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Empowerment for People With Lived Experience of the Justice System? Peer Leadership and the 'Spectrum of Public Participation'

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ABSTRACT

Drawing from Arnstein's original *ladder* model, and the political philosophy of Dewey, Fraser and Pitkin, it is argued that people with lived experience of the justice system require a coherent social movement if they are to be collectively empowered by lived experience consultations. I argue that social services for people in the justice system can foster the development of movements through a relational approach grounded in the ethics of care. Lived experience co-production can build solidarity, agency and voice and provide opportunities for people to 'come out' as activists. Once movements demonstrate engagement, alignment, adaptation and influence, consultations can be collectively empowering.

1 | Introduction

In Victoria, Australia, the rising tide of 'lived experience' politics and epistemology that is evident in other areas of human services and social policy may be finally breaching the walls of the justice system. For example, the Victorian Department of Justice and Community Safety has launched their *Engagement Framework for a just and safe Victoria* (Department of Justice and Community Safety 2022); there are increasing numbers of academic papers (De'Ath et al. 2018; Doyle et al. 2021), conference panels and presentations on the topic; and more organisations working with people in the justice system have active lived experience panels (e.g., Australian Community Support Organisation 2024; Jesuit Social Services 2024; Martinovic et al. 2022; Prison Network 2024; Vacro 2024). This is happening in the context of increasing awareness of the 'politics of presence', in which institutions gain legitimacy with the inclusion of historically disadvantaged groups. It is also driven by a recognition among 'experts' that the production of knowledge about social problems—and who is included within that production process—is always political (Lancaster et al. 2018). These changes are also happening in the context of new technologies for collaboration to bring about social change (Heimans and Timms 2019), new ideas about organisational structure and decision-making (Laloux 2014) and new frameworks for thinking about the welfare system (Cottam 2018). Like each of these developments, lived experience politics and epistemology is participatory and deliberative, ecological, emancipatory, emergent and non-linear. Like other movements towards social change, it also risks being co-opted, enclosed and occupied by existing power structures.

This article aims to critically engage with the question of how lived experience might best be brought to bear upon the justice system, especially in and around the spaces in which services, advocacy, policy and research are negotiated. In particular, it aims to inform those who use and engage with lived experience of the justice system about how to avoid extractive approaches, and how to proceed in ways that help to create the pre-conditions for deeper structural change over time.

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2 | Defining Lived Experience

While the term 'lived experience' has many valences, this article is primarily concerned with what an influential paper by Weaver and McCulloch (2012) defines as justice system 'user engagement'. This practice is 'a participatory and collaborative approach between citizen-consumers of services, policy makers and professionals to the design, delivery and evaluation of criminal justice policies, services and practices' (2012, 4). Collaborating with people who have been affected by the justice system can take place on an individual basis, where a program participant takes a role in determining the nature of the service they will receive; or collectively, where a group of people with lived experience collaborate, usually alongside professionals and service providers, to create content or deliberate on some matter of common concern (Weaver and McCulloch 2012). For the purposes of this article, we will be concerned with the latter. This can include 'involvement in decision-making processes focused on policy development, service commissioning, design, delivery and evaluation, resource allocation and the operational and strategic management of services' (Weaver and McCulloch 2012, 3). Alternately, it can involve the creation of content such as an artwork or text that engages with relevant issues, typically in a way that is public facing and aims to benefit people with lived experience and the community as a whole (Johns et al. 2023). Engagement of this sort is anchored in a strengths-based approach that recognises that participants have skills, expertise and insights that are valuable for addressing the problems in the justice system. This approach aims to displace deficit-based discourses in which 'offenders' are 'reformed' through programs that reduce their risk of reoffending (Maruna and LeBel 2009). In keeping with a strengths-based approach, I will avoid the term 'living experience' in this article. While this term is sometimes used in other contexts, when used in relation to the justice system, it may imply that participants are still offending or subject to court orders at the time of their deliberative engagement. These inclusions would introduce moral and legal issues that distract from the present purposes but might be worth exploring in further research.

