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The Pendulum Swings Back: Poverty Law In The Old And New Curriculum*

Martha Davis

Abstract

This Essay seeks to answer the question "'What is Poverty Law'?" It does this in two parts. First, it examines the surge in property law courses in the 1960's and 70's and "the purpose these early courses were intended to serve." In the second section the Essay asks and the author asks "what the history suggests about poverty law in the law school curriculum today and in the future."

KEYWORDS: Poverty Law, Legal Education

*Thanks are due to my colleague James Rowan for helping me think through the questions posed by the Symposium organizers, to Eric Atilano for timely research assistance, and to the Symposium participants and Fordham Urban Law Journal editors for their thoughtful comments. Many thanks, also, to the library staffs of Northeastern and Harvard Law Schools for assistance in locating archival materials referred to in this Essay.

THE PENDULUM SWINGS BACK: POVERTY LAW IN THE OLD AND NEW CURRICULUM

*Martha F. Davis**

INTRODUCTION

Poverty law was a creation of the 1960s and in a broad sense, an outgrowth of the civil rights movement. Building on the civil rights movement's strategy of using law to effect social change, poverty lawyers sought to move beyond the civil and political rights agenda that was the movement's hallmark to issues of economic justice.[1]

The trajectory of this legal activism paralleled developments within the populist arm of the civil rights movement during the 1960s, as movement leaders increasingly urged adoption of reforms that would address poverty as well as voting rights and other political inequalities.[2] As early as 1963, civil rights leader John Lewis asked those attending the March on Washington for Jobs and Freedom, "What is in [President Kennedy's civil rights bill] that will protect the homeless and starving people of this nation?"[3] By 1968, at the time of his assassination, Martin Luther King, Jr., was working in conjunction with welfare rights activists to systematically expand the Southern Christian Leadership Conference's work on class and economic issues.[4]

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1. *See* ARYEH NEIER, ONLY JUDGMENT: THE LIMITS OF LITIGATION IN SOCIAL CHANGE 129-30 (1982); *see also* Alan W. Houseman, *Political Lessons: Legal Services for the Poor—A Commentary*, 83 GEO. L.J. 1669, 1671 (1995) ("As a practical matter, poverty law did not exist before 1965.").

2. *See, e.g.*, FRANCES FOX PIVEN & RICHARD A. CLOWARD, POOR PEOPLE'S MOVEMENTS: WHY THEY SUCCEED, HOW THEY FAIL 269 (1977) (noting that by 1962 and 1963, "many civil rights activists had begun to shift their emphasis to economic problems").

3. *Id*. at 256 (quoting John Lewis, leader of the Student Nonviolent Coordinating Committee).

4. *See* DAVID J. GARROW, BEARING THE CROSS: MARTIN LUTHER KING, JR., AND THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE 595 (1986) (describing February 1968 meeting between the National Welfare Rights Organization and King to discuss the upcoming Poor People's Campaign); *see also* MARTHA F. DAVIS, BRU-

Even in this social and political context, however, the speed with which law schools embraced poverty law was astonishing. Until the 1964-1965 school year, the idea of a non-clinical poverty law course was foreign to major American law schools.[5] Just five years later, a 1969 survey revealed that American law schools offered more than two hundred twenty-eight courses, exclusive of internship programs, that touched on poverty in some significant measure.[6]

Once schools began offering the courses, aids for poverty law teaching started to appear. Professor Paul Dodyk of Columbia Law School served as the general editor of the first poverty law casebook, *Cases and Materials on Law and Poverty*, published by West in 1969.[7] A scant four years later, there was enough new material and sufficient law school demand to support a substantially-revised second edition of the casebook, this time co-edited by Dodyk (who had since left Columbia for private practice) and five Columbia Law School professors.[8] As Professor George Cooper's preface to the new edition stated,

> The mind boggles at the developments which have swept through this field in the four brief years since publication of the first edition. . . . In 1969 the subject of "Law and poverty" was more a gleam in the authors' eyes than a developed concept. It is now a fully recognized subject in law school curricula with two published casebooks, and several more casebooks and a treatise forthcoming.[9]

TAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960-1973, at 121 (1993).

5. PATRICIA M. WALD, LAW AND POVERTY: 1965, at 91 (1965) ("In the past year, several major law schools—Harvard, Pennsylvania, California, Georgetown, and New York University—have introduced courses dealing specifically with Law and Poverty."). The concept of poverty law as a specialized subject of law practice, however, long pre-dated the introduction of these courses. *See, e.g.*, John MacArthur Maguire, *Poverty and Civil Litigation*, 36 HARV. L. REV. 361 (1923) (discussing the development of laws affecting "poor person proceedings" in England and the United States).

6. PROCEEDINGS OF THE NATIONAL CONFERENCE ON THE TEACHING OF ANTI-POVERTY LAW 3, App. 1 (1970) [hereinafter FORDHAM PROCEEDINGS] (detailing conference held from January 31 to February 2, 1969, at Fordham Law School).

7. CASES AND MATERIALS ON LAW AND POVERTY (Paul Dodyk et al. eds., 1969) [hereinafter DODYK CASEBOOK].

8. CASES AND MATERIALS ON LAW AND POVERTY (George Cooper et al. eds., 2d ed. 1973).

9. *Id.* at xi. A subsequent casebook was published in 1976 by Barbara Brudno: BARBARA BRUDNO, POVERTY, INEQUALITY, AND THE LAW: CASES, COMMENTARY, ANALYSES (1976).

The Dodyk casebook was tailored to a poverty law survey course addressing the major legal issues facing low income people. Indeed, the subject matter covered in the casebook was so broad that no single scholar could master it. Instead, the casebook was composed of in-depth sections on income maintenance, family law, housing, racial discrimination, and consumer protection, each written by a different author.[10]

Yet even in the 1960s, this survey approach to poverty law was in the minority. The list of poverty law courses compiled for the National Conference on the Teaching of Anti-Poverty Law, held at Fordham Law School in 1969, cites thirty-eight survey courses, but many more specialized courses on social legislation, urban problems, juvenile delinquency, family law of the poor, welfare law, and poverty and race.[11] Even courses with such run-of-the-mill titles as "Torts Seminar," "Criminal Law," and "Labor Law" were listed as poverty law courses, presumably because their content included a special focus on the law relating to poor people.[12]

Faced with the wide-ranging concepts of poverty law reflected in these course offerings, Professor Thomas Quinn led off the 1969 conference by posing a question for the law professors in attendance, "[W]hat is poverty law?"[13] Perhaps, he speculated, it is a new subject, like administrative law, that is "scattered" through the curriculum and can benefit from being brought together into one course.[14] Or perhaps, he suggested, it is a new field, with many different parts, calling for specialized courses focusing on its many nuances.[15] Or finally, he posited, poverty law is just a small part of a new, larger field in which the individual, rather than the corporation, is the central concern—a burgeoning field that would require a fundamental shift in law school curricula.[16]

Quinn did not answer his own questions directly. Nor, by and large, did those attending the 1969 conference. Rather, the discussions focused on teaching methods and classroom processes.[17] Recitations of course content provided the primary clues as to the professors' conceptions of poverty law's role in the law school cur-

10. *See generally* DODYK CASEBOOK, *supra* note 7. R

11. FORDHAM PROCEEDINGS, *supra* note 6, at App. 1.

12. *Id.* at App. 1 § D.

13. *Id*. at 3.

14. *Id*.

15. *Id*. at 4.

16. *Id*.

