

## BOOK REVIEW

### Poverty Law, Policy, and Practice

Juliet M. Brodie, Clare Pastore, Ezra Rosser & Jeffrey Selbin.  
Aspen/Wolters Kluwer, 2014

Stephen Wizner\*

#### I. INTRODUCTION

What should law students learn about poverty and its relationship to law? What is the doctrinal or theoretical subject matter that justifies a separate course in law and poverty? Are there laws and legal issues that specifically or uniquely relate to people living in poverty? Does law play a role in creating and maintaining poverty? Can law reduce or even eliminate poverty? Do lawyers have the ability and professional responsibility *as lawyers* to challenge poverty and to address legal problems of poor people that are consequences of poverty?

What prompts these questions, and others, is the publication of the first new law school textbook on law and poverty in nearly two decades. The editors—Juliet Brodie, Clare Pastore, Ezra Rosser, and Jeffrey Selbin—are four law professors who have devoted their teaching careers and scholarship to policy and practice relating to poverty and the poor. Their new book is not simply a collection of cases and materials about the legal problems of poor people, but a broad and deep exploration of the nature and causes of poverty and economic inequality, of social and economic policies and programs that might serve to reduce the extent and depth of poverty, and of the role of law in creating and maintaining poverty and its potential for helping to reduce or even eliminate poverty.

One can only surmise that the diminishing number of significant Supreme Court decisions affecting the poor and a growing realization among legal activists and poverty law teachers that affirmative litigation had ceased to be an effective tool for improving the lot of people living in poverty account for the nearly two-decade hiatus since the publication of the last law and poverty casebook.<sup>1</sup>

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

The editors offer two justifications for publishing a new poverty law textbook:

First, although the Supreme Court has largely foreclosed an affirmative antipoverty avenue in the federal courts—and federal funding for legal services peaked in 1980—lawyers remain actively engaged in a wide range of antipoverty activities and initiatives. As they have for decades, lawyers for the poor continue to enforce and expand statutory rights, fight bureaucratic disenfranchisement, and challenge unjust policies in courts, legislatures, administrative agencies, and other settings. Relatively meager federal funding for legal services has helped to drive a more diverse and decentralized delivery system of experimentation and innovation at the state and local levels. Poverty lawyers have responded to the evolving needs of low-income clients and communities by promoting economic development, combatting the impacts of criminalization, and partnering with other professionals in multidisciplinary practices.

Second, in the wake of the Great Recession, wealth disparities in the United States are at their highest levels since the 1920s. Living wages, affordable housing, and other basic needs are increasingly out of reach for tens of millions of Americans, including many working families and an eroding middle class. Government retrenchment and disinvestment from decades-old commitments to the poor, elderly, and disabled coincide with a global movement of labor and capital that reverberates throughout the domestic landscape. These developments raise important and troubling legal and policy questions, including the role of law, lawyers, and legal institutions in efforts to address the impact of persistent and deepening economic inequality.<sup>2</sup>

The editors rightly refer to their book as a “textbook,” rather than a “casebook.” The book comprises twelve related chapters that each parse particular aspects of, or approaches to, the relationship of poverty and law, combining the editors’ text with relatively few judicial opinions, and includes many well-chosen excerpts from published studies, essays and other non-legal publications, that offer differing—often opposing—analyses and points of view about poverty and the poor.

The book’s chapters are titled Introduction to Poverty; Social Welfare Policy; Poverty and the Constitution; Welfare; Work; Housing; Health; Education; Criminalization; Access to Justice; Markets; and Human Rights. It is striking to compare these twelve chapter titles with those of the first law and poverty casebook published in 1969, nearly a half-century ago. That casebook, titled “Cases and Materials on Law and Poverty,”—commonly referred to as “the Dodyk casebook,” which is named after its general editor, then Columbia Law Professor Paul Dodyk—contained a mere five chapters, reflecting the academic interests of the five authors: Income Maintenance; Racial Discrimination in Employment; Housing; Consumer Credit; and Selected Problems in Family Law

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2. JULIE M. BRODIE, ET AL., *POVERTY LAW, POLICY, AND PRACTICE* xxv–xxvi (2014) [hereinafter *TEXT*].

