7. Living Through an Unending and Continuous Cycle of Crises

Living Through an Unending and Continuous Cycle of Crises

There is a cumulative effect of crises on individuals and families living in poverty that creates challenges to moving out of poverty. We ask ourselves why our clients continue to utilize high interest payday loans, turn down or lose employment opportunities, and enter into what we judge to be unhealthy relationships or living arrangements. To be clear, these are loaded questions. We are not talking about a “culture of poverty” but rather the challenges faced by those living in poverty that perpetuate poverty. With the constraints of poor credit, limited work experience, and a lack of time and perspective to make crucial decisions, many families and individuals living in poverty are unable to stabilize their lives in the key areas that may lead to sustainable improvements in their socio-economic status.

Over the years, the ABA has taken policy positions and sponsored position papers focused on the various issues involved with this topic. These policies and positions are based on the knowledge and intellectual work product of lawyers who could be in a unique position to strengthen community-based efforts to address structural barriers to ending the continuous cycle of crises for many low-income communities. Lawyers can work shoulder-to-shoulder with stakeholders including community-based entities, providers/advocates, academic communities, foundations/funders, politicians, program users/beneficiaries and the general public to use the law and justice system to tackle systemic barriers and obstacles to overcoming the cycle of crises.

The ABA Commission on Homelessness & Poverty has compiled for informational purposes only— and without any intended endorsement—the following issues and potential strategies for consideration as each community develops its own unique local plan of action for eliminating legal and justice system related policies, practices, and procedures that unfairly perpetuate or worsen the harmful effects of poverty, particularly those that perpetuate the unending cycle of crises. The Commission is able to offer technical assistance in identifying and convening community stakeholders for roundtable discussions to develop strategic plans for local community action.

ISSUE: ONE CRISIS AWAY FROM HOMELESSNESS

The lives of low income individuals and families are stressful. Most are living in poverty and/or communities without resources to adequately address those issues which would lead them out of poverty. They spend much of their time trying to overcome the myriad problems associated with being poor in America which are addressed in the Blueprints for Action highlighting the other manifestations of poverty, i.e. lack of affordable housing, inadequate health care or education and lack of opportunity for full employment at a livable wage. Many programs for low income individuals and families are
means-tested, so that once a certain income level is reached there is a reduction or loss of benefits. This has two harmful results. One it creates a disincentive to improve one’s circumstances. Secondly, the increase in income is usually not so significant that it compensates for the loss of the benefit, thereby worsening the family’s economic status.

Likewise, the uncertain nature of our daily lives can put a low-income family’s stability in jeopardy. For example, when forced to miss work due to a court date or sick child, many low-wage workers lack the employment benefits that would allow for paid time off so the missed work results in them losing their jobs entirely. Workers at the low end of the wage scale lack the protections that middle-class and high-wage earners enjoy: sick and vacation time, unemployment insurance, short and long-term disability payments, and maternity/paternity leave, just to name a few. Simply put, workers who need these protections the most are the least likely to have them.

The strategies below are focused on creating or improving the ‘safety net’ so that families and individuals in poverty can reach a plateau of stability that does not put them in immediate danger of falling back into the cycle of crises.

**STRATEGIES:**

- Ensure that local and state policymakers, along with partners in the private sector, recognize, promote and implement the right to housing for all.
  - See: [ABA Right to Housing Resolution 117](#)

- Encourage employers to consider extending employment benefits to low-wage workers that are most in danger of losing employment due to a family crisis.
  - For example: stable schedules, paid leave/time off, childcare, employer paid dependent care funds, family leave, life skills education

- Encourage local and state policymakers to consider providing low-income heads of households with the means to increase their incomes and strengthen their families.
  - For example: flexible work hours, educational opportunities, child care cost reduction/flex hours, transportation, financial aid
  - See: [The Transitional Food Stamp Benefits Program](#) of New York is an importance example of a program that helps those just above the qualifying income line (i.e. those who no longer qualify for the Supplemental Nutrition Assistance Program but are still struggling to purchase food). This program provides a family with 5 additional months of SNAP benefits after no longer qualifying for SNAP.

- Encourage state and local governments, NGOs and business community to consider establishing collaborative programs that create opportunities for low-income families to have breathing room for important life decisions by fostering the establishment of sustainable state and local community-based systems of services that ensure families have essentials like food, housing, education, economic services and mentoring.
• Encourage bar associations, state and local courts, legal services organizations and access to justice commissions to establish collaborative programs that improve access to legal resources for self-represented litigants to discuss options with a pro bono attorney at the courthouse to prevent a lack of understanding or comfort with the court process from resulting in a negative outcome.
  o For example: Many states allow for a tenant to request additional time to vacate a unit after an eviction. Most tenants do not realize that this is an option and feel like they must move immediately, which creates collateral costs related to moving expenses and replacing items lost in a quick transition.
  o See: Center on Court Access to Justice for All for additional ideas on providing legal assistance.

ISSUE: THE COMPOUNDING IMPACT OF THE COLLATERAL EFFECTS OF POVERTY

As many of us learn from our clients, it is expensive to be poor. The cost of pay day loans, check cashing, and financial penalties are steep for those least able to afford them. Many families and individuals in poverty have poor credit or outstanding financial judgments and are unable to access traditional financial services. Whether due to fear of garnishment or lacking a safety net that can be tapped to cover unforeseen expenses, the cost of doing business with these non-traditional financial institutions is far beyond that of more traditional financial systems. The profitability of such institutions depends on fees paid by those least able to afford the above-market interest and fees. These realities create significant barriers to sustainable stability, doing more to perpetuate poverty than to resolve it.