17. *See, e.g.*, *id*. at 23 (summarizing content of survey course on poverty law); *id.* at 116-19 (describing requirements for a poverty law class at Boalt Hall).

riculum.[18] Finally, near the end of the conference, Professor Gary Bellow of the University of Southern California threw up his hands in frustration and stated:

> As I have attended these proceedings, I find myself very troubled by much of this conference and our discussions thus far—not because I disagree very much with what's been said, but because the conceptual framework of our discussions has not been defined. We have not stated what we mean by poverty, or poverty law, nor have we given context to the goals of legal education to which we have alluded.[19]

Arguing that law schools should be concerned with issues beyond the mere training of lawyers to serve manpower needs for representation of the poor, Bellow opined that

> if . . . we see poverty law courses as addressing themselves to a set of fundamental issues about the nature of man and society, if such courses are perceived as vehicles for raising issues about the law's relationship to race, discrimination, wealth, and class-concepts which too seldom find their way into the law school curriculum, then we must address ourselves to very different issues about the relationship of "poverty law" to the goals of legal education.[20]

The professors attending the 1969 conference were relatively radical members of the professorial ranks. As described by Professor Quinn, alluding to the fashions of the 1960s, they were "very young and very hairy."[21] Yet the immediate response to Gary Bellow's outburst was despair. Raising "issues about the law's relationship to race, discrimination, wealth, and class-concepts" was a significant departure from the traditional law school curriculum and, Professor Quinn predicted, "I do not think that we will ever reach that level of change in the law school."[22]

Poverty law has been a part of the legal academy for more than forty years, yet Quinn's initial question, "What is Poverty Law?"

18. *See, e.g.*, *id*. at 25. Professor Bernard Harvith described the "Law and the Year 2000" course at Albany Law School, and opined that "[t]he law schools should anticipate the problems which will bother society when the student generation becomes the governing generation; [sic] and attempt to influence the attitude of the students toward these problems in the future." *Id.* Professor Hugh Crossland of Boston University described his poverty law survey course and his "attempt to expose the students not so much to the substantive law as to the power relationships and processes which lawyers deal with." *Id*. at 31.

19. *Id*. at 163.

20. *Id*. at 165.

21. *Id*. at 176 (quoted by Robert Spangenberg).

22. *Id*. at 171.

still hangs over the field. This Essay addresses the question in two parts. It begins by examining the causes of the wildfire of poverty law instruction in the 1960s and early 1970s, and the purposes that these early courses were intended to serve. In the second part of this Essay, I ask what this history suggests about poverty law in the law school curriculum today and in the future. We can learn, and indeed, for the most part, have learned, some fundamental lessons from the past: that poverty law is innately broad, global, interdisciplinary, and focused on social change. Lawyers cannot address poverty by themselves or in a vacuum bound by national borders. Likewise, history and experience suggest that regardless of the extent to which poverty law is integrated into other subjects or reflected in diverse courses, there should be a core syllabus or a center point where students gain a common vocabulary and a deep understanding of the "jurisprudence of economic equality."[23] It is this understanding, not technical legal skill alone, which enables lawyers to contribute to the social change agenda of poverty law, i.e., the eradication of poverty. But history also helps us predict the future. And the history of poverty law suggests that the growing interest of law students, scholars, and clients in domestic applications of human rights approaches—emphasizing economic and social rights—is a new version of the poverty law agenda that arose in the 1960s. As we continually reassess and renew pedagogical and theoretical approaches to law and poverty, human rights provides a fresh lens through which to address these issues in the 21st century curriculum and a vehicle for responding to Bellow's challenge to examine "fundamental issues about the nature of man and society."[24]

I. A Brief History of Poverty Law

A. The Origins of Poverty Law

The idea of poverty law did not come solely from within the academy. Rather, beginning in the early 1960s, law schools developed a growing range of poverty law-related courses in response to the external interests of foundations, potential law student employers, client activists, the legal profession, and policy makers.[25] Internal pressure was also brought to bear by activist students and law teachers, many of whom regularly traveled between legal services

23. I am indebted to Professor James Rowan for this language.
24. Fordham Proceedings, *supra* note 6, at 165. R
25. *See infra* notes 28-51, 53-62 and accompanying text. R

practice and academia.[26] These sources exercised considerable influence over the substantive content of this new area of practice and instruction. For example, just as new sectors of the legal profession, notably legal services lawyers, began offering legal services to the urban poor, curricular developments adopted a substantive focus on the problems of urban poverty.[27]

Ironically, perhaps, money played a large role in the initial development of poverty law curricula in the academy. At the dawn of the 1960s, coinciding with its efforts to stimulate large-scale assaults on juvenile delinquency and urban poverty, the Ford Foundation made a major financial commitment to assist law schools in developing and supporting clinical programs offering legal services to the poor.[28] In particular, from 1959 through 1965, the Ford Foundation provided $800,000 to fund clinical programs at nineteen law schools through an initiative called the National Council on Legal Clinics.[29] Prior to that time, no more than a handful of law schools operated in-house clinical programs.[30]

The new initiative's goal was framed as a matter of professional education rather than provision of services; as described in the *American Bar Association Journal*, the initiative was a "seven-year project designed to discover and lay out new and better methods of educating law students about their future role as members of a profession."[31] Because the Ford Foundation initiative preceded the introduction of poverty law as a standard curricular offering,[32] and even pre-dated the creation of federally-funded legal services through the Office of Economic Opportunity ("OEO") in 1964,[33] this early Ford Foundation program had a tremendous influence on the initial demand for training in poverty law. Indeed, the initiative was so successful that it was extended through 1978, ultimately

26. *See infra* notes 52-60 and accompanying text. **R**

27. FORDHAM PROCEEDINGS, *supra* note 6, at 2 (noting increase in seminars and courses in poverty law as well as shifts in traditional courses). **R**

28. *See* WALD, *supra* note 5, at 90; *see also* Peter A. Joy, *The Law School Clinic As a Model Ethical Law Office*, 30 WM. MITCHELL L. REV. 35, 39 (2003). **R**

29. Joy, *supra* note 28, at 40 n.20. **R**

30. *Id*. at 39 n.17.

31. Note, *Modern Trends in Legal Education*, 64 COLUM. L. REV. 710, 723-24 n.97 (1964) (citing Sacks, *Education for Professional Responsibility: The National Council on Legal Clinics*, 46 A.B.A. J. 1110 (1960)); *see also* WALD, *supra* note 5, at 90-91. **R**

32. *See supra* notes 7-8 and accompanying text. **R**

33. The OEO was founded to implement President Johnson's War on Poverty. *See* Economic Opportunity Act of 1964, Pub. L. No. 88-452, 78 Stat. 508 (repealed 1981).

producing almost $13 million in Ford Foundation grants and supporting more than one hundred law school clinical programs.[34]

If the Ford Foundation clinical education grants provided the kindling for teaching poverty law in the academy, the real fire was lit by the "War on Poverty" and its precursors.[35] Beginning in 1962, the Ford Foundation and major government grantmakers such as the National Institute for Mental Health and the President's Committee on Juvenile Delinquency dedicated significant funding to measures addressing urban poverty.[36] Their initial focus was on the provision of social services, but social workers in the field soon recognized the need to also provide legal services for their clients.[37] Some social service programs, like Mobilization for Youth ("MFY") in New York's Lower East Side, quickly expanded their efforts to include a direct legal services component.[38] There, from 1963 on, pioneering poverty lawyer Ed Sparer began to bring test cases on issues "of the greatest importance to the community as a whole."[39] As he put it to his own supervisory board, "ultimately, it is hoped that the poor will come to look upon the law as a tool which they can use on their own behalf to vindicate their rights and their interests—in the same way that law is used by other segments of the population."[40]

Despite the significant role that lawyers played in neighborhood poverty law offices in New York, New Haven, and Washington,

34. *See* Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 998 n.7 (2004) (describing Ford Foundation grants); *see also* Margaret Martin Berry, John C. Dubin & Peter A. Joy, *Clinical Education for This Millennium*, 7 CLINICAL L. REV. 1, 18-20 (2000) (describing the Ford Foundation's funding and the growth of clinical programs); Joy, *supra* note 28, at 39 (noting Ford Foundation clinical legal education grants made to more than one hundred schools). R

35. Lyndon Johnson, in his State of the Union Message to Congress in January 1964, declared a war on poverty. The war on poverty was primarily intended to provide an equal start and an equal opportunity to all Americans, regardless of their race or economic background. *See* Peter B. Edelman, *Toward a Comprehensive Antipoverty Strategy: Getting Beyond the Silver*, 81 GEO. L.J. 1697, 1710 (1993). The formal case for the war on poverty was set out in The Economic Report of the President, 1964, written by Walter Heller and others on the Council of Economic Advisors, and initiated under President Kennedy. COUNCIL OF ECONOMIC ADVISORS, ECONOMIC REPORT OF THE PRESIDENT 14-17 (1964), *available at* http://fraser.stlouisfed.org/publications/ERP/issue/1208/download/5731/ERP_1964.pdf.

