

ORIGINAL ARTICLE

Raising relational legal consciousness through co-production research? Making law more accessible

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Abstract

This article offers co-production as a new methodology for relational approaches to legal consciousness studies that allows for deeper analysis of and engagement with the everyday experience of law. We argue that the inherent relationality of co-production has the potential to both expose and change legal consciousness. As an approach that equalizes status in the co-production of knowledge, social structures and hierarchies are reproduced in real time, allowing the relational networks through which legal consciousness is formed to emerge. We demonstrate both the possibility and the value of this approach through a discussion of early findings from a co-produced project focused on accessible legal information for disabled people with cognitive impairments. Our emerging data show that disabled people's experience as 'outsiders' in their communities, and the barriers to justice that they encounter through being not believed or information being given in inaccessible formats, creates uncertainty and distrust of the utility of legal professionals as routes for resolution – even as they express a desire for formal legal process. These data also show that engaging with co-production

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work can increase the legal confidence of people from marginalized groups.

1 | INTRODUCTION

This article offers co-production as new methodology for legal consciousness studies that allows for analysis of and engagement with the relational everyday experience of law. We approach our argument in three parts. First, we explore the emergence of ‘relational legal consciousness’¹ as a new direction in legal consciousness studies, examining the potential of this rich new vein of legal consciousness literature. In so doing, we consider what a relational approach to legal consciousness can achieve, and especially what strategies and directions it can uncover for understanding the relationships between law, social justice, and marginalized individuals’ experiences of law. In part, this involves a reflection on the methodological tactics that have shaped the field of legal consciousness, and some engagement with the potential and limitations of different methods in revealing relational understandings of how people construct and use law in their everyday lives.

Second, we propose co-production as a new research methodology for (relational) legal consciousness studies. We argue that co-production of knowledge about law and legality can help legal consciousness research to capture the relational complexities of how law works in everyday life. In challenging the hierarchy of knowledges and bringing to the fore lived experience through interaction, co-production allows for consideration of the relational contexts through which everyday attitudes to and understandings of law emerge. In proposing co-production as a method for legal consciousness studies, we also highlight some of the challenges that this methodology poses for socio-legal researchers, alongside suggestions for how to overcome these.

Finally, we outline findings from a recent co-production research project bringing together legal professionals and disabled people to co-produce accessible legal information (COALITION). Through our analysis, we show how co-production methodologies can help relational legal consciousness studies to explore deeper questions of how legal consciousness emerges, and how pervasive cultural attitudes to law are created and shaped.

2 | METHODOLOGICAL TRAJECTORIES TOWARDS RELATIONAL LEGAL CONSCIOUSNESS

There have been excellent retrospective analyses of legal consciousness literature in recent years,² and we do not wish to re-tread the ground that they have covered. Instead, we want to explore two strands uncovered by those review articles: the methodologies and methods that facilitate, enable, and underpin legal consciousness studies; and the emergence of the idea of relational legal

¹ L. J. Chua and D. M. Engel, ‘Legal Consciousness Reconsidered’ (2019) 15 *Annual Rev. of Law and Social Science* 335; Q. Liu, ‘Relational Legal Consciousness in the One-Child Nation’ (2023) 57 *Law & Society Rev.* 214.

² Chua and Engel, id.; S. Halliday, ‘After Hegemony: The Varieties of Legal Consciousness Research’ (2019) 28 *Social & Legal Studies* 859.

consciousness as a way of thinking more deeply about how relational networks and interactions between law and society shape legal consciousness.

Legal consciousness has always been a methodologically diverse strand of law and society research. Many of the foundational studies in the field utilized qualitative analysis through semi-structured in-depth interviews,³ anthropological observations of disputing practices,⁴ or both.⁵ Others relied on data collected through quantitative or multi-method surveys.⁶ As socio-legal research in general has become more methodologically sophisticated and has utilized a wider range of methods,⁷ the kinds of insights that legal consciousness studies have been able to generate about how law works in everyday contexts have also widened. As legal consciousness has become so ubiquitous in socio-legal research, it is important to think through the potentialities that stem from the different kinds of methods used to explore legal consciousness, and how these methodological choices shape what legal consciousness research can uncover about people's understandings of and interactions with law.

Legal consciousness studies (broadly conceived)⁸ are concerned with how law works in everyday life, how people experience and understand law, and what potential this has for understanding and reshaping the relationship between law and society. Early legal consciousness work focused on what people knew and understood about law, utilizing quantitative survey methods.⁹ Through these methods, Austin Sarat found that those who are more supportive of the legal system are more likely to behave in law-abiding ways, and (perhaps worryingly) that support for the legal system declines as knowledge about it increases, arguing that

[t]he legal system may be best served by the fact that for many people it is a somewhat mysterious and incomprehensible object. So long as people have an idealized and unrealistic conception of the way the legal system operates, a conception conveyed by the mass media and other popular sources, support for it is likely to remain at least relatively widespread.¹⁰

In a later review of several of these kinds of 'knowledge of law' surveys, he concluded that studying legal culture requires more than simple attention to what people think about law; rather, he argued, it also needs consideration of *how* people think about law.¹¹ As a result, legal

³ P. Ewick and S. S. Silbey, *The Common Place of Law: Stories from Everyday Life* (1998).

⁴ S. E. Merry, *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* (1990).

