recovery Press 2017).

37. Matthew Bernius & Rachael Dietkus, *Cultivating Resiliencies for All: The Necessity of Trauma Responsive Research Practices*, in EPIC PROC. 9 (2022). Acute trauma stems from a single event such as a car accident, house fire, or physical assault. *Id.* at 12. It is generally an event that happens once and is distressing enough to impact a person’s physical or emotional security. *Id.* In contrast, chronic trauma is the result of exposure to long term, multiple, or prolonged events over extended time. *Id.* Examples of chronic trauma include bullying, ongoing food or housing insecurity, or long-term illness. *Id.* Vicarious trauma – also referred to as trauma exposure response and secondary trauma – refers to the effect that hearing about someone else’s traumatic experience(s) has on an individual. *Id.* This generally develops over time and causes symptoms similar to what a person who directly experienced the traumatic event may experience. LAURA VAN DERNOOT LIPSKY & CONNIE BURK, *TRAUMA STEWARDSHIP: AN EVERYDAY GUIDE TO CARING FOR SELF WHILE CARING FOR OTHERS* (2009). Anyone can develop trauma exposure response, though it is most common in frontline staff—case workers, social workers, therapists, and intake specialists—who work with people who have experienced trauma. Bernius & Dietkus, *supra* note 37, at 12. Collective trauma refers to a traumatic experience that impacts a community or society. An example of collective trauma includes the COVID-19 pandemic. *Id.* Complex trauma refers to the experience of multiple and varied traumatic experiences, combining many of the aforementioned types of trauma. *Id.* at 13.

38. Bernius & Dietkus, *supra* note 37, at 12.

passed on to a future generation.³⁹ Examples include both historical and present-day racism, as well as family addiction.⁴⁰ Historical trauma is a more recent concept defined by Hunkpapa/Oglala Lakota scholar, Maria Yellow Horse Braveheart.⁴¹ As such, historical trauma refers to the cumulative wounding due to a massive group trauma, such as past events that exhibited ethnocidal or genocidal intent.⁴² The effects of historical trauma persist across generations.⁴³ Examples of historical trauma relevant to this piece include colonial settler violence, displacement, and Indigenous residential (mis/re)education.

It is normal and anticipated that individuals will have unique experiences of stress and trauma, and their response and reaction—even to the same event—may manifest differently.⁴⁴ As we move into a discussion of individual experiences of trauma, it is important to clarify a few terms. First, as used in this Article, a traumatic *event* is any event that has the *potential* to be overwhelming or too much, too fast, too soon, or too long. Second, as used in this Article, a trauma *experience* is when someone experiences a traumatic event and *is* overwhelmed or experiences the “too much”-ness of that event. This differentiation is nuanced and intentional to highlight the individualized reactions that people may have, even when events or experiences are shared.

Certain risk factors may contribute to a traumatic event becoming a trauma experience. For example, a lack of community support and protection for the individual who has experienced a traumatic event increases the likelihood of that event turning into a trauma experience.⁴⁵ Experiencing trauma impacts major functioning of all the body’s systems.⁴⁶ These impacts can be long-lasting and may be triggered again through retraumatization.⁴⁷ As an integrated experience, trauma is not “over” once it occurs;⁴⁸ instead, it often feels like it is lived on repeat, with

39. *Id.*

40. *Id.*

41. See Rides At The Door & Trautman, *supra* note 3, at 370.

42. See *id.* (“[H]istorical trauma refers to past events with genocidal or ethnocidal intent, yet the effects have persisted across generations . . .”).

43. *Id.*

44. Bernius & Dietkus, *supra* note 37, at 12.

45. *Id.* It is important to note here that often people focus on “big T” traumas, or really dramatic events. *Id.* at 13. However, there are many “smaller,” more personal events that mental health professionals refer to as “little t” traumas that can still impact individuals and communities. *Id.*

46. See Colin James, *Towards Trauma-Informed Legal Practice: A Review*, 27 PSYCHIATRY, PSYCH. & L. 275, 276 (2020) (providing different ways trauma can affect a person physically and mentally).

47. Nina Kammerer & Ruta Mazelis, *Trauma and Retraumatization*, U.S. DEP’T JUST. OFF. JUST. PROGRAMS (July 2006), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/trauma-and-retraumatization>.

48. Bernius & Dietkus, *supra* note 37, at 13.

the psychological, emotional, and physiological responses activated each time it is replayed.⁴⁹ Retraumatization can occur at any moment and may deepen the trauma experience if the necessary support for processing that trauma is lacking.⁵⁰ It can occur in any setting, including when participating in legal proceedings.⁵¹

Trauma exposure response—otherwise known as secondary or vicarious trauma—can affect practitioners, including legal workers and educators.⁵² Trauma exposure response most often occurs when working with those experiencing trauma, where a practitioner experiences the effects of the client’s trauma as if it is their own.⁵³ Similar to directly experiencing trauma, this can result in impacts to major bodily system functioning and negatively impact relationships and worldview.⁵⁴ Given the deleterious effects of experiencing trauma, it is important to note the resiliency of humans and the steps that can be taken to reverse the effects of trauma through the implementation of trauma-informed practices.

Brains exhibit “neuroplasticity,” meaning that they change throughout our lives based on what parts of the brain—specifically which neural pathways—are used more than others.⁵⁵ This means that while trauma impacts brain structure, practicing mindfulness, self-care, and community care as well as implementing trauma-informed practices in our interactions, can reroute the detrimental neural pathways and strengthen resilience pathways, once again restructuring the brain.⁵⁶ Just like trauma can be passed down generationally, so can resiliency.⁵⁷

B. Trauma-Informed Practices

Implementing a trauma-informed approach includes applying a

49. *Id.*

50. *Id.*

51. *See, e.g.,* Gilbert & Postel, *supra* note 35, at 523; Katirai, *supra* note 35, at 84–85.

52. VAN DERNOOT LIPSKY & BURK, *supra* note 37.

53. *Id.*

54. *Id.*

55. Nancy Lovering, *Healing from Childhood Trauma: The Roles of Neuroplasticity and EMDR*, PSYCHCENTRAL, <https://psychcentral.com/ptsd/the-roles-neuroplasticity-and-emdr-play-in-healing-from-childhood-trauma> (last updated May 9, 2022).

56. *See* Danielle Rousseau, *Neuroplasticity—Rewiring Your Brain Through Mindfulness*, B.U. (Dec. 5, 2023), <https://sites.bu.edu/daniellerousseau/2023/12/05/neuroplasticity-rewiring-your-brain-through-mindfulness/> (explaining the process by which mindfulness practices can create transformative pathways).

57. *See* Rides At The Door & Trautman, *supra* note 3, at 371 (“While addressing historical trauma it is also important to consider that resiliency is also multi-generational.”).

“trauma lens” to the work.⁵⁸ This trauma lens is a shift in perspective away from considering what is “wrong” with someone, to considering what has happened to the people you work with and alongside.⁵⁹ Expanding beyond individual experiences of trauma to considering collective and historical trauma, this means asking “what has happened to this community?” instead of asking “what is wrong with this community?”⁶⁰ This shift moves away from pathologizing an individual or community, and instead focuses on cultivating curiosity about their experiences in a supportive manner.

Trauma-informed practices are not a checklist. Instead, trauma-informed practices are the operationalization of the six principles of trauma-informed care promulgated by the Substance Abuse and Mental Health Services Administration (SAMHSA).⁶¹ They include: (i) safety; (ii) trustworthiness and transparency; (iii) peer support; (iv) collaboration and mutuality; (v) empowerment, voice, and choice; and (vi) cultural, historical, and gender issues.⁶² These principles should be continuously evaluated and improved upon.

To implement trauma-informed principles, practice, sensitivity, and potentially an organizational cultural change will be required.⁶³ SAMHSA has shared strategies to help implement trauma-informed practices grounded in the six principles, including changing organizational culture to include trauma-informed care in mission and vision statements, demonstrating organizational commitment to trauma-informed care, including implementation strategies in workloads for

58. *See id.* (“The trauma lens considers whether a child and their family has experienced trauma.”).

59. *Id.*

60. *Id.*

61. *Infographic: 6 Guiding Principles to a Trauma-Informed Approach*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., <https://www.samhsa.gov/resource/dbhis/infographic-6-guiding-principles-trauma-informed-approach> (“This infographic identifies the six guiding principles to a trauma-informed approach that must be continuously assessed and improved on in organizations pursuing trauma-informed care. These principles, such as safety and peer support, each guide the framework of an organization and the impact of the services it provides.”). SAMHSA is the nation’s leading agency for development and promulgation of practices and approaches relating to mental health. *About Us*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., <https://www.samhsa.gov/about-us> (last updated Feb. 2, 2024).

62. *Id.* For more information about these six principles and how they are applied to interviewing and research, see Bernius & Dietkus, *supra* note 37, at 16–21.

63. U.S. DEP’T OF HEALTH & HUM. SERVS., SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., SAMHSA’S CONCEPT OF TRAUMA AND GUIDANCE FOR A TRAUMA-INFORMED APPROACH 16 (2014), https://ncsacw.acf.hhs.gov/userfiles/files/SAMHSA_Trauma.pdf.

specific staff, reviewing organizational policies and procedures for trauma-informed principles, collaborating with community members external to the organization to assist in implementation, and continual progress self-assessment.⁶⁴ Further, trauma-informed practices should be implemented at all levels of an organization.⁶⁵ Trauma-informed leadership can include working with staff to train and guide them ahead of any work done with clients who may have trauma histories.⁶⁶

When considering implementing trauma-informed practices in an organization, it is important not to make changes too quickly. A large majority of organizational change efforts fail, especially when change efforts are implemented too quickly and negatively impact staff.⁶⁷ Some level of resistance from staff is expected when changing policies and procedures to be more trauma-informed.⁶⁸ This resistance may be mitigated by explaining that trauma-informed practices are helpful not only to the individuals the organization serves, but also supports the employees at the organization.⁶⁹ Trauma-informed practice training “can help bolster staff knowledge and confidence in working with clients and help them see that every member of an organization is seen as essential in contributing to a [trauma-informed] culture.”⁷⁰ The vast majority of literature surrounding the implementation of trauma-informed practices comes from other helping professions.⁷¹ As discussed in the section that follows, we argue that these implementations are transferrable to legal services as well.

