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2011

### Getting to Know the Poor

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#### Recommended Citation

Rosser, Ezra, "Getting to Know the Poor" (2011). *Articles in Law Reviews & Other Academic Journals*. 1424.

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## Comment

### Getting to Know the Poor

Ezra Rosser†

#### INTRODUCTION

The theme of the World Bank's principal publication in 2000/2001, the *World Development Report*, was "Attacking Poverty." Such a focus is not surprising given the centrality of fighting poverty to the mission of the World Bank.<sup>1</sup> However, what was noteworthy about the 2000/2001 Report was the prominent way the Bank featured what it called the "voices of the poor."<sup>2</sup> The perspectives of poor people informed both the Report's descriptions of the challenges of poverty and the Report's proposed policy responses. By incorporating the lives, language, and experiences of the poor directly into the Report, the Bank participated in a larger trend in changing how poverty is understood: from international aid and development organizations to academics and journalists, portrayals of poor people have taken center stage in the discussion of poverty and development policy.

In the popular press, a market has even emerged for books whose primary contribution is to introduce middle- and upper-class readers to the

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1. The World Bank proclaims that it has "made the world's challenge - to reduce global poverty - our challenge." *About Us - Challenge*, WORLD BANK, <http://go.worldbank.org/DM4A38OWJ0> (last visited Mar. 4, 2011). Expanding on this idea, the institution's mission statement reads: "To fight poverty with passion and professionalism for lasting results. To help people help themselves and their environment by using resources, sharing knowledge, building capacity and forging partnerships in the public and private sectors." *About Us*, WORLD BANK, <http://www.worldbank.org/about> (last visited Mar. 4, 2011).

2. See WORLD BANK, WORLD DEVELOPMENT REPORT 2000/2001: ATTACKING POVERTY 3 Box 1 (2001) [hereinafter WDR 2000/2001] (explaining that the "Voices of the Poor" study was conducted as background for the Report and consisted of participatory studies involving more than 60,000 poor people around the globe).

challenges of being poor. Barbara Ehrenreich catapulted to fame with *Nickel and Dimed: On (Not) Getting By in America*, in which she briefly put her professional career to one side and tried to make ends meet in a series of low wage jobs.<sup>3</sup> Although Ehrenreich's book can be dismissed as merely a well-publicized stunt – after all, she left her job but not the security of her profession, connections, or possibility of exit – her narrative provided readers a (comfortable) window from which to consider the hardships faced by service workers.<sup>4</sup>

More serious works on the lives of the poor, although generally providing greater context and citation counts, have similarly found in the lives of the poor the material to frame policy critiques. Books written by academics and journalists provide rich descriptions of everything from how the poor make decisions to the inadequacy of their housing. The goals vary, but a unifying foundation of such scholarship involves an in-depth portrayal of the lives of members of the particular disadvantaged community, often using their own words. In *American Dream: Three Women, Ten Kids, and a Nation's Drive to End Welfare*, *New York Times* writer Jason DeParle used the life histories of a small group of poor women to question the standard assumptions about the personal characteristics of welfare recipients.<sup>5</sup> In a related book, David Shipler uses an abundance of quotations from poor individuals to share their work struggles, indignities, family dynamics, and aspirations with readers in his aptly titled *The Working Poor: Invisible in America*.<sup>6</sup> Countless other books focus on a wide range of sub-groups of the poor: the homeless,<sup>7</sup> drug addicts,<sup>8</sup> women,<sup>9</sup> children,<sup>10</sup> racial and ethnic minorities,<sup>11</sup> rural poor,<sup>12</sup> inner-city poor,<sup>13</sup>

3. BARBARA EHRENREICH, *NICKEL AND DIMED: ON (NOT) GETTING BY IN AMERICA* (2001).

4. In *NICKEL AND DIMED*, Ehrenreich went from one service job – as a waitress, a maid, an apparel clerk – to another and argued that these workers subsidize the lifestyles of the middle and upper classes. EHRENREICH, *supra* note 3. *But see* Steven Malanga, *The Myth of the Working Poor*, CITY J., Autumn 2004, at 3 (arguing that Ehrenreich rigged her “experiment” by never staying long enough at a job to get promoted); ADAM W. SHEPHARD, *SCRATCH BEGINNINGS: ME, \$25, AND THE SEARCH FOR THE AMERICAN DREAM* (2008) (describing a year-long effort to disprove Ehrenreich through a similar counter-experiment).

5. JASON DEPARLE, *AMERICAN DREAM: THREE WOMEN, TEN KIDS, AND A NATION'S DRIVE TO END WELFARE* (2004).

6. DAVID K. SHIPLER, *THE WORKING POOR: INVISIBLE IN AMERICA* (2004).

7. *See, e.g.*, JONATHAN KOZOL, *RACHEL AND HER CHILDREN: HOMELESS FAMILIES IN AMERICA* (1987).

8. *See, e.g.*, TANYA TELFAIR SHARPE, *BEHIND THE EIGHT BALL: SEX FOR CRACK COCAINE EXCHANGE AND POOR BLACK WOMEN* (2005).

9. Ruth Sidel in particular has written a series of portrayal books related to women and poverty in the United States. *See, e.g.*, RUTH SIDEL, *UNSUNG HEROINES: SINGLE MOTHERS AND THE AMERICAN DREAM* (2006); RUTH SIDEL, *ON HER OWN: GROWING UP IN THE SHADOW OF THE AMERICAN DREAM* (1990); RUTH SIDEL, *WOMEN AND CHILDREN LAST: THE PLIGHT OF POOR WOMEN IN AFFLUENT AMERICA* (1986). Sidel is joined by many other authors. *See, e.g.*, SHARON HAYS, *FLAT BROKE WITH CHILDREN: WOMEN IN THE AGE OF WELFARE REFORM* (2003).

10. *See, e.g.*, ANNETTE LAREAU, *UNEQUAL CHILDHOODS: CLASS, RACE, AND FAMILY LIFE* (2003); JILL DUERR BERRICK, *FACES OF POVERTY: PORTRAITS OF WOMEN AND CHILDREN ON WELFARE* (1995).

11. *See, e.g.*, WILLIAM JULIUS WILSON, *MORE THAN JUST RACE: BEING BLACK AND POOR IN*

immigrants,<sup>14</sup> and the disabled.<sup>15</sup> The shared characteristics of such works – whether written primarily for an academic audience or the general public – are a reliance on the voices of the poor, coupled with rich descriptions of the physical environment occupied by the poor, to paint a portrait of lives impacted by poverty and limited opportunities.

The demand for, and the utility of, what – borrowing from the World Bank – might be called the “poor voices” literature is directly related to the distance between most readers and the poor. Readers and policymakers are interested in such studies because they do not have knowledge of the poor; they are not friends with the poor, and because of class divisions only encounter the poor infrequently. The separation in lived experience between the rich and the poor is exacerbated when the poor community being profiled is from another country or lives on a different continent. Almost inevitably, literature billed as a first-hand account of poverty ends up being mediated by the development institution or the scholar. Thus, while the poor voices literature seems to give great weight to the perspective of the poor individuals or community being profiled, the poor remain the subjects of study and rarely the authors of change.

The objectification and consumption of the experiences of the poor by those seeking to understand them is not limited to popular and academic literature. Recognizing the consumptive aspects of the poverty portrayal literature does not mean the entire poor voices category should be disparaged. There is value in moving from the objective, paternalistic perspective of the privileged expert to a perspective that takes into account, or even prioritizes, the knowledge the poor have of their own hardships and challenges. But the danger, that in consuming the voices of the poor we permit ourselves to remain distant from the poor and their struggles, needs to be recognized. In this brief essay, I explore what the poor voices literature says about our society and about our obligations to the poor. Though the focus is on the poor voices literature, the value and limitations of such work extend to the other ways in which we try to acquaint ourselves with the domestic and international poor. There is nothing new about journalists, scholars, and activists using portrayals of the poor and even the words of the poor to attempt to shed light on disadvantaged

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THE INNER CITY (2009).

12. See, e.g., CYNTHIA M. DUNCAN, WHY POVERTY PERSISTS IN RURAL AMERICA (1999). Additionally, Lisa Pruitt has written extensively on the invisibility of the rural poor and the urban lens that is usually applied when considering poverty programs. See, e.g., Lisa R. Pruitt, *Missing the Mark: Welfare Reform and Rural Poverty*, 10 J. GENDER RACE & JUST. 439 (2007).

13. See, e.g., KATHERINE S. NEWMAN, NO SHAME IN MY GAME: THE WORKING POOR IN THE INNER CITY (1999); JAY MACLEOD, AIN'T NO MAKIN' IT: ASPIRATIONS AND ATTAINMENT IN A LOW-INCOME NEIGHBORHOOD (1987).

14. See, e.g., ALEJANDRA MARCHEVSKY & JEANNE THEOHARIS, NOT WORKING: LATINA IMMIGRANTS, LOW-WAGE JOBS, AND THE FAILURE OF WELFARE REFORM (2006).

15. See, e.g., A ROUTE OUT OF POVERTY?: DISABLED PEOPLE, WORK AND WELFARE REFORM (Gabrielle Preston ed., 2006).

populations and harmful policies,<sup>16</sup> but unlike in previous generations where the poor would live in closer proximity to the wealthy, we are now increasingly separated from those struggling with poverty.<sup>17</sup>

In this essay, I unpack the theory behind the poor voices literature and discuss the strengths and limitations of such works. Part I discusses voice, primarily focused on the voices of the poor but also the voice of the (outside, objective) author or organization. Looking at the role of voice in the *WDR 2000/2001* and a new book by Professor Kaaryn S. Gustafson on welfare recipients and rule adherence, I emphasize the challenge of avoiding tokenism while still providing context.<sup>18</sup> In Part II, I explore the social, cultural, and sometimes physical distance between rich and poor. Sadly, the popularity and power of the poor voices literature reflects in part this class separation. In Part III, I use a single hearing on welfare reform to emphasize how this separation, coupled with negative assumptions regarding the poor, can impact policy. Works showcasing the lived experiences of the poor can correct these assumptions by making the poor “real” to readers and policymakers and by closing the distance between the lived experiences of the poor and non-poor. Ultimately, exposure alone to the lives of the poor and their struggles – in the United States and abroad – does not necessarily lead to the sorts of societal changes needed to ensure that all, rich and poor, lead lives marked by opportunity rather than deprivation.<sup>19</sup> While there is promise in the work of international organizations and scholars to share the perspectives of the poor, unless such voices inspire greater commitment to anti-poverty efforts and lead to policy improvements, the efforts may amount to little more than poverty as entertainment.

## I. VOICE

The place of the perspective of the poor in scholarship and policy can be characterized by two seemingly contradictory truths. First, among those concerned about poverty and subordination, there is widespread recognition of the need to listen to the poor when considering policy options. Second, an extensive body of research and literature is already

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16. James T. Patterson, for example, begins his study of anti-poverty efforts with a chapter, entitled “Snapshots of the Poor,” giving examples of journalist and social reformer accounts of the conditions and lives of the poor between 1890 and 1930. JAMES T. PATTERSON, *AMERICA’S STRUGGLE AGAINST POVERTY IN THE TWENTIETH CENTURY* 3-19 (2000).

17. See *infra* Part II.

18. KAARYN S. GUSTAFSON, *CHEATING WELFARE: PUBLIC ASSISTANCE AND THE CRIMINALIZATION OF POVERTY* (forthcoming 2011) (final page proofs on file with the author, book to be publicly released in July 2011).

