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Honorable Jonathan Lippman

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**WOMEN'S RIGHTS**

Catherine Carr

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Raymond Brescia

**THE ROLE OF GOVERNMENT OFFICIALS**

Paris Baldacci  
Lisa Grumet

**IMPACT**

**COLLECTED  
ESSAYS ON  
EXPANDING  
ACCESS TO  
JUSTICE**



# Moving Women out of Poverty: A Call to Action for Legal Aid

Catherine Carr<sup>1</sup>

I became a lawyer because of interest in the equality of women and justice for women in a time when equality of women was being much discussed and change was in the air. Over three decades later, I look back on a legal career spent in legal aid working on poverty issues; early on my path veered from “women’s rights” to “poverty law.” However, there was no disconnect with this transition. I now am convinced that anti-poverty work is perhaps the most essential work one can do to advance women and their position in our nation. It is not something we in the legal aid advocacy world talk about often enough: poverty is a women’s issue and it is time we framed it that way and recognize that addressing poverty is critical for women’s equality.

It took me a while to understand the connection between women’s rights and poverty. As an undergraduate in the 1970s I met women law students working on the Equal Rights Amendment, struggling with the issues around what equality would look like and how it could be achieved. Discrimination against women was something I could see and feel every day around me; it was personal, and I wanted to join the cause.

So I went to law school, and it was there, while working in a legal aid office, that I was really exposed face to face with injustices that far exceeded any I myself had experienced: the injustices faced by poor people, and in particular, poor women. I met older women who had worked all their life and now were struggling to keep a roof over their heads. I met young women with children whose partners had died suddenly and had no idea how to feed their children; they had given up any dreams of continuing their own education. I met women who were ill and alcoholic, abandoned by men or determined to stay safely away from one, none with a family safety net like the one I grew up with. Yes, I had faced discrimination and hurdles, but the women I met faced so much more. My heart went out to them, but so did my newly developing lawyer brain: where was American justice for people who did nothing wrong except be born to a family without resources?

We know that poverty is a huge problem in our country, we note that it has important and troubling racial connections, but in our talk about it, we don’t always recognize that poverty is especially a women’s problem. About 60 percent of the poor in this country are women.<sup>2</sup> To rephrase that, almost 50 percent more women live in poverty than men. As the media frequently informs us, women make less money than men, and that contributes to the problem both when they are working and when they are older and retired.<sup>3</sup> More women live with children, thus

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<sup>1</sup> Adjunct Professor, University of Pennsylvania Law School, and Executive Director, Community Legal Services of Philadelphia, Pennsylvania from 1995 to 2015.

<sup>2</sup> The U.S. Census Bureau reported 12.75 million adult men in poverty and 18.37 million women in poverty in 2014, making women just over 59 percent of the adult poverty population. See ALANA EICHNER & KATHERINE GALLAGHER ROBBINS, NATIONAL WOMEN’S LAW CENTER, NATIONAL SNAPSHOT: POVERTY AMONG WOMEN & FAMILIES, 2014 (2015) (citing 2015 U.S. CENSUS BUREAU, CURRENT POPULATION SURVEY, ANNUAL SOCIAL AND ECONOMIC SUPPLEMENT), available at <http://nwlc.org/wp-content/uploads/2015/08/povertysnapshot2014.pdf>.

<sup>3</sup> See COUNCIL OF ECONOMIC ADVISORS, GENDER PAY GAP: RECENT TRENDS AND EXPLANATIONS (April 2015) (citing Bureau of Labor Statistics census data showing that the median full time working woman makes 78 percent of what the median full time working man makes), available at [https://www.whitehouse.gov/sites/default/files/docs/equal\\_pay\\_issue\\_brief\\_final.pdf](https://www.whitehouse.gov/sites/default/files/docs/equal_pay_issue_brief_final.pdf).

they more frequently are sharing their income with dependents.<sup>4</sup> This gender poverty gap was narrowed in the recession, but from 2010 until 2013 it was growing again, as more men got out of poverty and the women's poverty rate remained steady.<sup>5</sup>

The poverty gender differential was certainly visible in my legal aid office where almost two-thirds of the low income people served are female. To put that differently, my legal aid office sees about twice as many women as men. And of the women assisted there, about half are in “deep poverty,” which means their income is 50 percent of the poverty line or lower, and the majority have children who live in poverty with them. The gender statistics are similar nationally in legal aid. Seventy-one percent of the national Legal Services Corporation (LSC) clients are women; thus women are assisted at about 2.5 times the rate of men at legal aid offices across the country.<sup>6</sup> Poverty is very much a women's issue.