STRATEGIES:

• Encourage policymakers and business community to consider adopting policies that reduce the collateral consequences of criminal and consumer credit records individuals apply for affordable housing and adequate employment.
  o For example: “Ban-the-box” laws prevent employers from asking applicants whether they have been convicted of a felony and/or prevent employers from running criminal background check until after interviewing the job candidate. See: This article for more information

• Encourage state and local policymakers to consider limits and/or controls on Pay-day loans, Unbank, etc.
  o For example: More than twenty states have passed laws establishing interest-rate caps/other restrictions on payday lending. See: "Why We Need Serious Payday Loan Reform from the Consumer Protection Bureau"
  o See: ABA’s Resolution 111C that urges federal, state, local, territorial and tribal governments to continue to enforce and to enact rules or legislation that strengthen consumer protections regarding deceptive or fraudulent loan foreclosure rescue practices and supports programs by federal, state, local, territorial, and tribal bar associations to educate lawyers and consumers about deceptive or fraudulent foreclosure rescue practices, including those involving lawyers.

• Encourage policymakers to consider improved consumer protections under the FDCPA and ensure compliance with notice requirements related to garnishment and bank levy.
• Encourage federal, state and local governments, along with partners in the private sector, to consider establishing programs that aid in the development of each person or family’s ‘safety net’ of financial stability before removing individuals and families off of government funded support systems.

**ISSUE: ADDRESSING THE WHOLE PERSON/FAMILY AND THE UNDERLYING ISSUES**

Too often, poverty-relieving strategies focus on the individual or the individual crisis and do not recognize the complex environment that creates, and perpetuates, poverty. One example of this is truancy caused by homelessness or a lack of transportation.

**STRATEGIES:**

• Encourage state and local policymakers, NGOs, business leaders, clergy and other stakeholders to collaborate to establish holistic models of service delivery that recognize the interconnected nature of issues facing those living in poverty and experiencing homelessness.

• Encourage state and local policymakers, NGOs, business leaders, clergy and other stakeholders to collaborate to correlate youth programs with the rights of youth and McKinney-Vento?

• Encourage state and local policymakers, NGOs, business leaders, clergy and other stakeholders to collaborate to establish programs that improve financial literacy of families and individuals living in poverty.

**ISSUE: STRESS CAUSED BY LACK OF FINANCIAL RESOURCES IMPEDES THE ABILITY OF LOW-INCOME MEN AND WOMEN TO OVERCOME POVERTY.**

Brain research has shown that these stresses have interfered with the development of the areas of the brain that controls executive functioning skills. These are the skills that enable individuals to manage the many decisions one has to make in order to function successfully. The result is that low income men and women deal with one crisis at a time so that other areas of their lives are not dealt with as they deal with the crisis at hand. Thus there is a need to engage these men and women in programs that help them to develop executive functioning skills.

**STRATEGIES:**

• Engage low – income men and women in programs which provide them with skills needed to help them achieve financial stability and self-sufficiency.

• Program should be designed so that men and women, with the help of mentors, develop goals to achieve self-sufficiency and receive incentives as they meet those goals.
  ○ For example: Salvation Army’s Pathways of Hope program stresses the importance of a holistic approach to overcoming the continuous cycle of poverty by providing job training, health services, childcare, education, housing, and legal services. The program assigns each participant a caseworker who serves as a mentor and individualizes each participant’s program to suit their
specific needs. The Pathways of Hope program also offers mentoring services through the Friendship Program.

- Ensure that financial coaching is offered to help men and women achieve financial literacy and a plan to save money and establish credit.
  - See: Federal Deposit Insurance Corporation’s Money Smart Financial Education Program

- Encourage state and local policymakers to consider modifying social programs to incorporate an incentive system which rewards the men and women as they achieve small steps to reach their ultimate goal in various areas such as job-training, education, family stability and financial literacy.

ABA POLICIES

- **Legal Assistance to low-income residents affected by major disasters.** (August 2009) Urges federal, state and local governments to address the unmet legal needs of low-income residents of communities affected by major disasters by action which includes providing additional emergency funding for not-for-profit legal services providers, bar associations and pro bono programs. 09A102B

- **Legal Assistance to Prisoners Regarding Family Law Issues.** (February 2010) Urges bar associations and law schools to consider and expand, as appropriate, initiatives to assist criminal defendants and prisoners in avoiding undue consequences of arrest and conviction on their custodial and parental rights and urges Congress to eliminate restrictions that prohibit recipients of Legal Services Corporation funds from providing legal assistance to prisoners on family law issues. 10M102F

- **The right to housing should be progressively realized.** (August 2013) “…implementing the human right to housing would not require the government to immediately build a home for each person in America or to provide housing for all free of change overnight. However, it does require more than some provision for emergency shelter, piecemeal implementation of housing affordability programs, and intermittent enforcement of non-discrimination laws…whether through public funding, market regulation, private enforcement or a combination…” Resolution 117

- **Strengthen consumer protections and support programs on deceptive or fraudulent foreclosure practices.** (February 2015) Urges federal, state, local, territorial and tribal governments to continue to enforce and to enact rules or legislation that strengthen consumer protections regarding deceptive or fraudulent loan foreclosure rescue practices and supports programs by federal, state, local, territorial, and tribal bar associations to educate lawyers and consumers about deceptive or fraudulent foreclosure rescue practices, including those involving lawyers. Resolution 111C