36. DAVIS, *supra* note 4, at 28. R

37. *Id*.

38. *Id*. at 28-30.

39. *Id*. at 30; *see also* EARL JOHNSON, JR., JUSTICE AND REFORM: THE FORMATIVE YEARS OF THE AMERICAN LEGAL SERVICES PROGRAM 23 (1974).

40. DAVIS, *supra* note 4, at 30.

D.C., in the early 1960s—all funded by the Ford Foundation—the OEO did not initially contemplate a legal arm. By 1965, however, Edgar and Jean Cahn, recent Yale Law School graduates working from within the Administration, had successfully led the lobbying effort for the creation of federally-funded legal services.[41] In their famous *Yale Law Journal* article "The War on Poverty: A Civilian Perspective," they laid out a blueprint for the neighborhood legal services offices that were ultimately established.[42] Sargent Shriver, head of the OEO, credited the Cahns with the inspiration for the legal services program. "I was deeply impressed by [their article]," he later recalled.[43] "That's the genesis of legal services—it's really pretty simple."[44]

Providing legal representation to poor people was not an innovation. The new network of federally-funded legal services offices nationwide augmented the existing nationwide patchwork of legal aid offices, staffed by an estimated four hundred lawyers operating under the auspices of local bar associations and other private or municipal sponsors.[45] The new federally-funded legal services program, however, greatly increased the demand for poverty law training. For example, during the legal service program's first year of operation as part of the OEO's Community Action Program, three hundred legal services organizations received grants totaling $42 million—a tremendous influx of funds and legal jobs in an area that had always previously relied on individual and professional largesse.[46] To respond to this demand, Patricia Wald wrote in her Working Paper for the 1965 National Conference on Law and Poverty, "law schools . . . must be prepared to reconsider their traditional preoccupation with the world of corporate finance, taxes, and property and to accept a greater role in the administration of justice."[47]

The rise in poverty law, however, was not simply a response to the demands of a legal profession that needed the requisite skills

41. *See* Houseman, *supra* note 1, at 1673-74; *see also* JOHNSON, *supra* note 39, at 40-64. R

42. Edgar Cahn & Jean Cahn, *The War on Poverty: A Civilian Perspective*, 73 YALE L.J. 1317 (1964).

43. Steven Waldman, *A Perfect Combination of Chutzpah and Soul*, WASH. POST MAG., Aug. 18, 1991, at 8 (quoting Shriver).

44. *Id.*

45. William P. Quigley, *The Demise of Law Reform and the Triumph of Legal Aid: Congress and the Legal Service Corporation from the 1960's to the 1990's*, 17 ST. LOUIS U. PUB. L. REV. 241, 244-45 (1998).

46. DAVIS, *supra* note 4, at 34.

47. WALD, *supra* note 5, at 89.

and personpower to provide services to the poor. Activists in the welfare rights movement and other poor people's movements also had an agenda that they believed lawyers could help with: eradicating poverty.[48] And for this moment in the early 1960s, the government embraced that agenda as well.[49] The new lawyers working for legal services were part of a war effort, fighting poverty. They were not interested in simply mastering the nuts and bolts of landlord-tenant law and other relevant doctrines; instead, they viewed themselves as foot soldiers in a struggle against a larger system that created and sustained their clients' poverty and social distress.[50] As Abram Chayes wrote in his forward to the OEO's 1965 National Conference on Law and Poverty, "[i]n this program there is a built-in promise, that the law itself can be the dynamic of change . . . ."[51] To meet the demands of *these* lawyers, poverty law training would have to go beyond a purely doctrinal focus to address the strategies and theories necessary to ultimately win the war on poverty for their clients. In this context, the new courses on poverty law were never intended to stop at teaching about the laws affecting poor people. Implicit in the very notion of poverty law was the social and political agenda of ending poverty.

The active pipeline between academia and legal services practice ensured that law schools responded rapidly to these new demands. Many of the early legal services lawyers, almost all men, moved easily between law schools and practice, sometimes occupying both positions simultaneously. For example, Paul Dodyk served as both a professor at Columbia Law School, where he taught Poverty Law and developed an early casebook in the area, and as the founding director of the Center on Social Welfare Policy and Law, a public interest law firm dedicated to creating a right to welfare.[52] Ed Sparer, the first legal director of MFY Legal Services, left practice to teach poverty law first at Yale Law School and then at the Uni-

48. For more information on the welfare rights movement, see PIVEN & CLOWARD, *supra* note 2, at 264-359; *see generally* PREMILLA NADASEN, WELFARE WARRIORS: THE WELFARE RIGHTS MOVEMENT IN THE UNITED STATES (2005); GUIDA WEST, THE NATIONAL WELFARE RIGHTS MOVEMENT (1981).

49. Houseman, *supra* note 1, at 1674 (describing political context of OEO funding for legal services); *see also* PIVEN & CLOWARD, *supra* note 2, at 274-75 (discussing liberalization of welfare during the 1960s).

50. Houseman, *supra* note 1, at 1684 (noting that legal services offices responded to legal need rather than demand, and that they pursued law reform to create systems to redress inadequacies in the enforcement of poor people's legal rights).

51. WALD, *supra* note 5, at v-vi.

52. DAVIS, *supra* note 4, at 74.

versity of Pennsylvania.[53] Gary Bellow, a poverty lawyer in California and Washington, D.C., developed innovative poverty law training programs at University of Southern California and later, Harvard Law School.[54]

The OEO legal initiative and the growing attention at law schools to the poverty law curriculum came together in the Reginald Heber Smith Community Fellows Program. Established in 1967 by the OEO and administered by the University of Pennsylvania, the fellowship program was developed to attract talented new lawyers to the field of poverty law.[55] The program recruited recent law school graduates from elite law schools, trained them in various aspects of poverty law, and placed them for one or two years in regional legal services projects throughout the country.[56] As fellows, these lawyers, called "Reggies," were charged with engaging in legal work that would have a broad impact on poverty.[57]

Before fanning out to their placements, Reggies spent five weeks at "poverty law camp" at the University of Pennsylvania campus.[58] Professors Edward Sparer, James O. Freedman, Richard Sobol, and others developed a curriculum to quickly arm these new lawyers with the information they would need in order to do their work over the next few years, with mini-courses on administrative law, illegitimacy, public assistance, landlord-tenant law, school law, consumer protection, ethics, and equal employment opportunity, among others.[59] The amount of information was considerable, and

53. *See In Memoriam: Edward V. Sparer*, *132* U. PA. L. REV. 421 (1984).

54. *See* Harvard Law School, *Tribute to Gary Bellow, '64*, Apr. 13, 2000, http://www.law.harvard.edu/news/2000/04/13_bellow.php.

