

## The Criminalization of the Poor

Kensington Welfare Rights Union<sup>a</sup>

### *Introduction*

Every period in history is defined by certain major social problems. Today, every problem facing society is shaped by the growing polarity between wealth and poverty. This polarity affects all persons within the spectrum. The unequal distribution in wealth in our society has grown at an unprecedented pace. The wealth of the three richest individuals equals the combined income of 106 million people living in the United States of America.

The accelerated growth of the country's productive capacity resulting from new technologies make the existence of poverty unnecessary. Despite this wealth, every year the United States throws away 46 billion pounds of food when it would take only 4 billion pounds to completely end this country's growing hunger. This impoverishment in the midst of plenty is causing further

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a. KWRU is an organization comprised of active breakers of unjust laws. It is an organization comprised of people who are forced every day to break the law in order to live. KWRU has built real indigenous leadership from the ranks of the poor to fight for economic justice. KWRU has been highlighted in an internationally recognized video, entitled *Poverty Outlaw*, which premiered at the 1996 Sundance Film Festival and which has aired nationally on PBS and public access cable stations across the country. KWRU led a 10 day march from Philadelphia to the UN and spearheaded a month long bus tour for economic justice around the U.S., captured in the feature length video *Outriders*.

impoverishment of our civic values, democracy, and ethics. The value of human life is being diminished as people are underpaid, laid off, and locked out.

Along with this devaluation has been decades of managed mis-perception, which places blame for poverty on the poor themselves. The criminalization of the poor as a “black underclass,” labeling them as not having a work ethic and as “welfare queens” diverts the attention of the people away from the real roots of poverty in this, the richest country in the world. The hearts and minds of the majority of our society must be moved to end poverty, not merely manage it. This movement can only take place if false beliefs and stereotypes are defeated. This can be accomplished only through uniting and organizing the poor into an effective political force. In this respect Reverend Martin Luther King, Jr’s words retain profound meaning,

The dispossessed of this nation—the poor, both white and Negro—live in a cruelly unjust society. They must organize ... against...the structures through which the society is refusing to take [the] means...which are at hand, to lift the load of poverty. There are millions of poor people in this country who have very little, or even nothing, to lose. If they can be helped to take action together, they will do so with a freedom and power that will be a new and unsettling force in our complacent national life.

### *Learning from History*

In response to the Great Depression and the political action of the unemployed that developed in its wake, the U.S. Government enacted the Social Security Act of 1935. The Act guaranteed the right to survival to all people. In 1996, after waging two to three

decades of ideological and psychological warfare against the poor, this guarantee was eliminated. In reality, the guarantee has been eroding for many years, but not until the 1996 law has this eroding become so dramatic. As the gap between the rich and poor has grown, the ease with which the decision makers could write off the poor increased. Governmental and social responsibility, which grew from an ethic of social responsibility and vision of democracy that the New Deal at least theoretically symbolized, was abandoned. Roosevelt's central principle was that democracy and social justice cannot exist for anyone, even the rich, when so many are poor. If so many must worry about the source of their next meal or whether they will have a place for their family to sleep, they cannot participate in the political community of our nation. To Roosevelt, such a state of affairs was unjust and would lead to the perversion of democracy.

It seems that the key to an apathetic national consensus concerning the devastating poverty that pervades our country has been the demonizing and criminalizing of the poor. We no longer seem to see the problem of poverty as a problem which affects and impoverishes all in this nation. At its base, welfare reform is not just about welfare recipients, but getting the bulk of the American people to accept a lower standard of living, a limited sense of community, and a democracy devoid of ethics and justice. Our task today is to show the American people that the laws that maintain such widespread poverty is against the creed of this nation and the world community, that the laws which exacerbate and maintain such widespread poverty do injury to us all.

*How can the voices of  
the poor be heard?*

The years of demonizing and stigmatizing of the poor has resulted in demoralization. Negative images can be paralyzing. Poor people must fight to survive every day in a society that devalues them. This devaluation has been internalized by many poor people who believe that they have no worth. Because of this, education has been a central part of our campaign. Education allows us to defeat this internalized oppression and to value ourselves as human beings. At the same time it has enabled us to wield the most powerful weapon we have at our disposal: our mental capacity to be creative and to stick and stay a winning course.

Whenever the poor are not moving and organizing and visible, there is no real debate in this country about the elimination of poverty. Without their voices, poverty is hardly conceived of as a social problem. Without their voices and movement, the problems of poverty are segregated to areas like Kensington and other areas of concentrated poverty. The growing popularity of so-called "anti-vagrancy" laws, designed to remove the poor from the public streets, shows the strong desire to remove the poor from sight and to silence protest. We must show that the poor can speak for themselves and give leadership in an anti-poverty movement.