19. There are numerous theoretical endpoints – egalitarianism, equal opportunity, rights to basic human needs, and the like – that antipoverty advocates advance. Given how far we are from reaching any of these goals, there is no need to privilege any particular conception. Within the progressive intellectual community, Sen’s capabilities approach is in ascendance. See AMARIYA SEN, *THE IDEA OF JUSTICE* 231-35 (2009) (introducing the capabilities approach).

published that prominently features the lives and voices of the poor. It is a truism that “the larger culture . . . never listens to the voices of the poor” and that they remain “invisible and unheard.”<sup>20</sup> Yet, this seems to be contradicted by the amount of research dedicated to sharing the stories of the poor; narrative accounts of the experiences of poor people in society and in the courts abound.<sup>21</sup> This scholarly output has inspired some scholars to question whether there is “a distinctive perspective of the poor that is somehow systematically devalued”<sup>22</sup> and whether “even if there is an authentic ‘perspective of the oppressed,’ . . . law professors, of all the various folks one might imagine, are in the best position to articulate it.”<sup>23</sup>

In the face of such criticisms, scholars have responded by using stories and narrative to inform and provide grounding for arguments and theory across a range of scholarly approaches.<sup>24</sup> Some academics – particularly clinicians – engage in storytelling both as academics and as practitioners as part of a broader commitment to serve the poor.<sup>25</sup> Still others find grounding for such work in Catholic social thought’s “preferential option for the poor.”<sup>26</sup> Similarly, those writing from the perspectives of critical

20. William Quigley, *Seven Principles for Catholic Law Schools Serious About a Preferential Option for the Poor*, 1 U. ST. THOMAS L.J. 128, 138 (2003). See also Barbara Bezdek, *Silence in the Court: Participation and Subordination of Poor Tenants’ Voices in Legal Process*, 20 HOFSTRA L. REV. 533 (1992) (showing that despite having legal rights, poor tenants are often silenced by the legal process in housing court). The editor-in-chief of the Harvard Civil Rights-Civil Liberties Law Review tellingly concluded a recent article about why the law review choose to publish an inmate’s article on *habeas corpus* by arguing that “the responsibility to change the injustices of our criminal justice system lies not only with prisoner administrators and legislators, but also with those of us with the ability to tell stories and to create the space in which others can tell theirs as well.” Jocelyn Simonson, *Breaking the Silence: Legal Scholarship as Social Change*, 41 HARV. C.R.-C.L. L. REV. 289, 298 (2006).

21. See, e.g., Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1 (1990) (story of one person’s welfare hearing); Thomas C. O’Byrant, *The Great Unobtainable Writ: Indigent Pro Se Litigation After the Antiterrorism and Effective Death Penalty Act of 1996*, 41 HARV. C.R.-C.L. L. REV. 299 (2006) (first-hand account of being a “jailhouse lawyer”).

22. Richard H. Fallon, Jr., *Affirmative Action Based on Economic Disadvantage*, 43 UCLA L. REV. 1913, 1937 (1996).

23. Stephen L. Carter, *Academic Tenure and “White Male” Standards: Some Lessons from the Patent Law*, 100 YALE L.J. 2065, 2077 (1991).

24. See Christopher P. Gilkerson, *Poverty Law Narratives: The Critical Practice and Theory of Receiving and Translating Client Stories*, 43 HASTINGS L.J. 861, 865 n.10 (1992) (collecting sources on storytelling and narrative as a method of legal scholarship); Gary L. Blasi, *What’s a Theory For?: Notes on Reconstructing Poverty Law Scholarship*, 48 U. MIAMI L. REV. 1063, 1063-80 (1994) (demonstrating how scholars construct alternative legal theories based on the voices of the poor through use of a hypothetical interview with a homeless person).

25. According to this perspective, part of the job of clinicians and poverty lawyers is to help client empowerment and ensure “that the client’s voice is heard.” Ruth Margaret Buchanan, *Context, Continuity, and Difference in Poverty Law Scholarship*, 48 U. MIAMI L. REV. 999, 1038 (1994). Anthony Alfieri argues that though there is a “notion of poverty law advocacy as a medium of storytelling,” client stories are falsified “when lawyer narratives silence and displace client narratives.” Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L.J. 2107, 2111 (1991).

26. Although the Catholic Church, partly under the direction of Pope Benedict XVI (formerly Cardinal Joseph Ratzinger), moved away from liberation theology, listening to the poor is a central aspect of exercising a preferential option for the poor. As Bill Quigley

legal studies and critical race theory have attempted to either showcase the perspectives of the poor, or highlight the need to do so, as part of a larger goal of upending the legal structures that support class and racial oppression.<sup>27</sup>

But what is gained through all this attention – note-taking, interviewing, documenting, investigating, and theorizing – to the lived experiences and voices of the poor? And why is there a need for such efforts? In this section I discuss a macro-level effort to understand the struggle of the global poor and then turn to a more focused and local study of welfare recipients. Finally, I conclude the section by briefly turning to some examples from popular culture of how the poor are understood. Ultimately, I agree with Mari Matsuda: “It is a lie that there is no knowledge, no theory, no eloquence among the poor. . . . Pragmatic method is enriched, I believe, by weighting it to retrieve subordinated voices in order to attain a truer account of social reality and human possibilities.”<sup>28</sup> Accounting for poverty must include taking account of the voices of the poor.

#### A. Wide-Angle Lens

The World Bank is listening to the poor. The Bank has devoted considerable resources to its Voices of the Poor program, and to varying extents this effort is joined by similar programs run under the auspices of the International Monetary Fund and the United Nations. By taking into account the perspectives of the poor and sharing their stories, the Bank hopes to improve aid, to make development more effective, and to better

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explains:

The preferential option for the poor means that impact on the poor is the first question that should be asked about any law or public policy – it is not the only question to be asked but it should be the first question. The impact on the poor should be evaluated by first listening to poor people themselves.

Quigley, *supra* note 20, at 139. Russell Powell expands on this theme, noting the near impossibility of hearing “the voices of the marginalized through the din of lavish lobbying and glitzy advertising. . . . Taken seriously, the preferential option ought to prompt lawmakers to pay greater heed to the concerns of the poor.” Russell Powell, *Theology in Public Reason and Legal Discourse: A Case for the Preferential Option for the Poor*, 15 WASH. & LEE J. CIVIL RTS. & SOC. JUST. 327, 390 (2009).

27. Anne Coughlin notes of feminist and critical race theorists, “[a]lthough outsider storytellers pursue a variety of legal and political theories and goals, their texts share the following objective: each is concerned with exposing and ultimately overthrowing law’s systematic preference for the interests of affluent white men over those of women and people of color.” Anne M. Coughlin, *Regulating the Self: Autobiographical Performances in Outsider Scholarship*, 81 VA. L. REV. 1229, 1236 (1995). See also Richard Delgado, *The Inward Turn in Outsider Jurisprudence*, 34 WM. & MARY L. REV. 741, 746 (1993) (emphasizing the role that “parables, narratives, and ‘counterstories’” have played in critical race theory); Dorothy E. Roberts, *Unshackling Black Motherhood*, 95 MICH. L. REV. 938, 962 (1997) (discussing an example where “describing the details” of poor black women may help protect them from criminal prosecution).

28. Mari J. Matsuda, *Pragmatism Modified and the False Consciousness Problem*, 63 S. CAL. L. REV. 1763, 1768 (1990).

consider and reach vulnerable populations. Although many development institutions, including the Bank, continue to engage in more theoretical and quantitative approaches to understanding poverty, poor voices can inform choices regarding development priorities and provide support for particular programs or messages. At the same time, superficial inclusion and research that only selectively incorporates the perspectives of poor people may result in little more than tokenism. If in-depth portrayals of the poor become the norm and if policy and programmatic direction emerge out of the shared experiences of the poor, the Bank and similar institutions will be better positioned to engage one of the most pressing issues of our day, global poverty and inequality. The reverse is true as well: shallow explorations of the perspectives of the poor will limit policy take-aways and fail to aid in our understanding of how poverty is lived.

The Voices of the Poor (VOP) study began as part of the Bank's preparation for its *WDR 2000/2001*, but the participatory research initiative continued through a series of subsequent publications.<sup>29</sup> In the interest of space, I will focus on the *WDR 2000/2001* and the three major VOP publications that followed.<sup>30</sup> The intuition behind the VOP study, as stated in the introduction to *Crying Out for Change*, is a valuable one: "There are 2.8 billion poverty experts, the poor themselves. Yet the development discourse about poverty has been dominated by the perspectives and expertise of those who are not poor – professionals, politicians and agency officials."<sup>31</sup> The VOP study "seeks to reverse this imbalance by focusing directly on the perspectives and expertise of poor people."<sup>32</sup> Reflecting this goal, the *WDR 2000/2001* featured on-point quotes gathered in the course of the VOP study throughout the report and as the jumping off point for many of the report's sub-sections. Below is a representative sampling of the voices included in the report:

"Poverty is humiliation, the sense of being dependent on them, and of being forced to accept rudeness, insults, and indifference when we seek help." – Poor woman, Latvia<sup>33</sup>

"[Poverty is] . . . low salaries and lack of jobs. And it's also not having medicine, food, and clothes." – From a discussion group,

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29. For an overview of the VOP study, complete with links to resultant publications, see *Voices of the Poor*, WORLD BANK, <http://go.worldbank.org/H1N8746X10> (last visited Mar. 4, 2011).

30. VOP research resulted in 21 country-level reports, a derivative report by the World Health Organization and the World Bank, and three books. See generally DEEPA NARAYAN, VOICES OF THE POOR: CAN ANYONE HEAR US? (2000); DEEPA NARAYAN ET AL., VOICES OF THE POOR: CRYING OUT FOR CHANGE (2000) [hereinafter CRYING OUT FOR CHANGE]; VOICES OF THE POOR: FROM MANY LANDS (Deepa Narayan & Patti Petesch eds., 2002).

31. CRYING OUT FOR CHANGE, *supra* note 30, at 2.

32. *Id.*

33. WDR 2000/2001, *supra* note 2, at 3.



Brazil<sup>34</sup>

“All our problems derive from lack of land. If we have enough land we will be able to produce enough to feed our households, build houses, and train our children.” – Poor man, Nigeria<sup>35</sup>

“To be well is to know what will happen with me tomorrow.”  
– Middle-aged man, Razgrad, Bulgaria<sup>36</sup>

The irony is that even as the report highlighted the words of the poor, it marginalized their individuality by minimizing their identity and the particularities of their lives.<sup>37</sup> The use of poor voices in the report suggests that we should hear from the poor but we need not get to know them. By not identifying the speakers or providing their life history or place in society, the report succeeds in presenting the common struggles of living in poverty, but it does so at the cost of removing the details that could animate and contextualize the selected quotes. The implication of not including the names and background information of the speakers is that such information is superfluous as the poor can be thought of as interchangeable.

The ambitiousness of incorporating more than 60,000 poor voices into the already packed annual *World Development Report* arguably explains the inadequate contextualization found in *WDR 2000/2001*. The three major publications that came out of the VOP study to some extent provide more of the background and life histories that give meaning to the quotes of people living in poverty. A study of this magnitude demanded a great many researchers and poor participants,<sup>38</sup> yet the payoff remains unclear. After the Bank concluded its VOP study, it continued to gather the perspectives of the poor, albeit through more traditional quantitative methods.<sup>39</sup> By reaching out to poor and vulnerable populations as part of a broader effort to gauge the impact of policy reforms on various stakeholders, the Bank’s Poverty and Social Impact Analysis (PSIA) Toolkit pays “careful attention” to the “invisible” poor, whose interests often go “unrecognized.”<sup>40</sup> As a poor man from Guatemala optimistically told the

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34. *Id.* at 46 (“[Poverty is] . . .” in original).