64. Marvin & Robinson, *supra* note 32, at 551.

65. *Id.*

66. *Id.* at 552.

67. *Id.*

68. *Id.* at 561.

69. *Id.* at 561–62.

70. *Id.* at 552.

71. See, e.g., Sonya Dublin et al., *Building a Trauma-Informed National Mental Health Workforce: Learning Outcomes from Use of the Core Curriculum on Childhood Trauma in Multidisciplinary Practice Settings*, 14 PSYCH. TRAUMA: THEORY, RSCH., PRACTICE, & POL’Y 1383 (2022) (assessing the effectiveness of one model for developing a trauma-capable national workforce); see also Elizabeth Reeves, *A Synthesis of the Literature on Trauma-Informed Care*, 36 ISSUES MENTAL HEALTH NURSING 698, 698 (2015) (examining “existing research on trauma-informed care for survivors of physical and sexual abuse”); Sarah Bendall et al., *A Systematic Review and Synthesis of Trauma-Informed Care Within Outpatient and Counseling Health Settings for Young People*, 26 CHILD MALTREATMENT 313 (2020); Joshua P. Mersky et al., *Promoting Evidence-Based, Trauma-Informed Social Work Practice*, 55 J. SOC. WORK ED. 645 (2019); Carol O’Dwyer et al., *Health Professionals’ Experiences of Providing Trauma-Informed Care in Acute Psychiatric Inpatient Settings: A Scoping Review*, 22 TRAUMA, VIOLENCE, & ABUSE 263 (2006).

C. Trauma Trends in Alaska

Over 80% of individuals in the United States have experienced a traumatic event within their lifetime.⁷² A common measure of traumatic events is scoring “Adverse Childhood Experiences,” otherwise known as “ACEs” or “ACE scores.”⁷³ ACEs include a family history of suicidality, experiencing abuse, neglect, or violence, and witnessing violence in the community or at home.⁷⁴ ACEs also include growing up with instability due to family member incarceration or parental separation, mental health problems, and substance use problems.⁷⁵ Having a high ACE score is associated with diminished health and wellbeing.⁷⁶ However, having a high ACE score is not determinative of decreased quality of life.⁷⁷ Given the neuroplastic quality of the human brain and the opportunity for community support and experience integration, people who have high ACE scores are able to strengthen neural pathways in their brain that foster and strengthen resilience and positive connections.⁷⁸ Put simply, when trauma is addressed, individuals who have a high ACE score can still live healthy and fulfilled lives.

In 2013, the U.S. Department of Health and Human Services (DHHS) gathered ACE scores across the country and compared scores in Alaska with those data from five other states,⁷⁹ demonstrating that trauma is a “painfully relevant issue within Alaska.”⁸⁰ In this comparison, DHHS found that Alaska had the highest rates for substance misuse in the home, having an incarcerated family member, sexual abuse, and separation or divorce.⁸¹ This comparison also found that Alaska was second in other ACE categories, including witnessing domestic violence, verbal and emotional abuse, mental illness in the home, and physical abuse.⁸² In recognition of these realities, “[Alaska Legal Services Corporation] staff attorneys are regularly trained to provide victim-centered, trauma-informed, culturally competent, and language accessible civil legal

72. Galea, *supra* note 33.

73. *About Adverse Childhood Experiences*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/aces/about/index.html> (last updated Oct. 8, 2024).

74. *See id.* (giving examples of common ACEs).

75. *Id.*

76. *Id.*

77. Warren Larkin & Peter Cairns, *Addressing Adverse Childhood Experiences: Implications for Professional Practice*, 70 *BRIT. J. GEN. PRAC.* 160, 160 (2020).

78. *See* Rousseau, *supra* note 56 (explaining how mindfulness practices can strengthen neural pathways).

79. Marvin & Robinson, *supra* note 32, at 553.

80. *Id.*

81. *Id.*

82. *Id.*

services,”⁸³ and community-based justice workers are particularly situated to understand the trauma of their client populations. Positioning the unique historical and embodied trauma experienced by communities in Alaska, we believe, helps to underscore the dire necessity of locally serving and locally driven community justice-making processes everywhere, given Alaska’s relationship with the U.S. as a settler legal entity.

D. Implementing Trauma-Informed Practices with Cultural Consciousness

Any trauma-informed practices should be implemented while recognizing the need for cultural consciousness. This means that providers should be self-aware enough to recognize the limits of their knowledge and understanding of cultures that differ from their own.⁸⁴ This includes not only recognizing differences but also celebrating diverse cultural identities and lived experience for their uniqueness.⁸⁵ The goal is not to homogenize services by slapping the label “trauma-informed” on them. Instead, it is important to use the principles of trauma-informed care to create an organizational environment that not only knows and recognizes, but also responds to, the unique cultural needs of the individuals the organization serves.⁸⁶ This includes recognizing that culture impacts how trauma is conceptualized, is experienced, and can be healed.⁸⁷ When training staff on screening or assessing for trauma, it is critical to ensure that training is culturally grounded.⁸⁸

Across service types, culturally grounded training should also include training about known events that may have contributed to historical or collective trauma within the population served, and how that may impact service delivery.⁸⁹ Impacts of historical trauma may include elevated levels of mistrust between tribal communities and the service provider.⁹⁰ They may also include communities being unwilling or unable to share cultural knowledge and healing practices with service providers

83. ALASKA LEGAL SERVS. CORP., HB 161: AMENDING THE CIVIL LEGAL SERVICES FUND, https://www.akleg.gov/basis/get_documents.asp?session=33&docid=28527 (last visited Aug. 7, 2024).

84. Rides At The Door & Trautman, *supra* note 3, at 369.

85. *Id.*

86. *Id.*

87. *Id.* at 370.

88. *Id.*

89. *See id.* at 371 (explaining how historical trauma impacts service delivery).

90. *Id.*

due to past exploitation of these practices and knowledge.⁹¹ This means that legal service providers “must recognize the influence of historical events or conditions (e.g., policies of assimilation, forced relocation, loss of homelands, and mass incarcerations) inflicted upon entire communities and the resulting trauma which may be passed down through generations.”⁹² Trauma, and its intentional understanding, is at the heart of advancing any approach that seeks to name, shift, or reimagine structures of power.

IV. (RE)CONCEPTUALIZING COMMUNITY ACCOUNTABILITY & POWER

Intentional forms of justice-making are only meaningful if they can be accessed by people with justice needs. When serving communities who have been systemically disinvested from, formally trained scholars and community writers⁹³ indicate that it is important to recognize this reality and to “consider that acts of oppression and discrimination may be experienced as traumatic and result in trauma symptoms.”⁹⁴ This section now turns to the structural and institutional ways that justice-making is locked away at the legal (and geographic) poles of U.S. imperial power.

In 2009, the United Nations’ Commission on Legal Empowerment of the Poor estimated that at least “four billion people around the world are robbed of the chance to better their lives and climb out of poverty because they are excluded from the rule of law.”⁹⁵ In particular, a history of monopolized legal power within the U.S. has created an ecosystem in which justice-making is the exclusive practice of members in the “lawyers’ cartel,” or the fiercely regulated legal profession.⁹⁶ The

91. *Id.*

92. *See id.* at 372.

93. Here, we borrow language from fellow abolitionist-oriented scholars to name the lived experience of scholars beyond the academy. *See, e.g.,* Christina John et al., *Subversive Legal Education: Reformist Steps Toward Abolitionist Visions*, 90 *FORDHAM L. REV.* 2089, 2092 (2022) (“We define our coauthors collectively and interchangeably as organic jurists or community legal writers. Based on Antonio Gramsci’s concept of ‘organic intellectuals,’ an organic jurist ‘studies, analyzes, and comments on the law.’ Gramsci, who spent years imprisoned by Mussolini’s fascist regime, viewed every person as an intellectual.”).

94. *Rides At The Door & Trautman*, *supra* note 3, at 370.

95. Naresh Singh, *Fighting Rural Poverty, Inequality and Low Productivity Through Legal Empowerment of the Poor*, 36 *J. PEASANT STUDS.* 871, 877 (2009).

96. Balsler, *Leveraging*, *supra* note 6, at 66; Antonio M. Coronado, *Pedagogy of the Oppressive: Building the Movement to Abolish U.S. Legal Education*, Q. J. SPEECH 1 (2024) [hereinafter Coronado, *Pedagogy*]. *See* Nuno Garoupa & Milan Markovic, *Deregulation and the Lawyers’ Cartel*, 43 *U. PA. J. INT’L L.* 935, 951 (2022) (“[L]egal market regulations have largely served the interests of the members of the legal profession and have allowed for cartel-like behavior.”).

sociological effects of this structural space between the law, licensed legal workers, and the law's subjects—as conceptually distinct categories of people for justice-making processes—are made visible through public opinion polling: in late 2023, Gallup polling found that only 2% of respondents reported viewing lawyers as having very high levels of honesty and ethical standards.⁹⁷ This year, 47% of Pew survey respondents and less than one-third of Democratic or Democratic-leaning respondents reported holding a favorable view of the U.S. Supreme Court;⁹⁸ and, in 2023, a nationwide survey found that 46% of all polled respondents reported their “largest concern when picking an attorney” was the fear that an attorney “would charge too much.”⁹⁹ The settler history of exclusionary U.S. legal practice further illustrates the foundations and consequences of these findings.¹⁰⁰

Numerous decades, perspectives, and waves of prior scholarship have explored this space between lawyer as law-user, law as a system, and lay people as law subjects. Building from the authors' prior applied scholarship in the access to justice space, this Article explores the implications for justice-making processes when place, position, and relative power have further disintegrated the already tenuous links between lawyer, law, and lay people. A precedent to this discussion is the harsh reality of U.S. justice-making: “[h]istorically, only lawyers—those individuals who earn a Juris Doctor (“J.D.”) degree, pass a bar exam, and

97. *Honesty/Ethics in Professions*, GALLUP, <https://news.gallup.com/poll/1654/honesty-ethics-professions.aspx> (last visited Aug. 4, 2024).