and Poverty.<sup>3</sup>

Unlike the Dodyk casebook and those that followed it,<sup>4</sup> which are primarily collections of edited appellate opinions in cases concerning low-income litigants supplemented by brief excerpts from and references to secondary materials, the textbook under review examines a broad range of sources and issues concerning poverty and its relation to law. The editors have chosen a thoughtful and balanced collection of studies and reports by government agencies and non-profit research and advocacy organizations, economic analysis papers, social policy literature, historical documents, text and reflection questions by the editors, and judicial opinions. In doing so, they provide a wealth of facts and information, economic and social policy analysis, program descriptions and proposals, and other materials. This vast amount of information enables readers to think in an informed manner about issues such as the following: What is poverty? Who are the poor? Why are they poor? What economic and social policies might reduce poverty? What legislative or judicial means could implement those policies? How do markets affect poverty and income inequality? How can international human rights conventions relating to economic and social rights be employed to support anti-poverty efforts?

Addressing these core questions is essential for anyone, including law students, seeking to both understand the nature and causes of poverty and think about the role of law in causing and alleviating poverty.

## II. TEACHING LAW AND POVERTY

Early in 1969 a National Conference on the Teaching of Anti-Poverty Law convened at the Fordham Law School.<sup>5</sup> Toward the end of the Conference, the late Gary Bellow, a visionary theoretician, teacher, and practitioner of poverty law and clinical legal education, lamented that the discussions during the Conference had failed to address fundamental issues of law and society and of

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3. GEORGE COOPER, ET AL., *CASES AND MATERIALS ON LAW AND POVERTY* (Paul H. Dodyk ed., 1969).

4. GEORGE COOPER, ET AL., *CASES AND MATERIALS ON LAW AND POVERTY* (Paul H. Dodyk ed., 2nd ed. 1973); ARTHUR B. LAFRANCE, *CIVIL RIGHT LITIGATION FOR THE POOR: CASES AND MATERIALS* (1970); ROBERT J. LEVY, ET AL., *CASES AND MATERIALS ON SOCIAL WELFARE AND THE INDIVIDUAL* (1971); ELI JARMEL, *PROBLEMS IN THE LEGAL REPRESENTATION OF THE POOR: CASES AND MATERIALS* (1972); ELI JARMEL, *PROBLEMS IN THE LEGAL REPRESENTATION OF THE POOR: CASES AND MATERIALS* (2nd ed. 1975); ARTHUR L. BERNEY, ET AL., *LEGAL PROBLEMS OF THE POOR: CASES AND MATERIALS* (1975); BARBARA BRUDNO, *POVERTY, INEQUALITY, AND THE LAW: CASES, COMMENTARY, ANALYSES* (1976); JULIE A. NICE & LOUISE G. TRUBEK, *CASES AND MATERIALS ON POVERTY LAW: THEORY AND PRACTICE* (1997); JULIE A. NICE & LOUISE G. TRUBEK, *1999 SUPPLEMENT TO CASES AND MATERIALS ON POVERTY LAW: THEORY AND PRACTICE* (1999).

5. See NAT'L CONFERENCE ON THE TEACHING OF ANTI-POVERTY LAW, *PROCEEDINGS OF THE NATIONAL CONFERENCE ON THE TEACHING OF ANTI-POVERTY LAW, JANUARY 31, FEBRUARY 1 AND 2, 1969, FORDHAM LAW SCHOOL, NEW YORK, NEW YORK* (Earl Phillips, ed., 1970); see also Martha F. Davis, *The Pendulum Swings Back: Poverty Law in the Old and New Curriculum*, 34 *FORDHAM URB. L. J.* 1391 (2007).

legal education.<sup>6</sup> Bellow argued that law schools should be concerned with issues beyond the immediate legal problems of poor people and the training of lawyers to engage in legal representation of the poor.<sup>7</sup>

The publication of the Dodyk casebook later that year earned similar criticism from some readers, including the author of the present review. Such criticism questioned the presentation of poverty law as if it were simply another area of unrelated legal problems, divorced from their economic, social, and political context, and the lived realities of poor people. The critics asserted that a textbook and course in “law and poverty” should emphasize the unequal distribution of income, wealth, and resources, the obstacles that those inequalities create for upward social mobility of people in the lower economic class, and the relationship of the poor to those who administer anti-poverty programs.<sup>8</sup> Such a textbook would raise questions about who the poor are, how they become poor and why they remain so, and the role law continues to play in creating, reinforcing, and exacerbating poverty.

