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## Introduction

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# INTRODUCTION

EMILY F. SUSKI\*

On January 8, 1964, President Lyndon Johnson declared an unequivocal war on poverty in his state of the union address.<sup>1</sup> The results of this effort were numerous laws that have had and continue to have an impact on low-income populations. Within months of Johnson's declaration, the Civil Rights and the Economic Opportunity Acts were passed in Congress, and shortly thereafter the Food Stamp Act was also enacted.<sup>2</sup> The Economic Opportunity Act created the Office of Economic Opportunity and funded numerous anti-poverty programs.<sup>3</sup> These programs included investments in job training, youth employment, rural economic development, adult education, and migrant farmworker services.<sup>4</sup> The Economic Opportunity Act also provided the money to start what became the Legal Service Corporation, funding lawyers to represent low-income clients in civil cases.<sup>5</sup> By the end of 1966, a number of other laws that have had a substantial effect on the lives of low-income populations had passed, including the Voting Rights Act, the Elementary and Secondary Education Act, and amendments to the Social Security Act, which established Medicaid and Medicare.<sup>6</sup>

Despite the volume of legislation passed to directly or indirectly address poverty, the impact of the War on Poverty has nonetheless been the subject of much debate.<sup>7</sup> In the decade immediately following Johnson's declaration of a war on poverty, statistics evidence its more immediate impact. By 1974, the

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<sup>1</sup> Press Release, White House, Statement by the President on the 50th Anniversary of the War on Poverty (Jan. 8, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/01/08/statement-president-50th-anniversary-war-poverty>.

<sup>2</sup> Annelise Orleck, *Introduction: The War on Poverty from the Grass Roots Up*, in *THE WAR ON POVERTY: A NEW GRASSROOTS HISTORY, 1964–1980*, at 1, 3 (Annelise Orleck & Lisa Gayle Hazirjian eds., 2011).

<sup>3</sup> *Id.* at 9.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 3.

<sup>7</sup> See, e.g., Alex Rogers, *Paul Ryan Critiques War on Poverty in New Report*, TIME, Mar. 3, 2014, <http://swampland.time.com/2014/03/03/paul-ryan-critiques-war-on-poverty-in-new-report/>; Lisa Mascaro, *Rep. Ryan Calls for Cuts in Anti-Poverty Programs*, L.A. TIMES, Mar. 4, 2014, at A7, available at <http://www.latimes.com/nation/politics/politicsnow/la-pn-paul-ryan-poverty-20140303,0,11560.story#axzz2v1o7gIhI>; Annie Lowrey, *50 Years Later, War on Poverty Is a Mixed Bag*, N.Y. TIMES, Jan. 5, 2014, at A1, available at <http://www.nytimes.com/2014/01/05/business/50-years-later-war-on-poverty-is-a-mixed-bag.html>.

poverty rate itself had been cut dramatically.<sup>8</sup> At the end of that ten year period, the number of people living in poverty in the United States had been reduced by approximately half, and the percentage of children living in poverty had decreased to 14% from 27%.<sup>9</sup>

The long-term impact of the War on Poverty, however, has been the subject of debate for decades, a debate that has very recently been reenergized with the arrival of the fiftieth anniversary of the War on Poverty in January 2014. Some have called the War on Poverty a success whose legacy has had a lasting impact on the lives of Americans.<sup>10</sup> Others have called it an utter failure.<sup>11</sup> While still others have concluded that the War on Poverty's results are a "mixed bag."<sup>12</sup>

These conclusions, however, are far from the full story about the legacy of the War on Poverty. These Articles, first presented at the 2014 AALS Joint Program of the Sections of Poverty Law & Clinical Legal Education, and now published in this volume of the *Boston College Journal of Law & Social Justice*, serve to help flesh out that legacy. They do so both by pointing to the successes of the War on Poverty, limitations those poverty efforts have faced, and the ways forward. They serve as a reminder of the utility of the law at addressing the problems of those among us who struggle the most and as a call to better serve them.

In her article, *Deadbeat Dads & Welfare Queens: How Metaphor Shapes Poverty Law*,<sup>13</sup> Ann Cammett tackles the legacy of one of the programs probably most identified with the War on Poverty, Aid to Families with Dependent Children ("AFDC"), though now its official name is Temporary Assistance to Needy Families. The change in nomenclature came with the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which Cammett argues undid much or all of the social safety net established by AFDC. She argues that the demise of AFDC as an effective anti-poverty tool resulted from racist and sexist rhetoric regarding undeserving female recipients of welfare, the "welfare queens," and the fathers of their children, the "deadbeat dads," who are alleged to not pay child support. She contends that efforts to support children in poverty need to focus instead on the children, not the parents, in part to escape the trappings and negative effects of rhetoric regarding their parents.

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<sup>8</sup> Orleck, *supra* note 2, at 6.

<sup>9</sup> *Id.*

<sup>10</sup> See Press Release, White House, *supra* note 1 (noting that millions of more Americans would be in poverty today if it were not for the War on Poverty and resulting programs).

