

# The Catholic Lawyer

---

Volume 14  
Number 2 *Volume 14, Spring 1968, Number 2*

Article 7

---

December 2016

## Too Little, Too Late?

Revius O. Ortique, Jr.

Follow this and additional works at: <https://scholarship.law.stjohns.edu/tcl>



Part of the [Legal Studies Commons](#), and the [Race and Ethnicity Commons](#)

---

### Recommended Citation

Revius O. Ortique, Jr. (1968) "Too Little, Too Late?," *The Catholic Lawyer*. Vol. 14 : No. 2 , Article 7.  
Available at: <https://scholarship.law.stjohns.edu/tcl/vol14/iss2/7>

This Symposium Article is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in The Catholic Lawyer by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact [selbyc@stjohns.edu](mailto:selbyc@stjohns.edu).

# TOO LITTLE, TOO LATE?

REVIUS O. ORTIQUE, JR.\*

CENTURIES AND CIVILIZATIONS have passed, but man's quest for universal freedom and equality and dignity is unfulfilled. The Judeo-Christian ethic is spelled out clearly, succinctly and simply but thus far has been impossible to achieve. "The lion shall lie down with the lamb" is the ultimate in accomplishment, but apologetically may not be possible in this life. Except that some people are sick unto death awaiting the good life on the other side and insist that it come now. That's what "*FIGHT*"<sup>1</sup> is all about. Rioting in the major cities is inevitable so long as tomorrow has suddenly become today and "wait a little longer" is "now" or "yesterday."

Great minds of this generation and beyond will write reams of explanations of the riots. Scientific explanations will be pouring forth for many years. The causes will be analyzed, synthesized, alibied and even criticized, and all for nought unless and until someone acknowledges that the struggle for his place (the fight not to stay "in his place") is the demand of the Negro—to close the ever-widening gap between the Negro ghetto dweller and the affluent middle class, of whatever race or color. The middle class would prefer not to eradicate all American Negroes. Concentration camps and gas chambers offer only temporary solutions unless you are absolutely certain that the ultimate measure will not be met with equal force. Difficulties arise when the lamb refuses to lie down and die. That's what riots are all about.

Even Negro Americans have been taught that whenever any form of government becomes destructive of life, liberty and the pursuit of

---

\* Immediate Past President of the National Bar Association; Member of the National Advisory Council on Law and Poverty.

<sup>1</sup> Freedom, Independence, God, Honor, Today.

happiness, "it is the right of the people to alter or abolish it."<sup>2</sup> Negroes determined, with the same zeal of 1776, that the breaking point had been reached and it had now become the right of the Negro, nay his solemn duty, to throw off such government, and to provide new guards for the future security of the Negro. When Thomas "J" said it, it was patriotism; when Malcolm "X" said it, it was treason. It is this about-face that is searing the soul of white people, and it hurts enough for them to relieve their pangs of conscience, just now. And that's what this poverty program is all about.

Obviously one of the real needs of poor people is full employment. Steady, regular employment at a reasonable wage would remove the unemployed from the ranks of poverty. However, because the keepers of the keys to employment, based on skills and abilities, are not about to open the doors—not yet—despite EEOC, CEP and OFCC, it is necessary to siphon off large numbers of the available but unemployed Americans to the Job Corps. Most Americans would be a little taken aback to learn that the anticipated annual cost per enrollee in residence in the Job Corps was \$7,500 and that the House Committee on Education and Labor was "pleased" to report that the average cost in fiscal 1967 was \$6,900. It was "elated" that this was \$600 below the statutory ceiling.<sup>3</sup> A high price is paid by every man, woman and child to sweep

the problem under the rug. But in an "instant" age, "instant employment" for 45,000 young people can be accomplished, if all Americans are called upon to pay the price—at \$6,000 plus per annum.