The work at legal aid is often in areas of particular importance to women, although, again, legal aid staff does not often think of it that way. Some issues that legal aid offices deal with obviously impact women more than men; domestic violence and sexual assault work are examples. But welfare, unemployment compensation, Social Security, employment, access to health care and housing issues - legal issues frequently handled by legal aid organizations - all impact severely and differentially on women.

The federal welfare program, Temporary Assistance for Needy Families (TANF), is designed to assist parents with children living in poverty. Unlike its predecessor, Aid to Families with Dependent Children (AFDC), it sets expectations for single parents to work rather than stay home with young children, reflecting the changed norms around women's work outside the home. TANF also sets time limits on benefit eligibility, again forcing single mothers to move into work rather than allowing them to stay home and care for their children. While AFDC was designed to provide assistance to parents who needed to stay home with children and did not have another breadwinner, the new world of welfare assistance is one that values “self sufficiency” even for women with no partners, few work skills, and young dependent children who will require childcare by others. The cultural changes around women moving into paid work, reflecting the success of the women's movement, ironically resulted in more difficulty for women in poverty who seek some help as they raise children. “Welfare reform,” as it was called, made assistance harder to access for many impoverished single mothers, and resulted in a significantly smaller percentage of poor women with children participating than was true under the AFDC program. The Center for Budget and Policy Priorities reported that in 2014 only 23 percent of households in poverty received TANF, as compared to 68 percent who received AFDC in 1996, when that program was ended.<sup>7</sup>

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<sup>4</sup> Over half of poor children live in households headed by women. EICHNER & ROBBINS, *supra* note 2 (citing U.S. Census Bureau statistics). And households headed by single women with children are almost twice as likely to be poor than those headed by single men. CYNTHIA HESS ET AL., INSTITUTE FOR WOMEN'S POLICY RESEARCH, *THE STATUS OF WOMEN IN THE STATES: 2015* 169 (2015), available at <http://www.ivpr.org/publications/pubs/the-status-of-women-in-the-states-2015-full-report>.

<sup>5</sup> Institute for Women's Policy Research, *Gender Poverty Gap Grows in Recovery: Men's Poverty Dropped Since Recession, Women's Poverty Stagnates*, QUICK FIGURES (September 2013), available at <http://www.ivpr.org/publications/pubs/gender-poverty-gap-grows-in-recovery-mens-poverty-dropped-since-recession-womens-poverty-stagnates>.

<sup>6</sup> *2013 LSC By the Numbers*, LEGAL SERVICES CORPORATION, <http://www.lsc.gov/media-center/publications/2013-lsc-numbers#bftoc-client-demographics>. The Legal Services Corporation is the funding conduit and oversight agency for legal aid organizations across the United States that receive federal funds.

<sup>7</sup> Ife Floyd et al., *TANF Continues to Weaken as a Safety Net*, CENTER ON BUDGET & POLICY PRIORITIES (updated Oct. 27, 2015), <http://www.cbpp.org/research/family-income-support/tanf-continues-to-weaken-as-a-safety-net>.