55. JOHNSON, *supra* note 39, at 178-79. The program was named for Reginald Heber Smith, a Boston lawyer and author of JUSTICE AND THE POOR (1919), the groundbreaking work that sparked the organized bar's support of the legal aid movement in the United States. **R**

56. *Id.*; *see also* National Economic Justice Library, Reggie Reunion 1998, http://nejl.wcl.american.edu/reggieaid.html (including background of Reggie program).

57. JOHNSON, *supra* note 39, at 178-79. **R**

58. DAVIS, *supra* note 4, at 58.

59. *See, e.g.*, James O. Freedman, Materials on Administrative Law: The Freedom of Information Act and Citizen Participation in the Administrative Process (1969) (unpublished law curriculum prepared for the University of Pennsylvania Law School Reginald Herber Smith Community Lawyer Fellowship Program); James O. Freedman, Materials on Illegitimacy as a Legal Disability and Relative Responsibility Laws and Public Assistance (1969) (same); Gerald R. Gibbons, Materials on Landlord-Tenant (1969) (same); Stephen R. Goldstein, Materials on School Law (1969) (same); Robert A. Gorman, Materials on Consumer Protection (1969) (same); Robert H. Mundheim, Materials on Professional Ethics and Responsibility (1968) (same); Richard B. Sobol, Materials on Equal Employment Opportunity (1969) (same); Edward V. Sparer, Materials on Public Assistance (1969) (same).

much of it was specific and technical in nature. But significantly, the issues were presented as part of a larger agenda for using law to alleviate poverty. In lecturing on welfare law, for example, Professor Sparer spelled out the yet-unfulfilled litigation plan that he had developed while working as a lawyer on the Lower East Side—a plan that was designed to ultimately create a right to welfare.[60] In short, the goals of the Reggie training were not purely informational. Rather, these poverty lawyers were being prepared to move ahead with a social change agenda that was largely shared by the OEO and by legal services clients.

Finally, from the mid-1960s through the early 1970s, low income client organizations were particularly active, cohesive, and ambitious. In the public assistance area, for example, the Center on Social Welfare Policy and Law[61] worked directly with the National Welfare Rights Organization ("NWRO"), a grassroots organization of welfare recipients, to achieve the welfare group's lofty objectives:

> Adequate Income: A system that guarantees enough money for all Americans to live dignified lives above the level of poverty.
>
> Dignity: A system that guarantees recipients the full freedoms, rights, and respect as all American citizens.
>
> Justice: A fair and open system that guarantees recipients the full protection of the Constitution.
>
> Democracy: A system that guarantees recipients direct participation in the decisions under which they must live.[62]

While the NWRO did not rely exclusively on a litigation strategy to accomplish these goals, anti-poverty lawyers working with the NWRO and similar client groups were forced to adopt a bold view of their roles on behalf of their clients. Just as the NWRO articulated a dramatically different worldview, so lawyers were confronted with the task of ensuring that their efforts on behalf of these clients contributed to these overarching goals. For the most part, the poverty lawyers rose to the occasion, developing a range of litigation and other advocacy strategies that leveraged judicial

60. DAVIS, *supra* note 4, at 58.

61. The Center on Social Welfare Policy and Law has since changed its name to the National Center for Law and Economic Justice. More information on the Center's history and its work is available at its website, http://www.nclej.org/.

62. LARRY JACKSON & WILLIAM A. JOHNSON, PROTEST BY THE POOR: THE WELFARE RIGHTS MOVEMENT IN NEW YORK CITY 37 (1974). *See generally* WEST, *supra* note 48 (chronicling the NWRO's history). R

decision-making, supported client organizing, and delivered tangible benefits to needy clients.[63]

B. Post-1960s

Fast-forward a few decades. Much has happened since the 1960s, including new treatises on poverty law and related issues,[64] new expansions of clinical offerings beyond litigation clinics,[65] and new poverty law journals.[66] Interestingly, however, most of these tangible efforts to expand law schools' focus on poverty law occurred in the late 1980s and afterwards. The written record of attention to poverty law during the decade from the late 1970s through the late 1980s is notably sparse.[67] Howard Erlanger and Gabrielle Lessard confirmed in the *Journal of Legal Education* that "[a]ttention to poverty law, a prominent subject of legal study in the 1960s and early 1970s, faded during the late 1970s and 1980s."[68]

In the late 1980s, however, the pendulum swung back, at least a little.[69] Significantly, in 1988, the Ford Foundation intervened again with funding to jumpstart conversations about the role of law schools in poverty law advocacy. In particular, the Foundation supported creation of the Interuniversity Consortium on Poverty Law

63. A number of books and articles have discussed these legal and advocacy strategies in great detail. *See generally* DAVIS, *supra* note 4; SUSAN E. LAWRENCE, THE POOR IN COURT: THE LEGAL SERVICES PROGRAM AND SUPREME COURT DECISION MAKING (1990); NEIER, *supra* note 1, at 130-40; Mathew Diller, *Poverty Lawyering in the Golden Age*, 93 MICH. L. REV. 1401 (1995); Samuel Krislov, *The OEO Lawyers Fail to Constitutionalize a Right to Welfare: A Study in the Uses and Limits of Judicial Process*, 58 MINN. L. REV. 211 (1973).

64. JULIE A. NICE & LOUISE G. TRUBEK, CASES AND MATERIALS ON POVERTY LAW: THEORY AND PRACTICE (1997).

65. *See, e.g.*, UCLA Law School, Public Policy Clinic: Land Use, the Environment and Local Government, http://www.law.ucla.edu/home/index.asp?page=1881 (last visited Apr. 16, 2007).

66. LOYOLA POVERTY LAW JOURNAL, vol. 1, no. 1 (Spring 1995) —vol. 5 (Spring 1999); GEORGETOWN JOURNAL ON FIGHTING POVERTY, vol. 1, no. 1 (1993) —vol. 5, no. 2 (1998). Both of these journals continue to publish under different names—the first as the Loyola Journal of Public Interest Law, and the second as the Georgetown Journal on Poverty Law and Policy.

67. This gap was reflected in my review of the holdings with keywords "Poverty Law" in the Harvard University and Northeastern University Libraries.

68. Howard S. Erlanger & Gabrielle Lessard, *Mobilizing Law Schools in Response to Poverty: A Report on Experiments in Progress*, 43 J. LEGAL EDUC. 199, 199 (1993).

69. *See* EQUAL JUSTICE PROJECT, ASS'N OF AMERICAN LAW SCHOOLS, PURSUING EQUAL JUSTICE: LAW SCHOOLS AND THE PROVISION OF LEGAL SERVICES 12 (2002), *available at* http://www.aals.org/equaljustice/final_report/pdf [hereinafter PURSUING EQUAL JUSTICE] (noting that "[t]he pendulum of activism among students swings at regular intervals").

(the "Consortium").[70] The idea for the Consortium originated at Harvard Law School in 1985-86, from faculty discussions about the "resistances that confronted legal academics in their attempts to transform legal scholarship or institutions" and the need for support in dealing with these resistances.[71] In short, "despair" raised its head once again in the halls of academia, but this time, academics responded by seeking their own outside support from the Ford Foundation. The project group originally involved academics from three institutions, Harvard, UCLA and Wisconsin, later expanding to include ten more law schools.[72]

As it was finally articulated, the Consortium's stated purpose was "to mobilize, increase and improve the commitment of law school resources to the critical task of attacking the root causes and tragic effects of poverty and disadvantage in America."[73] Toward that goal, the Consortium published a newsletter and commissioned a series of texts examining new directions in poverty law teaching.[74] In the end, however, while the Consortium reported that it reached its main objectives—stimulating poverty law teaching and scholarship, and increasing student opportunities to provide legal assistance to low income people[75]—it also concluded that "it is fairly clear that the potential contribution of academics is more limited than might have been originally hoped."[76] "[P]ersonal predilections and institutional barriers" combined to frustrate greater involvement of academics in anti-poverty movements.[77] And while some law students had transformative experiences in the courses developed through the Consortium, others came away with a new appreciation of the limits of law and frustration at their inability to challenge the system that reproduced poverty.[78]

70. *See* INTERUNIVERSITY CONSORTIUM ON POVERTY LAW, TOWARD THE MOBILIZATION OF LAW SCHOOLS FOR POVERTY LAW ADVOCACY (1992) [hereinafter CONSORTIUM REPORT] (final report to the Ford Foundation on Two Years of Activity, under grant 890-0427-1).

