

**ERC Starting Grant**  
**Research proposal (Part B section 2 (B2))**  
*(to be evaluated in Step 2)*

**Section 2: The Project proposal (max 15 pages + Ethical Issues)**  
**(see Guide for Applicants for the Starting Grant 2011 Call)**

**a. State-of-the-art and objectives**

**New sites of legal consciousness**

This research aims to investigate ways in which third sector *advice agencies* have become new sites for the emergence of legal consciousness. Advice organisations, rather than professional lawyers, are becoming key actors in legal arenas, particularly for citizens whose relationship to rights is most precarious. At a time of ever deepening inequalities, it becomes crucial to understand how institutions such as advice agencies can mediate and make possible interventions into those spaces of everyday life that become infused with law, such as workplace relations, consumer relations and caring relations. Advice agencies provide a dynamic and increasingly significant transition point where the rights, responsibilities and grievances of the individual are brought into dialogue with the formal legal structures. They perform multiple, complex roles. Through their casework they can open doors to enable citizens to pursue their own rights and responsibilities, translating complex legal structures so that citizens can work within them. This casework then allows agencies to see through into the lives of „ordinary people“, and forms the basis for their interventions in social policy. Through re-presenting the personal grievances of multiple clients as matters of public concern, they can show to legislators and policy makers the ways in which the policies and practices of powerful institutions create injustices for citizens; they can show how mechanisms meant to enable access to justice can instead throw up barriers to redressing injustices. The research contains a series of case studies of organisations providing advice services in the UK. Moving away from a paradigm that puts law and lawyers first, the research uses insights from „legal consciousness“ research, seeking to understand people's subjective experience of law in their everyday lives. It will investigate ways in which the institution of the advice agency can help transform this subjective experience of the individual into objective understandings of everyday lives, thus creating a „reforming“ dialogue which empowers citizens and governmental processes.

The changing role of states in Europe has involved the rearrangement of relationships between governments and their citizens across a range of sites, not least in the provision of welfare benefits and services. As old systems have become de-stabilised, new configurations of sectors, organisations, agencies and practices of public provision have been emerging. In these processes, what are variously called third sector, voluntary or civil society organisations have come to play an increasingly important role in shaping the interactions between states and citizens (Newman and Clarke, 2009). Third-sector organisations are increasingly key players in governmental strategies for the delivery of legal advice, through contractual arrangements with the state.

Within this context, the ways in which citizens understand, relate to and interact with law is shifting too. Lawyers and legal institutions were once thought to be the primary sites in which citizens engaged with law. Genn's (1999) seminal *Paths to Justice* and other studies (e.g. Dunstan and Anderson, 2008) have demonstrated, however, that people generally turn to advice agencies rather than lawyers for help when involved in matters that raise legal issues. A shift away from even last-resort reliance on legal professionals is occurring for a number of reasons: in an attempt to reduce state legal aid budgets governments look for less costly solutions, such as using third sector organisations for advice delivery, and shifting away from systems of court-based dispute resolution; in the field of employment relations, as trade union density reduces,<sup>1</sup> and employment arrangements shift towards temporary, contract-based solutions, workers no longer have access to trade unions and their legal services and so seek alternative sources of advice. It is in this context that new institutions emerge as sites in which legal consciousness is forged. Institutions and their institutional practices mediate between citizens and legal framings (Silbey, 2005) shaping cultural understandings, understandings of social inequalities, and potentialities for intervening and changing distributions of power and resources. Institutions become embodiments of formations of legal consciousness.

Advice agencies are unquestionably legal actors, for the adviser-client interaction is a paradigmatically legalised one. In providing free advice to citizens on „their rights and responsibilities“<sup>2</sup> the encounter between adviser and client may be the point at which the client sees a way through to also

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<sup>1</sup> E.g. in the UK, trade union density has declined from a peak of 57% in 1979 to 24.7% in 2008

<sup>2</sup> See Citizens Advice website, <http://www.citizensadvice.org.uk/index/aboutus.htm>, last visited 20th November 2010

becoming an actor in these legalised spaces. However, agencies also play another key role, that of campaigning organisations arguing for social policy change; by using data from their casework they identify individual problems that should be treated as matters of public concern, and then work to achieve change through public campaigns, lobbying and working with legislators. Through making public the barriers experienced by clients in attempting to secure social justice, the agencies and their clients can challenge commonplace understandings of legal structures and practices. Working with, and against, the law thus becomes a daily activity for advice agencies. In short, advice agencies are involved both in the delivery of individual advice and the translation of *personal* grievances into *public* issues. Where law closes down possibilities of making things public, acts of translation have the potential to summon up new publics and new possibilities.