Many legal aid offices also assist poor clients in accessing unemployment compensation when they lose work. Again, there are gender imbalances in this area: the state unemployment compensation programs treat women worse than men. A U.S. Department of Labor-funded study noted that women are “appreciably” less likely to receive unemployment benefits than men because of disparities in the type of work they perform.<sup>8</sup> Because more women are in lower paying jobs (sixty percent of minimum wage workers are women), work more part time jobs, and leave the work force more often to provide family caretaking, they have trouble meeting the eligibility requirements for the unemployment insurance programs, programs which were designed before the increase of women’s participation in the workforce.<sup>9</sup> Indeed in 2000 the U.S. Government Accountability Office found that higher wage workers received unemployment benefits at more than twice the rate of low wage workers, thus compounding the negative impact of women’s lower wages.<sup>10</sup>

When I started my legal aid career, I handled many disability cases. In the early 1980s, I represented numerous single or widowed women who had worked in Philadelphia’s sewing or candy factories, and others who had served as domestic workers until carrying heavy vacuum cleaners and buckets of supplies up and downstairs became too much for their aging or sick bodies. Supplemental Security Income, which does not require a history of work with Social Security tax payments and thus is available even to sporadic and very low wage workers, kept them out of abject poverty in their final years. Some women had lost husbands who had enough of a work history to entitle them to Social Security widow’s benefits, which usually put them in a better financial status than they would have based on their own wages. Those who could not prove disability and were not yet old enough to receive old age benefits, were forced to live on subsistence General Assistance benefits, a state run program. That program has since been ended, leaving a group of Pennsylvania women (and men) with absolutely no safety net income program, besides food stamps. Despite claims by some that our government coddles the poor, our current system, in the richest country in the world, now leaves over 10 million people with zero monthly income for housing and other necessities.

Older women suffer more poverty than older men and are more dependent on Social Security to avoid poverty, even though they receive less from Social Security. Without Social Security, over half of older women would be living in poverty. Because women make lower wages and take more breaks from work to care for family, they are entitled to smaller amounts of Social Security each month and are less likely to have other pension or retirement saving resources. Fixes have been proposed to provide more assistance to women in view of these gender differentials,<sup>11</sup> and legal aid advocates are in a position to play a role in pushing for them, in addition to representing individual women seeking benefits.

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<sup>8</sup> MARIOS MICHAELIDES & PETER MUESER, IMPAQ INT’L, UI BENEFITS STUDY: RECENT CHANGES IN THE CHARACTERISTICS OF UNEMPLOYED WORKERS 36 (2009), available at [https://www.impaqint.com/sites/default/files/files/report\\_20characteristicspaper\\_aug20.pdf](https://www.impaqint.com/sites/default/files/files/report_20characteristicspaper_aug20.pdf).

<sup>9</sup> See Testimony of Vicky Lovell, Ph.D, The Unemployment Insurance Modernization Act: Improving UI Equity and Adequacy for Women, Before the House Ways and Means Committee, Subcommittee on Income Security and Family Support, Sept. 19, 2007, available at <http://iwpr.org/publications/the-unemployment-insurance-modernization-act>.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> See CARROLL L. ESTES ET AL., BREAKING THE SOCIAL SECURITY GLASS CEILING: A PROPOSAL TO MODERNIZE WOMEN’S BENEFITS (2012) (report by the Institute for Women’s Policy Research, the National Committee to Preserve Social Security & Medicare Foundation, and the National Organization for Women Foundation), available at <http://www.iwpr.org/publications/pubs/breaking-the-social-security-glass-ceiling-a-proposal-to-modernize-womens-benefits>.

Employment issues make up an important part of legal aid representation of the poor, and have become more important to poor women as the public assistance system has moved single mothers into low wage work and their children into childcare. Not only do women make less money on average than men, but many also face “wage theft” issues, i.e. the failure of employers to pay wages earned and legally owed to their workers.<sup>12</sup>

Interestingly, wage theft by women’s employers was the reason for the establishment of some of the earliest legal aid offices. Professor Felice Batlan has described how the New York Legal Aid Society grew out of the Working Women’s Protective Union, an organization founded in the 1860s and dedicated to providing employment and legal assistance to women. The organization was not operated as a union but instead as a benevolence agency, run by a board of male members of the bench and bar who wanted to help women entering the work world.<sup>13</sup> Its work consisted largely of cases against employers who refused to pay working women. The legal aid world has not embraced this history of its initial role: legal aid was the provider of assistance to women when they encountered exploitation moving into an industrializing world controlled by men.