71. *Introduction: The Interuniversity Poverty Law Consortium*, 42 WASH. U. J. URB. & CONTEMP. L. 57, 58 (1992).

72. *Id*.

73. CONSORTIUM REPORT, *supra* note 70, at 1. **R**

74. *Id*. at Exhibit 1 (collecting issues of *Consorting: Newsletter of the Interuniversity Consortium on Poverty Law*).

75. *Id*. at 17.

76. *Id*.

77. *Id*.

78. *See* Lois Johnson & Louise G. Trubek, *Developing a Poverty Law Course: A Case Study*, 42 WASH. U. J. URB. & CONTEMP. L. 185, 191 (1992); Catherine L. La

Whatever the Consortium's immediate effect, it is clear that the momentum it created did not last long. Progressive legal academics were waylaid by virulent attacks on the welfare system and the ultimate end of the welfare entitlement. For example, the first legal textbook on poverty law in twenty years, published by Professors Julie Nice and Louise Trubek in 1997, was completed one day before the 1996 revisions to the welfare law took effect;[79] while the text reproduced the significant provisions of the new law, an assessment of the new welfare law's impact was impossible at that early stage.[80] The same wave of welfare reform brought new restrictions on legal services and more cuts to legal services funding.[81] The more egregious restrictions of the new law were challenged through litigation with some success,[82] but many of the restrictions remain on the books.[83] In this political context, the Consortium and its progeny foundered on the difficulty of connecting theoretical work with direct client representation, and failed to articulate an empowering vision of the role of law and lawyers in social change on behalf of those clients. Not surprisingly, the attacks on welfare and welfare law negatively affected law students' and law schools' appetite for an expanded poverty law curriculum. Thus, the 1992 ABA Report of the Task Force on Law Schools and the Profession, known as the MacCrate Report, emphasized the importance of teaching lawyering skills in law school rather than further-

Fleur, *Surveying Poverty: Addressing Poverty Law in a Required Course*, 42 WASH. U. J. URB. & CONTEMP. L. 147, 157 (1982).

79. Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act), Pub. L. No. 104-193, 110 Stat. 2105.

80. NICE & TRUBEK, *supra* note 64, at vii. R

81. *See* David Luban, *Taking out the Adversary: The Assault on Progressive Public Interest Lawyers*, 91 CAL. L. REV. 209, 221-22 (2003). Luban notes that the welfare reform law prohibited Legal Services Corporation ("LSC")-funded offices from representing entire classes of clients including: whole classes of aliens, many of whom were legal; all incarcerated people, including those not convicted of a crime; and those whose cases had nothing to do with why they were in jail, such as parental-rights lawsuits. The restrictions also prevented LSC attorneys from using specific procedural devices or arguments such as lobbying, participating in class actions, requesting attorney's fees under applicable statutes, challenging any welfare reform, or defending anyone charged with a drug offense in a public-housing eviction proceeding. Finally, Congress barred LSC grantees from using their nonfederal funds for these prohibited activities. *Id.*

82. *See, e.g.*, Legal Servs. Corp. v. Velazquez, 531 U.S. 533 (2001) (striking down unconstitutional restriction prohibiting civil legal aid lawyers from challenging welfare reform laws in the course of representing clients seeking welfare benefits).

83. *See* Laura K. Abel & Risa E. Kaufman, *Preserving Aliens' and Migrant Workers' Access to Civil Legal Services: Constitutional and Policy Considerations*, 5 U. PA. J. CONST. L. 491, 491-93 (2003).

ing social agendas, and ushered in curricular changes that also reflected an influx of less ideological, more career-oriented law students.[84]

In 1999, however, the Association of American Law Schools ("AALS") took up the gauntlet again, creating an Equal Justice Project (the "Project") funded by a grant from the Open Society Institute.[85] According to the Project report, "[t]he centerpiece of the project was a series of nineteen Equal Justice Colloquia convened at law schools across the nation during the 2000-01 academic year."[86] These ambitious gatherings, much more extensive than those sponsored by the Consortium a decade earlier, drew the participation of over 2,000 faculty and community activists.[87] While not explicitly focused on poverty, the overall thrust of these dialogues was intended to address "both . . . procedural and substantive conceptions of equal justice."[88] At the end of a year of considerable activity, the Project had stimulated a number of important conversations about how to inject public interest themes into law school activities. The final report on the Project concluded, however, that "[i]f this work is to be carried forward to its full-scale potential, infusions of resources to create staffed projects will be necessary."[89] In the absence of such resources, more modest approaches—such as the establishment of Equal Justice Fellows at the AALS, the creation of a permanent AALS section on Equal Justice, or the inclusion of Equal Justice issues in the AALS's annual Workshop for New Law Teachers[90]—were also proposed, but apparently have not been implemented. In any event, despite the Project's promise to focus on substantive inequalities, none of these proposed initiatives directly address the impacts of economic injustice.

II. THE NEW POVERTY CURRICULUM: FROM POVERTY LAW TO HUMAN RIGHTS

If history is an indicator, however, the pendulum should soon swing back once again; it is nearing time for another period of heightened activity and attention to issues of economic rights. In-

84. Deena R. Hurwitz, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 YALE J. INT'L L. 505, 524 (2003).

85. *See generally* PURSUING EQUAL JUSTICE, *supra* note 69. R

86. *Id*. at 1.

87. *Id.*

88. *Id*. at 3.

89. *Id*. at 31.

90. *Id*. at 32-34.

deed, the Fordham Urban Law Journal's symposium on poverty law may represent part of that growing call. But if those concerned with poverty and inequality are to take advantage of any new momentum in this direction, we must once again be sensitive and responsive to developments external to law schools and legal academia.

The current curricular wildfire is not driven by students' interests in poverty law or urban issues, but by international law, human rights, and globalization.[91] Perhaps responding to increased impacts of globalization in their daily lives, as well as high profile attention to human rights issues in the war on terror, students now enter the academy yearning to prepare for international legal work, often on human rights issues, and often involving cross-cultural and interdisciplinary analyses.[92] While poverty law purists may stand by in despair, law schools have increasingly responded to student demands and external pressures by expanding their international and human rights offerings, even adding courses on international law to the first year curriculum.[93] As Professor Henry Steiner noted in 2002, "[h]uman rights themes race through the curriculum . . . . The study of economic development, gender issues,

91. *See* Arturo Carrillo, *Bringing International Law Home: The Innovative Role of Human Rights Clinics in the Transitional Legal Process*, 35 COLUM. HUM. RTS. L. REV. 527, 531 (2004) (discussing the growing popularity of human rights clinics); Howard S. Schiffman, *Teaching International Law to Undergraduates and Other Nonlegal Audiences: Practical Suggestions for Pedagogical Approaches*, 9 ILSA J. INT'L & COMP. L. 321, 321-22 (2003) (attributing the growing interest in international law to several factors which include terrorism and the events of September 11, 2001); Harvard Law School, *Clinical Program in Human Rights Expanded to Meet Increased Demand* (Sept. 20, 2004), http://www.law.harvard.edu/news/2004/09/20_clinical.php (quoting Human Rights Program Director James Cavallaro, who notes the "tremendous upsurge" in student interest in human rights clinical work); *see also* Press Release, Institute of International Education, U.S. Students Abroad Top 200,000, Increase by 8 Percent (Nov. 13, 2006), *available at* http://opendoors.iienetwork.org/?p=89252 (noting eight percent increase in Americans studying abroad over prior year, and 144 percent increase since 1994-95).