Most people believe that poverty is a natural, pre-legal condition of society, but the maldistribution of income and wealth is not a phenomenon unrelated to law. “To believe that poverty is based only on individual failure ignores the legal structures that create and perpetuate income imbalances.”<sup>9</sup> Teachers of poverty law need to have available to them and their students teaching materials that examine the historical, economic, social, and political context of poverty, as well as the role of law and legal institutions in creating, maintaining, and reducing poverty. And how well does the new textbook meet this need?

### III. LAW, POLICY, AND PRACTICE

The first three chapters of the book—Introduction to Poverty, Social Welfare Policy, and Poverty and the Constitution—deal with some of the basic and overriding questions about poverty, social policy, and law and poverty.<sup>10</sup> A broad theme that emerges in these chapters—and throughout the book—is whether the

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6. Davis, *supra* note 5, at 1394.

7. *Id.* (“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.”)

8. *See, e.g.*, Stephen Wizner & William Resnick, Book Review, 70 COLUM. L. REV. 1305 (1970).

9. *See* LAW AND POVERTY: THE LEGAL SYSTEM AND POVERTY REDUCTION 1 (Lucy Williams, Asbarn Kjonstad & Peter Robson, eds. 2003).

10. Questions such as: How is poverty defined and measured? What is the demography of poverty? What explanations have been offered for why different individuals and members of different social groups are poor? What social policies follow from these differing causal explanations? What are the effects of existing income and wealth inequality on economic mobility and the persistence of poverty? What social policies have been devised and implemented to assist the poor and to reduce poverty, and what has been their impact? What legal provisions and institutions, constitutional protections, and advocacy efforts have been employed in those efforts, and what have they achieved?

poor are, and remain, poor because of structural or systemic economic causes, individual or cultural pathologies, perverse incentives of existing social welfare programs, or some combination of these reasons. These chapters include the editors' own writing and thought-provoking reflection questions, and well-chosen excerpts from the writings of scholars like Amartya Sen, reports and studies prepared by government agencies and non-profit research and advocacy organizations, United Nations reports, social science articles, and books by authors as diverse as Joel Handler and William Quigley on the Left and Charles Murray and Lawrence Mead on the Right. These materials offer differing, and often opposing, viewpoints, analyses, conclusions, and prescriptions. They provide an intelligent, thoughtful, and provocative introduction to the ensuing chapters and to the relationship of poverty and law.

The ensuing five chapters examine major areas of concern for people living in poverty: welfare, work, housing, health, and education. These chapters are composed of similar collections of historical, social science, policy, programmatic, and legal materials. They also include political analyses from both sides of the political spectrum, which invite thoughtful exploration and discussion of the problems faced by poor people, government programs, legal rights and entitlements, legislative provisions, and judicial decisions related to those five topics. The editors present the differing views, values, policy choices, analyses, critiques, and arguments about incentives, gender and racial issues, and ideological debates that have influenced the politics involved in the development, evolution, reform, and retrenchment of anti-poverty programs.

The majority of poor people, including welfare recipients, work.<sup>11</sup> They work at low-wage jobs that provide insufficient income to enable them and their families to rise from poverty to a minimally adequate level of self-sufficiency. The Chapters on Welfare and Work offer an in-depth consideration of the relationship between welfare, work, and poverty, and the editors examine the politics of welfare and the economic forces that affect the wage structure, including the "underground economy."

The chapter on Work provides a comprehensive view of work and poverty. Government reports from the U.S. Department of Labor Bureau of Labor Statistics and Wage and Hour Division, publications of non-profit think tanks, excerpts from scholarly articles, books, and other materials offer a range of views about the definition and size of the working poor population and proposals for enabling the working poor to rise economically from poverty. This chapter ends with a consideration of the Earned Income Tax Credit, which is in effect a government subsidy to low-wage workers and is, in terms of dollars, the nation's largest anti-poverty program.