98. Joseph Copeland, *Favorable Views of Supreme Court Remain Near Historic Low*, PEW RSCH. CTR. (Aug. 8, 2024), <https://www.pewresearch.org/short-reads/2024/08/08/favorable-views-of-supreme-court-remain-near-historic-low/>.

99. Tucker Willis & Jason Power, *Americans' Views on the Civil Justice System 2023 Edition*, REBUTTALPR (Nov. 14, 2023), https://static1.squarespace.com/static/61953cc99b47834517df400e/t/65539eec72ec2e5243354a1e/1699978989572/RebuttalPR_2023PollingReport.pdf.

100. Settler history of practicing U.S. law is described as follows:

The ‘good’ white legal body is figured as oppositional to the ‘scum’—turned heathen—criminal and non-white other. Some have even referred to this relationship of power as an ‘Atticus Finch complex’ or of ‘good white liberals’ who cannot disconnect their white savior complex from their work supporting poor and non-white clients. This language matters for understanding the making (and the breaking) of worlds and assessing flows of power within the U.S. legal profession. . . . Colonies, Christianity, and Commerce, as platforms from which settler law could be shaped, made this vision possible: Of person and non-person and of matter and anti-matter.

Antonio M. Coronado, *Divine Injustice: Myths of Good Lawyers & Other Legal Fictions*, 14 GEO. J. L. & MOD. CRITICAL RACE PERSPS. 107, 142 (2022) [hereinafter Coronado, *Divine Injustice*].

pass a character and fitness exam—have been permitted to give legal advice.”¹⁰¹ Fellow scholars make clear that the closely regulated U.S. practice of law and access to legal power are the material consequences of legacies of white power,¹⁰² convergent aims of imperial statecraft,¹⁰³ and regulatory capture.¹⁰⁴ In these ways, the law is not out of reach; it is *intentionally locked away*.

By contrast, a paradigmatic shift in both scholarship and regulatory governance has sought to re-site the place and power of justice-making processes to the communities directly impacted by U.S. legal systems. The global legal empowerment movement is a bottom-up advocacy framework that seeks to train and equip community-based helpers other than lawyers with the tools necessary to “understand, use, and shape the law.”¹⁰⁵ Globally, this reconceptualization of legal power has resulted in the emergence of community paralegals, or advocates “who demystify law and empower people to advocate for themselves.”¹⁰⁶ Within the U.S.,

101. Balsler, *Leveraging*, *supra* note 6, at 67.

102. See, e.g., ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (G. Edward White ed., Univ. of N.C. Press 1983); Danielle M. Conway, *Institutional Antiracism and Critical Pedagogy: A Quantum Leap Forward for Legal Education and the Legal Academy*, 75 ALA. L. REV. 717 (2024); Coronado, *Divine Injustice*, *supra* note 100.

103. See, e.g., STEVENS, *supra* note 102; The impact of statecraft on the practice of law is described as follows:

U.S. law graduates are socialized as separate and apart from the communities and identities that brought them to law school, operating instead as newly minted state agents and sworn protectors of the U.S. Constitution. In advancing a pedagogical culture grounded in white supremacist ideologies, U.S. legal education trains students to levy state-sanctioned indignities in their future work beyond the classroom.

Coronado, *Pedagogy*, *supra* note 96, at 9.

104. Garoupa & Markovic, *supra* note 96; see also Balsler, *Leveraging*, *supra* note 6; The impact of regulatory capture on the practice of law is described as follows:

The stated underpinnings of [the current] regulatory scheme have centered on rhetoric of consumer protection from runaway, untrained legal workers as well as the perceived lack of rigor presented by competing models. Such a framing of lawyer-based public protection, I argue, is fundamentally incongruent with recent antidemocratic efforts engaged in—and even led—by licensed attorneys. Furthermore, this narrative conflates consumer protection with institutional capture of the right to U.S. legal power. Ultimately, an institutional inventory of the modern law school reveals that the true center of gravity for formal U.S. legal education is found in triadic considerations of prestige, power, and privilege.

Coronado, *Pedagogy*, *supra* note 96, at 6–7.

105. Vivek Maru et al., *Squeezing Justice Out of a Broken System: Community Paralegals in Sierra Leone*, in *COMMUNITY PARALEGALS AND THE PURSUIT OF JUSTICE* 210, 238 (Vivek Maru & Varun Gauri eds., Cambridge Univ. Press 2018).

106. *PARALEGALS AND THE PURSUIT OF JUSTICE* iii–iv (Vivek Maru & Varun Gauri

a consonant effort is underway to advance “community-based justice workers” or models that “involve training and certifying individuals working at community-based organizations to offer legal advice and services in certain case types.”¹⁰⁷ By design, “[t]hese models target low-income individuals and require modification of, exemption from, or waivers to unauthorized practice of law (UPL) restrictions.”¹⁰⁸

“Critical legal empowerment,” a second-wave vision for building legal power through radical participatory means, urges scholars and practitioners alike to take legal re-regulation efforts to their ideological endpoint: community sovereignty. As one scholar writes, critical legal empowerment “demands that all powerful actors be called to account for rights violations under law.”¹⁰⁹ Exploring the ways that critical legal empowerment has been advanced in Haiti as a case study, scholar-activists Nixon Boumba and Margaret Satterthwaite note that “[w]hile both [traditional and critical legal empowerment] center on a bottom-up approach where marginalized communities utilize legal mechanisms to shape laws and legal systems, [critical legal empowerment] goes further than merely requiring access, reconstructing those legal systems to write out oppression and exclusion and write in structures of accountability for those holding power.”¹¹⁰ The core tenet of such an approach is the focus on power, as it is understood across processes of justice-making.

Here, we interject lessons from the field of critical environmental justice studies to the normative body of access to justice scholarship—namely, the concept of “indispensability.”¹¹¹ As scholar David Pellow has explored, state politics and practices of dispensability render certain lives and futures as marked for discarding.¹¹² “[E]xcluded, marginalized, and

eds., Cambridge Univ. Press 2018).

107. See Balser & Jane, *supra* note 23.

108. *Id.*

109. Nixon Boumba & Margaret Satterthwaite, *Tout Moun Se Moun: Critical Legal Empowerment for Human Rights in Haiti*, 97 N.Y.U. L. REV. 1566, 1567 (2022).

110. *Id.* at 1588 n.144.

111. The concept of racial indispensability is introduced as follows:

Critical EJ Studies builds on the work of these scholars by countering the ideology of White supremacy and human dominionism and articulating the perspective that excluded, marginalized, and othered populations, beings, and things—both human and more-than-human—must be viewed not as expendable but rather as indispensable to our collective futures. This is what I term *racial indispensability* (when referring to people of color) and *socioecological indispensability* (when referring to broader communities within and across the human/more-than-human divide and their relationships to one another).

David N. Pellow, *Toward A Critical Environmental Justice Studies: Black Lives Matter as an Environmental Justice Challenge*, 13 DU BOIS REV.: SOC. SCI. RSCH. ON RACE 221, 230-31 (2016).

112. See *id.*

othered populations, beings, and things—both human and more-than-human,” he writes, “must be viewed not as expendable but rather as indispensable to our collective futures.”¹¹³ Drawing from the activism and rhetoric of movements toward liberation, Pellow introduces a perspective of “socioecological indispensability” or a view that “the wellbeing of all people, species, and ecosystems is indispensable. This contention is both a socioecological reality and an affirmation of the politics of solidarity and coalition-building that firmly state: ‘[a]ll of us or none!’”¹¹⁴ For legal vacuums and our discussion of justice-making processes, Pellow’s notion of indispensability invites the U.S. legal profession to interrogate the dominant and structural ways that U.S. legal power is in direct contradiction with goals of collective and local justice-making. Put differently, legal empowerment efforts must explicitly acknowledge our current lawyers-only regulatory scheme as one of *disempowering* or unjustly *divesting* power.

The following sections further interrogate the contents of legal power in America by examining the unique needs, realities, and relations of rural communities, with a close look at the ways that peoples understand themselves in relation to violent legal systems.

A. Place-Conscious Legal Work

Legal power is not merely vested through licensure; it is divested from the communities, people, and places the state has deemed unworthy, unfit, or undeserving of this power.¹¹⁵ This discursive claim is

113. *Id.* at 231.

114. *Id.* at 232.

115. The divestiture of legal power from certain communities is exemplified as follows:

As Black, Brown, Native, Jewish, and immigrant groups made strides entering the profession throughout the 1800s, or as they gained the ability to exercise new civic freedoms, the White, male, Protestant legal class created stricter standards for anyone to become a sanctioned member of the legal profession, such as law school, Bar exams, and the C[haracter]& F[itness]. Throughout the development of the C&F, the class of ‘unfavorable’ applicants and conduct grew to also include social justice and leftist C&F applicants. This distaste for subversive politics went as far as the FBI spying on applicants who were a part of the National Lawyers Guild and supplying that information to C&F committees.