92. Schiffman, *supra* note 91, at 321. R

93. Press Release, Harvard Law School, HLS Faculty Unanimously Approves First-Year Curricular Reform (Oct. 6, 2006), *available at* http://www.law.harvard.edu/news/2006/10/06_curriculum.php. New York University School of Law offers an elective course in international law during the first year of law school. *See* NYU Law School, Required First-Year Courses, http://www.law.nyu.edu/depts/acservices/courses/firstyear.html (last visited Apr. 16, 2007); *see also* Hurwitz, *supra* note 84, at R
505-06 (noting the University of Michigan Law School graduation requirement of transnational law); Scott Cummings, *The Internationalization of Public Interest Law* 59-60 (Univ. of California, Los Angeles - School of Law, Research Paper No. 06-41, 2006), *available at* http://ssrn.com/abstract=944552 (noting expansion of international human rights courses offered at law schools).

terrorism, religious teachings, or pandemics is increasingly informed by human rights norms."[94]

Law school clinics are already going through this transformation. Professor Deena Hurwitz described and quantified the rise of human rights law clinics—a rise that parallels similar poverty law clinics in the 1960s—in her 2003 article, "Lawyering for Justice and the Inevitability of International Human Rights Clinics," in the *Yale Journal of International Law*.[95] According to Hurwitz, in 1992, there were only three clinical programs focused on international human rights; ten years later, she found a dozen clinics and over twenty human rights centers in law schools across the country.[96] In the past four years since Hurwitz's article, the number of programs has continued to grow at an even more rapid rate.[97] Observing this increase in 2002, Kenneth Roth, executive director of Human Rights Watch, claimed that "[i]n many ways, this is the civil rights movement of the 1960s made global."[98]

Roth is only partially right, though. The human rights movement is not simply a movement about exporting American lawyers to take on advocacy for the poor around the world. Globalization is a two-way street. Through examination of comparative systems and international law, we learn about others, but we also learn about ourselves. While the international human rights law rage may seem far afield from the concerns of 1960s poverty lawyers working within the physical and legal boundaries of the United States, the two are not really so far apart at all. In fact, human rights approaches emphasizing domestic applications of economic,

94. Henry J. Steiner, *The University's Critical Role in the Human Rights Movement*, 15 HARV. HUM. RTS. J. 317, 319 (2002).

95. *See generally* Hurwitz, *supra* note 84; *see also generally* Carrillo, *supra* note 91. R

96. Hurwitz, *supra* note 84, at 526. R

97. There are at least eleven new programs: Northeastern Law School Program on Human Rights and the Global Economy (2005); University of Connecticut Asylum and Human Rights Clinic (2002); University of Virginia Human Rights Clinic (2003); Center for Human Rights and International Justice, Boston College (2005); University of Texas Human Rights Initiative (2004); Transnational Legal Clinic, University of Pennsylvania (2006); International Human Rights Clinic, George Washington (2004); Human Rights and Genocide Clinic, Cardozo Law School (2005); Policy Clinic on Gender and Human Rights, North Carolina (2004); William & Mary Marshall-Wythe School of Law Human Rights and National Security Law Program (2005); University of Illinois, Human Rights Clinic (2005). More information about many of these programs as well as more venerable programs is available at the website of the Human Rights Section of the Association of American Law Schools, http://vls.law.villanova.edu/clinics/aals/humanrightssurvey.htm (last visited Apr. 16, 2007).

98. Hurwitz, *supra* note 84, at 526 (quoting Kenneth Roth, Executive Director of Human Rights Watch). R

social, and cultural rights offer new ways to address many of the same issues, but from a more mature vantage point that puts domestic poverty in a global, and often interdisciplinary, context.[99]

Unlike the Federal Constitution, international human rights norms embrace substantive rights to food, shelter, education, and other basic needs.[100] Invoking human rights norms opens up space in United States advocacy for a dialogue on these issues that is otherwise foreclosed by domestic law.[101] International human rights law also provides a vehicle for re-introducing fundamental moral values into domestic legal debates without abandoning a legal framework. While, as Professor Cass Sunstein notes, economic and social rights can be justified just as convincingly on pragmatic grounds as moral ones,[102] the moral aspects of human rights are obvious and compelling to many. As paraphrased by Professor Sunstein, Nobel Prize-winning economist Amartya Sen brings this aspect of human rights to the foreground when he asserts that the "'law' is what makes the difference between the availability of food and an entitlement to it, and that starvation reflects 'legality with a vengeance.'"[103]

While human rights law is sometimes relevant in litigation, it is unlikely to sustain a domestic cause of action. But lawsuits are not the only actions that lawyers take on their clients' behalf. Human rights principles are perhaps most powerful in contributing to the shape of public policies that have an impact on fundamental human needs. As Deena Hurwitz describes, "[w]hat makes international law and human rights so compelling is that they are processes of transformation . . . . As such they are, by definition,

99. *See generally* Cummings, *supra* note 93, at 3-4.

100. *See* CASS SUNSTEIN, THE SECOND BILL OF RIGHTS: FDR'S UNFINISHED REVOLUTION AND WHY WE NEED IT MORE THAN EVER 99-108 (2004) (comparing U.S. Constitution to the Universal Declaration of Human Rights, other sources of international law, and other national constitutions).

101. *See* Cummings, *supra* note 93, at 55 (noting the "limits of domestic law to resist the impact of market integration and other political changes at home"). As described by Cummings, the initial parochialism of public interest groups in the 1960s, and reluctance to assert human rights norms, arose from the confluence of three factors: major investments by funders; the receptivity of the federal judiciary; and a strong regulatory bureaucracy. *Id.* at 7. In addition, Cold War developments influenced the political dynamics associated with international human rights advocacy. *Id.* at 7-8. *See also generally* CAROL ANDERSON, EYES OFF THE PRIZE: THE UNITED NATIONS AND THE AFRICAN AMERICAN STRUGGLE FOR HUMAN RIGHTS, 1944-1955 (2003); Dorothy Q. Thomas, *Advancing Rights Protection in the United States: An Internationalized Advocacy Strategy*, 9 HARV. HUM. RTS. J. 15, 19-20 (1996).

102. SUNSTEIN, *supra* note 100, at 175-79.

103. *Id.* at 25 (quoting Amartya Sen).

participatory."[104] San Francisco's implementation of CEDAW is a good example. There, through dialogue with public interest advocates and constituents, city agencies actually reevaluated their practices using a human rights lens, and re-oriented their services to more pro-actively address human rights issues.[105] This participatory approach lends itself to public policy and legislative advocacy, as well as encouraging and facilitating interdisciplinary analysis.[106]

Unlike the despair that many felt in the 1960s when assessing the prospects for reorientation of law school curricula around issues of purely domestic poverty and inequality, a broad range of academic institutions have embraced issues of human rights and international law. For example, the theme of the AALS' meeting in 2003 was "Legal Education Engages the World," including a focus on the question "How will globalization affect human rights?"[107] More recently, the 2007 AALS meeting included six separate events on human rights, ranging from a human rights training for clinical faculty to a review of international human rights pro bono projects that might be taken on by law schools.[108] Most significantly, the AALS devoted one of its high profile plenary session

104. Deena R. Hurwitz, *The Politics of the People, Human Rights, and What Is Hidden from View*, 37 GEO. WASH. INT'L L. REV. 293, 293 (2005) (book review).

