

## Lawyers Must Embody “Bold Missionary Spirit,” Do More for the Elderly Poor

As I listened to Pope Francis deliver his homily from the eastern portico of the National Shrine at Catholic University, I kept thinking to myself, what a joy this service would have been for my 88 year-old grandmother. But the hot sun beating down for hours while we waited for His Holiness to travel to campus put attendance of this rare mass beyond her abilities. I wondered, did the Secret Service consider the ability of the elderly to withstand several hours of late summer heat with no shade? Are any of us as mindful of these needs as we should be, in our professional and personal lives?

Pope Francis has made care for the elderly a paramount imperative for the leading of a moral life. In a March 2015 catechism, he said that “[i]t’s awful to see the elderly discarded. We have grown accustomed to throwing away people.”<sup>1</sup> Take it from someone who has spent three semesters in Catholic University’s civil practice clinic: His Holiness might as well have been talking about our justice system itself.

Of paramount concern to those in the profession who are aware of it, is our failure to meet the needs of the elderly in the provision of legal services. The legal needs of the elderly—who experience an above-average rate of poverty—are myriad, and those needs become increasingly dire with age, as functional and financial capacity wane. There are legal problems that the elderly face which are unique to the elderly, such as probate and guardianship, and yet these are often compounded by the endemic legal problems of poverty such as housing and healthcare.

Now, from a policy perspective, this issue has received attention—perhaps not commensurate with its urgency and scope, but attention nonetheless. And certain jurisdictions are making great progress in this area. This past summer, a thirty-eight-member Elder Law Task Force appointed by the Pennsylvania Supreme Court culminated its eighteen-month-long investigation with a 284-page report offering 130 specific recommendations for improving access to justice for seniors.

But there remains the shameful fact that there is only about one legal services attorney for every 6,415 low-income person in the United States.<sup>2</sup> With 15% of seniors living below the poverty level, and an increasing population of seniors—currently at more than 62.8 million Americans, and rising—this gap spells a crisis for the elderly, and for our families of which they are a part.<sup>3</sup>

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<sup>1</sup> Diane Montagna, *Pope Condemns “Throw-Away Culture” That Sees Elderly as “Baggage”*, ALETEIA (Mar. 4, 2015), <http://aleteia.org/2015/03/04/pope-condemns-throw-away-culture-that-sees-elderly-as-baggage/>.

<sup>2</sup> LEGAL SERVICES CORPORATION, DOCUMENTING THE JUSTICE GAP IN AMERICA (Sept. 2009), [http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf).

<sup>3</sup> Juliette Cubanski et al., *Poverty Among Seniors: An Updated Analysis of National and State Level Poverty Rates Under the Official and Supplemental Poverty Measures*, THE KAISER FAMILY FOUNDATION (Jun. 10, 2015), <http://kff.org/medicare/issue-brief/poverty-among-seniors-an-updated-analysis-of-national-and-state-level-poverty-rates-under-the-official-and-supplemental-poverty-measures/>; U.S. DEPARTMENT OF HEALTH AND

So what do we do? The simple solution—to just throw money at the problem—is also the most futile, in a political environment in which funding for the Legal Services Corporation is down to \$375 million in 2015 from \$420 million in 2011.<sup>4</sup> It also puts a band-aid on the problem, as we assure ourselves that those good old legal aid attorneys will take care of the problem, and make a living wage doing so, without examining the problem of unmet legal needs in the context of the lack of care for the elderly generally. But, with more funding, the thinking goes, we can attract more law students and lawyers who undoubtedly have the heart to help the elderly, and the poor generally, but lack the will because the money isn't there.

“There are simply not enough lawyers,” is a common refrain from poverty law advocates, with the implicit understanding that lawyers only go where there is money. But neither assumption is true. There are 1.22 million lawyers in the United States and that number is rising.<sup>5</sup> And lawyers will and should be called to a higher service than personal profit.

We can't sit back in air-conditioned offices and throw out numbers and statistics and policy recommendations, or take on clients piecemeal on the side to quiet our consciences while we help wealthy folks who least need it. As Pope Francis said in his homily, “[m]ission is never the fruit of a perfectly planned program or a well-organized manual.”

Instead, we need to be prepared to abandon the middle-class comfort and lifestyle that we believe we are entitled to as holders of a law degree, and be prepared to live humbly in the service of others. If I may repurpose the words of Pope Francis, we lawyers need to embrace the “bold missionary spirit of so many men and women who preferred not to be ‘shut up within structures which give us a false sense of security... within habits which make us feel safe, while at our door people are starving.’”

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HUMAN SERVICES, ADMINISTRATION ON AGING, AGING STATISTICS (2014),  
[http://www.aoa.acl.gov/Aging\\_Statistics/Profile/2014/2.aspx](http://www.aoa.acl.gov/Aging_Statistics/Profile/2014/2.aspx).

<sup>4</sup> Carmen DeNavas-Walt & Bernadette Proctor, *Income and Poverty in the United States: 2014*, UNITED STATES CENSUS BUREAU (Sept. 2015),  
<https://www.census.gov/content/dam/Census/library/publications/2015/demo/p60-252.pdf>.

<sup>5</sup> Jeff Jacoby, *U.S. Lawyer Bubble Can't Pop Soon Enough*, THE BOSTON GLOBE (May 9, 2014), <https://www.bostonglobe.com/opinion/2014/05/09/the-lawyer-bubble-pops-not-moment-too-soon/qAYzQ823qpfi4GQl2OiPZM/story.html>.