⁵ D. M. Engel, 'The Oven Bird's Song: Insiders, Outsiders, and Personal Injuries in an American Community' (1984) 18 *Law & Society Rev.* 551.

⁶ A. Sarat, 'Support for the Legal System: An Analysis of Knowledge, Attitudes, and Behavior' (1975) 3 *Am. Politics Q.* 3; R. Harding, "'Dogs Are 'Registered', People Shouldn't Be": Legal Consciousness and Lesbian and Gay Rights' (2006) 15 *Social & Legal Studies* 511; M. Hertogh, *Nobody's Law: Legal Consciousness and Legal Alienation in Everyday Life* (2018).

⁷ L. Mulcahy and R. Cahill-O'Callaghan, 'Introduction: Socio-Legal Methodologies' (2021) 48 *J. of Law and Society* S1.

⁸ Cf. S. S. Silbey, 'After Legal Consciousness' (2005) 1 *Annual Rev. of Law and Social Science* 323.

⁹ See for example A. Sarat, 'Studying American Legal Culture: An Assessment of Survey Evidence' (1977) 11 *Law & Society Rev.* 427.

¹⁰ Sarat, *op. cit.*, n. 6, p. 20.

¹¹ Sarat, *op. cit.*, n. 9.

consciousness research developed in response to the recommendation that ‘more attention be paid to the processes through which legal attitudes are formed’.¹²

Later legal consciousness work sought to explore responses to law with a wider perspective and turned to qualitative approaches to social enquiry, often including multi-method research to explore how, when, and why people bring legal claims. David Engel, for example, explored attitudes to civil claims in the late 1970s through reviewing case files, semi-structured interviews with plaintiffs and defendants, and more in-depth interviews with ‘community observers’.¹³ He found that the types of legal claims that people brought were grounded in community understandings of justice and desert. Kristin Bumiller used qualitative interviews to explore the challenges associated with bringing a claim when individuals experienced sex or race discrimination.¹⁴ Her research demonstrated how bringing a legal claim entailed continued engagement with the harm, in ways that made it more difficult to move on. This, alongside multiple other constraints (such as family life and costs), prevented individuals from seeking formal legal justice for the harms that they experienced.¹⁵ Sally Engle Merry used the tools of ethnography to observe how working-class Americans experienced the civil justice process when they brought claims in respect of neighbourhood problems, marital problems, boyfriend/girlfriend disputes, and parent/child problems.¹⁶ She noted how turning to formal legal institutions was experienced as disempowering, as disputes were managed through and by the formal processes of law.

Collectively, these studies provided a much richer set of narratives about how justice (both legal and social) operated in the everyday lives of the communities and individuals who participated in the research than the ‘knowledge of law’ surveys that came before. They shed light on the complexities of and social barriers to legal action, and offered insights into how, why, and when some people might not have made use of legal avenues for redress even when they were available to them – why some people were happy to play the game of law, whereas others resisted or avoided law.¹⁷

In their recent review of the field, Lynette Chua and David Engel highlighted the emergence of relational legal consciousness as a new strand of legal consciousness research that focuses on the development and emergence of understandings of and attitudes to law.¹⁸ Relational approaches to legal consciousness first emerged through Kathryn Young’s exploration of ‘second-order legal consciousness’ in the policing of cockfighting in Hawaii.¹⁹ For Young, ‘a person’s belief about, and attitude toward, a particular law or set of laws is influenced not only by his own experience, but by his understanding of others’ experiences with, and beliefs about, the law’.²⁰ Leisy Abrego developed this understanding of relational legal consciousness by exploring ‘how individuals ... acquire legal consciousness ... as members of social networks and in relation to how others in

¹² *Id.*, p. 458.

¹³ Engel, *op. cit.*, n. 5.

¹⁴ K. Bumiller, *The Civil Rights Society: The Social Construction of Victims* (1988).

¹⁵ *Id.*

¹⁶ Merry, *op. cit.*, n. 4.

¹⁷ Ewick and Silbey, *op. cit.*, n. 3.

¹⁸ Chua and Engel, *op. cit.*, n. 1.

¹⁹ K. M. Young, ‘Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight’ (2014) 48 *Law & Society Rev.* 499.

²⁰ *Id.*, p. 500.

their social groups experience the law' in the context of mixed-status immigrant families in the United States (US).²¹

Relational legal consciousness aligns with a broader relational turn in socio-legal studies,²² which owes a debt to relational understandings of autonomy, and associated critiques of liberal legalism.²³ We see a great deal of potential in exploring relational legal consciousness, as individual engagement with law is always mediated, shaped, and constituted by relationality. A relational perspective further allows us to look at the ways in which individual attitudes, actions, and understandings are shaped by the nested relationalities of lived experience, social norms, and legal frameworks.²⁴ To realize the potential of this relational turn in legal consciousness studies, we consider that relationality must be understood to encompass more than simply interpersonal relationships. While familial and interpersonal relationships are often crucial in the development and maintenance of attitudes and behaviours, relational legal consciousness also emerges through the interplay of those interpersonal relationships with social and legal norms and practices.²⁵ As Catriona Mackenzie put it, 'relational theories understand self-governing agency as a complex competence, the development and exercise of which requires ongoing interpersonal, social and institutional scaffolding'.²⁶

The relational turn in legal consciousness also allows us to move beyond law-first questions of 'how law sustains its institutional power' or why people 'acquiesce to a legal system that ... systematically reproduces inequality'.²⁷ It enables legal consciousness scholars to explore the ways in which socio-legal norms interact to create and sustain the (social, legal, and interpersonal) inequalities that are reproduced by law and to explore the mechanisms through which radical, emancipatory, empowering laws get twisted and transformed into vehicles for maintaining the status quo. Investigating relational legal consciousness requires the addition of new methodological approaches to the toolbox of legal consciousness studies, which are designed to explore these relational contexts in action.²⁸ We argue that co-production research can offer one such new methodology for legal consciousness.