Unlock the Bar: The Case for Abolishing the Character and Fitness Process, UNLOCK THE BAR (Feb. 2022), <https://drive.google.com/file/d/1rsolmrgtckGcHKrsYgIT0DwwYGt9Mahj/view>. Another instance of divestiture of legal power from certain communities is as follows:

While in law school, a white classmate in my professional responsibility course observed that the bar exam was a welcomed and needed feature

further borne out by an analysis of the economic and material realities of U.S. rural communities. As legal scholar Ann M. Eisenberg has argued, “it is not accurate to suggest that the rural America in decline ‘died’ or ‘was forgotten.’”¹¹⁶ But rather, “[t]he [broader American] public used rural America for gain; rural America was sacrificed, and that sacrifice is on the public’s conscience.”¹¹⁷ Through this conceptualization, Eisenberg writes, we can understand rural needs as bound up with the whims of the state: “[b]y bearing disproportionate economic losses alongside substantial environmental burdens—rationalized in the name of collective welfare—these communities were sacrificed.”¹¹⁸

In the legal context, fellow scholars have highlighted how “[r]ural socio-spatiality poses substantial hurdles to accessing law enforcement, the regulatory state, lawyers, and courtrooms.”¹¹⁹ These hurdles have life-altering consequences, particularly for individuals most in need of legal care. Rurality, some have argued, can be seen as associated with the potential abuse of vulnerable populations:

Rural workers often do not benefit from federal wage and leave protections either because they are not formally employed or are employed by an organization with too few employees to be subject to federal regulation. . . . Veterans, the disabled, and the elderly—all higher proportions of rural populations than urban ones—are susceptible to a range of abuses, but they will have fewer watchdog and social services agencies to protect and serve them in rural communities. Children, another highly vulnerable population, are similarly unlikely to benefit from robust health

of the legal industry, because it operated to prevent ‘scumbags’ from acquiring bar certification. Far from being a unique justification for the at times controversial and historically discriminatory exam, the context in which this comment was made brought with it an additional layer of irony and psychological violence—never mind that beyond the four corners of our Zoom classroom, a concerted effort was underway to undermine the results of the 2020 U.S. Presidential Election through extra-judicial and judicial-adjacent procedural mechanisms; never mind that the origins of the bar exam are firmly rooted in a history of exclusion, anti-Black racism, and xenophobia; never mind that the word ‘scumbag’—some lesser other in a notoriously white, male, and upper-class professional field—itself was coded. The rest of that class, I wondered: In an industry predicated on colonial violence, did this classmate mean their ancestors or mine?

Coronado, *Divine Injustice*, *supra* note 100, at 124–25.

116. Ann M. Eisenberg, *Distributive Justice and Rural America*, 61 B.C. L. REV. 189, 246 (2020).

117. *Id.*

118. *Id.* at 197.

119. Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 496 (2014).

and human services or associated advocacy in rural areas. Toxic and natural hazards create risks for entire communities.¹²⁰

Thus, any discussion of rural legal power is predicated on one of the unique material realities of rural communities.

For this reason, the unique nature of rural legal advocacy cannot be overstated. For instance, U.S. legal scholars Lisa Pruitt and Bradley Showman argue that in rural communities “[l]awyers are fewer and farther away from each other, while clients often must overcome substantial socio-spatial and economic barriers to engage the legal system.”¹²¹ This social, spatial, and economic organization of rural legal ecosystems informs how and where rural legal advocacy happens. “Rural lawyers,” they argue, “are expected to resolve disputes, while minimizing conflict, and simultaneously maintaining collegial ties.”¹²² Consequently, rural attorneys’ reputations and the risk of community polarization are bound up with the operationalization of legal power and “even simple business disputes.”¹²³ In this way, rural legal advocacy can be seen as a distinct articulation of legal power, given the influence of local norms, attorneys’ desire to prioritize community relationships, and potential limitations that both factors have on the types of suits that attorneys will file.¹²⁴

Members of the rural legal ecosystem recognize this reality. By one legal scholar’s account, “[a]ll state courts and commissions that have taken up rural access to justice recognize at least implicitly that rural socio-spatiality alters the ‘lawscape.’”¹²⁵ This necessarily applies to Alaska, with prior scholarship emphasizing the deep value and significance that are assigned to Alaskan rural spaces.¹²⁶ Of note for our exploration of legal power, said notions of Alaskan rurality are juxtaposed with broader, national connections and Alaska’s position as a state “highly dependent on federal government grants, pension payments and local procurement.”¹²⁷ This is to say that Alaskans are highly connected to their hyper-local, rural spaces while structurally being highly tied to the Lower 48. These social and financial connections matter deeply for understanding the interdependence of rural lawscapes across

120. *Id.* at 500–01.

121. *Id.* at 478–79.

122. *Id.* at 491 n.112.

123. *Id.*

124. *See id.* at 491 (describing how interpersonal and societal complexities impact the work of rural lawyers).

125. *Id.* at 478

126. *See* Meg Sherval, *Native Alaskan Engagement with Social Constructions of Rurality*, 25 J. RURAL STUDS. 425, 432 (2009) (explaining that Alaska continues to value its rural spaces).

127. *Id.* at 430.

the country. Thus, while rural spaces across the U.S. might be thought of as “peripheral to the ‘metropolitan core,’”¹²⁸ they simultaneously serve as “merely one way of describing ‘home’”¹²⁹ for both people and legal power.

Place and space, then, can be viewed as co-constitutive factors of a jurisdiction’s lawscape; local problems define, inform, and necessitate local solutions. As fellow service-focused scholars have noted in Australia, so-called “[p]lace-based approaches” aim to localize the structural issues that communities face and “break down the ‘wickedness’ of broad and complex problems.”¹³⁰ As such, poverty, and its different manifestations across place and space, might be best dealt with “at a very fine-grained local level.”¹³¹ Drawing from international studies on service delivery, three interacting, but “not immediately compatible[,] criteria” for such place-based practices have previously been suggested:

Localised context – first, since the development of agency or capacity at individual, family and/or community level is the goal, service designs must allow responses to be contextualised to ‘local’ individual needs and/or community circumstances. *Embedded learning* – second, design must embed learning as the core value of the system and as the dynamic heart of its administrative architecture – to yield granular information that is essential to realise continuous improvement and reciprocal learning. Moreover, learning is pragmatic and experiential and adaptive not codified or definitive. *Reciprocal accountability* – third, because public funds and politically determined purposes are involved, central accountability is essential. But accountability should entail a justification of local results against local targets set in the context of priorities or themes determined by the centre. Adaptive learning is gained from sharing outcomes across sites.¹³²

Place-based action, these scholars contend, permits for the localization of outcomes, on-the-ground staff discretion, and individual or community-based engagement in programmatic decision-making across sites of inquiry.¹³³ While no true “best practice” for service delivery emerges from such a high-level framework, place-based methodologies

128. *Id.* at 432.

129. *Id.*

130. Ian Marsh et al., *Delivering Public Services: Locality, Learning and Reciprocity in Place Based Practice*, 76 AUSTL. J. PUB. ADMIN. 443, 443 (2016).

131. *Id.*

132. *Id.* at 445.

133. *See id.*

honor the localized and contextualized nature of most service settings.¹³⁴

B. Power-Conscious Legal Work

We begin this section with the introductory words of *The Native Nations Institute for Leadership, Management, and Policy* and *The Harvard Project on American Indian Economic Development* in their report on Alaskan Native self-governance and service delivery:

The Native peoples of Alaska have governed themselves for far longer than either the State of Alaska or the United States. . . . There is broad and robust evidence from diverse Native settings in the United States and elsewhere that self-governing power, backed up by capable, effective, and culturally appropriate governing institutions, provides the most efficacious foundation of Native economic and community development. Over the last century in the United States, indigenous self-determination is the *only* federal policy that has had any broad, positive, sustained impact on Native poverty.¹³⁵

In the context of power-conscious legal advocacy, this passage underscores the linked historical and structural legacies of UPL restrictions, legal (dis)empowerment, and imperial violence across the U.S.

The story of legal power in the U.S. is necessarily one of manufactured and maintained exclusion.¹³⁶ Indeed, “[h]istorically

134. *Id.*

135. Stephen Cornell & Joseph P. Kalt, *Alaska Native Self-Government and Service Delivery: What Works?*, Joint Occasional Papers on Native Affairs No. 2003-01, THE NATIVE NATIONS INST. FOR LEADERSHIP, MGMT., AND POL’Y & THE HARV. PROJECT ON AM. INDIAN ECON. DEV., i-ii (2003), https://nnigovernance.arizona.edu/sites/nnigovernance.arizona.edu/files/2022-09/2003_CORNELL_kalt_JOPNA_alaskanativeselfgovernment.pdf.

136. See Dan Subotnik, *Does Testing = Race Discrimination?: Ricci, the Bar Exam, the LSAT, and the Challenge to Learning*, 8 U. MASS. L. REV. 332, 365–66 (2013) (providing a historical perspective to the bar exam and the connection between testing, immigration, and racism); Lauren Hutton-Work & Rae Guyse, *Requiring a Bar Exam in 2020 Perpetuates Systemic Inequities in Legal System*, APPEAL (Jul. 6, 2020), <https://theappeal.org/2020-bar-exam-coronavirus-inequities-legal-system/>. The manufactured exclusion within U.S. legal power is understood as follows:

[T]he monopolization of U.S. legal power is seen in the manufactured inaccessibility of legal information. Throughout the U.S. legal profession, there is an outsized reliance on subscription-based research databases for the search, access, and citation to legal information. Companies like *Thomson Reuters*, *Lexis Nexis*, and *Bloomberg Law* represent a multi-billion-dollar industry of legal technologies that dominate the legal dataspace. . .

speaking, access to legal knowledge in the U.S. has typically been synonymous with intersecting forms of power for white, male, able-bodied, neurotypical, and otherwise privileged citizens of the settler nation-state.”¹³⁷ This concordance of structurally and legally vested power is no aberration, but instead a material consequence of the American Bar Association’s stated desire to keep “pure the Anglo-Saxon race.”¹³⁸ For this reason, the recent national proliferation of community-based justice worker initiatives must be understood within the current political moment and accompanying national lawscape: this movement emerges from legal realities wherein U.S. settler law is a continued vehicle for maintaining fascistic aims and where the normative foundations of settler law are under deep interrogation.¹³⁹

As directly-impacted communities in Alaska, Arizona, Delaware, Hawaii, South Carolina, and Utah¹⁴⁰ have known long before the authorization of their respective community-based justice worker initiatives, the movement toward justice work in the U.S. is a “reparative” project that heals the material and legal rupture of people from their power.¹⁴¹ Community-based justice work is a de-mystification of the imperial law school. It is a vacating of settler fictions on the benevolence of legal systems and a conscious move toward building community power. The contrasting visions of access to justice cannot be starker: In 2023, 79% of U.S. legal professionals were white, while the majority of community-based justice worker initiatives are driven by advocates of color.¹⁴² Moreover, the majority of current justice worker initiatives

. This restricting of legal knowledge behind a paywall advances a core discourse and guiding myth of legal power: *for the low-low price of several thousand dollars a year, non-lawyers too can use the same legal Google as their attorney.*

Coronado, *Pesagogy*, *supra* note 96, at 12.