2.1 | Victoria Lacks Justice System Publics for Lived Experience Engagement

Following Arnstein (1969) and influential political philosophers (Dewey 2012; Fraser 2014; Pitkin 1967), this article will argue that engagements with lived experience expertise should only be described as 'empowering' when the interlocutors with lived experience are organised into a more or less coherent social movement. A range of historical groups constituted by people affected by the justice system in Australia have been documented (Doyle et al. 2021). Currently, there is Australian Prisoners Union (https://australianprisonersunion.org.au/), but it is based in New South Wales, and its Victorian operations are limited. In Victoria, the 'Beyond the Stone Walls' collective is a 'think tank' that includes people who have been in prison and advocates for justice system reform (Martinovic et al. 2022). No doubt there are informal networks of people who have been affected by the justice system who provide mutual aid and mentorship, but these networks are not public-facing or seeking systemic change. A number of organisations who work in the justice reintegration sector—including my employer, Vacro—have active panels of people with lived experience who are engaged for consultations and deliberative projects. While these groups are convened and coordinated by organisations that seek systemic change, the groups are not self-directed or self-convening.

When compared to other marginalised communities in Victoria, Australia, people who have been affected by the justice system have limited power-bases. For example, people who use drugs, sex workers and HIV-positive communities have more or less formalised social movements that act strategically and coherently to affect the policy and discursive conditions that affect them (Hilton et al. 2021). The power wielded by these groups is partly grounded in recognition among policy makers that effective public health measures require organised 'counterpublic health' constituencies (Duff and Moore 2015; Race 2003). The 'Final report: summary and Recommendations' from the Royal Commission into Victoria's Mental Health System (State of Victoria 2021) made 74 references to 'lived experience', and mental health 'consumer' organisations such as Victorian Mental Illness Awareness Council have played a central role in subsequent reforms. Legal services provided by Victoria Legal Aid in specialist family violence courts have been designed with extensive input from people with lived experience (Victoria Legal Aid 2020). While groups in these areas are capable of strategically exercising power, my sense from working in the justice sector is that people who have been imprisoned lack the organisational base to do so. This deficit is especially stark when compared to the more advanced peer-led movements in the United States (Maruna and LeBel 2009) and the United Kingdom (Schmidt 2020). For example, in Scotland, the 'penal voluntary sector' (PVS) is a significant power-base for people with lived experience of the justice system. The PVS provides a large proportion of social services for criminalised people and is frequently involved in justice system policy-making (Buck et al. 2022).

The remainder of this article is divided into four parts. The first section argues that justice system publics are necessary if lived experience engagements are to be empowering. By drawing on Sherry Arnstein's original typology of public participation, and the political philosophy of John Dewey, Hannah Pitkin and Nancy Fraser, it provides a critical review of the *Spectrum of public participation* framework, which structures many current approaches to lived experience. The second section discusses barriers to the development of counterpublics. The third section proposes a three-part structure for engaging with people who have lived experience of the justice system in a way that addresses the identified barriers and creates the pre-conditions for the emergence of new counterpublics. Concluding remarks are offered in the final section.

3 | Why Empowering Lived Experience Consultations Require Publics

Achieving deep and sustainable change to the justice system requires more than policy and practice reform: it requires a shift in mindsets and mental models (Griffith Centre for Systems Innovation et al. 2022). Most engagements with people who have lived experience of the justice system are grounded in frameworks and heuristics for structuring different degrees of power and involvement. Critical engagement with these heuristics and

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frameworks is required if lived experience engagements are to be truly empowering.

3.1 | Elision of Publics Within the *Spectrum of Public Participation*

One way or another, many 'user engagement' initiatives undertaken by public bodies make reference the *Spectrum of public participation*. According to the International Association for Public Participation (2018), the *Spectrum of public participation* 'was designed to assist with the selection of the level of participation that defines the public's role in any public participation process'. The model is structured by categories that move from thinner to thicker degrees of public involvement: 'inform', 'consult', 'involve', 'collaborate' and 'empower'. Typically, decisions that involve greater resources, or that are more significant for affected people, are thought to belong to the 'thicker' end of the spectrum, while decisions that involve less resources and have less significant effects belong to the 'thinner' end of the spectrum (e.g., see Victorian Auditor-General's Office 2015). However, the *spectrum* model, and the models that derive from it (e.g., Bammer 2019), is a simulacrum of Sherry Arnstein's original *Ladder of citizen participation* (Arnstein 1969). According to Arnstein's model, the higher rungs of the ladder (citizen control, delegated power, and partnership) involve 'degrees of citizen power', while the middle rungs (placation, consultation and informing) involve 'degrees of tokenism' and the lower rungs (therapy and manipulation) involve 'nonparticipation'. Despite their *prima facie* overlaps, there are significant differences between the *spectrum* and *ladder* models.