²¹ L. J. Abrego, 'Relational Legal Consciousness of US Citizenship: Privilege, Responsibility, Guilt, and Love in Latino Mixed-Status Families' (2019) 53 *Law & Society Rev.* 641, at 644.

²² J. Nedelsky, *Law's Relations: A Relational Theory of Self, Autonomy and Law* (2011); R. Harding, 'Care and Relationality: Supported Decision Making under the UN CRPD' in *Revaluing Care in Theory Law and Policy: Cycles and Connections*, eds R. Harding et al. (2017) 291; R. Harding, *Duties to Care: Dementia, Relationality and Law* (2017).

²³ C. Mackenzie and N. Stoljar, *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (2000); J. Christman, 'Relational Autonomy, Liberal Individualism, and the Social Constitution of Selves' (2004) 117 *Philosophical Studies: An International J. for Philosophy in the Analytic Tradition* 143; J. Nedelsky, 'Reconceiving Autonomy: Sources, Thoughts and Possibilities' (1989) 1 *Yale J. of Law & Feminism* 7; M. Donnelly, *Healthcare Decision-Making and the Law: Autonomy, Capacity and the Limits of Liberalism* (2010).

²⁴ Harding, op. cit. (*Duties to Care*), n. 22; Nedelsky, op. cit., n. 22.

²⁵ Liu, op. cit., n. 1; H.-T. Wang, 'Justice, Emotion, and Belonging: Legal Consciousness in a Taiwanese Family Conflict' (2019) 53 *Law & Society Rev.* 764; H.-T. Wang, 'Being One of Us: The Role of Mutual Recognition and Emotion in Shaping Legal Consciousness in a Taiwanese Neighbourhood Dispute' (2023) 10 *Asian J. of Law and Society* 131; Abrego, op. cit., n. 21.

²⁶ C. Mackenzie, 'Relational Autonomy: State of the Art Debate' in *Spinoza and Relational Autonomy: Being with Others*, eds A. Armstrong et al. (2019) 10, at 12.

²⁷ Silbey, op. cit., n. 8, p. 323.

²⁸ Chua and Engel, op. cit., n. 1.

3 | CO-PRODUCTION: A NEW METHODOLOGY FOR LEGAL CONSCIOUSNESS RESEARCH?

In considering the ‘continuum’ of relational legal consciousness research, Chua and Engel noted that, as legal consciousness becomes more relational, existing methods and methodological approaches become less well suited to its exploration, and new ones must be sought. They observe that ‘what those [new] methodologies might look like, and how they might be operationalized, is not yet apparent.’²⁹ In this section, we explore the potential and limitations of co-production as a research methodology for legal consciousness studies, before turning to reflect on our experience of undertaking co-production research with disabled adults and legal professionals in Sections 4 and 5. We would note that we consider co-production to be a methodology that takes a specific stance on the status and generation of knowledge. It is also a method; it requires that we conduct research in a particular way, using tools that look different to other, more familiar, qualitative methods such as interviewing or observation.

The origins of co-production are in public service design, in what should be seen as a radical shift in power from service providers to service users.³⁰ Care must be taken, however, to ensure that co-production processes in service contexts are used for social transformation, rather than as a box-ticking exercise, or the co-option of the outcomes from co-production used as a way of making unpleasant decisions around resource management more palatable.³¹ Taco Brandsen and Marlies Honingh observed that unless participation is done in a way that is truly challenging of hierarchies and is sensitive to the concerns and knowledge of those with lived experience, it is unlikely to be successful.³²

The public service origins of co-production work have slowly influenced its use as an academic research methodology. With the increase in the use of co-production methods in social science research, there has been a proliferation of uses of the term, and it is important to outline here what we mean by co-production as a methodology. Co-production has been used to describe a wide spectrum of ‘inclusive’ research methodologies, with a starting point of consultation and collaboration with user communities through activities such as patient and public involvement in research, which reflect the way in which the term has been used in public service design.³³ In using co-production as a research methodology, we take it a step further, to refer to the co-production of knowledge through the research process.

Importantly, many of the same tensions and risks of co-option that arise in the co-production of policy are at play in co-production research.³⁴ Engagement with stakeholders, and the expectation of this engagement by funders, is becoming more common as researchers become increasingly aware of, and motivated by, ‘impact’: the aspiration that research will be meaningful beyond its

²⁹ *Id.*, p. 348.

³⁰ M. Flinders et al., ‘The Politics of Co-Production: Risks, Limits and Pollution’ (2016) 12 *Evidence & Policy* 261.

³¹ D. M. Bell and K. Pahl, ‘Co-Production: Towards a Utopian Approach’ (2018) 21 *International J. of Social Research Methodology* 105.

³² T. Brandsen and M. Honingh, ‘Definitions of Co-Production and Co-Creation’ in *Co-Production and Co-Creation: Engaging Citizens in Public Services*, eds T. Brandsen et al. (2018) 9.