137. Coronado, *Pesagogy*, *supra* note 96, at 12.

138. Hutton-Work & Guyse, *supra* note 136.

139. *Unlock the Bar*, *supra* note 115; Alex Goldstein, *The Attorney’s Duty to Democracy: Legal Ethics, Attorney Discipline, and the 2020 Election*, 35 GEO. J. LEGAL ETHICS 737, 737 (2022); see Coronado, *Divine Injustice*, *supra* note 100, at 129 (“Election lawyers traded institutional and democratic norms for power and profits in 2020 with very little regard for how such actions would destabilize or delegitimize the country at an institutional level.”).

140. See Balser & Jane, *supra* note 23 (describing how the community-based justice worker initiatives have been effective in the aforementioned states).

141. *Community Legal Education*, *supra* note 2.

142. See, e.g., *Community-Based Justice Work in Our State: CJW Task Force Overview on Arizona’s Domestic Violence & Housing Stability Legal Advocate Initiatives*, INNOVATION FOR JUST. (2024), <https://drive.google.com/file/d/1d8NrVkz-uKGBpGndOn6rOWsUh9Yvjgbr/view> (containing anecdotal data on the demographics of emergent community-based justice worker initiatives derived from conversations between authors and leaders of active justice worker

require no more than a high school diploma or GED,¹⁴³ compared to the traditional undergraduate-plus-JD requirements of legal practice.¹⁴⁴ Justice work—like its ideological predecessors and aligned frameworks of movement,¹⁴⁵ social justice,¹⁴⁶ and rebellious lawyering¹⁴⁷—employs place-based methodologies for justice-making. The general distinction, however, lies in the differing grammars, place, and positioning of legal power.

While obvious exceptions exist across time and each state’s lawscape,¹⁴⁸ traditional lawyers—even those who work in service of communities systematically disinvested from and impacted by U.S. legal systems—are bound by the economic realities of their legal profession and relevant jurisdictions.¹⁴⁹ The monopolization of legal power positions

initiatives nationally).

143. Balsler, *The Potential*, *supra* note 28, at 68–70 (citing ALASKA SUP. CT. ORD. No. 1994 (Nov. 29, 2022)); ARIZ. ADMIN. ORD. NO. 2020-84 (June 3, 2020); ARIZ. ADMIN. ORD. NO. 2023-19 (Jan. 18, 2023); DEL. SUP. CT. R. 57.1; HAW. SUP. CT. ORD. NO. SCMF-23-0000343 (May 15, 2023); S.C. SUP. CT. ORD. *In Re: South Carolina NAACP Housing Advocate Program* (Feb. 8, 2024); UTAH SUP. CT. ORD. *In Re: Application of Timpanogos Legal Center’s Certified Advocate Partners Program* (Aug. 16, 2022); UTAH SUP. CT. ORD. *In Re: Application of Holy Cross Ministries* (Aug. 16, 2022); UTAH SUP. CT. STANDING ORD. NO. 16 (Mar. 9, 2023).

144. Balsler, *Leveraging*, *supra* note 6, at 67.

145. See, e.g., Amanda Alexander, *Nurturing Freedom Dreams: An Approach to Movement Lawyering in the Black Lives Matter Era*, 5 HOW. HUM. & CIV. RTS. L. REV. 101, 102–05 (2021) (detailing the intersection of legal work and various aligned movements); Marbre Stahly-Butts & Amna A. Akbar, *Reforms for Radicals? An Abolitionist Framework*, 68 UCLA L. REV. 1544, 1544 (2022) (providing a progressive roadmap for abolition and creating space “to collectively agitate on the role of reform in transformational, rather than legitimating, projects”); Jamelia Morgan, *Lawyering for Abolitionist Movements*, 53 CONN. L. REV. 605, 614–16 (2021) (identifying the role of lawyers in supporting abolitionist movements).

146. Duncan Kennedy, *The Social Justice Element in Legal Education in the United States*, 1 UNBOUND 93 (2005); Rosa Castello, *Incorporating Social Justice into the Law School Curriculum with a Hybrid Doctrinal/Writing Course*, 50 J. MARSHALL L. REV. 221 (2017); Julie D. Lawton, *Teaching Social Justice in Law Schools: Whose Morality Is It?*, 50 IND. L. REV. 813 (2017); see Margaret Martin Barry et al., *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLINICAL L. REV. 401, 449–52 (2012) (underscoring the connection between community-based education and social justice in law school clinics).

147. Harold McDougall, *The Rebellious Law Professor: Combining Cause and Reflective Lawyering*, 65 J. LEGAL EDUC. 326 (2015).

148. See, e.g., *Wayne Law Students Launch Powerful “Lawyers Look Like Me” Campaign*, WAYNE STATE UNIV. (Mar. 22, 2022), <https://law.wayne.edu/news/wayne-law-students-launch-powerful-lawyers-look-like-me-campaign-47608>; Deseriee A. Kennedy, *Access Law Schools & Diversifying the Profession*, 92 TEMP. L. REV. 799 (2020); Lisa Kirby, *Why Diversifying the Legal Industry Is the Key to a More Equitable World*, AM. LAW. (Mar. 29, 2022), <https://www.law.com/americanlawyer/2022/03/29/why-diversifying-the-legal-industry-is-the-key-to-a-more-equitable-world>.

149. Rob Hunter, *Critical Legal Studies and Marx’s Critique: A Reappraisal*, 31

the U.S. licensed attorney as a forever-outsider, reaching into a given community to enact legal help upon the service recipient. Community-based justice workers, by contrast, are the primary subject-actors, the wielders of legal power, and are more likely to be shared, in-group members of the communities being served. The decentralizing of legal power and legal solutions—as facilitated by community-based justice work efforts, specifically, and legal empowerment, more generally—opens a new horizon for efforts to advance self-determination under and against U.S. imperial legal systems.

Returning to the wisdom of the joint *Native Nations Institute for Leadership, Management, and Policy* and *The Harvard Project on American Indian Economic Development* report, we can understand the mission of community-based justice work as simply one avenue for advocacy in the intergenerational struggle for truth, healing, survivance, and self-governance under U.S. imperial systems.¹⁵⁰ They argue that “[d]evolution [or delegation] of self-governing powers improves affected communities by bringing governmental decision-making closer to those most directly affected by those decisions.”¹⁵¹ Pointing to the ways that “self-governance ‘on paper’ is insufficient, on its own,” they insist that the only remedy to generations of resource loss, control, and governmental imposition is “creative institutional capacity-building.”¹⁵² Such creative work, we believe, includes community-based justice work as merely one foothold toward collective liberation.¹⁵³

Nationwide efforts to advance localized and community-led justice-making processes through UPL reform share a common feature of required legal training.¹⁵⁴ Rather than re-entrench the pedagogical, structural, and ideological harms of traditional U.S. legal education,¹⁵⁵ these requirements and the overarching re-definition of our respective lawscapes present a unique opportunity to democratize U.S. law in *both* legal knowledge and legal power. In locating this movement-building potential of justice work, the role of information-sharing is paramount, particularly for rural communities.¹⁵⁶ As place-based scholars outside the

YALE J. L. & HUMAN. 389, 392 (2021) (arguing that “[t]he systematic critique of political economy must include an account of the legal constitution of commodities, production relations, and money. It must also include a thorough consideration of how law is mutually constitutive with other forms of capitalist social relations”).

150. Cornell & Kalt, *supra* note 135.

151. *Id.*

152. *Id.*

153. *Id.* at ii–iii.

154. Balsler & Jane, *supra* note 23; Balsler, *Leveraging*, *supra* note 6, at 71–72.

155. Conway, *supra* note 102, at 723; Coronado, *Pedagogy*, *supra* note 96, at 5.

156. Katrina Kosec & Leonard Wantchekon, *Can Information Improve Rural*

U.S. have argued, exposure to information can facilitate a process in which individuals “perceive [information’s] relevance” and may consequently “demand the power to act on it.”¹⁵⁷ Using the mass mobilization efforts of the U.S. civil rights movement as an example, they underscore the ways in which the receipt of information about one’s rights has been leveraged to enact institutional change.¹⁵⁸ Power, these authors find, is preceded by a calculus of information availability, relevance, and the potential for change.¹⁵⁹ Thus, legal power can equally be understood as predicated on an assessment of the availability and relevance of legal knowledge, or the (re)centering of individuals “in their own fight for justice by creating opportunities for people to ‘know, use, and shape’ the laws that impact their lives.”¹⁶⁰

Building from place-based service methodologies, the application of a power-conscious approach to legal work asks that we first interrogate the many places, the histories, the relative socio-political context or position, and multi-level power dynamics at play in our work. The new role of licensed legal professionals becomes one of honoring, of listening, and of acknowledging our relationships to past legal harm. As three leading rural access to justice scholars have written: “[t]he main role of the attorney is not to solve the problem, but to bear the burden of the problem—the crisis—so that it may be solved in a dignified and just way.”¹⁶¹ A power-conscious approach demands that the U.S. legal profession avoids starting with a legal “answer” to the access to justice crisis¹⁶² and that it, instead, embraces a multitude of stories and ways of knowing. In embedding dual aims of truth and healing within the legal profession,¹⁶³ power-conscious work envisions a reality where “[a]sking lawyers to contribute to a justice system in which lawyers are not a condition required to exercise rights” is no longer perceived “as a radical

Governance and Service Delivery?, 125 *WORLD DEV.* 1, 11 (2020).