The primary difference is whether or not an organisation that wishes to engage with lived experience can 'select' the level of participation that is appropriate for their processes (the *spectrum* model), or whether higher levels of participation only become possible by favourable conditions in the political ecology of the sector (the *ladder* model). For example, in the Victorian justice system's *Engagement Framework for a just and safe Victoria*—which adopts the *spectrum* model—the appropriate end of the spectrum for any specific initiative is determined by a risk assessment: where 'the risk of not engaging is to damage relationships or cause reputation risk to the department', the guidelines suggest operating at the thin end of the spectrum, but when the 'risk of not engaging is that we deliver outcomes that are not fit for purpose, or we fail to meet legislative requirements', the guidelines suggest operating at the thick end of the spectrum (Department of Justice and Community Safety 2022, 35). Although it is not stated overtly, we might also infer that the Department may be concerned that affording criminalised people too much decision-making power may risk unwanted media attention (De'Ath et al. 2018). In any case, the public body is able to choose to operate in any part of the spectrum that best suits their strategic interests. In contrast, the higher rungs of the *ladder* model are only accessible 'where there is an organized power-base in the community to which the citizen leaders [who perform lived experience advisory roles] are accountable' (Arnstein 1969, 221). Organisations engaging with lived experience cannot 'select' the thicker end of the spectrum unless the people with lived experience have an already established power-base with 'the financial power and resources to pay its leaders reasonable honouraria for their time consuming efforts'; and 'the resources to hire (and fire) its own technicians, lawyers, and community organisers' (Arnstein 1969, 221). According to Arnstein, this power base is often lacking because of inadequacies in 'political socioeconomic infrastructure and knowledge' and a broader atmosphere of 'futility, alienation, and mistrust' among marginalised communities (1969, 217).

A further difference between the *spectrum* and *ladder* models is the normative ranking of different levels of engagement. While Arnstein clearly implies that the higher rungs of the ladder are more just, the *spectrum* model does not present thicker forms of engagement as preferable. Usefully, Johns et al. (2023) intervene in this debate by suggesting that the structuralist account of power invoked by Arnstein may overlook the more subtle ways in which engaging with lived experience as an alternate 'way of knowing' may disrupt prevalent discursive regimes, thereby redistributing power as theorised in a post-structuralist register. From this perspective, any position on the spectrum that creates space for people with lived experience to publicly exercise their voice to articulate what is real and what is good has the potential to disrupt the status quo. This is an important point, but discursive power is not what the *spectrum* model claims to offer. For example, the Empowerment practice within the *Engagement Framework for a Just a Safe Victoria* (Department of Justice and Community Safety 2022) involves allowing 'others to make decisions on behalf of [the Department]' (35). This is a structuralist formulation of power that requires a structuralist analysis.

3.2 | Political Philosophy on (Counter)Publics and Empowerment

The difference between the *ladder* and *spectrum* models is highlighted by political philosophy concerning the formation of publics of common interest, the effects of socioeconomic stratification upon these publics and the representation of these publics within inter-public and policy-making forums. For these purposes, we can draw on the political philosophies of John Dewey, Nancy Fraser and Hannah Pitkin. An overview of the argument that I synthesise from these authors is summarised in Figure 1.

3.2.1 | A Public Must Find and Identify Itself

Processes for constituting new publics was a central concern of John Dewey. Dewey wrote his canonical work of political philosophy, *The public and its problems* (2012) in the United States in the shadow of the first world war and amidst newly nationalising and globalising systems of production and communication. According to Dewey, the ideal model of democracy was the pre-industrial village, where people were known to one-another and each member of the community was involved in the decisions that affected them. Dewey imagined that, in the new era of large-scale systems of production and governance, new publics could emerge at a scale that was parallel to that of the issues they were seeking to address: 'when a family connection, a church, a trade union, a business corporation, or an educational institution conducts itself so as to affect large numbers outside of itself, those who are affected form a public which endeavours to act through suitable structures, and thus to organise itself for oversight and regulation'

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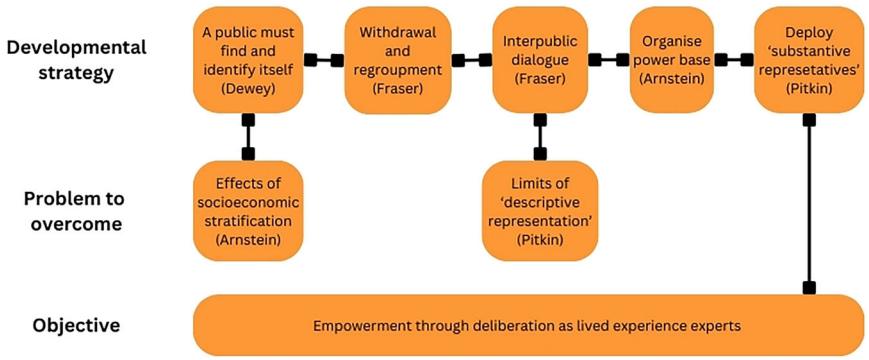

FIGURE 1 | Insights from political philosophy concerning empowerment through deliberation as lived experience experts.

