

Poverty and Law: A Comparative Perspective

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In comparative perspective, the 1975 Sackville Report¹ reflects a generational moment. Across the Western world, and beyond, diverse factors conspired to foreground law in social reform as both a sphere and strategy for addressing questions of poverty and inequality. The report reflected the zeitgeist of the 1970s. Its triple-headed vision of expanding legislated rights in neglected areas, reforming pernicious laws and legal procedures, and arming people living in poverty with lawyers and responsive courts was remarkable for its breadth but not necessarily its substance.

With a focus on Western states, this chapter asks three questions of this law and poverty phenomenon: What explains its rise? What was its nature? And how has it fared over time?

The Rise of Law

The paradigmatic rise of law in social policy was partly demand-driven. Samuel Huntington referred to the late 1960s as a time of 'creedal passion' (1981)² when 'outrage' was expressed over the gulf between 'egalitarian political creeds' and the 'inequalities' that stemmed from 'institutional practices'.³ From the 1968 student riots and anti-Vietnam War movement to the wave of decolonisation movements across the South and protest movements in the East, the stasis of political authority and public policy was under challenge.

Importantly, this confrontation with orthodoxy concerned identity politics as much as traditional material politics. Women, ethnic minorities and indigenous populations, children and homeless persons demanded voice and autonomy, highlighting their institutional subjugation and material disadvantage. Yet, such questions of identity politics could not be solved by the sweep of a budgetary pen. New political frames and discourses were necessary in the ascendant social welfare states. It was here that law gained prominence. It offered

- 1 Australian Government Commission of Inquiry into Poverty, Second Main Report, *Law and Poverty in Australia* (AGPS, 1975) (the Sackville Report).
- 2 Samuel Huntington, *American Politics: The Promise of Disharmony* (Harvard University Press, 1981).
- 3 Robert A Kagan, *Adversarial Legalism: The American Way of Law* (Harvard University Press, 2001), xix.

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