³³ M. S. Y. Biddle et al., ‘Attitudes and Approaches to Patient and Public Involvement across Europe: A Systematic Review’ (2021) 29 *Health & Social Care in the Community* 18.

³⁴ Flinders et al., *op. cit.*, n. 30.

contribution to the academic literature and body of knowledge.³⁵ In the social sciences, research impact is often understood as contributions to policy or social change, and involving stakeholders in the research process means that they are more likely to be interested and invested in the findings, and therefore in working to implement them. As a research methodology, however, co-production requires more than consultation with stakeholders; it requires their inclusion as participants or partners in the research. As with the shift in power dynamics in the co-production of policy, the co-production of knowledge poses challenges to what David Bell and Kate Pahl noted are the ‘(often invisible) hierarchies of academic and non-academic partners’.³⁶ Methodologically, co-production recognizes that research is the creation of a reality, rather than the discovery of a pre-existing one, and this allows for and encourages engagement with subjugated knowledges, which are too often seen as less valuable than academic knowledge.³⁷

In the context of research with disabled people, this is of particular importance. Disabled people are often constructed as ‘outsiders’ on the margins of society, and the central motto of the disability rights movement has reflected the need to remedy this: ‘nothing about us without us’.³⁸ In the context of research, however, this has raised questions around the ethics of research in the field of disability, and there remain legal barriers to including disabled people with cognitive impairments in research.³⁹ These include questions about the extent to which non-disabled researchers can truly understand the lived experience of disabled people, and how ‘powerful’ community ‘insiders’ (such as academics) can research and represent the experience of ‘outsiders’ (such as disabled people with cognitive impairments). Involving disabled people in research has long been demanded by the disabled people’s movement and advocated as good practice. Co-production methods, done ‘properly’ rather than the broadest-brush consultation of disabled stakeholders, work to challenge knowledge hierarchies between researchers and participants. Indeed, as we discuss in the next section, in co-production research it becomes difficult to always distinguish who is the ‘researcher’ and who is the ‘participant’.

The fluid nature of co-production does come with significant risks and limitations for academics who want to engage with these methods.⁴⁰ In challenging knowledge hierarchies, the ‘usual’ process of research is also challenged. This means that it takes longer and can cost more, but can also have less certainty in terms of design and output, making it difficult to fit into existing research funding models. Echoing early concerns raised in law and society work about engaging with policy audiences,⁴¹ there can also be fears that the research is ‘biased’ or ‘politicized’ through engagement with stakeholder groups. There are also challenges for researchers in deciding who to include in the project, and so whose voices to amplify (and, by extension, who to exclude – and possibly silence).⁴² Writing about this in the context of environmental sustainability consultation,

³⁵ This is particularly the case in the United Kingdom, where measuring the ‘impact’ of research has become an increasingly important element of the Research Excellence Framework (REF): R. Watermeyer, ‘Impact in the REF: Issues and Obstacles’ (2016) 41 *Studies in Higher Education* 199.

³⁶ Bell and Pahl, op. cit., n. 31, p. 106.

³⁷ Id.

³⁸ J. I. Charlton, *Nothing about Us without Us: Disability Oppression and Empowerment* (1998).

³⁹ R. Harding, ‘Doing Research with Intellectually Disabled Participants: Reflections on the Challenges of Capacity and Consent in Socio-Legal Research’ (2021) 48 *J. of Law and Society* S28.

⁴⁰ Flinders et al., op. cit., n. 30.

⁴¹ A. Sarat and S. S. Silbey, ‘The Pull of the Policy Audience’ (1988) 10 *Law & Policy* 97.

⁴² Flinders et al., op. cit., n. 30.

Esther Turnhout et al. note that there is a distinct lack of engagement with this political aspect in the co-production literature because, as researchers try to make their projects more palatable for funders, they increasingly attempt to ‘depoliticize’ the co-production process.⁴³

However, we would argue that in fact it is precisely the political nature of co-production that makes it such an invaluable methodology for relational legal consciousness research. Co-production work ‘understands that useful and critical knowledge is dispersed throughout society and seeks to activate, expand and apply this knowledge to effect change’.⁴⁴ It is, therefore, an inherently relational research method – one that forces researchers not only to equalize their own knowledge with those of their research partners, but also to consider the context in which all of those knowledges are developed and shaped, and to work together to create a more complete picture of the social world. Co-production allows for social hierarchies and networks to emerge within the research and to be explored in real time, through methods that bring to the fore voices that are often unheard or misunderstood.

To illustrate both the possibilities for doing co-production in legal consciousness research and the value of it, the next section discusses early analysis from a project co-produced between academics, disabled people with cognitive impairments,⁴⁵ and legal professionals. We show how co-production methods, and the challenge to the hierarchy of knowledge that they force us to confront as academic researchers, are a key part of addressing ethical concerns around doing research in the context of disability, and ensuring the validity of disability research findings. This means, we argue, that co-production is an invaluable tool for relational legal consciousness studies.

4 | THE CO-PRODUCING ACCESSIBLE LEGAL INFORMATION (COALITION) PROJECT

The Co-Producing Accessible Legal Information (COALITION) project was funded by the University of Birmingham from January 2023 to July 2024.⁴⁶ The project used co-production research methods to bring a group of legal professionals together with a group of people with cognitive impairments at a series of facilitated workshops to think about barriers to justice for people with learning disabilities, and how legal services could be made more accessible to disabled people. The starting aims of the project were to identify priorities for accessible legal information on common legal topics, and to develop a model for ethical co-production with people with cognitive impairments.