157. *Id.*

158. *Id.*

159. *Id.*

160. *Legal Empowerment*, ROBERT & HELEN BERNSTEIN INST. HUM. RTS., https://www.law.nyu.edu/centers/bernstein-institute/legal_empowerment (last visited Oct. 14, 2024).

161. Michele Statz et al., “*They Had Access, But They Didn’t Get Justice*”: *Why Prevailing Access to Justice Initiatives Fail Rural Americans*, 28 *GEO. J. ON POVERTY L. & POL’Y* 321, 375 (2021).

162. Michele Statz et al., *The Scandal of Particularity: A New Approach to Rural Attorney Shortages and Access to Justice*, *S.D. L. REV.* (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4823973.

163. See, e.g., Antonio M. Coronado, *Envisioning Reparative Legal Pedagogies*, 30 *CLINICAL L. REV.* 65, 96 (2023) [hereinafter Coronado, *Envisioning*] (proposing the advancement of truth and healing within legal education “through a practice of constant and reflective pedagogical repair for the realities that situate U.S. law schools”).

proposition.”¹⁶⁴ As both authors have personally encountered across their work to build community-based justice worker models in the U.S., to build legal power is to question, reform, shift, and problematize its very formations.

V. OPERATIONALIZING TRAUMA-INFORMED AND COMMUNITY-ACCOUNTABLE LEGAL WORK ACROSS TEN DOMAINS

Addressing the country’s access to justice crisis necessitates that more people know, use, and shape the law than ever before. However, we must be mindful not to replicate or further entrench systems of harm, violence, and trauma as we attempt to address this crisis, regardless of which service model we seek to implement. As we consider how to operationalize trauma-informed and community-accountable approaches into legal work, it is important to briefly discuss bias and how it impacts service provision. Bias is broadly defined as the favoring of or against one person, group, or thing when compared with another, usually in a way considered to be unfair.¹⁶⁵ Biases can be conscious (explicit) or unconscious (implicit).¹⁶⁶ In addition, bias can be institutionalized into policies, practices, and structures.¹⁶⁷ It is important to understand biases in the context of trauma-informed, reparative, and culturally conscious legal work because our biases can affect who, where, when, and how – unconscious or not – we implement trauma-informed and culturally conscious practices with the people that we serve. This necessitates a level of self-awareness on the part of the legal worker that is generally ignored or excluded from traditional legal education.

As previously discussed in this Article, historical and intergenerational trauma are particularly salient when working with Indigenous, multiply marginalized, and rural populations.¹⁶⁸ Because of the specific ways that U.S. settler legal history is rife with historical trauma, it is imperative that decision-making about how and what trauma-resilient systems are created include members of the community

164. Ariadna M. Godreau-Aubert, *Lawyering in Times of Peril: Legal Empowerment And The Relevance Of The Legal Profession*, 97 N.Y.U. L. REV. 1599, 1625 (2022).

165. *Addressing Bias: Rights, Responsibilities and Responses*, PA. STATE UNIV., <https://www.knowyourrightsandresponsibilities.psu.edu>.

166. *Id.*

167. See, e.g., P.J. Henry, *Institutional Bias*, in THE SAGE HANDBOOK OF PREJUDICE, STEREOTYPING AND DISCRIMINATION (John F. Dovidio et al., eds., 2010), <https://agep-nc.org/wp-content/uploads/2022/03/Henry-chapter-institutiona-bias-2010.pdf>.

168. *Supra* Part III.A.

who these systems will serve.¹⁶⁹ Lived and learned knowledge tells us that this should consist of, at minimum, a co-creation of definitions of success, what outcomes should be tracked and how, and system implementation and functioning.¹⁷⁰ When communities who are the target recipients of services are excluded from decision-making, the risk of retraumatizing communities who have experienced historical trauma is heightened.¹⁷¹ Following the framework of other scholarship seeking to apply culturally conscious trauma-informed practices in other systems, our reflections on advancing power-conscious work through trauma-informed and community-accountable practices focus on ten domains.¹⁷²

A. Domain 1: Governance and Leadership

When working with rural and tribal communities, it is necessary to acknowledge and prioritize the knowledge, practices, and lived experience of the communities with whom we are working. When working with Indigenous peoples, this approach includes honoring “tribal self-determination and unique governmental structures.”¹⁷³ This domain of reflection on power also emphasizes building relationships with community system actors.¹⁷⁴ It is critical to know who people trust and where they go for help—as well as what is available to them—and then work to build networks creating a continuum of care, consistent with implementing trauma-informed practices. In addition to collaborating with tribal government leaders, Indigenous scholarship-activism makes clear that elders and other community leaders should also be involved.¹⁷⁵ More about what this involvement might look like will be discussed across the other domains that follow.

B. Domain 2: Policy

This domain encourages the examination of existing service provision and systemic policies. The focus of this approach ranges from as granular as the policies of a specific legal practice to as broad as the policies of the court systems. Scholarship and practical experience in advancing trauma-informed practices indicate that policies should be evaluated against the trauma-informed principles promulgated by

169. Rides At The Door & Trautman, *supra* note 3, at 377.

170. *Id.*

171. *Id.*

172. *Id.* at 373–76.

173. *Id.* at 373.

174. *Id.*

175. *Id.*

SAMHSA, including said policies' congruence with "allow[ing] for and encourag[ing] the use of traditional practices"¹⁷⁶ related to healing and justice-making. This approach necessarily extends to the work of nascent community-based justice worker initiatives and the contents of any legal knowledge-sharing that our profession advances.¹⁷⁷ As our nation's legal ecosystem continues to launch novel forms of community-based legal education, we urge fellow community-accountable educators to ask: how might we resituate legal educators everywhere, both in the law school and in the community, as "healers" of the harms of our profession?¹⁷⁸ Ask, "[w]ho was not allowed to teach at and attend my law school" and "[w]hat can I do to desist from serving as a gatekeeper to this profession and how do I work to reverse patterns of exclusion?"¹⁷⁹ As we have argued before, "[w]e are the profession that legitimized Jim Crow, the one that imposed a doctrine of genocidal discovery, the people who sanctioned caging and still do, and we are the ones at the forefront of fascism."¹⁸⁰ Power-conscious policies in our legal work require that we atone for and address the disempowerment facilitated by our profession.

C. Domain 3: Physical Environment

Next, we provide reflections on how power-conscious work manifests in our physical environment of justice-making. Creating a trauma-sensitive physical environment does not require significant financial investment, but rather, intention and time.¹⁸¹ This may involve offering clients a choice of where they would like to sit in our offices, whenever possible, and having different lighting options. For instance, some people may feel safer with their back against a wall rather than to a door or window. Others may be sensitive to overhead or low lighting.

When creating a trauma-sensitive environment, our actions also play a crucial role in shaping the space. When working with clients, it is important for us to try our best to remain emotionally regulated to create a safe place for clients to speak about their experiences. This can be

176. *Id.*

177. Coronado, *Envisioning*, *supra* note 163, at 86.

178. *Id.*

179. *Id.* at 105.

180. *Id.* at 101-02.

181. For more information about creating your own trauma-informed environment, see Chrissy Bulling & Kristine Kickle, *Creating a Trauma-Informed Environment*, UNIV. OF SUSSEX (2023), https://theinnovateproject.co.uk/wp-content/uploads/2023/09/Creating-a-Trauma-Informed-Environment-FINAL2_Aug-2023.pdf. The examples given here are what author and National Certified Counselor Cayley Balser has used in making her own therapeutic and educational practice environment more trauma-sensitive.

achieved by establishing predictability and routine, informing clients of what to expect during our meetings, and keeping them updated on any developments to avoid surprises. Greeting clients in the same way each time we meet with them is an easy way to establish a routine, and summarizing our discussions at the end of each meeting reinforces this. Building a sense of trust between the legal worker and the client is also helpful, which may involve explaining the connection between behavior and consequence, particularly regarding boundaries and services. It is helpful to explain things to clients who have experienced trauma over and over again, because they may struggle with remembering important tasks or appointments.¹⁸²

Additionally, when creating a trauma-sensitive environment, we should not punish a client for trauma-related behaviors. This is not to say that we need to put ourselves in danger or clients have free reign to cross our boundaries, but instead calmly explain the connection between behaviors and consequences, doing our best to remain emotionally regulated when asserting a boundary if a client is crossing it. Doing our own work to understand our triggers and how to work through them will help us avoid putting ourselves in situations in which we react to clients in our own trauma response of fight, flight, or freeze. In order to be able to do this, we need to cultivate a depth of self-awareness and know our own capacity and limits.

In addition to creating a trauma-sensitive environment, collaboration with community leaders can help shape the physical space so that there are opportunities and appropriate environments for people to “practice and honor traditional healing practices.”¹⁸³ This may look like understanding whether the location of our work has any significance to the community that we serve, and what colors and lighting should be used in any decoration, or if any specific physical materials should be available for folks when they visit the office. This approach centers the autonomy and needs of the communities we work with and serve by de-centering legal workers as the core actors and gravity of where justice-making happens.

D. Domain 4: Engagement and Involvement

Prioritizing trauma-informed and culturally conscious systems necessitates collaboration with the communities who will be served. As others have noted, this collaboration should decentralize the professional’s desires and should prioritize the experiences and decision-

182. *Id.*

183. Rides At The Door & Trautman, *supra* note 3, at 374.

making power of those closest to the problem being addressed—in this case, the person experiencing the legal problem.¹⁸⁴ While extant scholarship and knowledge highlight the importance of involving community members in all aspects of service provision, it is important to note that this is not a checkbox to complete once. If community members are only involved once, any resulting decisions may appear performative or extractive. Consistent involvement at a level that community members are comfortable with and have the capacity for can mitigate the risk of replicating historical traumas and retraumatization, while simultaneously prioritizing individual autonomy and community self-determination in decision-making processes.