(55). For Dewey, the first step towards the formation of such publics—and the most urgent task for redefining democracy at a scale that was commensurate with new systems of governance and production—was for each of these publics to 'find and identify itself' (159). This notion of a public is aligned with Arnstein's ladder of citizen participation insofar as it recognises that a public must 'organise itself for oversight and regulation', but it lacks insight into the effects of social stratification and marginalisation of publics who are systematically excluded from socioeconomic resources and decision-making forums.

3.2.1.1 Withdrawal and Regroupment to Remedy the Effects of Socioeconomic Stratification For further insight into engaging with marginalised publics, we can turn to the work of Nancy Fraser (Fraser 2014). Fraser developed her idea of 'subaltern counterpublics' in response to the limitations of Jürgen Habermas' work on the 'public sphere' (1999). While it is beyond the scope of this article to provide a comprehensive account of Habermas' proposition, it is enough to say that the *public sphere* was separate from the state, and 'limits deliberation to talk framed from the standpoint of a single, all-encompassing "we", thereby ruling claims of self-interest and group interest out of order' (Fraser 2014, 89). Like Dewey's conception of 'publics' that developed in response to matters of common concern, Habermas' *public sphere* assumed that, through listening and reasoned argument, inequalities between discussants could be 'bracketed' and the discussants could 'deliberate as peers' (Fraser 2014, 77). However, Fraser suggested that:

> We should question whether it is possible even in principle for interlocutors to deliberate as if they were social peers in specially designated discursive arenas, when these discursive arenas are situated in a larger societal context that is pervaded by structural relations of dominance and subordination. (82)

Fraser suggested that rather than attempt to establish a voice in contexts of subjugation, disadvantaged social groups, including 'women, workers, peoples of color, and gays and lesbians [and for our present purposes, people who have been affected by the justice system]—have repeatedly found it advantageous to constitute … *subaltern counterpublics*.' According to Fraser, these:

> counterpublics have a dual character. On the one hand, they function as spaces of withdrawal and regroupment; on the other hand, they also function as bases and training grounds for agitational activities directed toward wider publics. It is precisely in the dialectic between these two functions that their emancipatory potential resides. (p.85)

The function of 'withdrawal and regroupment'—and its dialectic with wider public activities—can be understood as an antidote to what Arnstein describes as 'futility, alienation, and mistrust' among marginalised communities. Within this dialectic, subaltern counterpublics can transcend their powerlessness and learn the influence and dialogic techniques that are required to affect the systems that have affected them. This proposition has a parallel in the notion of 'encalve deliberation' within deliberative democratic theory. A case study of enclave deliberation demonstrated that participants could gain political knowledge, avoid groupthink and consider a diversity of viewpoints, and develop persuasive techniques (Karpowitz et al. 2009). These observations concur with Arnstein's position that in order to negotiate on an equal basis with more powerful and better resourced public bodies, it is necessary for people with lived experience to establish a counterpublic/organised power-base.

3.2.2 | Interpublic Dialogue to Counter Separatism

There are two critiques of Arnstein and Fraser's proposition about counterpublics that need to be addressed before we proceed any further. The first is Habermas' concern that a proliferation of counterpublics with sectarian interests could tend towards separatism. Fraser countered that 'a counterpublic militates in the long run against separatism because it assumes an orientation that is "publicist" [that is, oriented towards changing attitudes and perceptions within the broader *public sphere*]' (84). To restate this another way, Fraser is suggesting that where counterpublics engage in broader (inter)public debates about matters of shared concern, it is unlikely to result in a separatist outcome precisely because the concerns being discussed are shared, albeit from different perspectives. For example, where people with lived experience of imprisonment engage in discussions about justice

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system reform, it seems likely that they will argue for more (not less) integration between those who are imprisoned and those who are not. This was a point that Habermas conceded in his later work (Calhoun 2013).