The project included a total of six co-production workshops: three full-day in-person workshops for both participant groups, and three two-hour online workshops for disabled participants only. The online workshops were designed to ensure that disabled participants had the time and

⁴³ E. Turnhout et al., ‘The Politics of Co-Production: Participation, Power, and Transformation’ (2020) 42 *Current Opinion in Environmental Sustainability* 15.

⁴⁴ Bell and Pahl, op. cit., n. 31, p. 107.

⁴⁵ Language in the disability field is contested. For the purposes of this research, we use ‘disabled people’ and ‘people with cognitive impairments’ to signal our commitment to the social and human rights models of disability. See T. Degener, ‘Disability in a Human Rights Context’ (2016) 5 *Laws* 35.

⁴⁶ In addition to the authors, the project research team included Philipa Bragman (consultant disability facilitator), Andrew Lee (Director, People First), Sophie O’Connell (Senior Associate, Wilsons Solicitors), and Dhanishka Seneviratne (Research Assistant, University of Birmingham). Ethical approval was granted by the Humanities and Social Sciences Research Ethics Committee at the University of Birmingham.

TABLE 1 Demographic details of COALITION participants

Age	DPs	LPs	Ethnicity	DPs	LPs
18–24	0	1	White	5	7
25–34	0	3	Mixed (Black/white)	1	1
35–44	5	4	Black	2	0
45–54	2	1	Asian	0	3
55–64	1	2	Unknown	2	0
65–74	0	0	Gender	DPs	LPs
75+	0	0	Female	4	9
Unknown	2	0	Male	6	1
Disability	DPs	LPs	Non-binary/other	0	1
Yes	10	6			
No	0	5			

space to ask questions about the research and to contribute their views and perspectives, and to make sure that in-person workshops were accessible to them. Participants were recruited through strategic sampling via gatekeeper organizations and individual contacts alongside open recruitment calls circulated on social media. As is to be expected with longitudinal group-based research, there was some variation in attendance at each workshop, though with a notable drop-off in attendance from legal professionals at the final in-person workshop, which was primarily attributable to work constraints.

Ten disabled participants attended at least one online workshop; seven disabled participants and 11 legal professionals attended at least one in-person workshop; six disabled people and eight legal professionals attended two or more in-person workshops; and a core group of five disabled people, three legal professionals, and the researchers attended all three in-person workshops. Table 1 provides overview demographic information about the disabled participants (DPs) and the legal professionals (LPs).

All of the disabled people who took part in the research had cognitive impairments that impacted on their ability to understand complex written information, and were regular users of ‘Easy Read’ information.⁴⁷ Several participants also had various physical impairments, including mobility impairments, hearing impairments, and visual impairments. Easy Read participant information sheets and consent forms were used to facilitate involvement by disabled participants. In line with the requirements of the Mental Capacity Act 2005, all participants had the capacity to consent to participate in the project.⁴⁸

Legal professionals who took part in the project included legal executives, solicitors, and barristers and were drawn from legal service providers around England and Wales. There was significant interest from legal professionals in participation in the project, allowing for purposive selection to ensure a diverse participant group both in terms of some demographic characteristics (especially age and ethnicity) and legal expertise. Six of the legal professionals who participated in the project

⁴⁷ Easy Read information utilizes very simple written language, accompanied by descriptive images. For more information about Easy Read materials, see People First, ‘Empower Enterprise’ *People First*, at <<https://www.peoplefirstltd.com/pages/empower>>.

⁴⁸ See further Harding, op. cit., n. 39.

identified as having a disability. The preponderance of female legal professionals in our sample reflected the gender balance of those who volunteered to participate.

As noted in the previous section, choosing who to label as a ‘participant’ and who as a ‘researcher’ becomes less clear in the context of co-production. While there was a core team guiding the research, both the research questions and the direction of the project were shaped beyond the initial premise in the funding application by those recruited as participants. One of the project team was also a person with a cognitive impairment, and another a solicitor. Both of these team members occupied dual roles as both participants and researchers. Similarly, the academic researchers (including both authors) were also sometimes participants in some of the workshop tasks.

All of the workshops were designed around interactive and group-based activities, drawing on a wide range of facilitation techniques and Forum Theatre approaches.⁴⁹ These interactive research techniques were used to make sure that the different individuals involved in the co-production group were able to work together across their differences. For example, the ‘spaghetti game’ was used as an icebreaker activity to help disabled participants and legal professionals to get used to working together. This game required the participants to work in groups to build a tower from dry spaghetti and marshmallows, with the only rule being that everyone’s ideas had to be considered and attempted. These techniques allowed disabled participants and legal professionals to share their personal and professional experiences in tasks that did not prioritize the kinds of skills in which either group excelled, and to challenge perceptions of knowledge hierarchies between the participant groups. As such, while they were ostensibly ‘games’, they were also research tools, beginning to reveal to us some of the ways in which interpersonal dynamics and social structures of knowledge played out to shape the context in which legal consciousness emerged for our disabled participants.

In the next section, we explore themes that emerged from the workshops about how our disabled participants⁵⁰ experienced and engaged with law in their everyday lives, and reflect on the relationship between these themes and findings from previous legal consciousness research. The data discussed in the next section are drawn from across a range of different activities at the first four workshops on this project.