35. *Id.* at 67.

36. *Id.* at 135.

37. The author credits Shailaja Fennell for this observation regarding the WDR use of captions.

38. See CRYING OUT FOR CHANGE, *supra* note 30, at 3-20.

39. For example, the Bank recently introduced a new tool, the Human Opportunity Index, meant to “track a country’s progress toward the goal of providing all children equal access” to basic services in a way that captures both coverage and distribution. RICARDO PAES DE BARROS ET AL., MEASURING INEQUALITY OF OPPORTUNITIES IN LATIN AMERICA AND THE CARIBBEAN 2 (2009). Like many other tools for understanding poverty, the Index is based on quantitative metrics and not interview data. *See id.*

40. Estanislao Gacitua-Mario et al., *Stakeholder Power and Policy Dialogue: Agricultural Reform Lessons*, 14 POVERTY IN FOCUS 8, 8 (2008), available at <http://www.ipc-undp.org/pub/IPCPovertyInFocus14.pdf>.

Bank as part of the VOP study, “At last those above will hear us. Before now, no one ever asked us what we think.”<sup>41</sup>

### B. Close-Up Lens

Moving from the global to the local, in *Cheating Welfare: Public Assistance and the Criminalization of Poverty*, Kaaryn Gustafson uses the life history and voices of poor women on welfare to challenge misconceptions regarding welfare recipients, welfare cheating, and welfare reform. Interview data gathered by Gustafson as part of research for her dissertation provides the content for most of her book and the foundation for her policy conclusions. As described in her appendix on methodology, although she at first tried alternative methods, Gustafson’s interview pool ended up consisting of the people who agreed to participate after she approached them as they exited a single county welfare office.<sup>42</sup> Three categories of welfare recipients emerged from these interviews, the Informed, the Misinformed, and the Preoccupied/Disengaged. Gustafson’s main contribution to our understanding of welfare is to show how these categories differ from our assumptions regarding recipients. Through liberal use of interviewee quotes, matched with relevant background on their lives, Gustafson proves that the welfare recipients differ in significant ways from each other and also from the monolithic stereotype.<sup>43</sup> In doing so, Gustafson shows that by listening to the voices of the poor we can better understand the shortfalls of policies designed to help the poor.

Gustafson’s rich overview of the history of societal protections for those in need highlights the expansion and subsequent contraction of welfare rights. As she shows, welfare receipt and criminality have become merged in the social consciousness. Although President Reagan popularized the image of the welfare queen, the mental association between criminality and welfare has a long pedigree.<sup>44</sup> Since before the nation’s founding and continuing to the present, social support has been subject to conditions, and society has engaged in monitoring and enforcement to ensure that only recipients unable to care for themselves for justifiable reasons are worthy of aid.<sup>45</sup> In a paradoxical distortion of the goals of most voices of the poor

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41. WDR 2000/2001, *supra* note 2, at 186.

42. GUSTAFSON, *supra* note 18, at 191-93.

43. *Id.* at 3.

44. The image of a welfare queen is powerful enough that even those who know better, such as New York Times columnist Paul Krugman, use it. See Paul Krugman, *A Clarification on Public Workers*, CONSCIENCE OF A LIBERAL BLOG (Feb. 26, 2011), <http://krugman.blogs.nytimes.com/2011/02/26/a-clarification-on-public-workers/> (arguing that public employees are not overpaid by saying schoolteachers are not “the new welfare queens”).

45. Giving an evolutionary explanation to popular resistance to welfare rights, Amy Wax argues that the welfare backlash is grounded in human nature and reflects reciprocity norms. Amy Wax, *Rethinking Welfare Rights: Reciprocity Norms, Reactive Attitudes, and the Political Economy of Welfare Reform*, 63 L. & CONTEMP. PROB. 257 (2000).

efforts, we are now living in an era marked by harshness towards the poor in part because of three fictional stories of poor people that have become part of American mythology.

Horatio Alger in the late 1800s, Ronald Reagan in the 1970s and '80s, and Charles Murray in 1984 succeeded in telling stories that stuck in the public imagination. Novelist Horatio Alger's tales of young men rising out of urban poverty came to embody the rags-to-riches-in-a-single-generation version of the American Dream. Starting with *Ragged Dick* and continuing through books with such titles as *Fame and Fortune*, *Do and Dare - a Brave Boy's Fight for Fortune*, and *Slow and Sure: The Story of Paul Hoffman, the Young Street Merchant*, Alger sold and popularized the message that in America anything is possible with hard work and moral strength alone.<sup>46</sup> Although fictional, Alger's stories reflect a similar fascination with real "self-made" men<sup>47</sup> that, during the Gilded Age, included Andrew Carnegie, John D. Rockefeller, J.P. Morgan, and Cornelius Vanderbilt.<sup>48</sup> A century later, in his 1976 Presidential campaign, Ronald Reagan repeatedly referred to a "welfare queen" who he claimed had a Cadillac, "80 names, 30 addresses, 12 Social Security cards, and [collected] veterans' benefits on four nonexistent deceased husbands."<sup>49</sup> Though Reagan was wrong on the facts, his "often-used anecdote" became the image adopted by politicians, the media, and the public as "typifying poor, African American women on

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46. HORATIO ALGER, JR., *FAME AND FORTUNE* (Akasha Classics 2008) (1868); HORATIO ALGER, JR., *DO AND DARE - A BRAVE BOY'S FIGHT FOR FORTUNE* (1884); HORATIO ALGER, JR., *SLOW AND SURE: THE STORY OF PAUL HOFFMAN, THE YOUNG STREET MERCHANT* (1872). Because the copyright on Alger's works has expired, his books have entered the public domain and can be read without charge online. See Project Gutenberg's Horatio Alger page, [http://www.gutenberg.org/ebooks/search.html?default\\_prefix=author\\_id&query=168](http://www.gutenberg.org/ebooks/search.html?default_prefix=author_id&query=168) (last visited June 30, 2011).

47. This fascination now includes some women such as Oprah Winfrey, J.K. Rowling, and Martha Stewart, but these are exceptions to the type's gendered nature. See, e.g., KITTY KELLEY, *OPRAH: A BIOGRAPHY* (2010); LLOYD ALLEN, *BEING MARTHA: THE INSIDE STORY OF MARTHA STEWART AND HER AMAZING LIFE* (2006).

48. In our new Gilded Age, such figures have been replaced by Microsoft's Bill Gates, Blackstone Group's Steve Schwarzman, Wal-Mart's Sam Walton, Berkshire Hathaway's Warren Buffet, and most recently Facebook's Mark Zuckerberg. For more on the new Gilded Age and a comparison of the wealth of the richest Americans in history, see Louis Uchitelle, *The Richest of the Rich, Proud of a New Gilded Age*, N.Y. TIMES, July 15, 2007, A1 (with associated graphic, *The Wealthiest Americans Ever*, comparing relative wealth in present dollars). The eight Oscar nominations for *The Social Network's* portrayal of Zuckerberg reflects our fascination with such success stories. The same is true for the popular demand for related (auto)biographies. See, e.g., DAVID CAREY & JOHN E. MORRIS, *KING OF CAPITAL: THE REMARKABLE RISE, FALL, AND RISE AGAIN OF STEVE SCHWARZMAN* (2010); SAM WALTON, *MADE IN AMERICA: MY STORY* (1992).

49. "Welfare Queen" Becomes Issue in Reagan Campaign, N.Y. TIMES, Feb. 15, 1976. As Peter Edelman observes, Reagan's "welfare queen . . . evoked an image of an African American inner-city single mother probably living in a public housing project." Peter Edelman, *The World After Katrina: Eyes Wide Shut?*, 14 GEO. J. POVERTY L. & POL'Y 1, 3-4 (2007). See also Leland Ware & David C. Wilson, *Jim Crow on the "Down-Low": Subtle Racial Appeals in Presidential Campaigns*, 24 ST. JOHN'S J. LEGAL COMMENTARY 299, 310-12 (2009); Paul Krugman, *Republicans and Race*, N.Y. TIMES (Nov. 19, 2007), <http://www.nytimes.com/2007/11/19/opinion/19krugman.html> (noting that "Reagan repeatedly told the bogus story of the Cadillac-driving welfare queen. . . . He never mentioned the woman's race, but he didn't have to").

welfare.”<sup>50</sup> Reagan tapped into a “familiar version of social blindness” that accused those on the dole of being lazy and yet living comfortably by cheating hardworking taxpayers.<sup>51</sup>

In 1984, Charles Murray published *Losing Ground*, perhaps the most influential book about poverty and welfare since the *Moynihhan Report*.<sup>52</sup> The centerpiece of the book is the story of the choice of a hypothetical couple, Harold and Phyllis, to remain unmarried and on welfare in 1970, though Murray argues they would have married and Harold would have worked just ten years earlier.<sup>53</sup> Murray provided an explanation for welfare dependency that recognized the rational decision-making of poor people and, through an assumption of racelessness of the couple, sold the story as one that avoided the country’s “racial baggage.”<sup>54</sup> Although “the Harold and Phyllis tale is wrong” and does not actually explain welfare dynamics,<sup>55</sup> it fits well within the foundation laid by Alger and Reagan. The messages that emerged from this trifecta of stories was that anyone could succeed if they worked hard, welfare recipients were cheating society, and welfare programs were to blame for welfare dependency. Combined, these fictional portrayals of poor people suggested we should sharply curtail welfare rights, arguably for the good of those supposedly trapped by welfare dependency and the culture of poverty.

As suggested by her title, *Cheating Welfare*, Gustafson reports widespread violations of welfare rules by the women she interviewed.<sup>56</sup> As she shows, the emphasis in public assistance programs has changed from helping those in need to policing their participation. Welfare laws require recipients to report outside income and to seek and report child support from biological fathers; those who do not face steep financial and criminal penalties for their failure to adhere to eligibility rules. Gustafson explains in her introduction:

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50. GUSTAFSON, *supra* note 18, at 35-36.

51. MICHAEL HARRINGTON, *THE OTHER AMERICA: POVERTY IN THE UNITED STATES* 14 (1962). See also Marie A. Failing, *A Home of Its Own: The Role of Poverty Law in Furthering Law Schools’ Missions*, 34 *FORDHAM URB. L.J.* 1173, 1178 (2007) (highlighting “a centuries-old perspective that the poor deserve their fate – why else would the poor be always with us?”).

52. CHARLES MURRAY, *LOSING GROUND: AMERICAN SOCIAL POLICY 1950-1980* (1984). Even critics of *Losing Ground* acknowledge that “Murray’s analysis has been widely believed and highly influential even when sharply criticized. It has become a part of conventional wisdom; indeed, it is so much a part of conventional thinking that to talk about welfare and dependency after *Losing Ground* is for many to talk in terms of that particular analysis.” THEODORE R. MARMOR, JERRY L. MASHAW & PHILIP L. HARVEY, *AMERICA’S MISUNDERSTOOD WELFARE STATE* 105 (1990). The only works that compete with *Losing Ground* as far as political influence are perhaps those of William J. Wilson, whose emphasis on the social effects of concentrated poverty inspired waves of policy to encourage class mixing. See, e.g., WILLIAM J. WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (1996) [hereinafter *WILSON, WHEN WORK DISAPPEARS*].