There is little research that explores the complex role played by advice organisations. Research by Moorhead *et al* (2003) has compared lawyers and non-lawyers in terms of cost and outputs, concluding that advice services provided by non-lawyers is equal to that provided by legal professionals. Francis (2000) has interviewed CAB advice workers to investigate the effects of franchise contracts with central government on the activities and practice of bureaux, suggesting that such arrangements can threaten fundamental principles such as that of promoting self-help. Others have shown how advice provision in health centres can improve take-up of welfare benefits (e.g. e.g. Harding *et al*, 2003). This research forms a programme of work that aims to fill the gap in understanding about the role of third sector advice agencies as mediating institutions. The PI has already received funding for two studentships for work in collaboration with Citizens Advice: the first of these will investigate the impact of providing advice centres in health locations; and the second will look at the needs of deaf people in the advice sector; research on this begins in October 2011.

The *first aim* of the proposed **new** programme of research is to *explore the ways in which one of the leading advice organisations in the UK, Citizens Advice, becomes instrumental in developing formations of legal consciousness*, both for the clients of advice agencies and for those thousands of citizens who become volunteer advisers in local Citizens Advice Bureaux (CABx). This will be done through two interconnected projects looking at the work of Citizens Advice: a) through an examination of the work of Citizens Advice in supporting clients with employment problems, the research will explore the ways in which encounters between advice agency and client will frequently be the point at which a private trouble becomes realised as a matter of law; and b) through ethnographic work with volunteer advisers and staff, an exploration of how ideas of legality and citizenship shape Citizens Advice, in terms of daily practices of advice-giving, training of volunteer advisers, and their approach to social policy and campaigning

The *second aim* is to *understand the role of advice organisations as mediators and translators*, particularly for the marginalised citizens who are their clients, into the world of social policy making and change. This demands attention to the ways in which advice organisations negotiate the complex domain of service providers entangled in contracts with government and other funders, and how they play a central political, campaigning role as members of local, regional, national and transnational policy networks. Along with the two projects (above) with Citizens Advice, a third project will examine how the provision of advice services differs when delivered by a social movement organisation whose founding and primary objective is to campaign for social change. There are a number of such organisations in the UK, such as Shelter that was established to campaign against homelessness and for decent housing for all. The research will investigate their approach to the advice role, providing a broader understanding of the interrelationship between campaigning for social policy change and advice work.

## **Impact**

This research can make a significant contribution to understandings of the changing relations between citizens, law and the state in turbulent times. Legal consciousness as mediated through institutions such as advice agencies could be instrumental in changing law itself. We have become used to professionals such as doctors and lawyers influencing, shaping and changing their environment. Indeed lawyers have shaped the environment for welfare claimants as much in what they are not interested in as what they are. Pro-bono solicitors offering services to CABx have often been of limited use given the lack of attention paid to training lawyers in welfare law and others areas of legal expertise that is most commonly required for front-line advice work. Here, advice agencies fill the void, becoming *the* experts. This is particularly evident in the field of debt advice, where it has become recognised that debt advisers play a key role in mediating between lenders and people in extreme debt, securing considerable success. In the sense that the making of law is an iterative process between policy-makers, legislators and those practicing in legalised environments, advice agencies and their workers can and will contribute to the law-making processes. The research is innovative because it focuses on the role of these organisations, their practices, their workers and their volunteers in seeking to understand what happens when unofficial legal actors become involved in legalised spaces. It

matters because these legalised spaces are increasingly populated with these unofficial legal actors – these actors, policy-makers, legislators and citizens need to understand better how these processes operate.

It is anticipated that the research will have wide-ranging implications for Citizens Advice and the broader advice sector both in the UK and Europe. Dissemination and discussion of the research findings amongst the advice community is an integral element of the research programme. Each individual project in the programme will include end-of-project workshops with research participants and others from the advice community; discussions at these workshops will be fed back into the final reports. A conference will be held at the end of the grant period, primarily aimed at the advice community and associated policy makers. It is also hoped to use outlets such as the European Forum of Citizens Advice Services (see below) to disseminate and discuss the research. Written outputs will include articles for adviser journals, broadsheets and other non-academic media as well as academic journals. It is anticipated that a book compiling the findings from all the projects (including the pre-existing studentships) will be written, aimed at a practitioner and policy maker audience as much as the academic community.

This research will also be significant for those who are, or might become, clients of Citizens Advice and other advice agencies. First, the project investigating employment disputes will give voice to those vulnerable workers who attempt to navigate employment tribunals or other mechanisms. By throwing light on the barriers perceived by vulnerable workers, it will enable advice agency and policy makers to make decisions about how better to design support mechanisms. Second, given the increasing importance of the advice sector for both government and citizens, it is vital that we understand better the role that they can play in empowering citizens and communities, and in shaping and changing social policy.