*Building a Movement to Criminalize Poverty,  
Not the Poor...*

When you get right down to it, to be poor in America makes you a criminal. To drive your car without insurance, to steal food because your family is hungry, to take vacant houses so that your family is not out on the streets, to have your utilities turned on

illegally so that there is heat in your home violates the nation's laws. We were involved in a case in Chicago where a homeless mother was forced to choose between breaking a lock and entering federally owned property that was heated and empty—so as to save herself and her child from sub-zero temperatures—or dying on the street. Her poverty was legal; her saving herself and her child was illegal. All across the country there are people dying as a result of freezing to death or going without food and adequate health care. What we have are laws that deny people the right to the basic necessities of life. That these acts of survival are against the law should force us to question the justice and integrity of the law itself.

*The "Legal" Response to  
Poverty in Philadelphia*

In addition to placing time limits and work requirements on welfare recipients, Philadelphia has responded in other ways to deal with the problems of poverty. We've seen the enactment of a massive "Zero Tolerance on Graffiti Campaign," designed to criminalize poor youth graffiti artists of all ages and colors for writing on the walls of the multitudes of abandoned factories and warehouses which cover the city. Meanwhile, the factory owners who moved their businesses from the central cities, causing massive job layoffs and further economic depression, are not held accountable for the deprivation caused.

With "Operation Sunrise" we've also seen the increase in police presence in our communities leading up to and continuing after Pennsylvania's March 3, 1999 implementation of welfare reform. This increased police presence is the city's real response to welfare reform and increased poverty. Officially a response to drugs and crime, "Operation Sunrise" is affording the police,

clergy, social service agencies, and various city offices the opportunity to encourage poor communities to celebrate an increased police presence. This has taken attention away from dealing with why drugs are so prevalent in poor communities, and why certain communities are so poor.

The criminal justice system therefore has been the focus of attention, rather than the right to housing, jobs at living wages, health care, quality education. As a society we have refused to invest in those systems which have the most demonstrated success in really raising people out of poverty, such as increased opportunities for post-secondary education, quality training opportunities, improvements in the public school system, health insurance, and affordable housing. Instead we have placed our faith and resources in putting the poor behind bars. Recently a social worker from Australia visited our office in Kensington and commented that the "law and order strategy" seemed to be the city's only response to the problems in the community.

Several years ago we went on a 7 day march of 140 miles to Harrisburg to protest welfare reform and bring attention to the 250,000 people who would be cut off of medical assistance as a result of it. Upon arriving at the State Capital, we set up make-shift housing, our Ridgeville Tent City, in the Capital Rotunda. Our activity attracted all sorts of attention to the issue of homelessness and the impending welfare cuts. For the poor, without the financial resources to hire lobbyists to make our points heard in other ways, this activity made a political statement. In fact, the Tent City attracted lawyers, students, journalists, social workers, labor unions and others, bringing them into discussion with those most affected by some of the decisions made in Harrisburg. Unfortunately, rather than engaging in dialogue with our group, Pennsylvania Governor Tom Ridge used the law to banish us from the capital by enacting laws that kicked us out of the capital

rotunda and then from the steps of the capital. So much for freedom of speech, debate, and participatory democracy!

Our action at the Capital Rotunda attracted lawyers who were overwhelmed with utility shut-offs and evictions. They saw political power in what we were doing. With us they tried to figure out ways to prolong our activities so a debate about poverty and welfare could be fostered. Here, forging relationships, not winning cases, was of central importance.

Overall, our society seems to be marshaling the power of the criminal law to deal with poverty, rather than seeking to create institutions and laws that support social and economic justice. We ask those of you who do not go home to Kensington every evening to think about how the law looks to poor communities all over the nation—and how different it looks from the vision of law presented in law school classrooms. We need to ask right now what sort of future our society heading toward by dealing with poverty through the criminalization of the poor, and thus avoiding issues of social justice.

*Strategy Must be Based on the  
Historical Power of Rights and  
Their Potential for the Future*

We need to go on the offensive to make poverty, not those who are poor, criminal in this country. How do we build a movement to criminalize poverty, not those who are poor? How do we build a movement to make poverty illegal and hold our government and non-government actors accountable for this crime? Everything we do must be informed by a strategy that is directed towards ending poverty, not just managing it.

We need to look at movement building in a historical context. The rhetoric of rights has played a powerful role in America's

political and social history, from the American Revolution to the Civil Rights Movement. The Declaration of Independence, which expresses the rights to life, liberty and the pursuit of happiness, was the banner of the American Revolution. The American people set up a government to ensure the rights listed in that document. Those rights were essential to democratic government. The history of the American Revolution and protests since that period show that rights are not just against government, but create government and social responsibility. Therefore, when government abdicates its responsibility to the people, the government needs to be changed. The people have a right to make such a change, and in fact, have that responsibility if they seek a just and democratic society.

