

**Felice Batlan.** *Women and Justice for the Poor: A History of Legal Aid, 1863-1945.* Studies in Legal History Series. New York: Cambridge University Press, 2015. Illustrations, xv + 232 pp. \$32.99, paper, ISBN 978-1-107-44641-0.



**Reviewed by** Sara Mayeux

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**Commissioned by** Charles L. Zelden (Nova Southeastern University)

In this bold work of both legal history and professional critique, Felice Batlan sets out to recover “the ‘real’ history of legal aid, a story that the predominantly male leaders in the field of legal aid intentionally masked” (p. 3). For decades, chroniclers of organized legal assistance to the poor have begun the tale in 1876, when the entity now known as the Legal Aid Society of New York was established to serve German immigrants. Even today, the Legal Aid Society touts itself as the nation’s “oldest” organization of its kind.[1] Not so, according to Batlan, who writes instead: “Organized legal aid began with the founding of the Working Women’s Protective Union in New York City in 1863” (p. 17).

Batlan reveals that women “lay lawyers” began serving the poor years before the organized legal profession got involved. Moreover, women continued to play a dominant role in legal aid efforts through the 1940s, whether as lawyers, “lay lawyers,” or social workers. But reform-minded bar leaders like the Boston lawyer Reginald Heber Smith—the Progressive Era legal aid movement’s

most prominent evangelist—worried that the perception of legal aid as feminized charity work might undermine their campaign to secure the bar’s support. And so, in their conference proceedings, law review articles, and policy reports, they erased the history of women’s involvement, falsely enshrining the Legal Aid Society as the movement’s vanguard.

*Women and Justice for the Poor* unfolds in three parts. The first part details how nineteenth-century women’s clubs and settlement houses developed a holistic approach to legal assistance for working women. Clubwomen are familiar characters in social history, of course, but Batlan argues that social and legal historians alike have neglected the legal dimensions of their work. In Chicago, the Protective Agency for Women and Children (PAWC) pioneered an especially expansive model of legal aid. Like its counterparts in other cities, PAWC handled wage claims, but it also helped women with a range of other issues: domestic violence, sexual assault, household debt, spousal

abandonment, and even, although only in extreme circumstances, divorce.

The second part recounts the Progressive Era campaign by bar leaders to establish a national network of legal aid offices—the movement typically identified (including by its participants) as the first generation of legal aid in the United States, which Batlan instead periodizes as a second generation. This movement envisioned offices staffed predominantly by male lawyers, serving predominantly male clients. When legal aid lawyers did encounter women as clients, they often defined their legal problems quite narrowly. Concerned primarily with husbands' financial obligations, they cajoled women out of pressing charges in cases of physical abuse and urged them to reconcile with abusive husbands.

Batlan reconstructs, in painstaking detail, how this Progressive Era movement established the standard, male-centric historical account of legal aid that today's lawyers and historians have inherited. In 1911, at the first national legal aid conference, several speakers located their movement's origins not in women's charities but in New York's Legal Aid Society. The myth making culminated in 1919, when Smith adopted this same chronology in his still-canonical chronicle of the early legal aid movement, *Justice and the Poor*. Smith knew that women were involved in legal aid—he even mentioned a few in early drafts—but chose to edit them out from his published writings. (This retelling of history met with some objections at the time. One of Smith's law review articles invited a letter of correction from none other than John Henry Wigmore, who observed that Chicago's PAWC predated the Legal Aid Society.)

In the short run, Smith's campaign to masculinize and thereby professionalize legal aid succeeded. By 1921, the legal aid movement had won the support of the American Bar Association, and in 1923, the newly founded National Association of Legal Aid Organizations "recommended that no

legal aid society should be formed without the cooperation of the local bar" (pp. 150-151). In the long run, though, local bar leaders proved less than enthusiastic about legal aid. On the ground, women and social workers continued to provide much of the actual day-to-day assistance to the poor.

The book's third part details the resultant turf battles and eventual compromises between lawyers and social workers in the 1920s, '30s, and '40s. Lawyers groaned that social workers were "annoying meddlers" who were overly sentimental and biased toward wives (p. 163). Social workers derided lawyers as unfeeling technicians who were blind to poor people's actual needs and biased toward husbands. Over time, though, the two groups sometimes found ways to cooperate. Lawyers at the grassroots recognized that their clients had problems bigger than law alone could solve. Then, too, the New Deal lessened the stigma of charity and reshuffled the funding landscape. To survive the Depression, legal aid societies reinvented themselves as the multifaceted social service agencies they had once disdained, helping the newly swelled ranks of the needy to resolve landlord-tenant disputes, refinance their mortgages, and navigate the new welter of federal bureaucracies.

Still, the old divides persisted and, in Batlan's view, reemerged in the 1960s, when legal aid was reinvented as "poverty law." Great Society programs poured unprecedented federal dollars into legal services, representing, in one sense, a belated triumph for the legal aid movement. Yet, like their Progressive Era predecessors, poverty lawyers measured their field's progress by the participation and support of "Ivy League-educated lawyers, large law firms, and high-ranking politicians" (p. 215). For '60s crusaders, the fact that legal aid organizations were largely staffed by women lawyers and social workers only proved that the field "was a professional backwater," a problem they set out to remedy with pro-

grams like the federal “Reggie” fellowship, named for Smith, which recruited “ambitious, aggressive, and idealistic men from the best law schools” (pp. 219, 220-222).

Beyond Batlan’s specific subject matter, her methodological approach raises important questions for all legal historians to consider: should historians ask who was licensed to practice law when looking for lawyers in the past, or simply ask who *did* practice law? Batlan brooks no doubt that the women she identifies as “lay lawyers” should be included in the history of the legal profession, notwithstanding that (male) members of the bar may not have recognized these women as their equals at the time. By “blur[ring] the conventional division between lawyer and non-lawyer,” she reveals that “the practice of law was more democratic and heterogeneous—and less male”—than lawyers and historians alike have previously understood (p. 8). If lay lawyers and social workers might profitably be viewed as practitioners of law, what about jailhouse lawyers and community organizers? What about secretaries and legal assistants? When should historians apply the expansive definition of lawyering that Batlan employs, and what (if any) historical questions remain best answered through an approach that adopts the profession’s own criteria for inclusion?

*Women and Justice for the Poor* should also inspire further exploration into how ideas about race, ethnicity, and citizenship—in addition to ideas about gender—have structured the practice of legal aid. Batlan is attentive to the racial dimensions of her story to the extent that her sources allow, but, as she acknowledges, the women’s organizations that she focuses on were founded and staffed by white, native-born, upper-class women, who could be quite patronizing (or worse) to the women they purported to help. By narrowing her focus to organized legal aid, she “leave[s] to others the important work” of excavating the more informal legal assistance provided through labor

unions and churches, and within African American, immigrant, and other minority communities (p. 11). In addition, most of Batlan’s examples come from East Coast and midwestern cities; historians know much less about legal aid in the South, in the Far West, and in rural areas. As future scholars tackle these important topics, *Women and Justice for the Poor* should serve as an inspiring model and illuminating guide.

#### Note

[1]. “Frequently Asked Questions about the Legal Aid Society,” The Legal Aid Society, <http://www.legal-aid.org/en/las/aboutus/legalaidsociety-faq.aspx> (accessed March 2, 2016).

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