The research will provide important outputs for the academic socio-legal community. By bringing together theoretical perspectives on emergent publics and the sociology of translation with legal consciousness methods, it will develop understandings of legal consciousness as not simply individual practices (a form of „legal capability“) but also as the potential for collective, political action through the cultural practices of institutions such as advice agencies that mediate between citizens and legalised spaces. For labour lawyers, if the research demonstrates the potential for advice agencies to translate private employment disputes into matters-of-public-concern, it can be seen as a path for addressing Ewing's (1995) concerns about the loss of the democratic function of labour law as the possibilities for collective bargaining diminish.

### **Theoretical and methodological perspectives: legal consciousness and acts of translation**

This research draws upon and develops insights from a number of theoretical and methodological areas. Of primary influence is the *legal consciousness* scholarship (see Silbey, 2005 for summary of scholarship to date). Legal consciousness has been developed as a methodology by socio-legal scholars in an attempt to move away from a 'law-first' paradigm (Sarat and Kearns, 1993) which understands law as primarily mediated through lawyers, courts and other court-like legal institutions, instead focusing on people's subjective experiences in everyday encounters with law. It is as much interested in what people do *not* think about law as what they do in examining taken-for-granted assumptions about law (Nielsen, 2000; Cowan, 2004). Legal consciousness scholarship looks at people's interaction with law and legality in their ordinary daily lives, dealing with everyday instances of how law shapes actions and thoughts in dealing with debt, loss of their home, workplace discrimination, exclusion from public spaces, or the multitude of sites where citizens are having to act as „consumers“ of services as well as goods. In these settings law is „common place“ (Ewick and Silbey, 1998), consciousness of law is constructed from a myriad of experiences, education and environments, as well as within the specific encounter with law – an encounter that may not be recognised as a legal one until another institution, such as an advice agency, names it as such. „Legal consciousness“, then, is not reducible to what an individual thinks about law. It is not simply an understanding of „legal capability“ (e.g. Plenet, 2009) that can be tested and measured, but a formation that varies across time and location. This approach understands law not as a distinct system, but as a set of understandings, values and practices that are shared with other social structures (Ewick and Silbey, 1998: 53). Within the context of this research third sector institutions advice organisations are central to the development of „cultural meaning, social inequality, and legal consciousness“ (Silbey, 2005: 360).

The argument here is that the encounter between advice agency and client will frequently be the point at which a private trouble becomes realised as a legal matter. At this point the adviser plays a critical role, s/he may be re-ifying law, telling the client that it is through turning to law that the grievance can be resolved. Examining the interaction between the agency and its clients can throw light on how consciousness of law, its power and its possibilities, develops. The research aims: to understand the role the advice agency plays in enabling participation in legalised space, both for non-lawyer advisers and the agency clients; to

explore the barriers and constraints felt in terms of becoming participants in this space; and, to explore ways in which the encounter between adviser and client might change, shape and constrain those taken-for-granted understandings.

However, the role that advice agencies play in mediating the interface between the public, private and personal extends well beyond the casework setting. Their work on the 'front-line', their daily interactions with people aggrieved by administrative *in-justices*, provides legitimacy for their social policy campaigning work and for their claims to be re-presenting and so making *public* issues of concern. Elsewhere I have used the spatial image of the Celtic triple spiral to describe the social practices of advice agencies dealing with housing issues: they listen to those who seek them out for advice and give back a translation of what is possible to address the specific grievance (McDermont, 2010b). These personal stories tell other stories of what is, and is not possible, highlighting spaces where the legal/illegal boundary is being mis-used or mis-interpreted. In the second spiral, advice agencies take these personal stories, identify the collective issues that must be addressed (critically, deciding what *should* be addressed); they remove them from the domain of individual personal experience, re-arrange them, embellish them with more stories, facts and statistics; and then, in the third spiral, re-present them as matters of public concern, translating them into issues that can and should be addressed by policy makers. The advice agencies become a pivotal point; through their practices they enrol a *public* with collective issues and interests (see e.g. Dewey, 1927; Latour and Weibel, 2005); and through the re-telling of these stories, they enrol policy makers in the re-shaping of social policy. The triple spiral portrays this well because it does not pose two separate spheres – public vs private/personal – that the advice agency jumps between, but a series of interconnected processes. The divide between individual and collective is shown to be false and unhelpful, as science, technology and society studies have already shown us (Callon and Law, 1997).

In understanding advice agencies as policy actors the research builds on new developments in critical policy studies that seeks in which policy-making and policy transfer is seen in the context of reflexive governance and an increased mobility of policy techniques and policy-makers (e.g. Peck and Theodore, 2010). Drawing on sociological and anthropological framings, policy formation and transformation is seen as “(socially) constructed processes, fields of power” (at 169; see also Shore and Wright, 1997). Advice agencies as mediators between citizen and formal legal structures occupy a critical point in new formations of governance and power. In this research, through studying their institutional practices that develop between agency and volunteers, advisers and clients, we can provide new understandings of the role of citizens and the third sector in emerging policy formations.