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11. *See generally*, KATHRYN EDIN & LAURA LEIN, MAKING ENDS MEET: HOW SINGLE MOTHERS SURVIVE WELFARE AND LOW-WAGE WORK (1997).

Obtaining and retaining affordable housing is the largest single challenge and expense for the poor. The chapter on Housing covers an area in which the intersection of poverty and race is especially pronounced. Discrimination, decrepit conditions, poor location, and inadequate ancillary services are endemic to the aging stock of affordable housing in which most poor people, and particularly racial minorities, reside. As central as housing is to economic, social, and quality of life issues, it is not a legal right. Therefore, as the editors demonstrate, in the absence of legislative protections and guarantees, advocacy efforts, including eviction defense, are of limited use in assisting the poor to obtain and retain affordable housing. The mortgage foreclosure crisis and the increase in homelessness are prominent symptoms of the housing problems of the poor.

In their chapter on Health, the editors offer a description of the disparities in health care related to poverty and race, and the relationship of limited welfare benefits, low-wage work, substandard housing, inadequate nutrition, poor education, and other conditions and circumstances of the poor that directly and indirectly affect the health of people living in poverty. People living in poverty experience more health problems and worse health outcomes than the non-poor, not only because they may lack access to good health care, but because they are exposed to environmental conditions that adversely affect their health.<sup>12</sup> Medical insurance and health care are important in the alleviation of health disparities between the poor and the non-poor, but they do not address the root causes of the prevalence of poor health among people living in poverty.<sup>13</sup>

In their chapter on Education, the editors document how children growing up in poverty not only are exposed to economic hardship, unhealthy living conditions, substandard housing, poor nutrition, and poor health care, they suffer from inferior education and poor educational outcomes. In its historic decision in *Brown v. Board of Education*, a unanimous Supreme Court declared, “it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education[,] . . . a right which must be made available to all on equal terms.”<sup>14</sup> The editors present materials that make clear how far we are as a nation from achieving the equality of education promised by the *Brown* decision.

There is a strong correlation between poverty and inferior education, and between poor education and poverty. Poverty has significant and consistent associations with poor academic outcomes, and the lack of adequate education clearly has an adverse effect on adult success in life. The editors present varying views on the respective impacts of poverty, parenting, and schools on children’s

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12. TEXT, *supra* note 2, at 395–405.

13. Wendy E. Parmet, et al., *Social Determinants, Health Disparities and the Role of Law*, in *POVERTY, HEALTH, AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP* 395 (Elizabeth Tobin Tyler et al. eds., 2011).

14. *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954).

cognitive development and educational outcomes, and how these views promote or oppose differing educational policies and programs. There is no real dispute about the fact that children of the poor have worse educational outcomes than other children. The fact that poor children tend to grow up in the care of parents or other adults who are also poorly educated often has an adverse impact on the children's educational success.<sup>15</sup> The editors explore the governmental role in addressing the achievement gap between poor and non-poor children, education advocacy in the courts, alternatives to traditional schools, the school-to-prison pipeline, and other educational issues arising from the relationship between poverty and education.

The final four chapters of the book cover issues related to law and poverty that have not been given prominence in previous casebooks. These chapters discuss punitive practices to which the poor are subjected and the impoverishing effects of mass incarceration, especially of African-American males; debates surrounding the provision of and need for government-funded and *pro bono* civil legal services for the poor and other financial obstacles to access to justice; market-based responses to poverty; and, finally, international human rights norms and instruments as sources of anti-poverty rhetoric and activity.