<sup>11</sup> See Lowrey, *supra* note 7 (noting 46 million Americans still live in poverty today).

<sup>12</sup> See *id.* (acknowledging both that more people would be in poverty today were it not for the War on Poverty and that the poverty rate has failed to decrease more than approximately four percentage points in two generations).

<sup>13</sup> 34 B.C. J.L. & SOC. JUST. 233 (2014).

Francine Lipman and Dawn Davis in some ways do the opposite of what Cammett does in her Article. In *Heal the Suffering Children: Fifty Years After the Declaration of War on Poverty*,<sup>14</sup> they examine laws not traditionally associated with the War on Poverty: the Earned Income Tax Credit and the Child Tax Credit in the Internal Revenue Service Code. Though not popularly associated with poverty reduction, those tax credits are responsible for moving 5.7 million individuals and 3.1 million children out of poverty.<sup>15</sup> Despite their successes, Lipman and Davis see room for improvement. They argue that the varying definitions of a “qualifying child” under the tax code can result in low-income individuals failing to claim all the tax benefits they may be entitled to. To address the problem, Lipman and Davis call for reforms to these definitions including the elimination of citizenship, national or residence requirements in all child-related tax benefits.

Alex Hurder discusses the changes to the Elementary and Secondary Education Act in his article, *Left Behind with No “IDEA”: Children with Disabilities Without Means*.<sup>16</sup> The Elementary and Secondary Education Act is now called, perhaps more famously, the No Child Left Behind Act (“NCLB”). Hurder argues that the substantive changes to the law that came with the change in name had a troubling impact on another education law that affects children in poverty, the Individuals with Disabilities Education Act (“IDEA”). The IDEA provides procedural and substantive rights to students with disabilities in school. Hurder argues that when the IDEA was revised, in part to align it more closely to the NCLB, it had a particularly negative impact on low-income children with disabilities. He contends that the IDEA no longer protects low-income students with disabilities as effectively as it once did because it limits their ability to contest violations of the law. He calls for a number of changes when the law is next revised to address these problems, including an elimination of the limitations on attorneys’ fees awards.

In her article, *50 Years After the War on Poverty: Evaluating the Justice Gap in the Post-Disaster Context*,<sup>17</sup> Davida Finger looks at one particular program of the War on Poverty, federally funded legal services for low-income people in civil cases. Those legal services programs are now, as Finger points out, administered through the Legal Services Corporation (“LSC”). Acknowledging the value in this program, her Article points out the limitations it faces fifty years later with respect to a particular low-income population: low-income communities affected by disasters. The poor are easily among the most affected by disasters because of a number of factors including physical isolation, lack of electronic resources and related media connec-

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<sup>14</sup> 34 B.C. J.L. & SOC. JUST. 311 (2014).

<sup>15</sup> See Francine J. Lipman, *Access to Tax Injustice*, 40 PEPP. L. REV. 1173, 1199 (2013).

<sup>16</sup> 34 B.C. J.L. & SOC. JUST. 283 (2014).

<sup>17</sup> 34 B.C. J.L. & SOC. JUST. 267 (2014).

tions, and substandard housing that is most susceptible to damage or destruction in disaster situations.<sup>18</sup> Through the lens of the Hurricanes Katrina and Rita Disasters and their impact on New Orleans, Finger explains how an overwhelming majority of low-income people's legal needs went unmet post-disaster. She points to structural limitations in the funding scheme of the LSC as well as substantive limitations in the Federal Emergency Management Agency's ability to fund lawyers for only a narrow subset of post-disaster issues to explain the limited legal resources to meet the needs of low-income individuals post-disaster. Finger then recommends ways to address these problems so the LCS as well as FEMA can adapt to better serve low-income populations today.

Patricia Roberts also addresses the limitations of the LSC in her Article, *From the "War on Poverty" to Pro Bono: Access to Justice Remains Elusive for Too Many, Including Our Veterans*.<sup>19</sup> Veterans now make up approximately ten percent of the United State population,<sup>20</sup> but as Roberts points out, limitations on LSC funded attorneys, including income-eligibility limits on the clients they can represent as well as limits on attorneys representing veterans at the initial application for benefits, have left many veterans without needed benefits or a lawyer to help obtain them. Roberts calls for law school clinics to take on some of the role of serving veterans. She cites the William and Mary Law School Puller Clinic as a successful example of how clinics can help fill the justice gap left by the LSC for the veterans of today.

Each of these Articles contributes to the on-going and necessary conversation about how the law, and we as a nation, can better help alleviate the problems of poverty today, fifty years after the War on Poverty was first declared.

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<sup>18</sup> Alice Fothergill & Lori A. Peek, *Poverty and Disasters in the United States: A Review of Recent Sociological Findings*, 32 NATURAL HAZARDS 89, 94–96 (2004).

<sup>19</sup> 34 B.C. J.L. & SOC. JUST. 341 (2014).

<sup>20</sup> Rick Little & Stacy Garrick Zimmerman, *Helping Veterans Overcome Homelessness*, 43 CLEARINGHOUSE REV. 292, 292 (2009).