### **Citizens Advice Bureau as exemplar**

This research primarily focuses on the UK organisation, Citizens Advice, as exemplar of such new sites of legal consciousness. Citizens Advice Bureaux were first established in the UK in 1939, when 200 bureaux were set up throughout the UK to meet the anticipated needs of the civilian population that arose out of the chaos and crisis of war (Citizens Advice, 2009). Local bureaux have been responsible for providing advice services since that time; the number of bureaux rose to 1000 during the war, has fluctuated since then (in 2009 there were 416 bureaux offering advice from over 3,300 locations in England and Wales and a further 22 bureaux in Northern Ireland and 83 in Scotland).

The local bureaux form a network of organisations affiliated to the national organisation (Citizens Advice and Citizens Advice Scotland). Each local bureau is a registered charity and is semi-autonomous from the national organisation. The national organisations provide training, information systems and operational support to “equip bureaux to deliver the highest quality advice to their local residents”. Information also flows in the other direction: “client evidence submitted by bureaux alerts Citizens Advice to widespread problems that require action at a national level”.<sup>3</sup>

Advisers in advice agency settings are, for the most part, *not* lawyers. In CABx, front-line advisers are volunteers who undergo an extensive training programme and then a period of observation before they are allowed to take on casework. They are supported by paid staff, but these also are not (generally) lawyers. In other advice agencies, such as the Shelter Housing Aid Centres, advisers are paid workers who may or may not be legally trained. Advice agencies may also have access to legal advisers in a range of pro-bono schemes, but this access varies across agencies and according to geography, and in any case access to legally-trained advisers is generally by referral rather than as the initial point of contact. Research by Citizens Advice indicated that there are a number of barriers to solicitors providing pro-bono services to

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<sup>3</sup> [http://www.asauk.org.uk/go/SubSection\\_97.html](http://www.asauk.org.uk/go/SubSection_97.html)

bureaux, mainly because solicitors are trained in specialisms and are unable to respond to the generalist advice needed for bureaux clients (Citizens Advice 2006).

Citizens advice has now gone international. In 2004 Citizens Advice International (CAI) was set up as an umbrella organization representing the interests of advice giving bodies throughout the world.<sup>4</sup> CAI works at a European level in conjunction with European Citizen Action Service organising European fora: the 6th European Forum of Citizens' Advice Services on the Exercise of European Citizenship Rights was held in Brussels in February 2009. All the member organisations share aims and practices similar to the UK bodies – they share an ethos of empowering people by providing free, independent and confidential information, advice and advocacy services, and their mode of advice delivery is similar, using volunteer citizens as front-line advisers backed by paid, professional staff and training.

Lord Beveridge once suggested that the Citizens Advice service was 'a window through which social workers and legislators could see the man in the street' (quoted in Brassnet 1964). As relationships between citizens and states changes, and as citizenship comes to be considered as not simply a national formation, but potentially a European one too, a study of the most long-established of the Citizens Advice organisations, those in the UK, can provide for social policy makers and legislators a window through which they can understand better the social action of law.

## b. Methodology

Legal consciousness is understood to arise out of everyday experiences and to be shaped by institutional culture and other social structures; the methods deployed must therefore be able to give voice to those who become subjects of/to law (e.g. Bumiller, 1998: 31). However, research methods must also be sensitive to the ways in which research itself can alter outcomes. Legal consciousness research suggests that the mode of inquiry can alter people's responses: if research subjects are asked directly about law, they can appear assertive and active; but when observed in everyday practices, their relation to law can appear more reluctant or resistant (Silbey, 2005: 341). Legal consciousness studies have therefore deployed ethnographic techniques such as observation and in-depth interviews (Nielsen, 2000), using story-telling techniques (e.g. Ewick and Silbey, 1993) to attempt to understand how people experience law.

Legal consciousness is contingent, varying with time, location and particular social relations. Research therefore needs to be sensitive to the power relations of specific localities. The overarching aim of this research is to understand the particular role that advice organisations play in developing understandings of legal consciousness, and what happens when advice organisations become central actors in legalised spaces. The research contains a number of case studies that will enable an understanding of the range of social relations that come into play in the advice field. The research primarily focuses on the role of Citizens Advice and local CABx because of the centrality of this organisation in the provision of advice services in the UK, discussed above. In order to explore the role of the advice organisation for those who become its clients, the first project examines the CABx role as they support clients with employment related problems; this field of inquiry has been chosen because it represents one of the largest category of queries (Goodridge, 2008: 3). The second project is intended to contrast the role of Citizens Advice with another organisation that provides advice as one element of its mission. In contrast to Citizens Advice, which was initially established as an advice-giving organisation, later moving into social policy work, the organisation in this project will be one whose founding mission has been campaigning but which subsequently took on advice work. In this way, we are provided with the possibility of looking at how different genealogies of advice agencies may frame different understandings of legal consciousness. The third project also focuses on Citizens Advice, examining how volunteers and advisers perceive their own role – of particular interest here is the way in which the organisation specifically relates having access to, and the provision of, appropriate advice to concepts of citizenship. All these studies will enable examination of the role advice giving organisations as campaigning for social policy change arising out of advice work.