53. MURRAY, *supra* note 52, at 156-62.

54. *Id.* at 155.

55. MARMOR, MASHAW & HARVEY, *supra* note 52, at 108.

56. Gustafson explains in part the gendered aspect of her interviewees by noting, “[w]here the welfare queen stereotype was accurate was in its characterization of poverty and welfare as women’s issues.” GUSTAFSON, *supra* note 18, at 36.

Welfare rules assume the criminality of the poor. Indeed, the logics of crime control now reign supreme over efforts to reduce poverty or to ameliorate its effects. As government policies targeting the poor have changed with time, so have the experiences of poor families who use welfare. Many of today's welfare policies are far removed from basic goals of ensuring the well-being of families. Rather, policies are, first and foremost, intended to deter welfare use, to guard against misuse, and to punish welfare cheating. Policing the poor and protecting taxpayer dollars from fraud and abuse have taken priority over providing security to economically vulnerable parents and children. Today's welfare system treats those who use public benefits, or who even apply for benefits, as latent criminals. Nationwide, welfare recipients are treated as presumptive liars, cheaters, and thieves.<sup>57</sup>

While critiquing this emphasis on criminalizing welfare, the shared characteristic of those profiled by Gustafson is that their actions skirt eligibility rules.<sup>58</sup> Regardless of whether they fit into the Informed, the Misinformed, or the Preoccupied/Disengaged categories, the welfare recipients reported that they often engaged in behavior that violated welfare rules by, for example, not fully reporting income, assets, or family support.

Gustafson's work demonstrates that research premised on the idea that we should listen to the voices of the poor can inform our understanding of policies targeting poor populations. By letting her conclusions emerge out of interview data, rather than simply inserting quotes from poor people supportive of a pre-determined theoretical orientation, Gustafson makes a non-obvious contribution to the literature on welfare. Gustafson found that her interviewees had markedly different levels of understanding of, and abilities to comply with, welfare rules. Informed recipients knew about welfare reform's time limits and work-rules; they also best knew how to navigate and contest the bureaucratic obstacles and welfare rules.<sup>59</sup> As Gustafson notes, the level of knowledge and comfort with the system among interviewees was inversely related to their need for welfare to survive.<sup>60</sup> This recipient category was the closest to fitting Murray's imagined Harold and Phyllis, to being "the rational actors that policy makers had envisioned when they went about planning the welfare reforms."<sup>61</sup>

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57. *Id.* at 1.

58. *Id.* at 118 ("breaking the welfare rules is the norm").

59. *Id.* at 123.

60. *Id.* ("The ironic twist lies in the fact that the Informed were the most likely to be successful in their efforts to live without the support of the welfare system.")

61. *Id.* at 129.

Unfortunately, most welfare recipients are not as knowledgeable, well situated, or able to pay attention to the rules. Of the biggest category of recipients, the Misinformed, Gustafson writes:

With only a vague understanding of the rules and requirements, the Misinformed knew little about what the consequences would be for either failing to comply with the rules (such as the work requirements) or breaking the rules (for example, by failing to report earnings). They were unaware of the methods the welfare office used to detect cheating or the severity of penalties for breaking the rules. As a result, many interviewees could not accurately assess the risks of their noncompliance or rule breaking.<sup>62</sup>

Lack of knowledge meant that the Misinformed suffered benefit reductions and sanctions that the Informed either were able to avoid or choose to accept. The Misinformed and the Preoccupied/Disengaged, the final recipient type that emerged from the interviews, protested less to the rules even though they were more affected by them. Gustafson explains, “[t]he Preoccupied/Disengaged were too busy trying to survive to invest any time in learning how the system worked, what benefits they might be missing, or what pitfalls they might face in the future.”<sup>63</sup> The women in this final category were the most desperate, either homeless or in temporary housing, and often forced to get “dates” to make up for the gap between welfare payments and what it took to meet the most basic of needs for their families.<sup>64</sup> Though their separation from the formal economy lessened the chance that they would be caught for unreported income,<sup>65</sup> the extreme challenges in their lives made them both the group most in need of a social safety net and the recipients least likely to change their behavior in response to tweaks to welfare rules and policies.

Like other works that profile poor women on welfare, Gustafson shows the hard choices that these recipients face in their own lives and in their interactions with welfare offices. The pain is clear when Tanya, a mother of three, exclaims that being poor and unable to adequately provide for her children “hurts! It really hurts!”<sup>66</sup> The limited options available to some recipients should they lose welfare are apparent in Sarah’s acknowledgment that she might have to resort “to the oldest profession or something.”<sup>67</sup> These hardships limit the ability of welfare recipients to act exactly as we would predict rational economic actors to behave. Gustafson observes, “[t]hey are pursuing financial self-interest. But they are also

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62. *Id.*

63. *Id.* at 143.

64. *Id.* at 139-47 (getting “dates” refers to using acts of prostitution to make money).

65. *Id.* at 144.

66. *Id.* at 95.

67. *Id.* at 110.

trying to take care of their families – and caretaking takes time.”<sup>68</sup>

It is only in a methodology appendix that Gustafson tells the reader that she is “an African American woman who uses a wheelchair” and that she conducted her interviews while at first visibly pregnant and then accompanied by her under six-month old baby daughter.<sup>69</sup> As Gustafson forthrightly writes, her image “called out to have stereotypes projected upon it.”<sup>70</sup> Partly because of this and partly because of her decision to selectively deviate from the supposedly appropriate neutral researcher, Gustafson was “able to obtain rich data” from welfare recipients who felt comfortable enough to share intimate aspects of their lives.<sup>71</sup> This is not to say that there are not limitations to Gustafson’s study and her use of poor voices to better understand welfare. The sample size and limited geographical area means that the study supports further research, not authoritative conclusions. But *Cheating Welfare* offers a window on the lives of welfare recipients and their complicated relationship with welfare requirements that will challenge a broad range of readers, not only those who come to the book imagining it will be a portrait of welfare queens. Gustafson shows that welfare requirements are destined to be violated, knowingly and unknowingly, by recipients. Given the gap between the welfare support levels and the cost of living, recipients have little choice but to break eligibility rules, particularly when it comes to outside employment. The validity of the popular notion of the welfare cheat is paradoxically confirmed by Gustafson even as she suggests the need for a realistic reexamination of welfare rules in light of the widespread “cheating” acknowledged by study participants. Welfare is a contentious issue in the United States among both the public and policymakers; for both groups, Gustafson’s contribution to our understanding of how welfare is lived can inform our general understanding of our social safety net as well as how program rules impact those who rely upon such support.

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An ability to move fluidly between thinking about issues on macro and micro levels is one of the goals of a legal education, yet poverty and the lives of the poor resist such mental agility. Both the World Bank’s VOP study and Gustafson’s exploration of welfare rule adherence avoid the pitfall of being bald narrative alone, divorced from structural considerations.<sup>72</sup> But the likelihood that a larger audience will hear the

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68. *Id.* at 117.

69. *Id.* at 193.

70. *Id.* at 195.

71. *Id.* at 197.

72. See Blasi, *supra* note 24, at 1087 (“[T]he ‘new poverty law scholarship’ suffers from flaws that prevent it from being of much practical consequence for poverty law practice. The critical postmodern scholarship too narrowly focuses on the individual lawyer/client microworld. It disclaims any ambition to look for structure or explanation above the level of

voices of the poor – which is a goal common to both studies – is diminished to some extent by their own intellectual rigor and depth. In contrast, while focusing on a single individual or family risks the voice or perspective being dismissed as an isolated example, mass media portrayals of poverty show the powerful ability of such narrowly focused portrayals to bring attention to the lives of the poor. If the World Bank’s study operates at a macro level and Gustafson’s at a micro level, movies and television programs operate on a microscopic level – the representative, often heroic, individual.

Film depictions of poverty and marginalized communities rely heavily upon stereotypes to allow the audience to understand particular scenes through the imposition of mental shortcuts. Americans who have never travelled, for example, may perhaps justifiably think all Mexicans drink and carry a guitar if their only exposure to our neighbor to the south is provided by Hollywood. And when it comes to poverty, as well as opportunity, television shows and movies often draw upon archetypes even when they seek to displace them. Thus, in HBO’s *The Wire*, heralded as a hyperrealistic depiction of Baltimore, we see the humanity of the urban poor, while confirming societal prejudices that associate black males with violence and drug dealing.<sup>73</sup> A similar combination of reliance upon, and resistance to, stereotypes can be seen in the depictions of both the working-class white family of *Roseanne* and the famously upper class black family of *The Cosby Show*.<sup>74</sup> Yet, by manipulating these mental shortcuts and assumptions, movies and television have succeeded in sharing (fictional) voices of the poor with a larger audience than most works of scholarship.

In *Slumdog Millionaire*, Dev Patel played a contestant on an Indian version of the game show *Who Wants to Be a Millionaire?* The movie, which won the 2009 Academy Award for Best Picture, presented the story of a poor boy from the slums of Mumbai who, through struggle and good character, eventually found love and money. But while *Slumdog Millionaire* mirrored in some respects the Horatio Alger mythology, the director’s use of flashbacks to tell the story of the hero’s life provided viewers the opportunity to glimpse the poverty of Mumbai. Notably, the movie reached people, through the story of a lone poor protagonist, in a way that even the best macro- and micro- level academic studies will struggle to equal. My point is not to suggest that those who care about poverty abandon their academic careers and become filmmakers. *Slumdog Millionaire* after all was accused of being “poverty porn”<sup>75</sup> and ends not

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local narrative. Its limits are largely a product of its method: only narrative matters, and any single narrative supplies all the information we need.” (citation omitted)).

73. *The Wire* (HBO cable television series, 2002-2008).

74. *Roseanne* (ABC television series, 1988-1997); *The Cosby Show* (NBC television series, 1984-1992).

75. Evan Selinger & Kevin Outterson, *The Ethics of Poverty Tourism 2* (Bos. Univ. Sch. of Law, Working Paper No. 09-29, 2009), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1413149](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1413149).



with a call for action but with a feel-good Bollywood dance sequence. There is an important place for studies that share the perspectives of the poor at every level, from the global to the local to the individual. But, as Gary Blasi argues, stories are but the beginning: “A fully engaged, reconstructed poverty law scholarship would also address questions of what could or should be done about the problems it documents.”<sup>76</sup>

By taking seriously the perspectives of the poor and the idea that policymakers and the public can learn from the poor, the World Bank’s VOP studies and Gustafson’s *Cheating Welfare* engage in pioneering narrative work. While both include prescriptions on how to improve the lives of those interviewed, their primary goal and contribution is to share the voices of the poor. In different ways, they raise but do not answer the lingering question of whether policy should be driven by these voices or merely take them into account. Perhaps this is understandable; to the extent that poor voices have been marginalized, any effort to share those voices is valuable in itself as a correction on anti-poverty efforts that are determined by aid organization development models or majoritarian politics alone.

Theories about human behavior – particularly narrow versions of the rational actor model – that predict the responses of poor communities to policy changes must be revised when there is evidence that practice and theory are not aligned in the lived experience of poor people. Similarly, by listening to the poor, we can become aware of problems – everything from the effect of corruption and bureaucratic red tape on the poor to the inadequacy of current levels of assistance and support – that might otherwise fall beneath the political radar. But left unanswered is how central voices of the poor work can or should be in efforts to address global and domestic poverty. Should voices of the poor studies ultimately evolve into empowerment programs to enable poor communities to assume control over the very programs designed to provide assistance? Or does listening to the poor end up reaffirming the powerlessness of poor communities and the need for experts to interpret (and at times, ignore) these voices? Unfortunately, given funding limitations, what can be done to address the hardships of poverty is destined to fall short of what should be done. But voices of the poor studies can hopefully help narrow this resource gap by helping build public support for increased funding and providing valuable feedback on policy design.