The chapter on Criminalization is a unique feature of the textbook, one that adds an important area of study for those who wish to understand how law and legal enforcement mechanisms specifically affect the poor. The chapter would also serve as a creative supplement to the standard course in criminal law. Programs specifically designed to assist the poor, like cash assistance, food stamps, and public housing and Section 8 subsidies, subject beneficiaries to intrusive and degrading measures such as home visits and searches, paternity tests, fingerprinting and drug testing, exclusion and eviction policies in public housing, and other punitive measures. These practices presume immoral, fraudulent, and illegal behavior by poor individuals, and they impose similar sanctions on their families because of actual or perceived misconduct by a family member. Similarly, law enforcement measures such as vagrancy laws and police practices affecting the homeless are further manifestations of social biases and intolerance toward the poor.

This chapter also considers how criminal law enforcement and incarceration disproportionately affect the poor and, especially, minority men. The editors also address "re-entry" problems in this chapter—the post-release consequences of incarceration such as employment discrimination, denial of admission to public housing and educational programs, and other legal disabilities imposed on those with criminal records. Finally, this chapter looks at what has come to be referred to as "crimmigration," the immigration consequences of a criminal conviction and the blurring of lines between criminal law and immigration law.

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15. TEXT, *supra* note 2, at 464–68.

In the chapter on Access to Justice, the editors address the justice gap between the need for and provision of legal services for low-income individuals. Among the issues considered in the wide-ranging and comprehensive collection of materials the editors provide are the insufficient funding of legal services for the indigent in the United States, especially when compared with what is provided in other Western countries; the role of the private bar in providing pro bono, “low bono,” and “unbundled” legal services, and the debate over mandatory pro bono requirements; constitutional litigation asserting a right to civil legal services for the poor and differing views concerning the so-called “Civil Gideon” movement that advocates for a right to counsel in certain civil matters;<sup>16</sup> and the role of law school clinics in providing legal services to the poor.

Equal justice for all is a fundamental precept of American Democracy. The fact that the poor in America do not enjoy equal access to courts and to legal representation belies the promise of equal justice. Although access to courts and lawyers—even excellent, well-resourced lawyers—cannot achieve *economic* justice for the poor, the lack of affordable and competent legal services for so many low-income individuals represents a legal and moral blot on our Constitutional democracy. The editors make clear that not only the government, but also the private bar, have unmet responsibilities for providing access to justice for the poor. This is a lesson that law students in particular need to learn.

While legal services are crucial to the protection and realization of individual rights and interests, access to courts and legal services can have little impact on the root causes of poverty, which are basically economic. It is not surprising, therefore, that, as the editors assert, “[m]arket responses to poverty play an increasingly significant role in how poverty is addressed . . . because market solutions may offer new ways of thinking about how to support poor communities.”<sup>17</sup>

In their chapter on Markets, the editors present two market-based anti-poverty strategies that have gained traction in recent years: Community Economic Development (CED) and Access to Credit and Financial Services. They also discuss a third strategy, private charity, which receives government support through the availability and potential of the charitable tax deduction to affluent taxpayers. The editors question whether the charitable tax deduction actually serves as an impetus to wealth transfer from the affluent to the poor.

CED employs capitalist ideology as an anti-poverty strategy. Rather than relying on government anti-poverty programs, this strategy encourages and supports entrepreneurial efforts by and with low-income individuals and communities that create jobs for the poor through micro-enterprise and commercial development, and increase the stock of affordable housing. These efforts

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16. See, e.g., ABA MODEL ACCESS ACT (2010), available at [http://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_toolkit\\_for\\_crtc.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_toolkit_for_crtc.authcheckdam.pdf).

17. TEXT, *supra* note 2, at 653.



include small business start-ups, affordable housing development, and the creation of shopping centers and community based financial institutions, typically structured and managed by government-chartered Community Development Corporations. These efforts are often provided no-cost legal counsel by law school CED clinics.

The community activists and lawyers who are involved in CED projects ground their anti-poverty efforts in local communities, some of them in federally designated Economic Empowerment Zones, and focus on raising capital and market development rather than litigation or political mobilization. Excerpts from two law review articles, by legal scholars William Simon and Scott Cummings, offer contrasting perspectives on the CED movement.<sup>18</sup> Simon offers a favorable description of the positive social, economic, and political effects of CED activity, while Cummings responds with a critique of the CED movement's privileging of market-based business and housing development, divorced from the political activism necessary to redress problems inherent to concentrated poverty, unemployment, and income and class stratification.<sup>19</sup> This is an important debate that offers readers a useful and thought-provoking engagement with the potential and limitations of capitalist market strategies for reducing poverty.