Overall, research methods will primarily be the in-depth, narrative style interviews, discussion groups and participant observation. Large-scale survey techniques have been rejected for a number of reasons. In the field of employment relations there already exists a range of large-scale survey research commissioned by government departments (e.g. Peters *et al*, 2010). These surveys tend to demonstrate fairly high levels of satisfaction with the formalised routes of dispute resolution through, for example, Employment Tribunals. However, there have also been a number of small-scale qualitative research projects of people involved in race discrimination, sexual orientation and religious belief claims to Employment Tribunals

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<sup>4</sup> See <http://www.citizensadvice-international.org/about-cai.html>

(Aston *et al.*, 2006)) which have demonstrated that vulnerable claimants experience these Tribunals as highly legalised and intimidating. We would argue that the ethnographic methods will provide in-depth understandings of the experiences of the most vulnerable workers that will not be revealed in larger scale, more generalist research or user satisfaction surveys, and that this understanding is essential for the design of systems that claim to provide access to justice. More generally, given the view that legal consciousness is not something that can be counted, but an expression of people's subjective experiences of law, ethnographic methods are more appropriate for interrogating these experiences.

### **The Research Programme**

The three projects detailed below will run throughout the four-year period of the grant as shown in the attached spreadsheet (Appendix 1). Detailed research methods are described for each project. Dissemination of the research findings to the advice community is a key element of this programme. At the end of each project a 3 month period has been set aside for workshops with research participants and other interested parties. The discussions that take place at these workshops will feed into the data analysis for the production of the final research reports. Research reports will be widely disseminated using practitioner journals and websites (e.g. Citizens Advice *The Adviser*). A conference will be held at the end of the whole programme which will enable discussion and dissemination of the findings from the three projects in this programme alongside the two ESCR funded CASE studentship research projects in collaboration with Citizens Advice.

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### **Project 1: Citizens Advice Bureaux and Employment Disputes**

With the decline of trades unions and the growth in small and non-unionised firms, many workers now look to voluntary organisations such as the CAB for advice and representation to such an extent that it has been suggested that Citizens Advice has become a new industrial relations actor in the UK (Abbot, 1998). For local bureaux, employment-related queries have become the third most important area of their work. Research for the Department of Business, Enterprise & Regulatory Reform (BERR) research found CABx as the most commonly-cited external provider of advice to employees (Dunstan and Anderson, 2008: 3). CABx have become particularly important for those workers whose employment status is vulnerable or precarious: workers without access to trade unions; workers in temporary employment including agency workers; workers whose resources mean that they have no access to professional legal services. Citizens Advice also plays a significant role in campaigning for policy change in the employment rights field. In 2008/9, after a long running campaign by Citizens Advice, the Government agreed to proposals for better enforcement of unpaid Employment Tribunal awards (Citizens Advice, 2009: 6).

This project will focus on the role the CABx play when faced with clients who arrive with employment disputes that are judged to be appropriate to take to an Employment Tribunal. The research is interested in how these clients pursue their dispute following their first interaction with the CAB. The focus will be on how participants identify issues and make decisions as to which routes to dispute resolution they follow, whether to pursue the dispute through the Employment Tribunal, or choose other options, or take no action at all.

Employment Tribunals, established in 1964 as Industrial Tribunals, are intended to enable disputes to be resolved in an environment less formalised than courts. However, it has long been recognised that the Employment Tribunal Service (ETS), its systems and structures, have become highly legalised and court-like (e.g. Deakin and Morris, 2009). In 2008 46% of claimants and 60% of employers used a representative, usually a solicitor or barrister, on a day-to-day basis to help with their case (Peters *et al.*, 2010: chap 5). Resolving employment-related problems therefore can feel like entering a highly legalised space, the formalisation of which deters potential applicants. This research intends to investigate the perceptions and experiences of a range of CAB clients whose employment problems are resolved in a range of ways: those who reach the Employment Tribunal hearing stage, and those who resolve the dispute by other means.

An increasingly important actor in achieving resolution of employment disputes is Acas, the Advisory, Conciliation and Arbitration Service. Acas plays multiple roles in industrial relations in the UK. After an unsettled period in industrial relations, Acas was set up in 1975 by the Labour Government with the intention of setting labour relations back on a more even footing (Hawes, 2000). Initially intended primarily as a player in *collective* dispute resolution, changes in the employment environment and the increasing complexity of employment law has resulted in a significant shift towards *individual* dispute resolution. In

1975 Acas received 29,100 cases for individual conciliation; in 2008/09, 188,210 cases; in the same period, requests for collective conciliation fell from 2,564 to 960 (Source: Acas annual reports).