## II. DISTANCE

The desire of whites to distance themselves, and their children, from poor blacks contributes significantly to the observable distance between classes.<sup>77</sup> Beginning with white flight connected to desegregation and black

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76. Blasi, *supra* note 24, at 1092.

77. See SHERYLL CASHIN, *THE FAILURES OF INTEGRATION: HOW RACE AND CLASS ARE*

migration from rural areas to the city, whites – particularly white parents – have gone to great lengths to separate themselves and their children from black people.<sup>78</sup> As this separation has matured, the tools and structures to protect this separation have changed from Jim Crow’s racial boundaries to institutional proxies that substitute ability to pay for explicit racial lines. Though race neutrality or even support for diversity is now facially the norm, subordinated communities remain separated from the lived space of the professional class.<sup>79</sup>

Many middle and upper class Americans have succeeded in reaching what seems to be an intended goal, the near complete separation from the lower classes.<sup>80</sup> They live, work, and even shop in places protected from unpleasant interactions with the poor. Although at one point considered the province of the wealthy, gated communities have become ubiquitous.<sup>81</sup> Even if not gated, the combination of local funding of education and allowance for localities to zone out the poor, ensures the physical separation of classes. Work is all too often similarly fragmented. The decline of manufacturing coupled with the rise of the knowledge economy ensures that peer-to-peer interactions dominate the work life of professionals.<sup>82</sup> Besides the occasional – often immigrant – service worker who provides custodial or other support services, members of the professional class or the educated elite need not interact with the poor or working-class.<sup>83</sup> Where these interactions still do occur is when the wealthy

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UNDERMINING THE AMERICAN DREAM 250-51 (2004).

78. KENNETH T. JACKSON, *CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES* 289 (1985). See also JOEL KOTKIN, *THE CITY: A GLOBAL HISTORY* 119 (2005) (“the suburbs appeared to many whites as a welcome refuge from high crime rates in the inner city”); WILLIAM JULIUS WILSON & RICHARD P. TAUB, *THERE GOES THE NEIGHBORHOOD: RACIAL, ETHNIC, AND CLASS TENSIONS IN FOUR CHICAGO NEIGHBORHOODS AND THEIR MEANING FOR AMERICA* 6 (2006) (arguing that in Chicago many whites fled white working class neighborhoods by the 1970s because of the “threat of desegregation”).

79. Despite the use of race-neutral language, racial fears continue to drive white flight. As Jerry Frug observes, “fear of what is euphemistically called ‘the inner city’ – a fear that has fueled the migration to the suburbs – has been a reference to the black poor.” Jerry Frug, *The Geography of Community*, 48 *STAN. L. REV.* 1047, 1064 (1996).

80. For more on the geography of separation, see *id.* at 1073-76.

81. See generally SETHA LOW, *BEHIND THE GATES: LIFE, SECURITY, AND THE PURSUIT OF HAPPINESS IN FORTRESS AMERICA* (2003); EVAN MCKENZIE, *PRIVATOPIA: HOMEOWNER ASSOCIATIONS AND THE RISE OF RESIDENTIAL PRIVATE GOVERNMENT* (1994).

82. For more on the decline of manufacturing, see Fran Ansley, *Standing Rusty and Rolling Empty: Law, Poverty, and America’s Eroding Industrial Base*, 81 *GEO. L.J.* 1757 (1993). See also WILSON, *WHEN WORK DISAPPEARS*, *supra* note 52, at 28 (attributing a widening wage gap between low-skilled and college-educated workers in part to the increased importance of education and training in the new global economy).

83. Full treatment of the issue of immigration as it relates to class separation is beyond the scope of this essay. For native-born Americans, immigrant stories may provide a window on the hardships faced by the global poor, but language differences, coupled with concern about legal status and distinct community space may further distance immigrants from members of the middle and upper classes, and vice versa. As Frank Munger notes, since 1970s the linked decline of the welfare state and increased immigration “[b]oth increase the pool of poor, unemployed, work-hungry individuals.” Frank W. Munger, *Social Citizen as “Guest Worker”: A Comment on Identities of Immigrants and the Working Poor*, 49 *N.Y.L. SCH. L. REV.* 665, 666 (2004).

go shopping. For many, the checkout counter offers at least a point of contact across the class divide.<sup>84</sup> But because this interaction is first and foremost between an employee and a customer – where norms dictate that employee behavior is deferential and eager-to-please – the relationship remains comfortably shallow for more privileged buyers. As the public space of the market has increasingly passed into the private hands of mall owners or other developers, the social distance between classes has grown even in how and where we consume.<sup>85</sup>

Divergences in lived experiences are most readily apparent in the comparison of those on the forefront of the global economy and those left behind. Though the language to describe this phenomenon is still in its nascent stage, this divergence undermines community or locality based identities. The January-February 2011 cover story of *The Atlantic* magazine observed that the elite “are becoming a transglobal community of peers who have more in common with one another than with their countrymen back home.”<sup>86</sup> With similar educational credentials, often from Ivy League schools, and a comfortable lifestyle that vastly exceeds that of most around them, it is no wonder that a transglobal elite identity is emerging. Within the United States, Richard Florida argues that a creative class is reshaping our economy and, critically, concentrating in a select group of cities that tailor to their needs.<sup>87</sup> Bill Bishop likewise has observed the clustering of like-minded and similarly educated people.<sup>88</sup> The warning signs are there:

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For a rich discussion of global labor solidarity in the context of U.S. plant closings, see Fran Ansley, *Inclusive Boundaries and Other (Im)possible Paths Toward Community Development in a Global World*, 150 U. PA. L. REV. 353 (2001).

84. ELLEN RUPPEL SHELL, *CHEAP: THE HIGH COST OF DISCOUNT CULTURE* 160 (2009) (“Nearly one-third of all working Americans living in poverty are employed in the retail sector.”).

85. Though the New Jersey Supreme Court has restricted the right of mall owners to exclude people from their property by requiring that protestors be allowed to distribute pamphlets in “public” parts of shopping malls, such a ruling merely highlights the exclusionary nature of malls. See *N.J. Coal. Against War in the Middle East v. J.M.B. Realty Corp.*, 650 A.2d 757 (N.J. 1994). Indoor malls offer customers the opportunity to shop comfortably in a secure environment without the risk of being accosted by beggars. Private developers have even attempted to limit the public’s use of outside space that in an earlier period most likely would have been part of the public domain. See, e.g., Danny Jacobs, *Ellsworth Drive Photo Policy Unconstitutional, Leggett Says: County Executive Speaks Out Against Downtown Silver Spring Restrictions*, *GAZETTE* (Montgomery County, MD) (July 25, 2007), [http://ww2.gazette.net/stories/072507/burtnew223941\\_32361.shtml](http://ww2.gazette.net/stories/072507/burtnew223941_32361.shtml) (discussing an incident in which a developer blocked a photographer from taking photos of an outdoor mall and private drive that had been public spaced before leased to investors for one dollar a year).

86. Chrystia Freeland, *The Rise of the New Global Elite*, *ATLANTIC MAG.*, Jan./Feb. 2011, at 46.

87. See generally RICHARD FLORIDA, *THE RISE OF THE CREATIVE CLASS: AND HOW IT’S TRANSFORMING WORK, LEISURE, COMMUNITY AND EVERYDAY LIFE* (2002); Richard Florida, *Where the Brains Are: America’s Educated Elite Is Clustering in a Few Cities – And Leaving the Rest of the Country Behind*, *ATLANTIC MAG.* (Oct. 2006), <http://www.theatlantic.com/magazine/archive/2006/10/where-the-brains-are/5202/>.

88. See generally BILL BISHOP, *THE BIG SORT: WHY THE CLUSTERING OF LIKE-MINDED AMERICA IS TEARING US APART* (2008).

“plutocracy is where we are headed, if we are not already there.”<sup>89</sup>

The extreme separation of the wealthy from the rest of American society since the mid-1970s, and particularly in the last decade, raises the – so-far unrealized – possibility that the middle class will identify with the poor. In his final *New York Times* column, Bob Herbert noted,

There is plenty of economic activity in the U.S., and plenty of wealth. But like greedy children, the folks at the top are seizing virtually all the marbles. Income and wealth inequality in the U.S. have reached stages that would make the third world blush. As the Economic Policy Institute has reported, the richest 10 percent of Americans received an unconscionable 100 percent of the average income growth in the years 2000 to 2007, the most recent extended period of economic expansion.<sup>90</sup>

Not sharing in the growth of this period arguably could provide the spark needed for the bottom *ninety* percent of Americans to recognize the shared interests of the poor and the middle class.<sup>91</sup> For the bottom twenty percent of Americans, who only saw a total increase in income of \$200 over the twenty-six-year period from 1979-2005, compared to a \$6 million increase for the top one percent, the experience of the last decade is merely a continuation of the structural inequality already experienced.<sup>92</sup> As *Mother*

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89. Richard L. Kaplan, *Economic Inequality and the Role of Law*, 101 MICH. L. REV. 1987, 2006 (2003) (summarizing the position of Kevin Phillips in *Wealth and Democracy: A Political History of the American Rich* (2002)). A Citicorp memo controversially drew attention to the rise of a global plutonomy and provided investment advice based on this observation. CITIGROUP, PLUTONOMY: BUYING LUXURY, EXPLAINING GLOBAL IMBALANCES (Oct. 16, 2005), available at [http://www.just-for-life.org/Lust-For-Life/CitigroupImbalances\\_October2009/CitigroupImbalances\\_October2009.pdf](http://www.just-for-life.org/Lust-For-Life/CitigroupImbalances_October2009/CitigroupImbalances_October2009.pdf).

90. Bob Herbert, Op-Ed., *Losing Our Way*, N.Y. TIMES, Mar. 25, 2011, at A23.

91. Nancy E. Dowd, *Bringing the Margin to the Center: Comprehensive Strategies for Work/Family Policies*, 73 U. CIN. L. REV. 433, 440 (2004) (“The widening gap between rich and poor and the increasing pool of those with less income compared to the increasing concentration among the very rich might lead to recognition among the middle class of the issues and the dilemmas faced by the working poor.”). Debt-fueled consumption and easy money, too often tied to home equity lines of credit, may have helped prevent popular recognition of the share of economic growth claimed by the top decile. See Lois R. Lupica, *The Consumer Debt Crisis and the Reinforcement of Class Position*, 40 LOY. U. CHI. L.J. 557, 570-99 (2009) (providing a demand and supply side explanation for the rise in consumer indebtedness).