Yesterday there was a great need for the mobilization of young people in meaningful employment. Today it is not merely necessary, it is imperative. But 45,000 from several million is obviously too little to be significant. One day someone will suddenly realize that the minuscule effort to humanize America's poor is a major source of aggravating and compounding frustrations. Those who are left behind far outnumber the few who are chosen. The few write home glowing reports of their new life—the tales told on the corner and in pool halls at "furlough time" merely heighten the envy and excite the desire for fulfillment. We have purposely avoided the "guns and/or butter" argument, for those capable of making a proper evaluation; but the fact must be ashamedly admitted that America, our America, for Americans, spends \$75 billion for defense and \$1.8 billion for the war on poverty. Recent economic reports show that American women spend almost twice this latter amount on cosmetics and toiletries. America's liquor bill is even higher.

Summer is approaching again. Cities are worried because their Negro leaders have failed to give to them "instant peace" in the ghetto. Whitney Young can't "wave a magic whatever and pull it off," but he nevertheless qualifies for a peace prize when he or anyone else suggests that if we spent two-thirds as much at home on our nation's poor as we are

<sup>2</sup> Declaration of Independence.

<sup>3</sup> ECONOMIC OPPORTUNITY AMENDMENTS, H.R. REP. No. 866, 90th Cong., 1st Sess., 9 (1967).

willing to spend on one-third as many people in the Far East, we would spread democracy just as rapidly and probably deeper.

Amazingly enough, "hawks" and "doves" alike refuse to act responsibly to meet the needs of America's poor. Even when Senator Kennedy gallantly goes to Mississippi and advises his comrades that it is both whites and Negroes who are hungry in Mississippi, he is characterized as a "northern liberal who finds pleasure in lying about the south." Recently that "lying liberal" has gone off to Kentucky and found that three-fourths of the families in Wolfe County live below the poverty level. Our G.I.s have been appalled in recent global conflicts to find that children in France, Germany, the Philippines, Japan, Korea and South Vietnam eat their garbage. Children beg food in every major American city and some eat from garbage cans—if you know where to look and are willing to.

Again, we cannot properly meet the challenge that "welfare at once destroys initiative and Washington bureaucracy destroys states' rights, democracy, 'our way of life,' and leads to communism," although we place little credence and no faith in it. We suspect that what is being advocated is really less bureaucracy in Washington and more at the state capitol or at city hall. In response, we would turn the nation's highway program over to the states except that at least with the present caretaker, the poor look at the road and figure they will have some place to drive, if they are ever able to.

Suffice it to say that America is not yet ready to meet its responsibility. Maybe if the war in Vietnam is suddenly

over and we decide to lose the *Pueblo*, China behaves, and South Africa doesn't provoke an incident which threatens our economic interest on the Dark Continent, we will develop model cities, create decent housing and spur employment for the hard-core unemployed.

Until then, however, we respectfully suggest that the one single facet of the poverty program which needs strengthening, *and right now*, is the Legal Services Program. So long as the Congress is determined to dole out poverty war funds in a niggardly fashion (as they did in the Ninetieth Congress), the one program that spreads immediate balm for the deep wounds of inhumanity inflicted on less fortunate Americans is to arm them with the might of the law of this land. It is regrettable that some of the very same Congressmen who constantly urge that Negroes not take to the streets to seek redress of their grievances are not in the vanguard of those who would double or triple the funds available for legal services to the poor.

When then Attorney General Nicholas DeB. Katzenbach addressed the National Conference on Law and Poverty, he assessed the situation thusly:

Too often, the poor man sees the law only as something that garnishes his salary; that repossesses his refrigerator; that evicts him from his home; that cancels his welfare; that binds him to usury; or that deprives him of his liberty because he cannot afford bail. . . .<sup>4</sup>

---

<sup>4</sup> Address by Nicholas DeB. Katzenbach, Attorney General, to National Conference on Law and Poverty, CONFERENCE REPORT OF PROCEEDINGS 63.