In the field of employment relations, CABx expertise and the services they can offer is geographically varied. Bureaux offer different levels of support, generally as a result of differing funding arrangements. Some have received funding to provide specialist employment support, including representation in negotiations with Acas and at Tribunal hearings. Others have members of staff who specialise in employment matters providing support to volunteer advisers, but unable to provide representation at hearings or in negotiations with Acas. Most have solicitors who specialise in employment issues who can be referred to, but generally they do not provide representation at hearings.

Research demonstrates a relatively low awareness of breaches of employment rights in those who approached CABx for advice (Dunstan and Anderson, 2008: 14; Aston et al, 2006: 41). In the changing nature of the relationship between state and citizen, the relative absence of trade unions in matters of employment rights makes the encounter between advice agency and client particularly critical in formations of legal consciousness: it may be at this point that a personal issue becomes realised as a legal matter. This particular research site therefore presents a rich terrain in which to develop understandings of how legal consciousness is constructed through the encounter between client, advice bureau, alongside other institutional actors such as Acas and the Employment Tribunal. The **research questions** will focus on these encounters from the perspective of the *client*, to consider

- how the relationship between the CAB and their client shapes the approach to the employment dispute;
- how the different levels of support that are offered by different CABx may affect how clients identify, assert and defend their rights;
- how advice work carried out across CABx enables Citizens Advice and local Bureaux to campaign for social policy change in the field of workers' rights.

## Methods

A pilot research project has already been carried out to establish the need for, and the focus of, research in this area, and to address and understand the methodological and ethical problems that would be encountered in conducting such research. For the pilot study, ten clients of Bristol CAB were interviewed. These were people who had approached the CAB with one or more problems that were identified by the adviser as potential subjects of an application to the Employment Tribunal, and who had consequently completed and submitted form ET1, the formal mechanism for lodging an application with the Employment Tribunal system.

The pilot study identified a number of points at which CAB clients struggled with their engagement with the ETS. For 7 out of the 10 interviewees, Acas played a critical role in the resolution. Some found the encounter with Acas confusing, several wanted Acas to provide more support, and some experienced the Acas conciliator as being on the side of the employer. Another critical point for some was the first encounter with the Employment Judge through a case-management phone call. This experience could accentuate power differentials with the employer. The employer was represented by a solicitor who deployed legal deference to the judge, making the applicant feel like she was not part of the system. Another interviewee who had initially found a solicitor to represent him on a no-win-no-fee basis subsequently pulled out of his Tribunal hearing when he found that his solicitor would not continue representing him.

Following the publication of the pilot study report, discussions with the specialist employment officer at the Citizens Advice (the national umbrella body) confirmed the need for further research to explore in greater depth the issues it raised. With the support of NACAB, a number of CABx will be asked to take part, selected so as to provide insight into the different modes of advice-giving and support available, from those who can only support clients in completing the ET1, to CABx with in-house employment specialists, to those with access to solicitors who can provide support up to and including representation at hearings. Participants for the research will be recruited at the point at which they first encounter the CAB adviser. With the permission of the adviser and client, the researcher will observe the first interview between client and adviser. At the end of the interview that client will be asked if they would agree to continue being a research participant until the employment-related issue reaches some sort of conclusion. If they agree the researcher will „track" the client's progress as they seek to resolve their dispute (or not). A variety of methods will be used to observe how legal consciousness emerges and is shaped and re-shaped in the process of dispute resolution:

- Observation of CAB adviser/client interviews.

- Participants will be provided with a digital recorder, on which they can record a diary of their case. Participants will be encouraged to record not just events, but also their feelings about these events and their participation in the resolution of the case.
- With permission of all relevant parties, the researcher will observe, from the client's perspective, key events as the case progresses, such as discussions with the Acas conciliator, and case management phone calls with the Employment Judge.
- Where observation is not possible (either because of lack of participants' consent, or for logistical reasons relating to the research schedule) interviews will take place with the client following key events in the dispute resolution process. The key events will be identified partly from the pilot study data and feedback of others who have experienced the ETS, but also those events identified by research participants themselves as „key“.
- Attendance at the ET hearing.

Additionally, it is hoped to be able to carry out interviews with Acas conciliators. Acas has indicated a willingness to participate in research. At this stage it is not known whether the practice code for Acas conciliators would allow for discussion of the client's specific case (with the client's permission). If this is not possible, the researcher would carry out in-depth interviews with Acas conciliators using vignettes (see Finch, 1997) or invented scenarios as a mechanism for exploring issues raised by research subjects in their interactions with Acas advisers.

