What's Not So New About Welfare Reform

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The current perception that the United States’ welfare system is in crisis is fueling heated debate among members of Congress as well as society as a whole. Recent Congressional history documents many unsuccessful welfare reform attempts, but the current welfare reform debate is likely to produce some change given the political pressure on all sides.

President Clinton’s campaign pledge to “end welfare as we know it” coupled with the failure of another pledge, health care reform, underlies the political pressure for welfare reform. President Clinton reaffirmed his commitment to welfare reform in his most recent State of the Union address, his first chance to lay out the administration’s agenda to the now Republican-dominated Congress. Because President Clinton campaigned on a platform of domestic programs, and more specifically, welfare reform, his re-election effort may be stalled if he is unable to achieve this goal.

The pressure for the 104th Congress to reform welfare is great. The new Congress is decidedly more conservative than the 103rd Congress, and many Republican members of this Congress are committed to their “Contract With America,” which promises welfare reform in the first 100 days of this term. With the mid-term elections of 1994 behind them, President Clinton and the new Congress repeatedly indicate that welfare reform is one of the few principles on which they agree. In an effort to appear cooperative and to salvage his re-election, President Clinton may try to prove to

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voters that he “got the message” by pushing through a more conservative welfare reform than his current proposal.

Two related, but distinct problems underlie the welfare reform debate. First, the problem of “false consensus” occurs where both Republicans and Democrats appear to agree about welfare reform proposals, but at a deeper level entertain fundamentally different visions. Second, reformers are “falsely neutral” when they ignore differences among welfare recipients such as race and gender. The enormous political pressure on members of both parties to achieve welfare reform causes them to consistently ignore these two specific problems. These issues should be addressed not only because the effect on recipients’ lives will be great, but also because these issues bring out certain presumptions that underlie and misinform the welfare debate. Moreover, these problems interfere with achieving the purported goal of the welfare reformers: increasing recipients’ autonomy and self-sufficiency.

I. False Consensus

Democrats criticize President Clinton as being “one of the best Republican Presidents” America has seen in recent years. Given the President’s somewhat conservative stance on many domestic issues, it is not surprising that the President, Speaker Newt Gingrich, and Congressional Republicans appear to agree on certain welfare reform policies. In fact, President Clinton and the Republicans who offered the Contract With America agree, at least superficially, on two provisions which will fundamentally alter welfare: the two year limit on Aid to Families With Dependent Children (“AFDC”) benefits and dramatically increased work requirements. Both the President and the Republicans agree that any welfare reform effort should include a time limit and more demanding work requirements for individuals who seek government aid. Despite this superficial consensus about “time limits” and “work requirements,” a closer examination of the details of the Republican and Democratic reform proposals reveals dramatically different visions of welfare reform. At the most basic level, the Clinton plan will never deny aid to recipients who follow the rules; in fact, the states are required to find jobs for these recipients and to continue to pay the grant. The Republican bill, however, imposes an absolute time limit after which point the state must deny an individual aid.

In accordance with President Clinton’s welfare proposal last term, he remains committed to a vision of welfare reform designed to “help those on welfare move to work as quickly as possible . . . for up to two years. But after that, there ought to be a simple, hard rule. Anyone who can work

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must go to work." President Clinton's two-year limit is inextricably tied to his work requirement. States seeking federal funds must establish a “State Plan” that includes an employment plan for recipients. While the Clinton plan allows a two-year limit for education and training programs, any recipient unable to find a private sector job must be given a job in the State Plan in exchange for her benefits. President Clinton's proposal makes clear that while those who can work will be expected to work, the states will be required to find recipients jobs. If the state is unable to provide a job in the State Plan, then the state must continue to provide the AFDC grant despite the recipient's failure to work. Thus, the Clinton welfare reform proposal is, in effect, a full-employment plan.