92. Economic Policy Institute, *State of Working America Preview: Income Inequality in Dollars and Cents* (Nov. 3, 2010), [http://www.epi.org/economic\\_snapshots/entry/swa\\_preview\\_income\\_inequality\\_in\\_dollars\\_and\\_cents/](http://www.epi.org/economic_snapshots/entry/swa_preview_income_inequality_in_dollars_and_cents/); see also Rebecca Thies, *The Great Recession’s Long Tail: Third Anniversary Underscores Severity of Labor Market Woes*, EPI Briefing Paper #294, ECONOMIC POLICY INSTITUTE 1 (Feb. 2, 2011), [http://epi.3cdn.net/7e79bc213a38f1afd4\\_6am6bhj3l.pdf](http://epi.3cdn.net/7e79bc213a38f1afd4_6am6bhj3l.pdf) (noting that “the gap between the rich and the poor – or rather the top 1% and the bottom 99% – continued to grow” between 2007 and 2010); Sylvia A. Allegretto, *EPI Briefing Paper #292: The State of Working America’s Wealth, 2011: Through Volatility and Turmoil, the Gap Widens*, ECONOMIC POLICY INSTITUTE 1 (Mar. 23, 2011), [http://epi.3cdn.net/2a7ccb3e9e618f0bbc\\_3nm6idnax.pdf](http://epi.3cdn.net/2a7ccb3e9e618f0bbc_3nm6idnax.pdf) (noting that the recovery since 2009 “has proceeded on two tracks: one for typical families and workers, who continue to struggle

Jones noted in a recent overview of inequality, “The superrich have grabbed the bulk of the last three decades’ [economic] gains.”<sup>93</sup> In *State of Working America 2011*, the Economic Policy Institute makes a similar point: “Between 1948 and 1979 the richest 10% accounted for a third of average income growth – matching their share in 1948 and keeping the income distribution stable for these three decades. Between 1979 and 2007 the richest 10% accounted for a full 91% of average income growth.”<sup>94</sup> Recently, the housing and foreclosure crisis highlights the precariousness of middle-class homeownership, employment, and consumption patterns.<sup>95</sup>

The distance between the middle-class and the poor remains, despite facing somewhat similar challenges, because the poor and their interests are seen as distinct and opposed to the middle class and mainstream values. Support of redistributive aims, including welfare, requires the middle and upper classes to act contrary to their perceived self-interest, which is why, Sheryll Cashin argues, “[i]t is not surprising that budgetary alliances between anti-poverty and middle class interest groups do not frequently occur.”<sup>96</sup> As Deborah Malamud argues, in the United States, “most people think of themselves as *middle* class. . . . The recognized exception, the chronic poor, is seen as an aberration rather than evidence of a general system of class in the United States.”<sup>97</sup> Those in the middle class hope to avoid the “plight” of the chronic poor.<sup>98</sup> Such a class orientation forces those who (rightly or wrongly) identify as middle class to draw sharp lines, racial and behavioral, between the classes. If “the middle class is organized on a moral basis, built upon the concept of merit,” then poverty (and to some extent even wealth) has a corresponding association with negative

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against high rates of unemployment and continued foreclosures, and another track for the investor class and the wealthy, who have enjoyed significant gains in the stock market and benefitted from record corporate profits”).

93. Dave Gilson & Carolyn Perot, *It's the Inequality, Stupid*, MOTHER JONES (Mar./Apr. 2011), <http://motherjones.com/politics/2011/02/income-inequality-in-america-chart-graph> (see series of charts with explanations).

94. *The State of Working America*, ECONOMIC POLICY INSTITUTE, <http://www.stateofworkingamerica.org/> (last visited Mar. 4, 2011).

95. The housing crisis revealed systematic instabilities and risks, but these dangers lurked prior to the general market implosion of 2006-2009. See CLAUDE S. FISCHER ET AL., *INEQUALITY BY DESIGN: CRACKING THE BELL CURVE MYTH* 3 (1996) (arguing that the “squeezed” middle class is at risk of being pushed “into the class that has been left behind” by a single missed mortgage payment). See also Kaplan, *supra* note 89, at 1989 (noting that the fate of America’s middle class from 1977-1994 “is grimmer than has been generally acknowledged”).

96. Sheryll D. Cashin, *Federalism, Welfare Reform, and the Minority Poor: Accounting for the Tyranny of State Majorities*, 99 COLUM. L. REV. 552, 590-91 (1999). In discussing social insurance, David Super makes a similar argument based on middle class self-interest: “The social insurance approach, however, has provided little traction for dealing with chronic poverty because middle-class people cannot imagine themselves facing that need.” David A. Super, *Laboratories of Destitution: Democratic Experimentalism and the Failure of Antipoverty Law*, 157 U. PA. L. REV. 541, 596 (2009).

97. Deborah C. Malamud, “Who They Are – Or Were”: *Middle Class Welfare in the Early New Deal*, 151 U. PA. L. REV. 2019, 2019 (2003).

98. John Mixon, *Neoclassical Economics and the Erosion of Middle-Class Values: An Explanation for Economic Collapse*, 24 NOTRE DAME J. L. ETHICS & PUB. POL’Y 327, 327 (2010).

values.<sup>99</sup> Those not trapped in chronic poverty rush to identify themselves with the middle-class norm even if they are actually members of the upper class or working class.<sup>100</sup> Such identification “discourages the mobilization of class consciousness” and reinforces the isolation and separation of the poor.<sup>101</sup>

Taking a more theoretical perspective, Roberto Mangabeira Unger claims that workers can be divided into a vanguard and a rearguard.<sup>102</sup> According to Unger, those in the vanguard enjoy a work environment marked by flexibility, an egalitarian and team-oriented approach to problem solving, and an emphasis on creativity and learning, not skill specialization.<sup>103</sup> In contrast, those in the rearguard encounter rigid hierarchical structures and lower commitments of capital per worker.<sup>104</sup> Unger explains:

Membership in each of these two worlds implies distinctive forms of social advantage and experience. To work in the vanguard as a vanguardist worker (given that one may physically work in the vanguard as a menial laborer) is not just to enjoy more income and consumption. It is also to benefit from greater trust and discretion at work. It is to enjoy in a major aspect of everyday life a sense of effective agency. It is to act according to a view of one’s job lying somewhere between the ancient conception of the honorable calling and the modern idea of transformative power.<sup>105</sup>

The difference between the educated elite and the poor, or broader still, between the vanguard and the rearguard, involves an economic *and* a cultural gap.<sup>106</sup> The inability of the educated elite to understand the lives of the poor can be partly attributed to the generation-long widening of the gap between rich and poor. But even for those educated professionals not in

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99. john a. powell, *The Race and Class Nexus: An Intersectional Perspective*, 25 LAW & INEQ. 355, 389 (2007). See also Joel F. Handler, “Constructing the Political Spectacle”: *The Interpretation of Entitlements, Legalization, and Obligations in Social Welfare History*, 56 BROOK. L. REV. 899, 926 (1990) (“The distinction between the deserving and undeserving poor is a moral issue that affirms the values of the dominant society by stigmatizing the outcasts.”). Those perceived negative values are often grounded on racial animus. For a good summary of the debate about whether black urban poverty is primarily attributable to structure or culture, see Jennifer M. Russell, *The Race/Class Conundrum and the Pursuit of Individualism in the Making of Social Policy*, 46 HASTINGS L.J. 1353, 1411-25 (1995).

100. Athena D. Mutua, *Introducing ClassCrits: From Class Blindness to a Critical Legal Analysis of Economic Inequality*, 56 BUFF. L. REV. 859, 880-81 (2008).

101. Martha R. Mahoney, *Class and Status in American Law: Race, Interest, and the Anti-Transformation Cases*, 76 S. CAL. L. REV. 799, 832 (2003).

102. ROBERTO MANGABEIRA UNGER, *DEMOCRACY REALIZED: THE PROGRESSIVE ALTERNATIVE* 32-41 (1998).

103. *Id.* at 33.

104. *Id.*

105. *Id.* at 35.

106. For more on the significance of valuing work and recognizing its meaning across employment types, see Vicki Schultz, *Life’s Work*, 100 COLUM. L. REV. 1881 (2000).

the top quintile, cultural and economic separation from the poor is likely to be the norm given spatial and experiential separation of the classes in America.<sup>107</sup>

Class separation – cultural and physical – explains much of the need and demand for studies (even movies) that draw their content from the perspectives and life experiences of the poor. Particularly when it comes to work that will mainly be read by academics or policymakers, an important – perhaps the most important – role of such research is to close the distance between the lived experiences of the poor and the non-poor.<sup>108</sup> In the United States, the middle and upper classes have found ways to remove themselves from the poor. Policymakers' general apathy to the current high levels of persistent unemployment reflects "a governing elite that is profoundly alienated from the lived experiences of the millions of Americans who are barely surviving the ravages of the Great Recession."<sup>109</sup> Christopher Hayes continues, "Social distance between decision-makers and citizens . . . explains the almost surreal detachment of the current Washington political conversation from the economic realities working-class, middle-class and poor people face."<sup>110</sup> Class separation and the isolation of the poor is a phenomenon that reflects and impacts everything from government policy to the nature of our friendships and where we live. Voices of the poor studies provide the introduction to the lives of the poor needed when culturally elite readers have infrequent, and often narrowly

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107. Declining social capital provides another explanation for this separation. As Robert Putnam showed in *Bowling Alone*, Americans are less involved in civic organizations and spend less time socializing with friends compared to previous levels of civic engagement. ROBERT PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000). *Bowling Alone* was published prior to the rise of Facebook or the mobilization possibilities of social networking evident in the Obama campaign and the 2011 popular protests in the Middle East. Arguably, electronic connectedness, most notably through social networking websites, might reverse the trends Putnam observed. But these platforms may only reinforce the insularity of class by thickening school and employment bonds that can have an exclusionary effect on poor or subordinated communities not able to participate in this modern form of the old boys' network. The diminished cross-class social capital prevents the poor from hearing about economic opportunities and also helps explain why the privileged need movies, studies, and reports that share the life histories and perspectives of the poor. Those who do not have poor friends or participate in activities alongside poor individuals are less likely to know, for example, that rule knowledge and adherence varies across welfare recipients. Research profiling the global poor or welfare recipients make more sense and serves a more important role when the reader is not friends with or does not interact with members of the profiled population.

108. It would be perhaps most accurate to use the term "rich" instead of "non-poor" but most Americans have trouble recognizing their own relative wealth. See, e.g., Daniel Gross, *Sorry, Pal, But You're Rich*, SLATE.COM MONEYBOX (Aug. 27, 2008, 5:51 PM), <http://www.slate.com/id/2198806/> (arguing that those making over \$250,000 annually are rich even if they do not recognize it when compared to a median household income of just over \$50,000).

109. Christopher Hayes, *What Social Network?*, THE NATION, Mar. 21, 2011, at 4; see also U.S. BUREAU OF LABOR STATISTICS, ISSUES IN LABOR STATISTICS DECEMBER 2010 (2010), available at <http://www.bls.gov/opub/ils/pdf/opbils88.pdf> (analyzing the sharp rise in unemployment connected to the recession).

110. Hayes, *supra* note 109, at 5.

constrained, contact with the poor.