The second market-based anti-poverty strategy presented by the editors is Access to Credit and Financial Services. The editors describe two initiatives for improving the access of the poor to credit: the Community Reinvestment Act (CRA) and microcredit. The CRA requires federally insured banks to lend and invest to meet the financial needs of poor communities in which they are chartered. The statute was intended to eliminate discriminatory lending practices, especially in minority communities. The editors present a debate in the form of excerpts from a speech by Ben Bernanke, Chairman of the Federal Reserve, and a law review article by Professors Jonathan Macey and Geoffrey Miller.<sup>20</sup> The Bernanke speech offers a generally favorable view of the CRA, while the Macey and Miller article criticizes both the mandates and the implementation of the CRA as being harmful to the credit market. By presenting these opposing views concerning a major legislative effort to regulate the credit market for the benefit of poor and minority communities, the textbook editors invite readers to evaluate and think deeply about competing political and economic policies and values implicated by measures enacted to increase access to credit.

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18. *Id.* at 664–67.

19. *Id.*; see also William H. Simon, *The Community Economic Development Movement*, 2002 WIS. L. REV. 377 (2002); Scott L. Cummings, *Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice*, 54 STAN. L. REV. 399 (2001).

20. TEXT, *supra* note 2, at 679–83. See also Ben S. Bernanke, Chairman, Fed. Reserve, Address at the Community Affairs Research Conference (Mar. 30, 2007); Jonathan R. May & Geoffrey P. Miller, *The Community Reinvestment Act: An Economic Analysis*, 79 VA. L. REV. 291 (1993).

Microcredit is the other access to credit initiative presented by the editors. Even with the existence of laws like the CRA, the poor often do not qualify for bank loans, especially small loans. Their lack of sufficient income, assets, and acceptable credit ratings, and the administrative costs of investigating and monitoring loans, make it economically unfeasible for banks to extend relatively small amounts of credit to low-income individuals with entrepreneurial goals. Microcredit lending initiatives, exemplified by Nobel peace laureate Muhammad Yunus's Grameen Bank, offer small personal loans to borrowers seeking to invest in or purchase goods for small businesses. The editors provide excerpts from a variety of business and other publications discussing the opportunities and challenges of microfinance. Following these materials, the editors offer provocative reflection notes and questions that call upon the reader to think about whether microcredit can have a significant impact on poverty.

The editors next ask whether private charity, incentivized by the charitable tax deduction, can be viewed as an effective form of wealth transfer from the affluent to the poor. In examining the connection between charity and poverty, the editors present data demonstrating that only a small fraction of charitable donations support anti-poverty efforts, the majority going to subsidize educational and religious institutions and arts programs. In view of the quite modest redistributive effects of the federal charitable tax exemption, the editors question the value of the tax incentive as a significant aid to the poor.

In their final chapter, which focuses on Human Rights, the editors quite properly treat poverty as a fundamental human rights issue. Indeed, the editors might well have considered placing this chapter at the beginning of their textbook as a foundation for what they present in succeeding chapters concerning social and economic rights. In the Human Rights chapter, they consider the role of international human rights declarations, conventions, and customary law as a basis for anti-poverty legal activism. The chapter provides a mini-course in human rights, setting out the historic and conceptual foundations of the field; the legal framework and enforcement mechanisms of human rights norms; the active role that the United States played in the development of the human rights regime, contrasted with the extreme reluctance of American courts to invoke that regime in deciding domestic cases; the relevance of human rights to poverty; and the potential for applying human rights concepts to domestic anti-poverty efforts. The editors provide a panoply of United Nations documents, excerpts from government reports, articles, books and speeches, as well as a couple of judicial opinions, one from South Africa, the other from the United States, reflecting potential applications of international human rights norms in domestic judicial adjudication.