In addition to requiring states to provide jobs for those welfare recipients who are unable to find a job on their own after receiving benefits for two years, there are a number of exceptions to the time limit and the work requirement under the Clinton plan. For example, the Clinton bill allows the two-year clock to shut off. In other words, the welfare limit is not twenty-four consecutive months; the twenty-four months of aid could be granted over a period of many years. The clock does not run, according to the Clinton plan, if an individual meets a minimum work standard in an unsubsidized job, if the individual is under the age of eighteen years, or if the individual were otherwise eligible, but deferred. For example, a custodial parent receiving AFDC would qualify for a deferral (allowing her to receive her grant without working and without the clock running) if she were the parent of a child under the age of one or, a child under the age of twelve weeks if the child was conceived while the parent received AFDC. A recipient can also be deferred while in her third trimester of pregnancy. The time clock in the Clinton plan can also be extended when a recipient is unable to complete her education or training program “by reason of the substantial failure of the State agency to provide or arrange for the provision of child care to any other service agreed upon . . . .” Finally, the Clinton time limit is subject to an earn-back provision. When an individual begins receiving AFDC, her twenty-four month time clock begins to run. If she leaves AFDC after more than eighteen months, she will earn back one month on the clock for every four months she does not receive aid. But, no matter how long a recipient remains off the welfare rolls, her clock can never be reset below eighteen months.

In contrast to Clinton's plan, the Republican welfare reform proposals will have more detrimental effects on the lives of the recipients. The new Republican majority promises to allow states the "option to drop families

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6 Id.
7 Id.
8 Id.
from receiving AFDC benefits after they have received welfare for two years... [and] states must drop families from the program after they have received a total of five years of AFDC benefits." Stating that the average value of the typical AFDC package of benefits is "approximately $12,000 per year," the Republican welfare reform bill introduced to the 104th Congress specifies that the intent of Congress is to "provide the States with the resources and authority necessary to help, cajole, lure, or force adults off welfare...as quickly as possible, and to require adult welfare recipients, when necessary, to accept jobs that will help end welfare dependency." The result of these provisions would be that after two years of receiving AFDC, the recipient unable to find a job must be forced into the State Plan and be required to participate in work activities for not fewer than thirty-five hours per week. Ultimately, "an adult who has received aid under the State Plan for sixty months (whether or not consecutive)...[including the first twenty-four months and the additional thirty-six months in the work program] shall not be eligible for aid."

Other than explicitly protecting access to Medicare, the Republican bill is clear that all AFDC benefits shall be denied categorically to recipients who become ineligible for welfare because they exhausted the time limit. This means that housing benefits, food stamps, and the AFDC cash grant will be eliminated for recipients after twenty-four months at the minimum and sixty months at the maximum. The ramifications of denying poor women and their children these benefits is obvious—women and children will be forced onto the streets.

Although the details are overwhelming, these specifics about the welfare reform proposals illuminate the fundamentally different visions of welfare reform held by the Democrats and the Republicans. There is no real agreement about time limits. Fundamentally, the Clinton proposal is committed to providing AFDC to recipients willing to work in the State work program, while the Republican plan requires the states to impose a time limit after which a recipient will be wholly ineligible for all benefits—even recipients who follow all of the rules and try to find jobs. These details demonstrate that while those seeking welfare reform have surface political consensus about provisions, the actual proposals are vastly different. The differences are easily dismissed as minor in a sweeping critique of the welfare reform debate, but this ignores the reality that one proposal is likely to succeed given the political pressure for success. What some might call

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9 H.R. 4, 104th Cong., 1st Sess. § 202(B)(ii), (D), (E), and (F) (1994) (emphasis added). On March 25, 1995, the House of Representatives passed H.R.4 by a vote of 234 to 199.
11 Id.
12 Id.
13 The state legislatures are responsible for determining the cut-off point, but it can be neither prior to twenty-four months nor after sixty months.
small differences will actually have enormous effects on the lives of recipients and their children.