Note that the nation's lawyer speaks frankly of *everyday occurrences* in the lives of poor people. Those are positive acts against him which occur far too frequently. The law is in a conspiracy which stifles *his* life and *his* freedom, *everyday*. Unfortunately this does not have an effect only on the individual toward whom the action is directed. The law is "the man" who garnishes the salary of the head of the house, the landlord who throws the family out, or the creditor who takes back the refrigerator. The law takes on the characteristics of a breathing being, bringing tidings of evil. It is small wonder that he is known in the ghetto as the "devil." And the repercussions of his actions affect the lives of many. Whether the wife wants to or not, the husband feels that his wife loses confidence in him when he is unable to stand up and assert his manhood. And what of his children? When the man of the house is stripped of his manhood because he is incapable of coping with a usurious loan and the furniture is taken away, he abandons the setting, leaving behind a broken home and no head of the house. When the man of the house loses this status, he has no place, and another family is destroyed. It is inevitable that the male who is stripped of his manhood, by the law, is a bitter male—less than a man.

Many a courthouse in this land exhorts the people: "Respect for the law is the foundation of liberty." But there can be no respect for law when law is the very essence of that which seeks to destroy. Unless and until the poor American can be convinced that he has a stake in the law and that this stake is worthy of

his support and respect, a unified and harmonious society is impossible.

Far too frequently the law is maintained to the detriment of the very people it was designed to serve. Everyone knows that federally constructed housing projects were designed to give decent housing to the poor. Rents were fashioned to meet the capabilities of the poor to pay. Frequently, the administrators of the program, properly or improperly, find it necessary to act contrary to the avowed objectives of the law, to wit, furnishing housing within the means of the poor. Frequently, the minimum rent is beyond the economic capacity of the family at a time when the bread-winner is ill and cannot work, or when he has deserted his family, temporarily. This results in thousands of evictions across the land each year. Prior to the advent of Legal Services, these persons had no recourse. The all powerful federal government resorts to the law and throws out those who need housing the most. A few judges reach out for some extra-legal reason for delaying the eviction, hoping that the crisis will pass and the pregnant mother and her already too large brood will find a way to "pay and stay," but the man of the house who flew-the-roost when just one month's rent was due is not likely to return when two or three months are due. The knowing public who lives outside the project is fully aware of the fact that, to a large extent, the public housing programs are now administered locally. But the last advertisement that appeared on the scene was red, white and blue and it stated in glowing terms that the United States Government was providing "x" number of units for poor peo-

ple. As far as the poor are concerned the federal government is still the culprit who brandishes "the law" and evicts them.

The frequency with which the law is used to the disadvantage of the poor is very easily documented. Perhaps the most offensive legal conclusion in this area came in Chicago, where contempt for the law by ghetto dwellers is currently at its highest level. In this instance it was a federal forum which had the final say. Very briefly, the case of *Brand v. Chicago Housing Authority*<sup>5</sup> gave the federal government a very "big black eye." In that case, tenants' leases were cancelled when the Chicago Housing Authority lowered the maximum income standards to a point where many of the occupants who had previously qualified were no longer eligible to remain. The real hardship developed when it became apparent that these people could not afford decent housing provided by private owners. We would not dare delve into the legal meat of this decision. The implications of the decision in the due process clause makes fine legal chatter, but the seventh circuit, in affirming the dismissal of the tenant's complaint in the court below, merely confirmed in the minds of the tenants that the federal government will resort to any refinement of the law to adversely affect the rights of poor people.

It is amazing that a tenant got to court at all in 1941, but because of legal services to the poor, thousands of tenants are having wrongs that they appreciate and

understand "righted." The record of successes of Legal Services attorneys in preventing arbitrary evictions is bringing a ray of new hope to poor people.

If we are able to cite examples of the failure of the federal government to live up to reasonable expectations, how much less can we expect of the private sector? We would not dare waste time to call attention to the onerous practices of loan sharks and money gougers.