5 | LEGAL CONSCIOUSNESS AND COGNITIVE IMPAIRMENT

Findings from this research suggest that disabled people with cognitive impairments hold a relational legal consciousness that emerges from their location within a marginalized group in the community. Their legal consciousness arises both from their direct experience of seeking access to legal services or to justice, and from their perceptions of how they might be treated if they were to seek such access. To demonstrate this, we describe our disabled participants’ understandings and experiences of turning to law through two themes: community outsiders and barriers to justice. Disabled people who took part in this co-production research gave many examples of being excluded from their wider community, from not being believed or listened to when something

⁴⁹ A. Boal, *Legislative Theatre: Using Performance to Make Politics* (2005); A. Boal and C. A. McBride, ‘Theatre of the Oppressed’ in *The Improvisation Studies Reader: Spontaneous Acts*, eds R. Caines and A. Heble (2014) 79; K. Howe et al. (eds), *The Routledge Companion to Theatre of the Oppressed* (2019).

⁵⁰ In common with much legal consciousness research, we are less concerned here with how the legal professionals navigated the co-production research environment, or their legal consciousness.

happened to them, to being actively ridiculed, harassed, and bullied as a consequence of their disability. These participants had also experienced significant barriers when seeking access to justice, arising both from how they were treated by frontline services and from personally internalizing their experiences in ways that made them reticent to seek legal advice and support.

5.1 | Disabled people as community outsiders

Disabled people, and especially people with cognitive impairments such as learning disabilities or autism, experience significant levels of abuse and harassment in their everyday lives.⁵¹ In COALITION Zoom Meeting 1, we asked disabled participants to think about experiences that they had had either of a time when they felt that they were treated not very well or unfairly, or when they had had some kind of problem that they did not know how to sort out. The kinds of issues that were raised included discrimination in employment, difficulties accessing goods and services, difficulties reporting crimes, difficulties in accessing the courts, and challenges associated with seeking redress for personal injuries.

In Zoom Meeting 2, we used a legal problem scenario developed from our previous research and disability law teaching materials⁵² to elicit discussion about legal information priorities that had not come up organically from participants' stories in the first two research activities. The scenario included a wide range of legal issues, including child protection law, landlord and tenant problems, welfare benefit assessments, mental health issues, Care Act 2014 duties, and bullying and harassment. During the session, the co-production group successfully identified all of the legal issues as the sorts of things that you can ask for legal help or advice about, with the exception of issues around bullying and harassment. When they were asked why this was, it became clear that harassment was simply regarded as a part of daily life for many of these disabled people. All of our disabled participants agreed that they had experienced abuse, bullying, or harassment as a consequence of their disability. Most also reported 'not being believed' when they told others about negative experiences, or their experiences leading them to think that 'people with learning difficulties are seen as unreliable witnesses because they have a learning difficulty [and] for no other reasons than that' (Oliver).

Abuse and harassment seemed to be particularly salient for our Black disabled participants, highlighting the impact of intersectional discrimination. For example, Crystal said:

I am a Black, disabled woman. And I have learning difficulties. And I find that people look at me, and they just take the mick out of the way I talk and the way I move in my wheelchair. And it's hard.

When asked who 'takes the mick'⁵³ out of her, she replied that it was just 'people in general', and that she was worried that if she went to seek advice about trying to do something about it from

⁵¹ A range of studies from multiple jurisdictions are referenced in P. Bartlett and M. Schulze, 'Urgently Awaiting Implementation: The Right to Be Free from Exploitation, Violence and Abuse in Article 16 of the Convention on the Rights of Persons with Disabilities (CRPD)' (2017) 53 *International J. of Law and Psychiatry* 2.

⁵² R. Harding and E. Taşcıoğlu, 'Supported Decision-Making from Theory to Practice: Implementing the Right to Enjoy Legal Capacity' (2018) 8 *Societies* 25; R. Harding, "'He Got Down on One Knee": Intellectual Disability, Intimacy and Family Law' in *Disability, Care and Family Law*, eds B. Clough and J. Herring (2021) 191; Harding, op. cit., n. 39.

⁵³ 'Taking the mick' is an English colloquialism for teasing or ridiculing a person.

the police or a lawyer, 'they would be half laughing at me, and half saying what they should say'. The pervasive impact of everyday harassment also shaped Laura's experiences, which we discuss in the next subsection.

Similarly, in Zoom Workshop 1, Desmond told a story about an experience that he had on public transport, when there were too many pushchairs on the bus and one woman was getting very aggressive:

I was telling them to calm down ... and then she turned around and says 'Don't tell me to calm down' ... and then she called me a slave and all that stuff. And then the driver was really ridiculous. She acted like she didn't care. So she said to me to get off the bus. I was so furious.

Desmond later complained to the transport company. He was given a reference number and told that they would look into it. He did not hear anything else from them about the incident.

In previous legal consciousness research, individuals who belong to marginalized groups in society have been reported to avoid law,⁵⁴ or to seek to settle problems for themselves, without recourse to the formal justice system.⁵⁵ Disabled participants in this project wanted to access justice through formal channels, but felt that they were prevented from doing so by a society and legal system that actively exclude them. Repeated experiences of being excluded, insulted, or ridiculed had made these participants think that there was nothing that could be done to resolve these kinds of abuse. The relational approach embedded in facilitated co-production enabled these participants to share their experiences with other members of the group. This allowed participants' stories and experiences of legal marginalization to be brought out in ways that may not have been possible using the traditional tools and methods of legal consciousness studies. It also allowed these participants to be confident in telling their stories, and to help each other to draw out the internal and external barriers to justice that they had experienced.