The data collection will be carried out primarily by 2 Post-Doc Researchers, one based in Bristol, the other in the University of Stirling. By operating out of two sites in the South and the North of the UK it is hoped to be able to access a wide range of CABx in locations throughout England, Wales, Scotland and Northern Ireland. The research team already has contacts in each of these countries that will facilitate access to local advice bureaux. Data collection will be carried out over a **two year** period. This extended period is necessary:

- i) in order to follow research subjects through the whole process of achieving a resolution of their employment issue, which can be an extended period, particularly if the case leads to a Tribunal hearing. It is also frequently the case that the Tribunal decision does not mean the case is closed, as ET applicants frequently experience considerable difficulty in getting decisions enforced ;
- ii) in order to capture a sufficient number of research subjects (between 5 and 10 research participants in each of up to 6 sites) who go through a range of experiences in attempting to resolve the employment problem. It is known from the pilot study (and from other studies involving vulnerable applicants for welfare resources, see e.g. Cowan and Halliday, 2003) that the majority of those who experience a decision against them they perceive to be unjust do not pursue appeal processes.

It is anticipated that data analysis will be carried out alongside data collection, and indeed this will allow for insights from earlier case-tracking to be fed into later research. Following the data collection period, a period of 3 months has been set aside for dissemination of results. This will be carried out as a series of workshops in the locations of the research; workshop participants will be drawn from the local advice community and clients of local advice agencies (not limited to Citizens Advice Bureaux). Discussions at these workshops will be incorporated into the final research report, enabling the communities that have been the subject of the research to be actively involved in the research process and production of findings.

## **Project 2. Campaigning organisations and advice provision**

The aim of this second project is to investigate an organisation that originally established as a campaigning organisation, but which now provides advice services as well. It will investigate what difference it makes if the *primary* mission is campaigning for social policy change. For the Citizens Advice Bureaux the provision of free, impartial advice came first. It took more than 50 years for the organisation's Annual General Meeting of Citizens Advice to change the aims of the service to reflect the twin pillars of advice and social policy as being of equal status (Citizens Advice, 2009b: 17). For most of its history, Citizens Advice has seen its advice-giving role as primary.

Whilst the PI has carried out some research into Shelter (established as the national campaign for the homeless in 1966) and the work of its network of advice centres (see McDermont, 2010a, 2010b), it is important that the PhD student is able to carry out research using his/her specific skills, training and background. The PhD student will therefore be responsible for identifying the organisation that is to be the subject of his/her research and to formulate appropriate research questions and methods of investigation. However, the student will benefit from being a member of a research team of other PhD students, post-doc researchers and established academics, in an environment that is seldom available to PhD students in social sciences.

### **Project 3: Citizens Advice Bureaux Workers and Volunteers, Ideas of Legality and Citizenship**

This project will examine how ideas of legality and citizenship shape the principal advice organisation in England and Wales, Citizens Advice, in terms of daily practices of advice-giving, their training of volunteer advisers, and their approach to social policy and campaigning. There are a number of distinguishing features that lead to a focus on the CAB as a significant site for research. First, as discussed above, it is a long-established generic advice organisation, a leading player in the advice sector in the UK and Europe; its training programme for volunteer advisers is considered as providing a benchmark for other advice organisations in the UK. Secondly, it is the only large-scale voluntary organisation that explicitly defines itself in terms of *citizens*. This is reflected in a horizontal conception of citizenship as mutuality – advice is offered *between* citizens, in keeping with an ethos of egalitarianism and anonymity. Its work is driven by self-defined and self-declared „need“ – concerning a shifting range of problems (employment, housing, immigration, debt and, not least, troubles with a range of state agencies). Thirdly, local bureaux are themselves caught up in key transformations of public services through numerous contractual arrangements for the provision of advice services. In particular, their work is being structured by financial arrangements with institutions of the legal system such as the Legal Services Commission, the Equality and Human Rights Commission, the Housing Ombudsman and probation services. Like other organisations in the „third sector“, they are experiencing pressures of „performance management“ and requirements to become „businesslike“, through the lens of a legal framework.

This project therefore focuses on how the ideas of **citizenship** and **legality** shape Citizens Advice as an umbrella organisation and the day-to-day delivery of advice at the level of local bureaux. The research questions will be

- ***How are ideas of legality and citizenship practised?*** This points to questioning how volunteers, staff, managers and users of the services understand themselves and their encounters. Does the idea of the *citizen* provide an organising identity for these encounters? Do volunteers and advisers see themselves as *legal actors*?
- ***How are ideas of citizenship and legality mediated through training programmes for volunteers?*** The training of volunteers is a key tool for developing institutional values as well as instilling daily practices into front-line advisers. To what extent does the formal training programme (leading to the adviser qualification) and subsequent mentoring and support attempt to inculcate idea(s) of citizenship and legality into volunteers?
- ***How are ideas of citizenship and legality mediated in everyday practices of ‘advice’?*** This points to questions of how needs and problems form a site for „citizen“ identities and questions of national identity (since immigration work is a central field of „advice“). What work is done on, and through, these ideas?
- ***How are citizenship and legality mediated in ‘social policy’ terms?*** Both local Bureaux and the National Association engage in „social policy“ work, collecting data, identifying trends and issues, and engaging in campaigning. How are these issues developed and how do they construct the „citizen-ness“ of these issues?
- ***How does the changing political and governmental environment affect the work?*** It would be important to explore the double dynamic of governmental effects – since CAB deal with the impact of policies and practices on „personal lives“, while also trying to adapt to a governmental environment of emerging welfare governance (voluntarism; performance, contractualism, etc). Studies with managers, staff and volunteers at both national and local levels would explore how the business of doing citizenship is being reshaped, in part by their role as legal actors.