By ignoring these underlying differences and emphasizing consensus, all sides can claim a win if a welfare reform bill passes that includes a "two-year limit" and "work requirements." By emphasizing areas of agreement on welfare reform policy, politicians are able to avoid the difficult questions about the real ways to reduce poverty. Emphasizing agreement also removes the real debate from the public: What level of compassion are Americans willing to show poor women and their children? This debate is fundamental to the nature of the welfare system and requires an answer to the question: Are we going to let poor women and their children starve? President Clinton says no, the Republicans say yes.

II. FALSE NEUTRALITY

There is a paradoxical treatment of race and gender in the welfare reform debate. On the one hand, there is a facade of color and gender blindness; the government claims to devise welfare reform policy based on economics, social scientific data, and the desire to aid the (deserving) poor. On the other hand, there is an obsession with race. Both the popular and political understanding of the welfare recipient is little more than a stereotype centered on class, gender, and the unique experiences of women of color. This emphasis on race translates into ideas about "welfare queens," women who choose not to work, who continue to have children, and who use their welfare grant inappropriately. This misperception justifies, in the minds of some reformers, dictating certain aspects of the recipients' lives including work, family structure, living arrangements, and reproduction.

The welfare queen is, however, nothing more than a myth. Despite the perception that the "typical" welfare recipient is African American, in 1991, African Americans made up only 38.8% of AFDC families.\textsuperscript{14} White families were only slightly less, constituting 38.1% of recipients.\textsuperscript{15} Despite the perception that women (read African-American women) have children to receive increased welfare benefits, the average size of the welfare family is steadily declining, and the average number of children in welfare families is lower than the national average.\textsuperscript{16} And, despite the perception that welfare mothers are lazy, the mothers in families legally earning income while

\textsuperscript{14} U.S. DEP'T. HEALTH & HUM. SERVICES ADMIN. FOR CHILDREN & FAM., CHARACTERISTICS AND FINANCIAL CIRCUMSTANCES OF AFDC RECIPIENTS FY 1991, at 28 [hereinafter CHARACTERISTICS].

\textsuperscript{15} Id.

\textsuperscript{16} COMM. ON WAYS AND MEANS, 1994 GREEN BOOK: BACKGROUND MATERIAL AND DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMM. ON WAYS AND MEANS, 103rd Cong., 2nd Sess. (July 15, 1994).
receiving welfare are the breadwinners in more than five-sixths of these families.\textsuperscript{17}

Among welfare workers and welfare recipients, the demonized welfare queen is recognized as a myth, but the myth is pervasive in the minds and rhetoric of politicians and many members of the public and serves to rhetorically locate the cause of poverty in the aberrant individual. Ignorance and racism are often cited as the causes of the rise of these myths, but these myths are kept alive to justify both policy favors and new policies.\textsuperscript{18} It is comfortable to believe that restrictive and punitive welfare reform policies will not be hurting the innocent poor, but will simply prevent abuses of the system by dishonest welfare cheats.

Rather than developing welfare reform policies for universal application, reformers must understand that different types of women are on welfare for different reasons. Reform must be centered on recognizing the unique conditions of mothers in poverty and provide measures which support the family. Because each individual recipient has unique skills and may face unique challenges, falsely neutral welfare reform that does not acknowledge and account for difference will be unsuccessful.

Effective welfare reform policy must acknowledge that class, race, and gender prejudice intersect to affect welfare recipients uniquely. Poor women of color are the consistently disadvantaged, poorly educated, under- and unemployed in the United States. For example, the proposed work requirements ignore the institutional racism uniquely experienced by women of color in the labor market. Economic opportunity is systematically foreclosed to these individuals, not just because of their gender and race, but also because of their class and level of education. The work requirements are based on the understanding that unemployed recipients are unwilling to work (lazy), ignoring the reality that individuals who make up the majority of welfare recipients are systematically marginalized in the workforce. The fact that AFDC mothers are disproportionately African-American is taken as a commentary on the habits and preferences of African-American women. Instead, it should be seen as an indicator of the special problems faced by African-American mothers in this country. Although both the Republican and the Democratic proposals suffer false neutrality, the Republican version is a more invidious cultural attack on poor women of color because under the Republican proposal, the individual, rather than the state bears the burden of an uncertain and biased market.