### III. OBLIGATIONS

In announcing that “the United States is changing the way we do business,” President Obama’s 2010 speech at the United Nations’ Millennium Development Goals Summit set forth a new path for U.S. foreign aid.<sup>111</sup> But before laying out his “big-hearted” and “hard-headed” vision for development, Obama felt compelled to first explain to “some in wealthier nations” the need to focus on international development in light of struggling domestic economies and high unemployment levels.<sup>112</sup> Obama’s explanation had little of the ambition and soaring rhetoric characteristic of his 2008 campaign; we should care about international development because “progress in even the poorest countries can advance the prosperity and security of people far beyond their borders, including my fellow Americans.”<sup>113</sup> Helping the global poor, Obama explained, was part of his “national security strategy [that] recognizes development not only as a moral imperative, but a strategic and economic imperative.”<sup>114</sup>

The “new” direction in U.S. foreign aid policy included a partial acknowledgment by Obama that the United States has not lived up to previous aid commitments. In his 1961 Inaugural Address, John F. Kennedy rooted our international obligations in doing “right,” not in our self-interest in prosperity and national security:

To those peoples in the huts and villages across the globe struggling to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required. . . . If a free society cannot help the many who are poor, it cannot save the few who are rich.<sup>115</sup>

According to a recent survey, the American public believes that foreign aid makes up a large percentage of the federal budget: the mean percentage estimate was 21% and the median estimate was 15%.<sup>116</sup> The actual amount of U.S. official development assistance (ODA) was only 1% of the federal budget in 2010,<sup>117</sup> even though according to the same survey, the mean

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111. Barack Obama, Remarks the Millennium Development Goals Summit in New York, New York (Sept. 22, 2010), *available at* <http://www.whitehouse.gov/the-press-office/2010/09/22/remarks-president-millennium-development-goals-summit-new-york-new-york>.

112. *Id.*

113. *Id.*

114. *Id.*

115. John F. Kennedy, Inaugural Address (Jan. 20, 1961), *available at* <http://www.americanrhetoric.com/speeches/jfkinaugural.htm>.

116. PROGRAM FOR PUB. CONSULTATION, HOW THE AMERICAN PUBLIC WOULD DEAL WITH THE BUDGET DEFICIT 9 (2011), *available at* [http://www.public-consultation.org/pdf/Budget\\_Feb11\\_quaire.pdf](http://www.public-consultation.org/pdf/Budget_Feb11_quaire.pdf).

117. Talea Miller & Larisa Epatko, *Foreign Aid Facing Proposed Cuts and a Public Perception*



response regarding the appropriate percentage was 11% and the median response was 5%.<sup>118</sup> The international aid standard, however, is not described in terms of budget percentages but in terms of aid as a percentage of the entire economy. Although the generally recognized target for ODA is 0.7% of gross national product (GNP),<sup>119</sup> at 0.20%, the United States' level of ODA falls far short.<sup>120</sup> Given the size of our economy relative to other developed nations, the amount of ODA given by the United States far exceeds the other nations of the world even though we have one of the lowest rates of giving as a percentage of GNP.<sup>121</sup> USAID has critiqued ODA as "a limited and outdated way of measuring a country's giving" because ODA does not include private giving.<sup>122</sup> Though aggregate giving and giving as a percent of GNP are not actually in conflict, their apparent contrast invites political manipulation.<sup>123</sup> While in the aggregate the United States is the global leader, according to the international standard that takes into account economic might, we are a global laggard.<sup>124</sup>

President Obama's speech at the United Nations implicitly acknowledged the country's underfunding of foreign aid. Although he did not declare, as Sachs does, that "U.S. assistance for the world's poorest countries is utterly inadequate,"<sup>125</sup> Obama sought to change the terms of the debate. "For too long," Obama argued, "we've measured our efforts by the dollars we spent and the food and medicines that we delivered."<sup>126</sup> Problematically, Obama embraced the aggregate giving, not GNP-tied, standard, claiming that "the United States of America has been, and will

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*Problem*, PBS NEWSHOUR: THE RUNDOWN BLOG (Mar. 10, 2011, 3:32 PM), <http://www.pbs.org/newshour/rundown/2011/03/foreign-aid-facing-proposed-cuts-public-perception-problem.html>.

118. PROGRAM FOR PUB. CONSULTATION, *supra* note 116.

119. See, e.g., United Nations International Conference on Financing for Development, Monterrey, Mex., Mar. 18-22, 2002, *Report of the International Conference on Financing for Development*, 9, ¶ 42, U.N. Doc. A/CONF.198/11, available at [http://www.unmillenniumproject.org/documents/07\\_aconf198-11.pdf](http://www.unmillenniumproject.org/documents/07_aconf198-11.pdf). The United States is a party to the Monterrey Consensus and has "repeatedly signed onto" the 0.7% of GNP target. Jeffrey D. Sachs, *The Development Challenge*, 84 FOREIGN AFF., Mar./Apr. 2005, at 78, 86.

120. ORG. FOR ECON. COOPERATION & DEV., NET OFFICIAL DEVELOPMENT ASSISTANCE IN 2009, 1 tbl. 1 (2010), available at <http://www.oecd.org/dataoecd/17/9/44981892.pdf>.

121. Note, the OECD figures are based on gross national income (GNI), not GNP, but for simplicity, I have substituted GNP for GNI because the argument is unaffected by the difference between these measures of the economy.

122. U.S. AGENCY FOR INT'L DEV., FOREIGN AID IN THE NATIONAL INTEREST: PROMOTING FREEDOM, SECURITY, AND OPPORTUNITY 131 (2002). See also Carol C. Adelman, *The Privatization of Foreign Aid: Reassessing National Largess*, 82 FOREIGN AFF., Nov./Dec. 2003 at 9, 10-11 (a critique of ODA-based aid measures emphasizing private giving written by a former Assistant Administrator for USAID).

123. ORG. FOR ECON. COOPERATION & DEV., *supra* note 120, at Chart 1 (comparing net ODA with net ODA as a percentage of GNI).

124. For more on the comparison of the U.S. giving versus other members of the G7, see *Aid Flows*, WORLD BANK, <http://siteresources.worldbank.org/CFPEXT/Resources/299947-1266002444164/index.html> (select United States Donor View, then Show G7 Comparison) (last visited Apr. 6, 2011).

125. Sachs, *supra* note 119, at 80.

126. Obama, *supra* note 111.

remain, the global leader in providing assistance."<sup>127</sup> Despite such rhetoric, Obama's argument that the global community should "move beyond the old, narrow debate over how much money we're spending" is arguably too self-serving, even for a President attempting to change the course of international aid efforts.<sup>128</sup>

What is to become of international aid? Obama emphasizes market development and the responsibilities of recipient countries. Although he never uses the "teach a man to fish" proverb, Obama dismisses reliance on food assistance as a cycle of "dependence," "not development," and asserts that "we have to offer nations and peoples a path out of poverty."<sup>129</sup> The path out of poverty, Obama insists, can be found in "the most powerful force the world has ever known for eradicating poverty and creating opportunity . . . broad-based economic growth."<sup>130</sup> After arguing that the United States "will partner with countries that are willing to take the lead," in a partial contradiction, Obama proceeds to list the policies the United States will look for when giving assistance to potential recipient nations.<sup>131</sup> Recipient countries are expected to "encourage entrepreneurship," "invest in infrastructure," "expand trade," "welcome investment," "combat corruption," and "promote good governance and democracy."<sup>132</sup> Obama's list sits uncomfortably alongside the discredited and controversial Washington Consensus of the 1990s; although Obama provides greater space for recipients to establish their own institutions, recipients still face externally imposed requirements.

Obama's speech suggests that poor countries are poor because they have not done the right things to enable economic growth. Rather than emphasize our moral obligation to ease suffering, Obama insists aid requires "more responsibility" and "mutual accountability" from recipient countries and the United States alike.<sup>133</sup> But, despite the language of shared responsibility, the onus is on recipient countries to meet donor requirements. Even as Obama highlights countries that have made progress and says we will partner with countries "who want to build their own capacity to provide for their people," the suggestion is that some countries do *not* share this desire.<sup>134</sup> The stress placed on good governance reflects the idea that some recipient nations – regardless of the hardships faced by their population – are not worthy of assistance. Good governance is the ascendant paradigm, filling the space left when international institutions were shamed into abandoning the Washington Consensus. Yet, ironically, as a precondition of aid, good governance falls into the same trap

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127. *Id.*

128. *Id.*

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.*

as the Washington Consensus of elevating a particular model of regulation and governance over other alternatives. The assumption that there is a linear, predictable pattern of institutional structure culminating in good governance's focus on soft law, public/private mixing, and bottom-up democracy risks underestimating the rigidities of global inequality.

An emphasis on good governance arguably obscures the structural roots of global poverty by looking only at the recipient country policies and ignoring the relationship between donor and recipient economies. Obama, for example, focuses on agricultural policy in recipient countries but ignores the effect of American agricultural subsidies on poor countries.<sup>135</sup> Good governance's participatory federalism can further many important values, but equating such changes in governance as necessary for "improvements in people's lives" through international aid is problematic.<sup>136</sup> To the degree to which the global aid community has already adopted a good governance standard and Obama's speech is merely reflective of the era in which we are living, then seeing good governance as a natural evolution from the regulatory state risks enshrining *what is* for *what should be*. More importantly, focusing on good governance moves the dialogue from whether developed countries are meeting their aid obligations and contributing enough to whether recipient countries are making adequate progress towards Obama administration-favored institutions and policies. But despite such rhetorical misdirection, as Jeffrey Sachs observes, "U.S. development assistance is far less than what [the American people] believe it to be - and far less than what is needed, affordable, and already promised by Washington."<sup>137</sup>

The last time that the United States seriously wrestled with poverty and the nature of societal obligations to the poor domestically was during the Clinton-era debates over welfare reform. That is not to say that there have not been other moments in which poverty garnered passing attention and that offered an opening for a meaningful dialogue about our obligations to the poor. The devastation caused by Hurricane Katrina and especially the ineffective federal response to the flooding of New Orleans briefly put the vulnerabilities of poor, minority communities into stark relief.<sup>138</sup> John Edwards even announced his candidacy for President by giving his signature "Two Americas" speech from in front of a house in the city's hard-hit and poor Ninth Ward.<sup>139</sup> But the American public moved on - from Edwards and from Katrina. Similarly, though occasional anger at the

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135. *Id.*

136. *Id.*

137. Sachs, *supra* note 119, at 89.

138. See Powell, *supra* note 99, at 400 ("Hurricane Katrina illustrated a profound connection between race and poverty in the United States.") For more on race and class in the rebuilding of post-hurricane New Orleans, see Audrey G. McFarlane, *Operatively White?: Exploring the Significance of Race and Class Through the Paradox of Black Middle-Classness*, 72 LAW & CONTEMP. PROB. 163, 167-69 (2009).

139. Matt Bai, *The Poverty Platform*, N.Y. TIMES MAG., June 10, 2007, at 66.

wealthy and at “Wall Street” bubbles up as the current economic recession and associated high levels of unemployment continues into its third year, most of the attention has been on how the middle class is affected. The hardships faced by the poor in today’s economic environment and the fragility of the social safety-net are drowned by other significant (war) and not-so-significant (celebrity gossip) news items.

Those who advocate for the poor lost the battle over welfare reform, and the loss partly underscores the need to share the perspectives of the poor. A Republican-controlled Congress passed and President Clinton, a *Democrat*, signed the bill. Welfare reform did three principal things: it put time limits on welfare receipt, transferred the bulk of responsibility from the federal government to the states through block grants, and imposed work requirements on recipients.<sup>140</sup> The distance between legislators and the lives of welfare recipients is readily apparent even if we limit ourselves to the conflicting stories told about the poor in a single House debate. Though welfare reform made welfare a matter of grace and not a right,<sup>141</sup> conservatives rhetorically claimed the high ground, asserting that the changes would liberate the poor.<sup>142</sup> Conservatives associated welfare recipients with a host of character flaws and pathologies: they are “young girls that continue to have baby after baby after baby,”<sup>143</sup> “people who make little or no effort to help themselves,”<sup>144</sup> and people for whom “a hand out . . . becomes a way of life.”<sup>145</sup> Though critics of welfare reform feared that it would increase the prevalence and severity of poverty, particularly for children,<sup>146</sup> advocates of reform argued that the “current

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140. For more on work requirements and time limits, see Matthew Diller, *The Revolution in Welfare Administration: Rules, Discretion, and Entrepreneurial Government*, 75 N.Y.U. L. REV. 1121, 1148-52 (2000). For more on welfare reform’s move to programmatic flexibility through state control of block grants and risks faced by minority poor communities because of this change, see Cashin, *supra* note 96, at 552.