The twelve chapters that make up this textbook provide an excellent overview of the relationship of law and poverty. The chapters unfold in a logical progression, each of them relating to chapters that precede and follow it. But there really is no necessary order in which they must be read or taught. For

example, as stated above, the final chapter on poverty as a human rights issue might be considered ahead of the other chapters, and similarly, the chapters on Social Welfare Policy and of Poverty and the Constitution could be read after the substantive chapters on Welfare, Work, Health, and Education. Individual chapters could serve as supplemental reading in courses whose primary focus may not be poverty, such as administrative law or education law or health law or housing law.

#### IV. CONCLUSION

Law is a system of rules, institutions, and enforcement mechanisms that govern a society, provide for the common welfare of its members, and reflect the society's basic values. It is through law that a society maintains social, economic, and political stability, assures the common good, and effectuates social and economic change.

The vast inequalities in wealth and income in America have been enabled by law and legal institutions. Redistributive, equalizing measures such as tax policy; government expenditures on welfare, housing, health, and education; employment incentive and subsidy measures, such as increased minimum wage requirements and earned income tax credits; and government regulation of private capital markets and activities, all have the potential for reducing massive inequalities in wealth and income, and should be more aggressively employed. As Nobel economics laureate Joseph Stiglitz has argued, "Widening and deepening inequality is not driven by immutable economic laws, but by laws we have written ourselves."<sup>21</sup>

The provision of legal services to the poor, while serving to fulfill the promise of equal justice for all, does not and cannot have a significant effect in reducing poverty and economic inequality. Lawyers representing poor people in addressing their legal problems, in challenging discrimination and bureaucratic arbitrariness, and in seeking fairer procedures, important as that is, will not reduce poverty so long as anti-poverty measures fail to confront, in a meaningful way, the vast inequality of wealth and income.

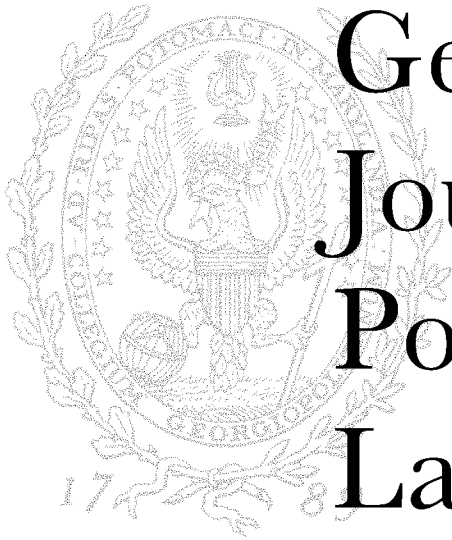
The excesses and market failures of laissez-faire capitalism, insufficiently taxed inter-generational transfers of private wealth and the income of corporations and wealthy individuals, low wages, stingy public welfare programs, unhealthy living conditions, and inadequate educational resources, all reflect the failure of law to require a more just and equitable distribution of income and resources.

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21. Joseph E. Stiglitz, *Inequality Is Not Inevitable*, N.Y. TIMES (June 29, 2014, 6:16 PM), [http://opinionator.blogs.nytimes.com/2014/06/27/inequality-is-not-inevitable/?\\_r=0](http://opinionator.blogs.nytimes.com/2014/06/27/inequality-is-not-inevitable/?_r=0); see generally, JOSEPH E. STIGLITZ, *THE PRICE OF INEQUALITY: HOW TODAY'S DIVIDED SOCIETY ENDANGERS OUR FUTURE* (2012).

A law school course in law and poverty must address the historic, economic, social, and political context of poverty, as well as the role that law has played and continues to play in promoting, protecting, and increasing economic inequality. To accomplish this in the modern law school requires teaching materials substantially different from the standard law school casebooks currently in use in most law school courses. *Poverty Law, Policy, and Practice* is an important step in that direction. While a single textbook can hardly be expected to transform legal education, its use by skilled professors can offer law students an intellectually challenging and thought-provoking exposure to the root causes of poverty and the relationship of law to poverty. It can also serve to inspire law students as future lawyers and legislators to a professional engagement with reforming law—in legislatures and courts—as a means of reducing poverty.

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Hai Binh Nguyen

Kevin Sarlo

Umar Sattar

Nicholas Schaufelberger