Unfortunately, wage theft is not just a historical problem of the 19<sup>th</sup> century, but continues today, particularly for immigrant workers. Work to prevent and address it, along with advocacy for increased wages for the lowest paid workers, are part of the current legal aid agenda of particular importance to women.

Legal aid work to provide medical coverage to the poor has particular impact on women, who are more likely to use health care when young for reproductive health and maternity issues, and who are usually the caretakers of sick children and older family members. Similarly, representation and advocacy for legal aid clients facing housing issues has particular importance for women. Low income women are more likely to face the devastating effects of eviction from rental housing than are men. A recent study of 300 renters facing eviction actions found that 79 percent of them were women and 65 percent housed minor children with them.<sup>14</sup> Matthew Desmond of the Institute for Research on Poverty writes, “If incarceration has become typical in the lives of men from impoverished black neighborhoods, eviction has become typical in the lives of women from these neighborhoods.”<sup>15</sup> Women are at high risk for mortgage foreclosure as well. While women are less likely to own their own homes, single women who did buy homes experienced higher rates of subprime lending than their male peers, and thus were more likely to obtain mortgages that have a high risk of default and foreclosure.<sup>16</sup>

Recent studies on scarcity and its impact on individuals suggest that the demands of living with poverty reduce cognitive functioning and hurt decision making ability. Economic insecurity

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<sup>12</sup> At Community Legal Services in Philadelphia, the Employment Unit reports that about half the clients who sought assistance with wage theft cases in the past three years were women.

<sup>13</sup> Felice J. Batlan, *The Birth of Legal Aid: Gender Ideologies, Women, and the Bar in New York City, 1863-1910*, 28 *LAW & HIST. REV.* 931 (2010).

<sup>14</sup> PUBLIC JUSTICE CENTER, JUSTICE DIVERTED: HOW RENTERS ARE PROCESSED IN THE BALTIMORE CITY RENT COURT 12 (2015), available at [http://www.publicjustice.org/uploads/file/pdf/JUSTICE\\_DIVERTED\\_PJC\\_DEC15.pdf](http://www.publicjustice.org/uploads/file/pdf/JUSTICE_DIVERTED_PJC_DEC15.pdf). Most respondents were Black women; 94 percent of the respondents identified as “African American/Black.” *Id.* at 12-13.

<sup>15</sup> Matthew Desmond, *Unaffordable America: Poverty, Housing, and Eviction*, FAST FOCUS No.22-2015 (Institute for Research on Poverty March 2015). See also Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, *AM. J. SOCIOLOGY* Vol. 118 No. 1, 88–133 (July 2012).

<sup>16</sup> See Amy Castro Baker, *Eroding the Wealth of Women: Gender and the Subprime Foreclosure Crisis*, *SOCIAL SERV. REV.*, Vol. 88, No. 1, 59-51 (March 2014).

increases stress and decreases patience and attention, leading to behaviors that can be harmful. Thus it is now theorized that poverty itself leads to bad decision making. Rather than blaming the poor for their mistakes, this research suggests the importance of assisting the poor with decision making and protecting them from exploitation.<sup>17</sup> Thus moving women out of poverty is important in order to stop a cycle of poor decision making and its continued harmful impact on families.

Even though we have rarely defined legal aid as women's rights work, in the past three decades, as women have joined the bar in greater numbers, they have been attracted to legal aid work disproportionately to men. While men are still the majority of Legal Services Corporation (LSC) legal aid executive directors and litigation directors, women make up the majority of other attorney positions, from staff attorney to deputy director.<sup>18</sup> Of course legal aid lawyers make less money than lawyers in private practice, a fact which raises concerns about legal aid becoming the "pink collar" part of the law profession, populated by female attorneys making lower salaries than the male dominated sectors of the profession.<sup>19</sup>

It is time for the legal aid community and its supporters to clearly frame legal aid work as work that brings justice to women, indeed as feminist work. The legal aid community has long recognized and spoken clearly and powerfully about the connection of our work with racial equality and the deep historical connections between racism and poverty. We need to bring that same analysis to poverty and discrimination against women.<sup>20</sup> The historical denigration of women and women's subjugation by men is too often forgotten about in our more equal modern culture, but we need only look to women in less developed nations to see where we were not long ago. The history of humankind is one of women being beaten, raped, controlled and enslaved by men both in wartime and in peace. It is only a hundred years ago that women could not vote, could not make contracts, and could not hold most jobs. The first female federal court judges are still on the bench, and they tell powerful stories of graduating at the top of their law school classes only to be offered jobs as assistants or law librarians. We must recognize that the history of treatment of women has lasting effects on their current status and economic position.