141. David A. Super, *Offering an Invisible Hand: The Rise of the Personal Choice Model for Rationing Public Benefits*, 113 YALE L.J. 815, 817 n.3 (2004).

142. See, e.g., 142 CONG. REC. H9393 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Solomon) (“Mr. Speaker, I was raised to treat the less fortunate in our society with compassion, as most Americans are. The way to effect change for those who suffer in poverty is certainly not additional handouts and entrapment in the current cycle of dependency that has bred second- and third- and now fourth-generation welfare recipients. Rather, we should emphasize welfare as a temporary boost from despair to the sense of self-worth inherent in work.”).

143. 142 CONG. REC. H9394 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Solomon).

144. 142 CONG. REC. H9396 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Pryce).

145. 142 CONG. REC. H9400 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Weldon).

146. See, e.g., 142 CONG. REC. H9412 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Nadler) (“[S]adly, it seems clear that this House today will abdicate its moral duty and knowingly vote to allow children to go hungry in America.”); 142 CONG. REC. H9414 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Brown) (“This bill prevents the future generation from meeting its potential to contribute to American society and instead dooms today’s poor children to deeper poverty and no chance to take their place as productive members of our society.”); 142 CONG. REC. H9416 (daily ed. July 31, 1996)

welfare system punishes families and children by rewarding irresponsibility, illegitimacy and destroying self-esteem.”<sup>147</sup> Some of the charges leveled at welfare were undoubtedly fair, such as problems in the bureaucratic administration, but the best summary of the day’s debate was provided by Congressman Jesse Jackson, Jr., of Chicago. According to Jackson, “[d]espite the deceptive rhetoric that we have heard on the floor today, let us be clear – at its core, this bill unravels a sixty-year guarantee of a basic human safety net for our Nation’s poorest and most vulnerable children and their families.”<sup>148</sup>

The distance between Congressional understandings of welfare reflected in the debate and the hardships of poverty, on and off welfare, can be interpreted cynically or optimistically. If the attacks on the poor and the disparagement of welfare recipients are purely a rhetorical way of building support for welfare reform, then little will be accomplished by sharing the voices of the poor. But a more optimistic take on welfare reform starts with a recognition that many members of Congress live very privileged lives, far removed from recipient communities. According to new study by the Center for Responsive Politics, “[a]bout 1 percent of all Americans are millionaires. In Congress, that number regularly hovers between 40 percent and 50 percent.”<sup>149</sup> Given the contrast between lawmaker privilege and those most directly impacted by changes to the social safety-net, works that shed light on the lives of the poor and their perspectives on poverty can play a vital role in opening the eyes of policymakers and constituents alike.

The downsides of locating policy choices and obligations in public recognition and understanding of poverty demand acknowledgment. Tethering societal obligations to levels of public understanding regarding the lives of the poor substitutes hard obligations tied to absolute deprivations and structural inequalities with the public’s fickle attention to these hardships. The voices of the poor literature risks overly prioritizing the connection they allow readers to make with the profiled poor; essentially elevating subjective audience responses over objective lived

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(Conference Report on H.R. 3734) (statement of Rep. Jackson-Lee) (“I rise today to speak out against a great injustice, an injustice that is being committed against our Nation’s children, defenseless, nonvoting, children . . . We speak so often in this House about family values and protecting children. At the same time however, my colleagues on the other side of the aisle, have presented a welfare reform bill that will effectively eliminate the Federal guarantee of assistance for poor children in this country for the first time in 60 years and will push millions more children into poverty.”). *But see* 142 CONG. REC. H9393 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Solomon) (“This legislation gives the single moms and kids, who are the vast majority of welfare recipients, an opportunity to escape a life of relying on government benefits. A vote against this package is a vote to deny kids on welfare hope to escape a life of welfare dependency.”).

147. 142 CONG. REC. H9405 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Camp).

148. 142 CONG. REC. H9407 (daily ed. July 31, 1996) (Conference Report on H.R. 3734) (statement of Rep. Jackson).

149. Ctr. for Responsive Politics, *Why Does This Matter?*, OPENSECRETS.ORG, <http://www.opensecrets.org/pfds/why.php> (last visited Apr. 6, 2011).

experiences of the poor. The dangers of audience-centrality can be seen in manipulation of public perceptions regarding our antipoverty commitment can be seen in political emphasis of aggregate foreign aid instead of the international standard of aid relative to the size of the donor economy and even in how we measure poverty.

The centrality of audience reaction is not unique to voices of the poor type studies, but it is crucial that the underlying hardships of the poor not be tied solely to popular understanding and attention. Many supposedly “objective” statistics suffer from political manipulations designed to lessen popular concern for the poor or general understanding of the state of the economy. The U.S. poverty line, for example, originally created in 1963 by Mollie Orshansky relies on an inflation adjustment and dated assumptions regarding food expenditure as a percentage of total family budget.<sup>150</sup> There is widespread recognition that the current poverty line is no longer accurate.<sup>151</sup> In 1995, a National Academy of Sciences (NAS) panel released the details of a new approach to measure poverty – a replacement to the Orshansky line.<sup>152</sup> And although the Census Bureau does provide estimated poverty measures based on the NAS guidelines, the inflation-adjusted Orshansky line appears an intractably fixed measure.<sup>153</sup> But why? According to Rebecca Blank, “[t]hat’s a story of politics getting in the way of good statistics.”<sup>154</sup> A similar story might be told about the manipulation of who is included in unemployment figures and how politicians selectively celebrate or ignore changes in the rate of unemployment.<sup>155</sup>

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150. Peter Cicchino explained prior to his untimely death, “[s]imply (but still more or less accurately) put, the poverty line is an inflation adjusted estimate of the *least costly* food budget for a family times three.” Peter M. Cicchino, *The Problem Child: An Empirical Survey and Rhetorical Analysis of Child Poverty in the United States*, 5 J.L. & POL’Y 5, 14 (1996); see also Jared Bernstein, *Who’s Poor? Don’t Ask the Census Bureau*, N.Y. TIMES, Sept. 26, 2003, at A25 (giving a quick overview of the problems with the current poverty measure); Gordon M. Fisher, *The Development and History of the Poverty Thresholds*, *Social Security Bulletin*, Vol. 55, No. 4, SOC. SEC. ADMIN. (1992), <http://www.ssa.gov/history/fisheronpoverty.html> (providing the poverty line’s history and how Orshansky came up with her initial figures).

151. WILLIAM P. QUIGLEY, *ENDING POVERTY AS WE KNOW IT: GUARANTEEING A RIGHT TO A JOB AT A LIVING WAGE* 38-39 (2003); see, e.g., Wendy A. Bach, *Governance, Accountability, and the New Poverty Agenda*, 2010 WIS. L. REV. 239, 279 (2010).

152. PANEL OF POVERTY AND FAMILY ASSISTANCE, NAT. RESEARCH COUNCIL, *MEASURING POVERTY: A NEW APPROACH* (Constance F. Citro & Robert T. Michael eds. 1995), available at <http://www.census.gov/hhes/povmeas/methodology/nas/report.html>.

153. For tables of NAS-based poverty estimates, see *Tables of NAS-Based Poverty Estimates*, U.S. CENSUS BUR., <http://www.census.gov/hhes/povmeas/data/nas/tables/index.html> (last visited July 3, 2011). There may be some hope that the poverty measure may change; after New York City found that the federal poverty line did not serve its purposes, it began using its own NAS-derived poverty measure in 2008. REBECCA M. BLANK & MARK H. GREENBERG, *IMPROVING THE MEASUREMENT OF POVERTY* 9 (2008), available at [http://www.brookings.edu/~media/Files/rc/papers/2008/12\\_poverty\\_measurement\\_blank/12\\_poverty\\_measurement\\_blank.pdf](http://www.brookings.edu/~media/Files/rc/papers/2008/12_poverty_measurement_blank/12_poverty_measurement_blank.pdf).

154. Rebecca M. Blank, *How We Measure Poverty*, L.A. TIMES (Sept. 15, 2008), [http://www.latimes.com/news/opinion/commentary/la-oe-blank15-2008sep15\\_0,3772475.story](http://www.latimes.com/news/opinion/commentary/la-oe-blank15-2008sep15_0,3772475.story).

155. U.S. unemployment figures include only those who are actively seeking employment, not those who have given up on finding employment. In periods where job opportunities are

Some things about poverty are *true*, for lack of a better word, regardless of whether official statistics accurately count all the poor or unemployed or whether academics succeed in documenting and sharing the voices of the poor. Some children in the United States grow up in food insecure households even if no book on the topic reaches the zeitgeist in the way that *Nickel and Dimed* did.<sup>156</sup> The same is true of the hardships of living in urban slums in years when public attention has switched from *Slumdog Millionaire* to Charlie Sheen's antics. Audience understanding of poverty and encounters with poor people through voices of the poor literature may be a pre-condition for garnering support for antipoverty efforts, but the poor experience the hardships of poverty regardless of whether anyone is paying attention.

#### CONCLUSION

Societal obligations to the local and global poor find partial expression in our efforts to listen to their voices. Exposure alone does not translate into actions on behalf of the poor, but removing the misconceptions and ignorance that surrounds poverty and the lives of poor persons is perhaps a necessary pre-condition for positive change. Poor voices scholarship implicitly asks that readers recognize the questionable basis for narrowing our conception of moral obligation. Once we hear from the poor, it is hard not to include in our scope of concern those who we now have some knowledge of, even though they are not close to us socially or spatially.<sup>157</sup> By sharing the perspectives of the poor through their voices and their life histories, the World Bank's VOP study, Gustafson's *Cheating Welfare*, and similar works that share the perspectives of the poor help counteract the many forces of class separation, from physical separation and national borders to life experiences and cultural norms. Literature and research cannot fully bridge these gulfs alone, but such works can help us recognize the humanity of the poor and the need to hear their voices. Voices of the poor studies do not displace the role of experts in theorizing poverty and in understanding the big picture. Instead, such studies highlight the need to contextualize poverty and to recognize the impact that giving equal billing to the voices of the poor can have on how we understand both poverty and

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limited, the unemployment rate may not reflect the full extent of unemployment because some people may have temporarily or permanently suspended their job hunts. For a defense of the objectivity of the method of calculating the unemployment rate and a description of alternative measures, see John E. Bregger & Steven E. Haugen, *BLS Introduces New Range of Alternative Unemployment Measures*, MONTHLY LAB. REV., Oct. 1995, at 19-26.

156. See MARK NORD ET AL., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES 2009 (2010), available at <http://www.ers.usda.gov/Publications/ERR108/ERR108.pdf>.

157. See Kenneth MacDonald, *Epistemic Violence: The Body, Globalization, and the Dilemma of Rights*, 12 TRANSNAT'L L. & CONTEMP. PROBS. 65, 67 (2002) (discussing the role globalization plays in expanding the scope of our moral obligations); Ezra Rosser, *Obligations of Privilege*, 32 N.Y.U. REV. L. & SOC. CHANGE 1, 38-43 (2007) (using an expansive understanding of the duty of rescue to argue that the rich have related obligations to those in need).

the effectiveness of antipoverty programs.