5.2 | Barriers to justice for disabled people

Two stories from our participants about their experiences of seeking justice help to elucidate the barriers to justice that emerged through this research. First, consider this story told by Asli and her husband Oliver:

Asli: Well, one day me and Oliver were in London. I was in a wheelchair, at that time. An electric wheelchair. My own one. We were crossing the road. This car just smashed into me. I was in the wheelchair. The wheelchair fell on the side and I slipped out of the wheelchair. I thought I'd broken my ankle or my back. Luckily, I didn't.

And we went to the police station to report it. And all that we got was given this piece of paper to read. But it's not accessible, and the police didn't do anything.

⁵⁴ Ewick and Silbey, *op. cit.*, n. 3; P. Ewick and S. S. Silbey, 'Narrating Social Structure: Stories of Resistance to Legal Authority' (2003) 108 *Am. J. of Sociology* 1328.

⁵⁵ Merry, *op. cit.*, n. 4.

I mean. I mean, if you're in danger, go to the police. The police help you.
In my case, I didn't get help.

Oliver: As we kind of picked you up off the ground and moved away, the driver swore at us and drove off.

It transpired that this incident had happened some 18 years previously, but in the way in which Asli told it, it was clear that she was still very angry about the lack of resolution, and the wider impact that had on her confidence about going out. The rawness of Asli's story, despite the length of time that had passed, demonstrates the lasting impacts of injustice on those who experience it, even if they do not seek formal resolution.⁵⁶ For Asli, being unable to read the information given to her by the police (because it had not been provided in an accessible format)⁵⁷ meant that she had no route to redress for the destruction of her electric wheelchair, or the abuse and psychological harm that she experienced in that hit-and-run incident. Her experience provides a powerful example of the personal impact of the barriers to justice experienced by disabled people with cognitive impairments.

A second story of barriers to justice (also relating to a road traffic incident and the police response to it) was told by Laura, who was knocked over by a cyclist when crossing the road:

Laura: [The police] witnessed the whole event. They were dealing with another incident, and they witnessed the cyclist knocking me over on the zebra crossing.

Well, there was traffic and everything, so everything had to be halted. Cause it was right in the middle. So buses were going up and down, cars were going up and down. And I was right in the middle of it. And they had to get the ambulance, they had to get two ambulances in the end. Because one of them didn't have equipment to lift me off the road to get me onto the stretcher. Um, so, it just made everything chaotic and ... Yeah. So, I was advised to take it to a solicitor. Well, [by] a friend – I didn't want to do it.

Philipa: So why didn't you want to do it?

Laura: I didn't want to go through the aggro of going to court and everything.

Philipa: What would have been aggro about it?

Laura: Um, I think the reason why I didn't want to take it is just being labelled as a person with a learning difficulty and 'They didn't see', 'They didn't know what they were doing' ... That would have meant I was just tossed aside.

Here, we see Laura's own fears about not being believed, or even being blamed for the accident because of her learning disability, as contributing to her unwillingness to seek a legal resolution. In the end, though, Laura did make a legal claim, and was compensated for her injuries. She felt that the lawyer treated her well, but said that she was only able to access that legal advice and

⁵⁶ Cf. Bumiller, *op. cit.*, n. 14.

⁵⁷ The provision of accessible information is a duty of service providers under Section 20 of the Equality Act 2010, and was considered a 'reasonable adjustment' under the Disability Discrimination Act 1995. Such information should have been available to Asli at the point that she reported the crime. See further R. Harding, 'Making Legal Information Accessible and Supporting Vulnerable Clients' (2023) *J. of Elder Law and Capacity* 15.

support with a relative there to help her. She told the group that if she had not had support, she would have been worried that the lawyer might have been ‘not understanding’ and not wanted to ‘take it seriously’.

Laura’s story draws attention to the relational nature of her legal consciousness. Here, we see two dimensions of that relationality. The first is how her personal experience of being dismissed as a person with a learning disability, and those of her disabled friends, shaped her fears about either not being believed or being blamed for the accident, despite her clearly not being at fault. The second is that she felt that if she had sought legal advice without the assistance of a non-disabled relative, the solicitor might not have understood her or taken her seriously, which speaks to the wider issues of disabled people experiencing harassment, abuse, and inaccessible services on an everyday basis. Importantly, the co-production workshop enabled Laura to tell this story, through careful facilitation that was attentive to ensuring that everyone had a chance to share their stories, and through the supportive environment that was created by the co-production group.

Interestingly, during our second in-person workshop, Desmond told another story about a very recent episode of racist and disablist abuse that he had experienced in a public space. This time, he reported the abuse to the police, and told the co-production group that his complaint had been taken seriously. Though the perpetrator had not been caught, a police officer had called on him to take a detailed statement, and he had been assured that there was a warrant issued for the perpetrator’s arrest. While street harassment is commonplace, and previous legal consciousness work has highlighted some of the challenges of seeking to resolve it through legal means,⁵⁸ the verbal abuse that Desmond suffered was particularly unpleasant and was treated as a hate crime when reported. Like Laura, Desmond was pleased at how his complaint had been dealt with when he engaged with the justice process. He also told us explicitly that his involvement in the co-production research group had given him the confidence to report the incident.