When considering community involvement, one example might include collaborating with tribal communities to determine “whether and how to incorporate traditional healing approaches and by whom they should be delivered” and whether they should be combined with other healing and justice-making approaches.¹⁸⁵ When reaching out to community members about collaboration, it is important to acknowledge the ways that history may impact relationship-building. For example, “past assimilationist policies by the federal government against tribal communities and contemporary systems of oppression may make American Indian/ Alaskan Native individuals initially reticent to engage in a collaborative process.”¹⁸⁶ This knowledge and its lessons extend to all forms of service design in the U.S., whereby it is vital that the place and power of communities’ relations to others, land, and self be taken into account.

E. Domain 5: Cross-Sector Collaboration

Service providers, including legal service providers, should seek to engage with other service organizations to “promote the sharing of best practices and prevent duplication of services.”¹⁸⁷ This approach includes being aware of what services exist, ensuring that others know the scope of our services, and strengthening relationships with these other service providers. Within this domain, it is important to collaborate with community leaders to better understand the types of services that are wanted and needed, the ecosystem of care that already exists, and what forms of collaboration with other service providers would be beneficial.

When approached through a power-conscious lens, cross-sector

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.* at 375.

collaboration also facilitates the implementation of trauma-informed practices. While there is no true checklist for implementation, one example of trauma-informed practices in action includes establishing and maintaining a continuity of care for the people that we serve.¹⁸⁸ This means that, should someone come to us seeking services that we do not offer, we are prepared to know or identify where they can find that service as well as how we might help them contact that service. This leads to another suggestion: “warm handoffs” when referrals must be made.¹⁸⁹ Making a deliberate and known connection for someone – as opposed to simply handing an individual a phone number and expecting them to call that number themselves – helps diminish the number of times that a person must retell their story from scratch when trying to problem-solve, therefore mitigating the risk of retraumatization. Likewise, such a practice fosters deep relationship-building with communities by emphasizing the embeddedness of our legal work and “indispensability” of the people we serve from the places, systems, and processes of our efforts.¹⁹⁰ This is to say that, by ensuring our referrals do not drop or dispose of a person after we have rendered help, we are able to insist that they and their human needs matter – that they are more than a case or client number.

F. Domain 6: Screening, Assessment, and Services

This Domain involves offering services that include both direct conversations as well as sharing important information and completing necessary paperwork. This work begins with a discussion about the impact that ways of speaking can have on client interactions and turns towards indirect methods of communication including information gathering and sharing.

The ways in which we communicate with and about clients significantly impacts their experience, this being a reality that underscores the importance of trauma-informed language. As individuals engaged in or proximate to legal work, we know that words have power. Drawing on our experiences navigating this domain across our work to build legal power, we recommend five practices to make our language more trauma-informed. First, using person-first language is

188. The National Child Traumatic Stress Network, *Creating Trauma-Informed Systems*, <https://www.nctsn.org/trauma-informed-care/creating-trauma-informed-systems> (last visited Sept. 26, 2024) (describing seven activities for systems and service providers to implement to be more trauma-informed).

189. Jennifer Hodgson & Avery Belyeu, *Facilitation of Warm Handoffs to Alternative Treatment Settings* (Oct. 19, 2023), <https://camobilecrisis.org/wp-content/uploads/2024/02/Facilitation-of-Warm-Handoffs-to-Alternative-Treatment-Settings.pdf>.

190. Pellow, *supra* note 111.

generally considered best practice.¹⁹¹ For example, such a practice would turn “debtor” into “someone who has experienced debt” and “traumatized person” into “someone who has experienced trauma.” Leading with recognizing them as a person first shows that they are more than their circumstance or experience. It is important to note that person-first language may not be preferred by some, and individuals may choose to self-identify with identity-first language, in which case it is important to honor their self-identification.¹⁹² Following the client’s lead and asking when you are unsure will help you to learn which approach the person you are working with is most comfortable with.

Second, we should seek to avoid “blaming” language.¹⁹³ Avoiding blaming language looks like asking “what happened?” instead of “what is wrong with you?” This also may look like asking a series of “what” questions instead of “why” questions. This is because “why” questions can put a person on the defensive, feeling like you are blaming them and they need to justify their actions. For example, if you want to know why an individual did not come to seek our support sooner, we might instead ask: “what did you do when [the event] happened?” or “what steps did you take to address [the event] before you met with me?”

Third, we should seek to avoid triggering language.¹⁹⁴ While we do not always know what language may trigger or activate a particular negative emotional response in someone, it is best practice to avoid graphic descriptions of violence and to give a client advanced warning when details do need to be discussed.

Fourth, our dual aims of trauma-informed and community-accountable practices implore us to respect boundaries.¹⁹⁵ These boundaries could be about topics of conversation, physical contact, and/or personal space. If we are ever unsure of a client’s boundaries, it is best practice to ask them or to seek guidance from a trauma-informed professional such as a psychologist, counselor, or social worker.¹⁹⁶ Respecting boundaries also includes legal workers asserting and maintaining their own boundaries when working with clients.

191. David James, *What is Trauma Informed Language?*, FRIENDS ASSOC., <https://friendsassoc.org/what-is-trauma-informed-language> (last visited Aug. 5, 2024).

192. Shannon Wooldridge, *Writing Respectfully: Person-First and Identity-First Language*, NAT’L INST. HEALTH (Apr. 12, 2023), <https://www.nih.gov/about-nih/what-we-do/science-health-public-trust/perspectives/writing-respectfully-person-first-identity-first-language>.

193. James, *supra* note 191.

194. *Id.*

195. *Id.*

196. *Id.*

Finally, our work should seek to provide options.¹⁹⁷ This fosters a sense of independence and agency, which trauma and community disempowerment often negatively affect. An example of providing options includes telling the people we are serving what types of information need to be gathered in an interview, and letting them decide what order they go in.

To ensure that this implementation of trauma-informed practices related to screening, assessment, and services is also culturally conscious, we should seek input—both initial and ongoing—from community leaders about what and how questions are asked as well as what supports are in place during screening, assessment, and services. Any documents¹⁹⁸ that are used in practice should be reviewed by community members to ensure cultural appropriateness, language justice,¹⁹⁹ and inclusion of relevant and available information and resources.²⁰⁰

Regardless of how information is gathered and for what purpose, it is important to remember that information does not exist on its own—it is tied to someone’s lived experience as well as their relationship with place and power. If we are going to ask about someone’s needs in any capacity, it is important that we make sure we can do something with the information that is collected. For example, if we ask a client about housing stability or food insecurity, we need to make sure that we know where or with whom we can connect them so that they can receive needed resources; questions for the sake of questions do not serve our clients or the material needs about which we have inquired. If we cannot provide the service to meet a client’s human or legal need, it is important that we ensure someone else in the local ecosystem can step into that role and is not only capable but also available to provide that service. Such an approach relates directly to our above reflections on practices of cross-sector collaboration.

G. Domain 7: Training and Workforce Development

Training and workforce development may apply to community members or any service provider in a given community. Our experience in program development has highlighted the importance of training prior

197. *Id.*

198. Here, we refer to documents that are not subject to attorney-client privilege, such as intake questions/forms, and any evaluation that is conducted in the course of supporting clients.

199. Mimi Moore, *Language Justice: One Step Further for Language Access*, AVANTPAGE (Feb. 1, 2023), <https://avantpage.com/blog/language-justice-and-language-access/>.

200. Rides At The Door & Trautman, *supra* note 3, at 375.

to service provision that addresses both cultural and historical contexts while ensuring that a provider has an understanding of intergenerational and historical trauma that the community may be experiencing.²⁰¹ This training should continue throughout service provision, especially as new best practices in trauma-informed care and cultural consciousness are promulgated.²⁰²

As our experiences in service design and working with directly impacted communities underscore, training alone for service delivery is not enough. It is imperative that staff and volunteers at service providers are representative of the people and responsive to the places that organizations serve. This requires intentional recruiting, training, and retention efforts on the organization's part.²⁰³ Retaining staff also helps to maintain trusted and consistent relationships with the community.²⁰⁴ As we have found in our work in service of communities, consumers of legal services also want to receive services from people who look and sound like they do.²⁰⁵ This requires intentional staff hiring practices and trust-building within the community to become an organization that community members trust and at which they want to work.

H. Domain 8: Progress Monitoring and Quality Assurance

Similar to Domain 6, a power-conscious approach in the context of program evaluation asks that we ensure community leaders are involved when making decisions about the types of data that are collected relating to quality assurance and progress monitoring.²⁰⁶ This requires establishing feedback loops to ensure that progress is being shared, feedback from the community is implemented, and concerns are adequately and properly addressed in a timely manner.²⁰⁷

As a settler entity, U.S. legal systems are built upon violent foundations of paternalism that have and continue to scrutinize and even criminalize the people, practices, and presentations that are deemed

201. *Id.* at 375–76.

202. *Id.*

203. Both authors have contributed to the programmatic development and launch of multi-state networks of support for the training and continued education of lay advocates who have received legal skill-building. Through participatory action research, this work has centered the needs and goals of communities in Arizona and Utah with regards to building processes for assigned attorney mentorship, regular newsletters, ongoing post-training support, and a training culture of lifelong learning. *See id.*

204. *Id.* at 376.

205. Balsler et al., *Embedding Regulatory Reform-Based Civil Justice Problem-Solving in Patient Care*, INNOVATION FOR JUST. 29 (Jan. 2023), bit.ly/i4J22UHealth.

206. Rides At The Door & Trautman, *supra* note 3, at 376.

207. *Id.*

undesirable, unfit, or deviant.²⁰⁸ This harmful legacy has the potential to be extended to and become exacerbated by collecting information from an individual and turning it into data.²⁰⁹ The U.S.-based *Coalition of Communities of Color* makes this point clear: “[f]or decades, if not centuries, data has been weaponized against [Black, Indigenous, and People of Color] communities, in particular, to reinforce oppressive systems that result in divestment and often inappropriate and harmful policies.”²¹⁰ Accordingly, it is critical that any service assessment we undertake advances “data justice” or that we “redress[] ways of collecting and disseminating data that have invisibilized and harmed historically marginalized communities” through community self-determination.²¹¹ In practice, this looks like involving communities in determining what data is collected, in what manner or through what methods, as well as for what purposes.