Paul Rand, Chief of the Federal Trade Commission, in a speech prepared for delivery to the Retail Executives Institute stated: "A recent survey in the District of Columbia showed that a portable television set with a wholesale price of \$109.00 can be bought at any local department store for \$129.95. But a poor resident of the inner city is charged \$219.95 for the same set."<sup>6</sup> The same study revealed that, on the average, goods purchased for \$100 at wholesale sold for \$255 in those stores located in low income neighborhoods, compared with a retail tag of \$159 in the general market stores of the suburbs. He offered two solutions to the problem. First he called for broad consumer education programs at the local level. Our response is that cities are not about to appropriate funds for this purpose, what with universally tight garbage and street maintenance budgets. His other cure is a more practical one. He described recent successes in the courts. Every lawyer knows that a "cease and desist order" is a very powerful weapon. Everyone also realizes that

---

<sup>5</sup> 120 F.2d 786 (7th Cir. 1941).

---

<sup>6</sup> Times-Picayune Publishing Company, Feb. 22, 1968.

this weapon has not been made available to the poor until very recently through Legal Services programs.

We respectfully suggest that males who have been permitted, nay encouraged, to seek legal means to assert their manhood will not resort to childish methods to assert a savage nature. An inbred respect for the law develops only from those who witness that law deserves respect.

Ghetto dwellers have little to cling to. Their deteriorated schools and dilapidated store front churches are the only institutions they have come to know and to understand. But even their limited knowledge and understanding leads them to believe that these institutions have little value. The church, whether it is a former theatre or a once ornate temple, abandoned by the whites fleeing to the suburbs, has long since yielded its position of power. The school system with its many portable and permanently "temporary" school buildings remind him of the tenant farm where he spent his childhood. The one institution with power to raise his sights beyond the invisible wall and the invincible system is the all too new Legal Services field office. This is his formidable weapon which can cross over into the sphere of influence and power. The walls aren't paneled and the chairs aren't as plush as those he's viewed only for a fleeting moment downtown. But he understands that his neighbor is not going to pay rent until the rats are cleared out of the bedroom occupied by her children and she has a court order to back her up. For the very first time, he has at his disposal the one tool that he could never afford—a well trained professional whose sole

and only interest is to assist him in his sorry plight. More important than the assistance he is receiving is the fact that this is his. It is the one instrument that he has that is just as strong, just as powerful and just as effective as any that has been long taken for granted by those who could afford its comfort. It is his. This in itself gives him a new status and, even more, it gives him *hope*.

Whitney Young says with conviction that "rioters and arsonists are people *without hope*." The inherent dangers of hopelessness were capsulized by the then Mr. Justice Arthur Goldberg as follows:

We must not forget and we should remind ourselves that the law promotes such stability and order, not simply because it is law promulgated by authority, but rather, because in large measure, it satisfies reasonable expectations of those who live under it. When people's just expectations are satisfied, the law is accepted and respected, and a peaceful orderly and harmonious society is possible. When these expectations are not fulfilled, when just grievances are not remedied, confidence is diminished, people are alienated from law and society and instability, unrest and even violence can replace order. This has been the lesson both of ancient and contemporary history.<sup>7</sup>

Aside from the new status which Legal Services gives to the poor, it is tremendously more important to cite the advantages of the new dignity he has found through the unfettered exercise of legal rights and remedies. When the highest

---

<sup>7</sup> A. Goldberg, *Equal Justice for Rich and Poor*, NATIONAL CONFERENCE FOR LAW AND POVERTY.

Court of the land solemnly declared that Negroes had "no rights that white people were bound to respect,"<sup>8</sup> who would deny but that the American Negro was then and there completely shorn of his dignity. He was cast naked of the Creator's basic human attribute—self-esteem—which no other thing now living or ever having lived possessed. Despite the misgivings of the Psalmist, vanity is a part of every man.