3.2.3 | A Power Base to Shift the Type of Representation

A second critique was foreshadowed by Arnstein herself: that the organised power base (or *subaltern counterpublic* in Fraser's terms) might enable 'minority group "hustlers" to be just as opportunistic and disdainful of the have-nots as their [advantaged] white predecessors' (224). Real-life examples of this effect have been documented in cases where lived experience representatives are paid for their work and are perceived as pursuing a career at the expense of their peers (Bartoszko 2021). More broadly, there have also been conflicts about who is sufficiently able to represent others in the counterpublic. This became problematic in policy development work that included people who use illicit drugs, where an insistence that representatives must have experience of poverty and marginalisation—as 'junkies' on the 'street'—caused conflict, since it was seen to stigmatise the whole population of people who use drugs, including those who are stably housed and employed (Bartoszko 2021, 175). In light of this, 'we need to question who determines the interests of the represented and to which of the many competing interests representatives should respond and how' (Bartoszko 2021, 181). Fraser was not much concerned with the accountability of representatives of subaltern counterpublics to their membership base in this context. To address this significant concern, we can look to the political philosophy of Pitkin (1967).

Pitkin proposed a typology of political representation with four types: descriptive, formalistic, symbolic and substantive. The legitimacy and scope of action are different for each type of representative. The kind of lived experience that is enacted in the *spectrum* model fits best within the 'descriptive representation' type and can be performed by those who 'look like, have common interests with, or share certain experiences with the represented' (Dovi 2018, Section 1.2). The legitimacy of this role is determined by the similarity of experience between the representative and the represented; and by the density of their networks with others in this group (Dovi 2002). The role of descriptive representatives can be distinguished from the other three types in Pitkin's framework: formalistic, symbolic and substantive. Formalistic representatives can be found in parliaments, and their role is defined by the way they are appointed and held accountable (i.e., elections). Symbolic representatives 'stand' for the represented, and their role is defined by their meaningfulness and acceptance among the represented. One example might be Vincent Lingiari's representation of Aboriginal people seeking land rights as he accepted a handful of sand from Prime Minister Gough Whitlam. Substantive representatives act as agents or substitutes for the represented and must aim to serve their best interests. A lawyer acting as counsel in court can perform this kind of representation.

The problem of representation of people with lived experience can be theorised as weakness of the 'descriptive' representation type. Who could claim to have had enough 'typical' experience to represent all the others? However, at the thicker end of the *spectrum*, or the higher rungs of the *ladder*, people with lived experience are given decision-making power. It is inevitable that decision-making power in the absence of accountability mechanisms will generate controversy, conflict and resistance. Only a stronger, *substantive* form of representation, that includes mechanisms to ensure that representatives serve the best interests of the represented, can be delegated to hold decision-making power. In this respect, Pitkin's typology is aligned with Arnstein's proposition that a community base-base/counterpublic requires an established power-base with 'the financial power and resources to pay its leaders reasonable honouraria for their time consuming efforts'; and 'the resources to hire (and fire) its own technicians, lawyers, and community organisers'.

To conclude this section on the insights of political philosophy, we can observe that lived experience engagements situated at the thicker end of the *spectrum* model run the risk of being co-opted, enclosed and occupied by existing power structures. In contrast, insights from Dewey, Fraser and Pitkin are in accord with Arnstein's original proposition that the higher rungs of the *ladder* model require a marginalised counterpublic to form around its recognition of itself as such and to have the resources and organisational power-base to deploy accountable representatives to negotiate on its behalf. The remainder of this article is concerned with the implications of this insight for the conduct of lived experience engagements.

4 | Barriers to the Establishment of Justice System Counterpublics in Victoria, Australia

If organised counterpublics are required for the most substantive forms of lived experience engagement, and the current counterpublics that have formed in response to the justice system in Victoria, Australia, are relatively weak, we might seek some understanding as to how the current situation has emerged.

The establishment of a new group requires constituents with enabling material and relational resources. People who are affected by the justice system and their families suffer a disproportionate degree of socioeconomic disadvantage (Besemer and Dennison 2019). For people who lead a precarious existence, the 'focus is more on the "here and now" than on the future. There is less planning, less goal orientation, a less marked hierarchy of tasks that have to be performed within a certain span of time' (Van Doorn 2010, 223 citing; Elias 2007). People who are insecurely housed, without reliable income and few kinship supports are not usually able to make a reliable and sustained contribution to a deliberative group process.

People who have been affected by the justice system have probably encountered state institutions as dominating, hostile, mistrustful and negligent. Many people in prison have been subject to state-care as a child (Halsey 2018), and there are many injustices within the justice system (Bartels et al. 2018; Cui et al. 2023; Dias et al. 2013). It is understandable that people with this background may be averse to the prospect of joining a counterpublic that aims to engage with and improve the state institutions that have harmed them and their families.