\textsuperscript{17} CHARACTERISTICS, supra note 14, at 2.
III. The Result: False Autonomy

False consensus is fundamentally a political problem; ignoring false consensus leads to political compromise which harms welfare families and their children. Those committed to true welfare reform, however, must continue to analyze welfare reform proposals in detail to understand the actual effect the policies will have on the experience of welfare recipients. False consensus masks the real, and very different, effects that the two versions of the time limits and work requirements provisions will have on welfare recipients' actual lives.

False neutrality is fundamentally a policy problem. It allows the reformers to ignore the substantive discussion of this country’s moral obligation to support those in poverty and allows the debate to focus on political agreement at a superficial level, harming poor women of color and their children. The failure to critically address the differences among welfare recipients and the reliance on universal standards ignores the interrelationship between employment, race, gender, and market inequity. These social institutions of inequality will not disappear by premising welfare reform policy on a faulty assumption of meritocracy. Rhetorically locating the cause of poverty in the individual does not dismantle the social institutions of inequality. This failure also allows reformers to base their policy on misperceptions and prejudices based on an inaccurate stereotype about the welfare recipient. Welfare policy premised on the notion that a certain universal set of incentives will lure or cajole people off welfare will not be effective; ultimately, the state will have to force people off welfare. Not only does locating the cause of poverty in the individual fail to grasp the complexity of the institutional causes of poverty, but it is also fundamentally flawed because it is premised on an individual that does not exist. Welfare policy premised on a mythical welfare queen is doomed to fail.

The bad politics of false consensus combined with the bad policy of false neutrality allows for welfare reform proposals that will ultimately be ineffective due to their emphasis on the micro-management of recipients' lives. The resultant policies regulate every facet of the welfare recipient's life—her work life, her family structure, and in some proposals, even her method of birth control.

This micro-regulation conflicts with both conservative and liberal reformers' adherence to the belief that the goal of welfare is to help recipients leave the welfare rolls and to become economically viable in the private sector. But the means and objectives of the Republican proposal are internally inconsistent. Considering the ways in which the autonomy of the welfare recipient is consistently undermined during the period in which she receives AFDC, it is difficult to imagine how the measures described in the pending bills could possibly lead to self-sufficiency. These proposals force

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19 See, e.g., supra note 4.
the recipient into a particular life model based on politicians' beliefs about what is a proper lifestyle for a welfare recipient, eliminating her autonomy and preventing her from becoming self-sufficient by not encouraging or even allowing her to make choices on her own. Measures that dictate work, family structure, living arrangements, and control over reproduction represent the most extreme form of government micro-regulation of the American welfare family. Rather than using universal standards to force mothers into difficult situations which limit their choices, welfare reform policy should do what it purports to do: promote real choice and autonomy.

In addition to undermining autonomy, the deficiencies in welfare reform politics and policy obscure the fact that a number of these provisions may be constitutionally suspect. When both Republicans and Democrats agree on strict restrictions for welfare recipients, the presumption is that the proposals result from political compromise that will protect a variety of interests. Where false consensus obscures a discussion of substantive difference about welfare policy and false neutrality provides a justification for government control, welfare reform is bred not from political compromise, but from politically and morally bankrupt social policy.

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20 The unconstitutional conditions doctrine prohibits the government from conditioning a benefit on the recipient's surrender of a constitutional right. See, e.g., Kathleen Sullivan, Unconstitutional Conditions, 102 Harv. L. Rev. 1413 (1989).