105. In April 1998, the City of San Francisco made history by passing an ordinance to adopt the United Nations Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW"). SAN FRANCISCO, CAL., SF CEDAW Ordinance Ch. 12K (1998), *available at* http://www.sfgov.org/site/cosw_page.asp?id=10849. The legislation requires city departments to go through a gender analysis on the allocation of funds, service delivery, and employment. *Id*. Departments such as adult and juvenile probation, public works, rent board, and environment have brought about concrete policy changes in how they employ and serve women in San Francisco. *See* Women's Institute for Leadership Development, Wild for Human Rights—San Francisco Human Rights Ordinance Campaign, http://www.wildforhumanrights.org/our work/sfhroc.html (last visited Apr. 16, 2007). In the past few years, a number of other cities including Seattle, Los Angeles, New York, Berkeley, and Santa Cruz have considered similar models to implement CEDAW and other human rights treaties. *See id*.

106. Many of the groups that utilize human rights approaches are not primarily or exclusively legal organizations. For example, the Urban Justice Center in New York City has used human rights documentation rather than lawsuits or other legal tools to develop advocacy promoting basic rights like food and shelter. More information about the Urban Justice Center's human rights programs is available at http://www.urbanjustice.org/ujc/projects/human.html.

107. Hurwitz, *supra* note 84, at 508 n.13.

108. AALS 2007 Annual Meeting Program, *available at* http://www.aals.org/am2007/program.html.

panels to the subject of "Human Rights and Legal Education."[109] Supporting these efforts is the newly-formed AALS Section on Human Rights.[110]

In addition, as attention to human rights has grown in the academy, new teaching tools have been developed to support that growth. Human rights casebooks are not a new phenomenon.[111] Particularly pertinent to poverty law issues, however, in 2005, Professors Jeanne M. Woods and Hope Lewis published the first United States law school casebook focused primarily on economic, social and cultural rights, titled *Human Rights and the Global Marketplace: Economic, Social and Cultural Dimensions*.[112] Interestingly, the genesis of the book is directly linked to a poverty law course. According to the authors, Professor Woods "first envisioned this text in the summer of 1998, as she prepared materials for her innovative approach to 'Law and Poverty,' a required course at Loyola."[113]

Like the poverty lawyers of the 1960s, today's human rights lawyers and teachers are acting in conjunction with, and in response to, pressures that are external to the academy. Many grassroots and low income client groups within the United States now use human rights as a rallying cry in their economic justice campaigns. For example, the Coalition of Immokalee Workers, migrant workers in south Florida, explicitly used human rights education in their successful effort to secure increased per-bucket piece rates for tomato picking from Taco Bell and its parent company, Yum Brands.[114] Similarly, Picture the Homeless, an organization of homeless men and women in New York City, seeks recognition of its members' economic and human rights.[115] SisterLove, an At-

109. *See Human Rights and Legal Education*, HUMAN RIGHTS (Ass'n of Am. Law Schools Sect. on Human Rights), Fall 2006, at 4, *available at* http://www.aals.org/documents/sections/humanrights/Fall2006HumanRightsNewsletter.pdf.

110. The Human Rights Section of AALS received formal approval as a standing section in 2005. Further information about the section is available at the section's website, http://vls.law.vill.edu/clinics/aals/.

111. HUMAN RIGHTS (Louis Henkin et al. eds., 1999); INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW, POLICY AND PRACTICE (Richard Lillich & Gerald Neuman eds., 1979).

112. HUMAN RIGHTS AND THE GLOBAL MARKETPLACE: ECONOMIC, SOCIAL AND CULTURAL DIMENSIONS (Jeanne M. Woods & Hope Lewis eds., 2005).

113. *Id*. at xviii.

114. More information about the Coalition of Immokalee Workers, including information about their prior boycotts of Taco Bell and successful negotiations with McDonald's, is available at http://www.ciw-online.org/.

115. *See* Picture the Homeless, Homepage, http://www.picturethehomeless.org (last visited Apr. 16, 2007).

lanta-based advocacy organization, proclaims that its mission is "to eradicate the impact of HIV/AIDS and other reproductive health challenges upon women and their families through education, prevention, support and human rights advocacy in the United States and around the world."[116] Community Voices Heard, a self-directed organization of low income New Yorkers, trains its members in community global justice work to further their economic justice agenda in New York City.[117] The Poor People's Economic Human Rights Campaign, an umbrella organization for poor people's movements, even filed a human rights petition in the Inter-American Commission on Human Rights challenging various aspects of the welfare reform law of 1996.[118] Community Asset Development Re-defining Education ("CADRE"), an organization of African American and Latino parents in South Los Angeles, has employed human rights approaches to press for greater attention to students' human rights to dignity in the exercise of school discipline.[119]

Many of these grassroots and advocacy groups are members of the United States Human Rights Network, formed in 2002

- To increase the visibility for the US human rights movement
- To build the capacity of US human rights groups to carry out their work
- To strengthen links between US human rights activists and movements across issues and sectors of work
- To link US human rights activists with the global human rights movement.[120]

In short, grassroots groups and public interest clients themselves have articulated human rights agendas for their work. If lawyers are to partner with these clients on the issues that they have identi-

116. *See* SisterLove, Homepage, http://www.sisterlove.org/ (last visited Apr. 16, 2007).

117. *See* Community Voices Heard, Homepage, http://www.cvhaction.org/english/index.htm (last visited Apr. 16, 2007).

118. The Poor People's Economic Human Rights Campaign, Petition in the Inter-American Commission, *available at* http://www.universityofthepoor.org/library/IAC petition.pdf (last visited Apr. 16, 2007).

119. The National Economic and Social Rights Initiative recently issued a report developed in conjunction with CADRE, titled DEPRIVED OF DIGNITY: DEGRADING TREATMENT AND ABUSIVE DISCIPLINE IN NEW YORK CITY AND LOS ANGELES PUBLIC SCHOOLS (2007), which analyzes school-based discipline through a human rights lens. The complete report is available at http://nesri.org/programs/dignity_report.html.

120. US Human Rights Network, Core Principles & Goals, http://www.ushrnetwork.org/page27.cfm (last visited May 1, 2007). More information about the US Human Rights Network is available at http://www.ushrnetwork.org/.

fied, lawyers need to be able to work with human rights strategies and concepts.

As more and more legal advocacy organizations and pro bono lawyers shift a portion of their work to human rights advocacy, training in this area becomes a necessary component of a law school education in order to meet growing demands on the profession. Professor Scott Cummings has recently written in compelling detail about the changes in the organization and practice of public interest law "against the backdrop of globalization," including the movement to promote domestic human rights.[121] The American Civil Liberties Union ("ACLU"), for example, in 2004 launched a Human Rights Working Group within its National Office to assist the ACLU's projects and state chapters in developing their human rights work.[122] Likewise, the Center for Constitutional Rights, founded in 1966 as a legal response to the civil rights movement, engages significantly in human rights related work.[123] Groups that once focused their work primarily or exclusively abroad, such as Human Rights First, Amnesty International, and Human Rights Watch, now have vibrant domestic projects as well.[124]

Law firm pro bono work involving human rights has also burgeoned. For example, Holland & Knight recently hosted a series of training sessions in Florida on human rights approaches to housing and homelessness.[125] More substantively, large firms such as Debevoise & Plimpton (in death penalty cases before the International Court of Justice and U.S. domestic courts) and Paul Weiss Rifkind & Garrison (in an Alien Tort Claims Act case against Radovan Karadzic) have advised clients and litigated international human rights principles domestically.[126] Further, the broad law firm representation of detainees at Guantanamo Bay has also in-

121. Cummings, *supra* note 93, at 3.

122. *Id*. at 62. More information about the ACLU's Human Rights Program is available at http://www.aclu.org/intlhumanrights/index.html.