The examples that we have drawn on here provide insights into the relational legal consciousness of our disabled participants, and particularly how legal consciousness is created through and shaped by relational contexts. In discussing the relational turn in legal consciousness studies, we noted that it leads us to ask where the inequalities that are reproduced by the legal system come from. We suggested that co-production methods could provide a way of answering this by exploring the sources of disabled people’s everyday understandings of law and justice. The analysis that we have set out here demonstrates how facilitated co-production workshops can provide new insights into the ways in which legal consciousness is created, shaped, and sustained for marginalized individuals.

5.3 | Discussion

The first empirical theme that we explored here was how disabled people’s experience as community outsiders excludes them from access to justice, and the role that bullying and harassment has in compounding that experience. It is well established in the literature that disabled people experience high levels of bullying and harassment, as well as abuse and exploitation,⁵⁹ but the

⁵⁸ L. B. Nielsen, *License to Harass: Law, Hierarchy, and Offensive Public Speech* (2004).

⁵⁹ Bartlett and Schulze, *op. cit.*, n. 51.

impact of this on their legal consciousness has not previously been explored. Though our disabled participants held a broad sense that it was appropriate to seek out legal enforcement when specific wrongs were experienced, such as road traffic incidents, that was not the case for bullying and harassment. Instead, it was constructed by these participants as just ‘part of life’ and something that happened so frequently that it was not seen or understood as a legal issue, even where it clearly intersected with issues that are legally defined as hate crimes, such as racially abusive speech.

This construction of bullying and harassment as something that simply had to be endured was an unexpected outcome from this research. Using co-production methods allowed this finding to emerge from participants’ experiences about law and justice. Our first Zoom meeting was approached almost entirely without an agenda, other than to explore the disabled participants’ experiences of what *they* would describe as challenges in accessing legal information, and this is where most of the stories that we have shared here were told. This finding moved us beyond thinking about only the formatting of information as a barrier to accessibility, to wider questions about the sources and experiences of inequality as discussed here.

The ableism that underscores the source of this inequality, and that constructs disabled people as community outsiders, is also evident in the barriers to justice that disabled people experience. These barriers are both external and internal. Our participants told multiple stories of wanting to engage the support of legal and criminal justice professionals, in particular the police and solicitors, and yet frequently experiencing barriers in the type of information given, and the time and patience (or lack thereof) of the professionals to explain things in a way that they were able to understand. There were, however, also internal barriers to seeking legal advice, as illustrated by Laura’s story. Repeated experiences of not being taken seriously or not being believed meant that these disabled people were uncertain about and resistant to engaging with legal professionals for solutions. This adds significant nuance to findings from previous legal consciousness research that marginalized people avoid turning to law to resolve problems.⁶⁰ It demonstrates that there are complex relational barriers to accessing justice (some conscious, some not) that shape how disabled people respond to legal issues. Importantly, the issues discussed here represent only some of the barriers to justice experienced by disabled people; much more work is needed to overcome the multiple sources of disablement present in the justice system.⁶¹

The final story that we told above highlights a different aspect of co-production research into legal consciousness: the potential that it has as a research methodology to positively impact on participants’ lives. That Desmond gained the confidence to report his experience of hate speech to the police (rather than complaining to a service provider, as he had done in the past) suggests that participation in co-production research can shift or shape participants’ legal consciousness. Co-production as a research methodology may, therefore, have the potential to increase the legal confidence of participants who belong to marginalized groups, at the same time as bringing their legal concerns to the surface. This could, in turn, help to challenge the barriers to justice that an inaccessible justice system has created. This finding does, however, also bring with it a need for researchers to carefully consider the potential for involvement in research to change participants’ legal consciousness, and to be alert to the possibility of both empowerment and harm to participants as a result.

⁶⁰ See for example Merry, *op. cit.*, n. 4; Ewick and Silbey, *op. cit.*, n. 3; Ewick and Silbey, *op. cit.*, n. 54.

⁶¹ See further A. Lawson, ‘Disabled People and Access to Justice: From Disablement to Enablement?’ in *Routledge Handbook of Disability Law and Human Rights*, eds P. Blanck and E. Flynn (2016) 88.

6 | CONCLUSION

In conclusion, we consider that co-production research methodologies can offer (relational) legal consciousness studies a new set of methodological tools that are specifically suited to investigating the dynamic relational processes through which legal consciousness emerges, develops, and changes. By exploring attitudes to and experiences of law and (in)justice through discussions and activities in a facilitated co-production workshop, the interplay of different kinds of influences on the emergence and consolidation of legal consciousness can become clearer.

When undertaken in ways that are alert to the potential challenges and compromises that co-production can involve, co-production research offers a methodology for exploring law in the furthest reaches of its effects, addressing the origins and persistence of attitudes to and engagements with law, and uncovering experiences of inequalities and systematic injustice that help to sustain the hegemonic power of law. It can enable us to identify how social processes, including discrimination and the entrenched exclusion of marginalized communities, can prevent empowering laws (such as those that create rights to accessible information from service providers, or that impose harsher sentences for hate crimes) from having their full effect. Co-production methodologies can also offer researchers a very enjoyable research process, including providing opportunities to challenge interpersonal power relationships through building towers out of spaghetti and marshmallows.

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