We must, of necessity, agree with one of the alleged findings of the "Presidential Commission on Civil Disorders," released in late February 1968. These enlightened Americans rank denial of dignity as one of the prime causes of riots. Few white people will fathom this judgment. They would prefer to believe that outside agitators and subversive troublemakers are to blame. When skilled historians analyze the four summers of riots of the immediate years, or the even more frightening holocaust of summer, winter, spring and fall for the next several years, which are sure to come, they are bound to acknowledge that until the dignity of all Americans was assured at every level, the fury of impatience with their plight did not subside.

If we sound cynical, it is not fully intended. We wish that these musings could fall into the hands of those who are responsible for the reduction in the funds now going to legal services. For fiscal 1968, there is a drastic twenty percent reduction despite the fact that, al-

most without exception, witnesses appearing before the Committee on Education and Labor endorsed the Legal Services Program and despite glowing statistical reports by *Trial*,<sup>9</sup> *American Bar Association Journal* and the Legal Services monthly *Law in Action*.

In fiscal 1967 more than 300,000 poverty-stricken Americans received counsel and representation from 850 neighborhood law offices located in low-income areas. These offices are staffed by almost 2,000 attorneys across the nation. Normally box scores aren't kept by lawyers, but it is reliably reported that these lawyers won 70 percent of the 30,158 court trials in which they participated. Additionally, 50,000 persons who sought help at the neighborhood law offices were referred to private attorneys because they did not meet the guidelines of eligibility or their claim was fee-generating. In that same year Legal Services attorneys filed or defended 58,000 lawsuits.

It is readily acknowledged that a substantial number of these persons who were helped by Legal Services attorneys had never been to a law office of any kind previously. They had never dreamed that the law could be on their side.

In addition to the individuals aided by Legal Services programs, 834 community action groups, such as tenant associations, welfare mothers groups, and farm worker communities, received legal services. One can only appreciate the vastness and depth of this program by understanding that members of these organizations,

<sup>8</sup> *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

<sup>9</sup> Official Publication of the American Association of Trial Attorneys.



numbering an estimated fifty to one-hundred thousand poor people, received advice and representation to obtain their rights en masse. Whole neighborhoods were transformed when ghetto dwellers used *their lawyers* to demand improved garbage collection, additional or modern street lighting, centrally located health care units, etc.

A capsulated report given to members of the National Advisory Council on Legal Services recently showed that during 1967 neighborhood lawyers:

Won 66 percent of the 228 appeals they filed.

Averted or won stays of 86 percent of 1,904 evictions sought against poverty-stricken families.

Obtained reversals of 62 percent of the 833 decisions cutting clients off public assistance in which hearings were held.

Saved \$958,000 and recovered an additional \$432,000 for poor clients from whom creditors sought \$1.7 million in various money claims.

Won 79 percent of 2,074 cases against other administrative agencies in which hearings were held.

The 45,000 families affected by the one or two year respite from poverty

and deprivation accorded Job Corpsmen is significant relief. We do not wish to diminish its effect. We do point out that if an equal amount (\$295 million) was spent on Legal Services to the poor, the impact on American society would be tremendous.

Since it is now obvious that the leaders of the affluent society are not yet ready to accord to the poor economic security through a guaranteed annual wage, and since private industry and labor unions are obviously reluctant to hire all Americans on the basis of their skills and abilities, and since it is utterly impossible to expect the minds of suburbia to share their land space with slum dwellers, we beg all America to give to free men their dignity. Let law stand for them in the same vein that it has stood for others. Rich and poor alike—the lion and the lamb—suffer when the poor are deprived. Poverty destroys families, impairs health and diminishes educational achievement. If indeed respect for the law is the foundation of liberty, then our society is crumbling—it is not too late, if we accord dignity to all mankind. The law under a democratic society is not yet fulfilled unless it serves rich and poor with equal fervor.