#### **Methods**

It is proposed to identify three or sites for this research:

- An **inner-London based bureau**, as it is anticipated that such locations attract both the widest range of clients (with a consequent wide spread of problems in a wide range of social policy areas) as well as volunteers with a wide range of backgrounds in terms of age, ethnicity, gender, etc. The close proximity to a large number of providers of legal training, as well as many law firms with a range of

- specialities, may shape those who choose to become volunteers. In addition, the close proximity to central government actors may influence the bureau's perception of its role in social policy work.
- A **rural Bureau**, where it is anticipated that the different structuring of employment and housing mean that the „issues“ may be the same but have a different social character. Rural may also be the setting for migrant workers – who combine employment, housing, and nationality issues. Rural locations also raise transport issues for both volunteers and clients
  - Another **high-demand urban** location where advisers and clients do not have access to the services available in a capital city.
  - The **umbrella organisation Citizens Advice** which provides training and support to local bureaux and also has a significant role in conducting social policy research and campaigning.

The research questions will be explored with workers, volunteers and clients through in-depth interviews, discussion groups and, following discussion of the ethical issues and if acceptable to Citizens Advice, through observant participation of the training programme.

Data collection will primarily be carried out by the PI, a post-doc researcher and the consultant, Professor John Clarke over an 18 month period. Data analysis will be carried out alongside data collection enabling insights from earlier interviews to be fed back onto later interview schedules and discussion group topics. Following the data collection and analysis period, three months has been set aside for dissemination of the research findings. This will be carried out as a series of workshops in the locations of the research; workshop participants will be drawn from the local advice community and clients of local advice agencies (not limited to Citizens Advice Bureaux). Discussions at these workshops will be incorporated into the final research report, enabling the communities that have been the subject of the research to be actively involved in the research process and production of findings.

## Bibliography

- Abbott, B. (1998) „The emergence of a new industrial relations actor – the role of the Citizens" Advice Bureaux?“, *Industrial relations Journal*, 29(4), 257-269
- Aston J, Hill D, Tackey ND (2006), *The experience of claimants in race discrimination Employment Tribunal cases*, DTI Employment Relations Research Series No. 55
- Bumiller, K (1998) *The Civil Rights Society: the Construction of Victims* (Baltimore, John Hopkins UP)
- Callon, M., 1991. „Techno-economic networks and irreversibility“, in J Law, ed. *A sociology of monsters: Essays on power, technology and domination*. London: Routledge.
- Callon, M. and Law, J. (1997) „After the Individual in Society: Lessons on Collectivity from Science, Technology and Society“, *Canadian Journal of Sociology*, 22(2), 165-182
- Citizens Advice (2009a) *Annual report and accounts 2008/09*, Available from [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk).
- Citizens Advice (2009b), *The Story of Influence*, London, Citizens Advice, Available from [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk).
- Cowan, D. (2004) „Legal consciousness: some observations“. *Modern Law Review*, 67(6): 928-58
- Cowan, D. & Halliday, S. (2003) *The Appeal of Internal Review: Law, administrative justice and the (non)emergence of disputes* (Oxford, Hart Publishing);
- Deakin, S. and Morris, G S (2009), *Labour Law 5<sup>th</sup> ed*, Oxford, Hart .
- Dewey, J., 1927. *The Public Realm and its Problems*. New York: Henry Holt & Co.
- Dunstan, R. and Anderson, D. (2008) *Vulnerable workers: preliminary findings form the Citizens Advice client research* (London: BERR)
- Ewick, P. and Silbey, S. (1998), *The Common Place of Law: Stories from Everyday Life*. Chicago: University of Chicago Press
- Francis, A.( 2000) „ Lawyers, CABx and the Community Legal Service: A new dawn for social welfare law provision?“, *Journal of Social Welfare and Family Law*
- Genn, H. (1999) *Paths to Justice: What people do and think about going to law*. Oxford: Hart Publishing
- Goodridge, C. (1994) *In Work Out of Pocket*, London: National Association of Citizens Advice Bureaux
- Hawes W.R. (2000) „Setting the pace or running alongside? Acas and the changing employment relationship“ in B Towers & W Brown (eds) *Employment Relations in Britain: 25 years of the Advisory, Conciliation and Arbitration Service* (Oxford, Blackwell)
- Latour, B and Weibel, P eds. (2005) *Making things public: atmospheres of democracy*, (Cambridge, Mass & London, MIT Press)