Framing legal aid anti-poverty work as part of the women's movement may help achieve successes. As we recognize the ongoing second class status of women and its relationship to their poverty, we can also recognize how far we have come with women's rights and women's status. Women are both very present and successful in our nation's professions, including the law, where more women than men now graduate from law schools. While we have far to go, more and more women are representing us in elected and appointed governmental positions, and women are slowly entering more positions of power in academia, industry, and the nonprofit sector. The world is changing and is unlikely to go backwards. We must harness this movement of cultural change and bring

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<sup>17</sup> See SENDHIL MULLAINATHAN & ELДАР SHAFIR, *SCARCITY: THE NEW SCIENCE OF HAVING LESS AND HOW IT DEFINES OUR LIVES* (2014).

<sup>18</sup> 2014 LSC *By the Numbers* 31, LEGAL SERVICES CORPORATION, <http://lsc.gov/media-center/publications/2014-lsc-numbers>.

<sup>19</sup> Kelly A. Miller, *The Pink-Collar Ghetto*, 28 CLEARINGHOUSE REV. 1168 (February 1995). Interestingly, in 1995 Miller reported that 83 percent of LSC Executive Directors were male, the same percentage as reported by LSC 21 years later in 2014. In contrast females only made up 51 percent of all LSC attorneys in 1993 but 67 percent in 2014. See also Catherine C. Carr, *Fairness and Justice in Setting Legal Services Attorney Salaries: Finding the Will to Get There*, MIE J., Summer 2007.

<sup>20</sup> A search of the Clearinghouse Review website, the longstanding journal of the legal aid advocacy community, which recently changed into the "Clearinghouse Community" online reporter, produces about three times more hits when searching for articles on race and legal aid work than on gender. See <http://povertylaw.org/content/clearinghouse-review-0>.

it also to the poorest among us, the women who labor without adequate pay and struggle to feed and house themselves and their loved ones. Women's equality demands the end of women's poverty. It is a struggle we can advance just as we have advanced the rights of women with more opportunity and affluence.

Legal aid work on behalf of women must be comprehensive. We must assist the many women who need help with their individual problems, be it accessing income, avoiding discrimination or obtaining essential housing and health care. And we must also do work to challenge the systems and policies which keep women in their economically disadvantaged position. Women's roles have evolved, and legal aid advocacy can help redesign laws and policies to provide for women's equal treatment and economic stability in the modern world.

Many pieces of our current unemployment compensation, Social Security, education, employment and childcare systems were designed in an era where most women did not work, especially those with children, and where women were dependent on the income of men, typically men employed full time. As a result, school days end in the middle of the workday, Social Security and unemployment compensation programs reward full time year round employment, and traditional women's work earns less than that of men (who historically were seen as needing more wages to support families).

Legal aid advocates can assist their clients by flagging these inequities and working to change them, to raise women out of poverty that is too closely related to their gender and expected gender roles. We need to start looking at poverty and its relationship to gender in new ways and labelling it unacceptable. Poverty is not gender-neutral, just as it is not race-neutral. Historical oppression and traditional roles have put women and minorities in their current subordinate positions and we must push for remedies.

The women's movement has made tremendous and powerful progress. Let us lawyers who have witnessed women in poverty join forces with the struggle for women's equality and recognize how the two problems interrelate. We can speak out on behalf of women who have the least and struggle the most. We can recognize the particular challenges that women face, we can identify the societal and cultural factors that make women bear the brunt of poverty, and we can develop strategies to push for change. •