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People in the prison system are frequently transferred between facilities and, once released, they are usually barred from visiting their former inmates. In these and many other ways, the operations of the justice system act to undermine the tendency of groups of people who live together to form community and solidarity (Evans 2024). Further, because of their common history of wrongdoing, 'prison is not a space where people trust easily' (Johns et al. 2023, 56).

The prison environment is designed to control and silence those within it. For many people who have been in prison, the residues of this experience may diminish their agency and voice long after their release. This might be an underlying reason for Maruna and LeBel's (2009) observation that mutual aid organisations run by people who have been in prison typically lack an ambition to change public opinion about the operations of the justice system. Further, prison is highly stigmatising, and many people may be reluctant to foreground their status as ex-prisoners after release. Even if the participant successfully avoids further criminalisation, 'being labelled a professional, credentialled "ex-offender" risks becoming a pathway out of one form of criminal othering into another' (Johns et al. 2023, 122).

While the Victorian justice system has unveiled its *Engagement framework for a just and safe Victoria* (Department of Justice and Community Safety 2022), the policy environment does not otherwise favour the establishment of representative groups of people affected by the justice system in the same way that it supports lived experience movements within other sectors. Victoria's Offender Management Framework makes no reference to peer groups or movement-building, but rather emphasises individual self-responsibility (Corrections Victoria 2016).

5 | Elements of Movement-Building

If we aim to move towards the higher rungs Arntstein's ladder in service development, policy-making and research for people affected by the justice system, this will require a process of constituting new counterpublics. The following subsections argue that this requires a phased progression from cultivating specific kinds of relationships, to building group capacity, to a final stage of peer-led systems change. While each of the ideas in these sections are well-established in the criminological and sociological literature, they are gathered here as a series of steps that, when integrated into a coherent whole, offer a plausible route to the higher rungs of Arnstein's ladder.

5.1 | A Relational Approach Grounded in the Ethics of Care

According to Dewey, [counter]publics are constituted by the realisation of common concern among two or more people. It is within the relationship between these people that the counterpublic is established. A relational approach is therefore appropriate for considering how movement building might proceed. Relational approaches are typically grounded in feminist care ethics (Groot et al. 2022), which articulate normative qualities for relationships that are derived from care practices. This section will argue that if they are to take up the onerous task of movement building, people who have been affected by the justice system will need to be embedded within solidaristic relationships that are characterised by attentiveness, mutual concern, responsiveness and trustworthiness; and they will need to avoid relationships that are dominating, exploitative, hostile, mistrustful and negligent. I will argue that organisations providing services to people within the justice system and aiding reintegration after release have a critical role to play in this process.

Although our present aim is systemic rather than individual change, many individuals who have been affected by the justice system will need support to transform the qualities of their kinship, community and other interpersonal ties. This is necessary because of the dialectic between a person's existing interpersonal relationships and their approach to establishing new ties within a counterpublic. Although the process may be mediated by gender (Seaman and Lynch 2022) and cultural background (Richards et al. 2020), it is widely agreed across various epistemological traditions in criminology that improved kinship and community ties can help enable recovery from disadvantaged circumstances and the negative effects of criminalisation (Duwe and Clark 2011; Farmer 2017; McNeill and Weaver 2010). At the same time, the socially integrative and rehabilitative efficacy of prosocial, solidaristic peer groups has long been of interest to criminology, particularly insofar as 'social learning within cohesive egalitarian groups can be a potent vehicle for personality and behavioural change' (Fischer and Geiger 1994, 226). The dialectical links between these two spheres can be understood with reference to their common ethics of care.

Unlike the ethics of justice, which are derived deductively from abstract principles, care ethics are derived from practices (Mol 2008). Care practices vary widely, for example, in the case of the counterpublic, the primary shared 'matter of care' (Puig de la Bellacasa 2017) is the movement itself and its objectives for justice system reform, whereas in kinship and community contexts, the shared matters of care can be various and typically include the individuals within the network. Nevertheless, these various practices arise from common normative claims. According to feminist care ethicist Thomas Randall:

> caring practices may frequently change or even be unique to a particular context [but] the values that abstract from these practices do not. Instead, these values form a stable normative guideline that can be fulfilled in a multitude of ways, depending on the relational context and range of caring practices utilized. (2024, 29)

Randall (2024) synthesised a list of normative qualities evident in care practices from major contributions to the feminist care ethics literature. They argue that, regardless of context, good care practices are characterised by attentiveness, mutual concern, responsiveness and trustworthiness and prevent relations that are dominating, exploitative, hostile, mistrustful and negligent, to the extent possible. For our present purposes, this list of relational values can be read as a description of the relational pre-conditions that would enable the establishment of a counterpublic of people affected by the justice system.