I. Domain 9: Financing

It is no secret that the nonprofit social service sector is underfunded, and this extends to free and low-cost legal services.²¹² When considering a trauma-informed and community-accountable approach to service financing, we must recognize that different positions and titles have different access to funding and infrastructure, often in an inequitable

208. See, e.g., Christopher Adlam & Deniss Martinez, *Project Firehawk: Decolonizing Prescribed Fire*, FIRE ADAPTED CMTYS. (Jan. 28, 2021), <https://fireadaptednetwork.org/project-firehawk-decolonizing-prescribed-fire/>; Devah Pager et. al, *Criminalizing Poverty: The Consequences of Court Fees in a Randomized Experiment*, 87 AM. SOC. REV. 529; Zein Murib, *Administering Biology: How “Bathroom Bills” Criminalize and Stigmatize Trans and Gender Nonconforming People in Public Space*, 42 ADMIN. THEORY & PRACTICE 153 (2019); Michele Goodwin, *Law and Anti-Blackness*, 26 MICH. J. RACE & L. 261 (2021); Matthew Valasik & Jose Torres, *Civilizing Space or Criminalizing Place: Using Routine Activities Theory to Better Understand How Legal Hybridity Spatially Regulates “Deviant Populations,”* 30 CRITICAL CRIMINOLOGY 443 (2022).

209. See, e.g., Jathan Sadowski, *When Data is Capital: Datafication, Accumulation, and Extraction*, 6 BIG DATA & SOC’Y 1, 2–3 (2019). For an in-depth overview and exploration of “surveillance capitalism,” see Chapter 1 of SHOSHANA ZUBOFF, *THE AGE OF SURVEILLANCE CAPITALISM: THE FIGHT FOR A HUMAN FUTURE AT THE NEW FRONTIER OF POWER* (PublicAffairs 2019).

210. *Research & Data Justice*, COAL. OF CMTYS. OF COLOR, <https://www.coalitioncommunitiescolor.org/-why-research-data-justice> (last visited Aug. 7, 2024).

211. *Id.*

212. A 2017 report from the Legal Services Corporation estimated that low-income Americans approached LSC-funded legal aid organizations seeking help with 1.7 million legal problems that year alone, but received limited or no legal help with “more than half of these problems because of a lack of resources.” LEGAL SERVS. CORP., *supra* note 5.

manner.²¹³ This acknowledgement necessarily requires us to critically examine how grant funding opportunities either conflict or align with identified community needs and goals.²¹⁴ It may become necessary to advocate for flexible use of funding for our services, including ensuring that funding gets directly into accounts associated with community members.²¹⁵ Such an approach is in contrast to the traditional and dominant method of wielding power over the use of funds, wherein funding remains in the hands of those who already hold social and economic capital. Given the transient and ever-changing nature of grant funding, special care should be taken related to sustainability efforts, to ensure that gaps in service provision are avoided when funding cycles terminate.²¹⁶ Often times with new and innovative service models, specific grant funding is sought to secure their launch and operations. Care and intention should be given when considering these funding sources to ensure that there is no service disruption when a grant cycle ends and that client communities do not view novel innovations as temporary, unstable, and/or untrustworthy. Overall, funding must be understood as a dimension of relationships and trust-building.

J. Domain 10: Evaluation

Our work with and in service of communities has shown that collaborating on a definition of success is imperative.²¹⁷ In the current adversarial legal system, “success” is normatively defined by who wins the case. However, in advancing a power-conscious approach to legal work, it may be the case that law-sanctioned “wins” within a legal matter are not the client’s goal. Learning more about what people seeking services view as a successful outcome within the context of the community they live in will be beneficial in reaching justice-making goals. Along with determining success, we must ensure that the community is involved in determining who owns what information as well as how that information may be used.²¹⁸ In acknowledging the violent histories of Indigenous residential (mis/re)education schools and ongoing race-based surveillance, we must account for the ways that “data” about the wellbeing of Black and Native children has been used to inflict harm and historical and intergenerational trauma on many peoples. For this reason, it is doubly important to have data collection conversations with

213. Rides At The Door & Trautman, *supra* note 3, at 376.

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

community partners prior to data collection about who owns the data, who it will be shared with, and for what purposes.

Further, if services are grant-funded in any capacity, there are often funder-dictated requirements related to data reporting and evaluation.²¹⁹ Collaboration with community members about these evaluation requirements, including what they might look like and what might be done once data is collected, is a necessary first step before committing to any evaluation. As the national movement to advance community-based justice work continues to grow in size, form, and diversity of voices, this domain is of particular importance given the legal profession's often dubious focus on ensuring consumer protection.²²⁰ We argue here and elsewhere that a protectionist framing of regulatory reform "conflates consumer protection with institutional capture of the right to U.S. legal power."²²¹ In championing new and innovative assessment frameworks for new service models,²²² a power-conscious approach to evaluation asks that we acknowledge the many truths that may simultaneously exist; the story of evaluation cannot and should not eclipse the lived realities of the people whom legal workers serve. Such an approach might seek to acknowledge the inherent inaccessibility of assessment items (e.g., an absence of publicly available data and funding sources), the harms of certain assessment items (e.g., protected information or datasets that may harm community respondents if/when reported on), and funding-based restrictions on certain assessment items.²²³

219. Reflections on financing are discussed more in-depth in Domain 9.

220. See, e.g., Laurel Rigertas, *The Birth of the Movement to Prohibit the Unauthorized Practice of Law*, 37 QUINNIPIAC L. REV. 97, 109, 128, 149 (2018); see also Garoupa & Markovic, *supra* note 96, at 954.

221. Coronado, *Pedagogy*, *supra* note 96, at 7.

222. See, e.g., Rostain & Teufel, *supra* note 24.

223. For an example of how legal services, funding requirements, and community data are intertwined, see the American Bar Association Standards for Monitoring and Evaluation of Providers, where the relevant standard includes as follows:

Except as pertains to the legitimate investigation of possible violations of the law relating to unlawful discrimination, a reviewing agency may not inquire into the following areas: 1. The political or religious beliefs of any staff, board member or client; 2. The sexual orientation or activity of any staff, board member or client; 3. The non-work related activities of any staff or board member, except to the extent that they directly impair the individual's competence to perform assigned duties, constitute a conflict of interest under the Model Rules of Professional Conduct, or are subject to lawful restrictions on off-duty activities.

American Bar Association, STANDARDS FOR THE MONITORING AND EVALUATION OF PROVIDERS OF LEGAL SERVICES TO THE POOR 14 (2002) https://www.americanbar.org/content/dam/aba/administrative/legal_aid_in_digent_defendants/ls_sclaid_standards_monitor_eval_providers_legal_svcs_to_

VI. CONCLUSION

Given our legal systems' interaction with folks who have experienced trauma and who are subject to legacies of disempowerment, the U.S. legal profession has an obligation to be trauma-informed and accountable to those whom it serves. Such an effort may seem improbable in a justice crisis where, already, 180 hours of pro bono work would be needed from all licensed lawyers to deliver just one hour of legal assistance to all households experiencing a civil legal problem.²²⁴ In light of this dire need, some may argue that any legal help is simply better than no help at all. However, we believe that addressing the access to justice crisis *must* be reparative in nature; this includes promoting and implementing trauma-informed and community-accountable approaches to legal service provision. As community-serving legal professionals and educators, we insist that each of us has the capacity and choice to implement a power-conscious approach to our work. We can and must allow the people we interact with to interpret the events they have experienced for themselves and to define how a successful resolution—or true “justice”—may look. We can act as fierce or even zealous advocates when necessary, but it is equally important for us to know when to show extreme deference, to give cues that we are listening when someone is speaking, and to not insert ourselves into someone's story. The primary goals in serving people are to honor the stories we receive, to affirm that they have inherent value and dignity through our interactions, and to resist many forms of resting structural harm. It is important to be aware of our own place, position, and power in asking someone to recount their most life-altering situations to us, especially in the context of legal problem-solving.

Concluding just as we began, we must center unsettling truths: people, generally, do not interact with the U.S. civil legal system because things are going exceptionally well in their lives or within our society. Being aware of our own place, position, and power allows us to recognize times when we have more power than others, to be intentional in recognizing and naming when there are identity- or experience-based differences between us and the people we serve, and to honor the places where we work. Each of us, as readers and authors aligned with a democratized legal future, hold power within our educational, advocacy-based, and helping roles. This power is something that requires

poor.authcheckdam.pdf.

224. Zachariah DeMeola, *Pro Bono Work Should Be Encouraged and Celebrated, But Much, Much More is Needed*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (Oct. 18, 2019), <https://iaals.du.edu/blog/pro-bono-work-should-be-encouraged-and-celebrated-much-much-more-needed>.

responsibility, a special duty of care, and intention. In adopting a power-conscious framework for legal work, we must start each day with an understanding that the people we serve have full autonomy to make decisions, even when they feel they do not and even when our laws have locked away legal power. Our goal, through power-conscious work, becomes the mitigation of real and recorded risks of legal harm, the reduction of retraumatization for our communities, students, and selves, and the realization of a legal ecosystem that is one step closer to eradicating unmet human needs.

To put into practice this Article's commitment to deep reflection, we invite you to join us in a grounding exercise that we commonly pose across our work. First and with a collective breath in, we ask: *who do you call "home?"* Breathing, together, may we cherish the people who cherish us. Next, *what movements or motions bring you here today, and who are you accountable to in the work that you do?* Feeling, together, may we take stock of the places and the people all around us. Lastly, *how does "home" guide you in all that you do?* And shared breaths out.