123. *See generally* The Center for Constitutional Rights Homepage, http://www.ccr-ny.org/v2/home.asp (last visited Apr. 16, 2007).

124. Cummings, *supra* note 93, at 64.

125. The sessions were sponsored by the National Law Center on Homelessness and Poverty. More information about the trainings is available at http://www.nlchp.org/FA_HumanRights/FLTraining.cfm.

126. *See* Sanchez-Llama v. Oregon, 126 S. Ct. 2669 (2006) (Debevoise & Plimpton); Medellin v. Dretke, 544 U.S. 660 (2005) (same); Kadic v. Karadzic, 70 F.3d 232 (2d Cir. 1995) (Paul, Weiss, Rifkind & Garrison).

creased the private bar's awareness of international human rights laws and their domestic implications.[127]

Significantly, this domestic practitioner focus on human rights is not limited to civil and political rights. Paralleling the 1960s, activists are building on a human rights consciousness in the United States that began by emphasizing civil and political rights, but is now expanding into issues of economic and social rights.[128] For example, the National Law Center on Homelessness and Poverty employs a human rights attorney to augment the other aspects of its work toward a right to housing.[129] Clearinghouse Review, a poverty law journal directed to legal services and other poverty law practitioners, has made an editorial decision to expand its coverage of legal issues through a human rights lens, suggesting that more poverty lawyers are taking up human rights activities.[130] Law school-based human rights clinics have also taken on economic rights issues. For example, in the wake of the U.S. Supreme Court's decision in *Hoffman Plastics v. NLRB*,[131] the clinic at American University's Washington College of Law presented the question of labor protections for immigrant workers to the Inter-American Commission on Human Rights. Human Rights Watch's project on labor and human rights also encompasses U.S. workers'

127. At least five hundred attorneys and more than one hundred and twenty law firms have represented Guantanamo Bay detainees including WilmerHale, Bingham McCutchen, Shearman & Sterling, Cleary Gottlieb Steen & Hamilton, Debevoise & Plimpton, Schnader Harrison Segal & Lewis, Venable, Weil Gotshal & Manges, Alston & Bird, and Perkins Coie. *See* Neil A. Lewis, *Official Attacks Top Law Firms over Detainees*, N.Y. TIMES, Jan. 13, 2007, at A1; Anna Palmer, *Despite Pentagon Official's Stand, Big Companies Back Law Firms' Work on Behalf of Guantanamo Bay Detainees*, BROWARD DAILY BUS. REV., Jan. 26, 2007, at 3; Farah Stockman, *Potshot at Guantanamo Lawyers Backfires; Big Firms Laud Free Legal Aid for Detainees*, BOSTON GLOBE, Jan. 29, 2007, *available at* http://boston.com/news/nation/washington/articles/2007/01/29/potshot_at_guantanamo_lawyers_backfires (last visited Mar. 23, 2007). Further, as human rights work spreads through the profession, the likelihood increases that those moving from practice to teaching will continue to focus on human rights. There are many examples of law teachers who have made just such a transition, including Diane Orentlicher (Washington College of Law and Lawyers Committee for Human Rights), Catherine Powell (Fordham Law School and NAACP LDEF), and Cynthia Soohoo (Columbia Law School and private practice), to name a few.

128. Cathy Albisa & Sharda Sekaran, *Realizing Domestic Social Justice Through International Human Rights: Foreward*, 30 N.Y.U. REV. L. & SOC. CHANGE 351, 353-54 (2006).

129. The position is currently filled by Eric Tars, formerly an attorney with the international law organization Global Rights.

130. E-mail from Marcia Henry, Senior Editor, Clearinghouse Review, to author (Feb. 23, 2007) (on file with author) ("One of our long-term goals for Clearinghouse Review is to include more coverage of poverty law through a human rights lens.").

131. 535 U.S. 137 (2002); *see also* Cummings, *supra* note 93, at 59-60.

rights, and has resulted in both domestic advocacy and an influential report, "Blood, Sweat and Fear: Workers' Rights in U.S. Meat and Poultry Plants."[132]

Further, the same foundations that played such an important role in the poverty movement of the 1960s have demonstrated an increased interest not only in human rights abroad, but in human rights at home. For example, the Ford Foundation was a central player in the establishment of the U.S. Human Rights Fund in 2002, which was specifically created to support human rights advocacy within the United States.[133] At the same time, many significant funders continue to develop their own dockets for U.S.-based human rights work, including Atlantic Philanthropies, the Ford Foundation, the Open Society Institute, the JEHT Foundation, the Public Welfare Foundation, and Mertz Gilmore.[134] Indeed, many of these funders as well as private philanthropists have directed their financial support to law school based human rights advocacy programs that address domestic issues.[135]

Finally, like the 1960s conception of poverty law, human rights law is not a passive subject to be taught, but a subject that demands action. As Professors Woods and Lewis wrote unabashedly in the Preface to their casebook on economic, social and cultural rights, "[w]e . . . hope that [this casebook] will spark continuing interest *and activism* on these issues."[136] In short, the law of economic, social, and cultural human rights presupposes that lawyers can make a difference in society's allocation of resources and power, and in individuals' lives. This same idealism about the role of law animated the early efforts to promote poverty law in the academy.

132. *See* HUMAN RIGHTS WATCH, BLOOD, SWEAT, AND FEAR: WORKERS' RIGHTS IN U.S. MEAT AND POULTRY PLANTS (2005), *available at* http://www.hrw.org/reports/2005/usa0105/usa0105.pdf.

133. More information on the U.S. Human Rights Fund is available at http://www.ushumanrightsfund.org/ushrf/about.cfm (last visited Apr. 16, 2007).

134. *See generally* International Human Rights Funders Group, Funders Directory, http://www.hrfunders.org/funders/index.html.

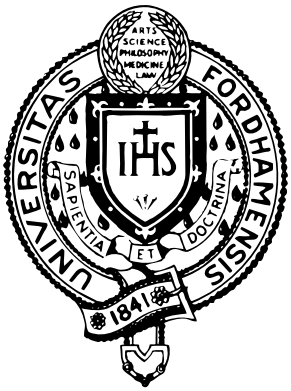
135. For example, the Ford Foundation provided the funding to launch Columbia Law School's Human Rights Institute. Cummings, *supra* note 93, at 57. The U.S. Human Rights Fund continues to fund the Institute. Press Release, U.S. Human Rights Fund, U.S. Human Rights Fund Distributes $735,000 in Grants (Nov. 2006), *available at* http://www.ushumanrightsfund.org/ushrf/USHRF_November_2006.pdf.

136. HUMAN RIGHTS AND THE GLOBAL MARKETPLACE, *supra* note 112, at xviii (emphasis added).

Conclusion

More than forty years after lawyers first began their aggressive efforts to address economic inequality through law, poverty persists. Four decades of poverty law courses and poverty lawyers have not succeeded in eradicating it. The human rights paradigm, by expanding the dialogue to a more global context, and by embracing interdisciplinary approaches, promises to at least give law students a more nuanced understanding of the forces of economic inequality and at best, to give them additional tools and leverage to make gains against poverty domestically as well as internationally.

In ten or fifteen years, maybe sooner, law professors of the future may convene to discuss the question "What is the Role of Human Rights in the Curriculum?" or even more broadly, "What is Human Rights?" But in the meantime, today, "Human Rights" is the answer to Professor Quinn's persistent question "What is Poverty Law?"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