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Supporting people to cultivate relationships with these qualities, and to avoid relationships without them, is an area of existing practice for some social services that are active in and around the justice system. For example, one of my employers, Vacro, provides clinical family therapy and a 'Family Visits' program, which provides structured support for people to strengthen a significant kinship relationship prior to their release (Hart and Field Pimm 2021). However, 'relational welfare', which draws from feminist care ethics, is also a broader banner under which new theories of change for social services have been gathered. According to Hillary Cottam, relational welfare services tend to use 'distributed [rather than top-down] systems; blurred boundaries between production and consumption; an emphasis on collaboration; and a strong role for personal values and missions' (2011, 136–137). Further, relational practice is capabilities (not problem) focused and without specific agenda, it is time rich and enduring and coaches people through trial and error in real-life situations. It aims to avoid the proliferation of single-issue, specialist, deficit-focused services that are often encountered by people with multiple and complex needs and instead take a holistic approach to enable personal and collective flourishing (Cottam 2018). The provision of services aligned with these precepts can help to ameliorate socioeconomic disadvantage and establish the relational pre-conditions for the establishment of justice system counterpublics.

This section has argued that rehabilitative services in and around the justice system have a role to play in establishing the relational pre-conditions for counterpublics to emerge by fostering the development of relationships that are congruent with the values of feminist care ethics. The proposition is that a sustainable counterpublic is more likely to emerge if its members are otherwise embedded in relationships that exemplify ethics of care. It is acknowledged that this process is made more difficult because state mandates often conflict with these relational values, especially for those who work in prisons. For example, those who work in programs must tailor their content to conform to officially endorsed 'rehabilitation' paradigms that draw from individualist, clinical and deficit-based logics and deliver programs in securitised spaces that are at odds with the relational value of trust (Evans 2024). Despite these limitations, care theorists have argued that relational ethics are possible within the justice system (Canton 2020; Coverdale 2020), and there are examples where prison officers and program staff have developed relationships that meet the demands of care ethics (Halsey and Deegan 2016; Maycock et al. 2020; Tait 2011).

5.2 | Co-Production as a Step Towards Solidarity and Activism

With enabling relational networks in place, structured contexts for co-production can build solidarity, agency and voice and provide opportunities for people to 'come out' as activists. While these practices are necessarily below the highest rungs of Arnstein's ladder, they can form part of the ascent.

Co-production can foster the development of relational bonds between participants (Johns et al. 2023). Groups characterised by 'active participation, egalitarianism, open communication, and communalism' instead of 'status and hierarchy' can engender 'group identity, commitment and loyalty … sharing and mutual concern' (Fischer and Geiger 1994, 228). Research into the characteristics of people involved in post-release activist movements observed that people who identify more strongly with other people affected by the justice system were more likely to be involved in advocacy related activities (LeBel 2009).

Co-production can effectively coax agency and voice from people who have been affected by the justice system. It can also help people to develop the skills that will enable subsequent movement building, including intellectual flexibility, epistemic humility and tolerance for discomfort (Johns et al. 2023). Skills developed within a collective of prison and community-based 'think tanks' focused on the justice system in Victoria have included awareness of the politics surrounding the justice system, and 'skills in negotiation, communication and teamwork' (Martinovic et al. 2022, 156). One imprisoned think tank participant said:

> Each session allows me to reset my thinking and remember that prison is not the world, that I am more than a prisoner, and I have value. More importantly than that, it allows me to contribute. It gives me the opportunity to make an actual difference and that is the most powerful feeling in the world. (159)

This statement is aligned with other research suggesting that there are personal benefits to 'making a difference' for others in the justice system (Maruna and LeBel 2009). It is likely that these positive feelings towards deliberative engagement with the injustices of the justice system, and the generative values they reflect, increase the likelihood of subsequent movement building.