At every junction in our country's history, be it the struggle against slavery, for women's rights, worker rights and civil rights, the tradition of rights has been a rallying cry. But, despite the currency of rights talk in our society, the meaning and content of these rights have become perverted. The right to a decent level of well-being, to meaningfully participate in democracy and community have become understood as a mere right to act freely within a market economy.

We need to revive a more meaningful conceptions of rights, one which includes economic, human, social, and political rights. Disparities in wealth and the growth of poverty in our country has impoverished our concept of rights, and changed our expectations of government and society. We believe that the American people have human, economic, social, and democratic rights and that these rights are being denied. For the American people to have these rights we will need to raise the creed of the Declaration of Independence and organize around a more meaningful vision of rights. As leaders in the movement to end poverty we must pick up the struggle for rights which we are handed down through



history. The fight for human rights can be an offensive struggle and a unifying force.

We must explore the relationship between social movements and the law. Behind every existing law there is a political constituency. There were no anti-slavery laws until the constituency was organized. We need a movement that argues and fights for new and just laws, otherwise lawyers will limit litigation to the current, existing unjust laws, and no systemic change will result. To limit legal strategies to the latter is like arguing for better chairs on the Titanic instead of making those chairs into rafts to get the hell off. We need to redefine the terms of debate about poverty and social justice in order to create entirely new alternatives and possibilities.

At one point in the history of this country slavery was legal. Yet abolitionists and slaves saw these laws as unjust and combined the practical activity of the underground railroad with speaking, writing, and a legal strategy. Even though, initially, most of the legal battles were lost, activists mobilized public opinion against slavery. Winning was about winning people's hearts and minds.

Today poverty is legal, and the court system continues to operate on and accept that fact. The prevalence of poverty in our society should challenge people—especially those who are economically stable—to see the law: to see how it treats the poor and rich so differently, to see the fiction of law's neutrality. For lawyers, the question is this: do you continue to practice law and accept a judicial system that makes poverty legal, or do you work with others to develop a legal strategy and build a movement that will ultimately produce a society and laws that are just and foster the well-being and potential of all individuals?

*How do We Build a  
Movement to End Poverty?*

To build a movement, we cannot become absorbed with lobbying in Washington D.C. or Harrisburg, or litigating in the courts. While we must do these things, they cannot become our sole focus, because the unjust laws and policies that plague us have emanated from exactly these bodies. Our focus must be structural change, and taking our case to the United Nations is part of that effort.

Everything we do is about building an organization of the poor which provides the base for a movement to end poverty. Only in this context can we appreciate the significance of the Economic Human Rights Campaign. The EHRC is about creating a movement to criminalize poverty and those institutions and individuals who create and perpetuate it. In bringing this indictment against our government, we are taking this case before the court of world opinion.

In this campaign, we are standing with the poor around the world. Up until, now there have been mostly solidarity movements that have been a buffer between the world's poor. The kind of chemistry we are talking about here, the unity and organization of the world's poor, will be the basis of a new morality defining just and unjust laws and legal systems internationally.

We have exhausted the formal means of protest within the United States. Indicting the government for economic human rights violation is not just a symbolic act. Essentially we are saying that the government has a responsibility to guarantee the creed of the land to all, and that economic and social justice should be supported by our laws and institutions.

The documentation of economic human rights violations caused by poverty should be taken up by all. Already we have

over forty organizations of the poor, homeless, unemployed, and marginally employed who have joined in this Campaign. We also have a legal committee putting together a formal petition to be submitted to various international legal bodies. We have testified at the United Nations, been cited in an official report of the UN High Commissioner on Human Rights, and met with UN experts on extreme poverty and human rights.

*What can lawyers do?*

Whether it is advocacy on individual cases, the criminal defense of civil disobedience cases, working on the petition to charge the US government with violations of economic human rights, lawyers must work in partnership with the poor. Lawyers must understand that in building a movement to end poverty, the interests and demands of the section of society most affected by the problem must be at the forefront of this collaborative struggle.

How can lawyers practice law in partnership with organizations of the poor in such a way that facilitates discussion and debate? How can lawyering galvanize the building of a movement? Courage with clarity and commitment will be involved in traveling this route. Americans do not want to see kids put to bed hungry. They do not want to see working people who can't feed their kids or keep a roof over their heads. By virtue of being human we have the right to security, health, and well-being. Given the productive capacity and wealth of this country, this is not a utopian demand. To really fight for economic human rights means to organize the poor, those who have been most denied these rights.

Unless we concern ourselves with building a movement to end poverty, we will not be able to counter the current alignment of forces that dominate the legislature and court system. Ultimately

to be successful in our efforts we must organize a movement that is led by the poor and that highlights the destructive effects of poverty on our society, and which recognizes that there are never rights without organizations to back them up.