Co-production can invite participants to consider and try a broader range of 'possible selves' (Johns et al. 2023, 108). Among the possible selves that participants can explore is that of a citizen with civic agency and voice who aims to act on behalf of others who are affected by the justice system. One example of this effect is the democratically elected 'Prison Councils' in the United Kingdom. Prison councils are a form of co-production that has demonstrably fostered civic agency and voice and increased interest in broader democratic processes (Johns et al. 2023; Schmidt 2020). Further, prison councils are thought to ameliorate the 'de-civilising' effect of life in prison (Schmidt 2020). The introduction of prison councils within the Victorian justice system would be an important step towards the creation of counterpublics in the community.

5.3 | Peer Leadership

Maruna and LeBel (2009) have described advocacy and activism as the 'third mile' of strengths-based re-entry and de-stigmatisation, as it tends to follow incarceration (first mile), and 'wounded healer', or for our purposes, co-production (second mile) roles. They also observe that, for various reasons, most people who have been in prison will not travel this third mile. Instead, they aim to 'pass' as a regular, law-abiding member of the community, but the stigma of imprisonment is enduring, and it can be difficult to convince others, including close kin, that transformation has occurred (Johns 2017). Foregrounding one's

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identity as a former offender might make this task even more difficult because strident arguments about the injustices of the justice system are also made by those who have not yet moved on from offending. Maruna and LeBel observe that 'particularly militant or critical activism on the part of ex-prisoners might increase their stigmatisation, leading some to believe they have not changed their ways' (2009, 74). Nevertheless, a counterpublic does not require all, or even most, of its possible members to be actively involved, and there are countless historical precedents of great gains being made from the efforts of a small but well-organised and resourced minority.

The Australian experience of the HIV epidemic has been markedly better than in other nations, largely because of the leadership role of organisations representing gay men within the public health response (Race 2008). In the drug and alcohol field, service development, research and policy-making is frequently shaped by organisations led by people with lived experience (Ritter et al. 2018). The 'What Works and Why' (W3) project analysed peer-led organisations and programs in these fields with the aim of establishing 'quality' indicators for peer-led initiatives (Brown et al. 2018). The W3 project found that 'peer-led programs were operating within and between two interrelated and constantly changing systems—the community system and the policy (or sector) system' (Brown et al. 2018, 5) and identified four critical functions. The first function, *engagement*, focuses on the sense of ownership among the community of people with lived experience and the organisation's prominence within the policy system. The second function, *alignment*, focuses on the organisation's sensitivity to the broader policy environment affecting its constituency, and its ability to strategically target its advocacy while maintaining solidarity within its community. The third function, *adaptation*, focusses on the organisation's insights into emerging issues within the community system and the policy system, and its capacity to synthesise effective responses. The final function, *influence*, focuses on the organisation's capacity to engender change within the community and policy systems. This framework was designed to serve as a yardstick for gauging the maturity and effectiveness of counterpublics. It is safe to say that a justice system counterpublic that is performing well across each of these functions would be well placed to participate in 'lived experience' consultations on the higher rungs of Arnstein's ladder.

6 | Conclusion

The justice system in Victoria is following other policy areas into greater recognition of the value of lived experience. The *Engagement Framework for a Just and Safe Victoria* (Department of Justice and Community Safety 2022) and the *Spectrum of Public Participation* (International Association for Public Participation 2018) on which it is based assume that when it suits them, public bodies can engage people who have lived experience of the justice system in ways that are collaborative and empowering. If left unchallenged, this assumption jeopardises the emancipatory potential of lived experience leadership. Using Arnstein's original *Ladder of Citizen Participation* and the (structuralist) political philosophy of Dewey, Fraser and Pitkin, this article has pointed out the fallacy of this claim and suggested that strong counterpublics must be developed before this is possible. In a post-structuralist register, it is acknowledged that the discursive empowerment of people with lived experience may occur in the absence of counterpublics, but this falls short of what is claimed by the policy frameworks that have adopted the *spectrum* model.

Realising the possibilities of lived experience leadership will require a shift away from justice system programs and structures that are deficit and risk based, and a shift towards strengths-based approaches that foreground relational ethics, solidarity, agency and voice. Within prisons, these objectives can be enabled through the election of prison councils and the elevation of peer-led initiatives within the state's *Offender Management Framework*. In the community, people with lived experience can be resourced and supported to participate in consultations that build their capacity for deliberation and leadership. Once the resulting counterpublics take root, they will be able to develop their capacity for engagement, alignment, adaptation and influence.

From this position, people with lived experience might be able to play a leadership role in the construction of a restorative justice system that is grounded in strengths-based practice, relational accountabilities and emancipatory social justice. Perhaps on this higher ground, we will be able to reassess the role of prisons in the justice system and build social consensus around abolitionist alternatives.

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