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POOR POLICY: THE LEGACY OF THE KERNER COMMISSION FOR SOCIAL WELFARE

DAVID STOESZ*

The legacy of the Kerner Commission¹ for poor, urban African Americans² is inextricably connected to the erratic development of the nation's welfare programs. Rather than assuring basic guarantees to all as a right of citizenship, following principles of the welfare states of northern Europe,³ social programs in the United States have been significantly influenced by localism, capitalism, and racism.⁴ During the Progressive Era, African Americans created their own mutual benefit societies when the many Charity Organization Societies that were emerging in American cities refused to assist them.⁵ When Franklin Delano Roosevelt consolidated many of the social programs of the New Deal in the Social Security Act of 1935,⁶ agricultural and domestic workers—most of whom were African Americans—were excluded;⁷ this exclusion was a tactical concession to southern legislators. Thus, when Lyndon Johnson declared war on poverty in the mid-1960s, many poor African Americans who had migrated to urban areas but had not benefitted from earlier welfare provisions stood as prospective beneficiaries.⁸

* Professor of Social Policy, San Diego State University School of Social Work. M.S.W. 1974, Ohio State University; D.S.W. 1980, University of Maryland. Most recently, Dr. Stoesz was a Visiting Fellow at the Progressive Policy Institute in Washington, D.C.

1. REPORT OF THE NATIONAL ADVISORY COMM'N ON CIVIL DISORDERS (Bantam Books 1968).

2. Editor's Note: The contributors to this symposium have used the terms "African American," "black," and "black American," often interchangeably, in their articles. The *North Carolina Law Review* has elected to defer to its contributors' choices in the absence of any universally accepted racial or ethnic designation.

3. David Stoesz & Howard Karger, *The Decline of the American Welfare State*, 26 SOC. POL'Y & ADMIN. 3, 12 (1992).

4. For this reason historians have referred to the aggregation of American social programs as the "reluctant" welfare state or the "semiwelfare" state. See BRUCE S. JANSSON, *THE RELUCTANT WELFARE STATE: A HISTORY OF AMERICAN SOCIAL WELFARE POLICIES* 225-47 (1988); MICHAEL B. KATZ, *IN THE SHADOW OF THE POORHOUSE* x (1986).

5. JOHN H. FRANKLIN, *FROM SLAVERY TO FREEDOM: A HISTORY OF NEGRO AMERICANS* 287-94 (5th ed. 1980).

6. Pub. L. No. 74-271, 49 Stat. 620 (codified as amended at 42 U.S.C. §§ 301-2007 (1988 & Supp. II 1990)).

7. FRANKLIN, *supra* note 5, at 396.

8. An anomaly in the treatment of African Americans was the brief period of the Bureau of Refugees, Freedmen, and Abandoned Lands (or the Freedmen's Bureau) from 1865 to 1872, during which schools and health facilities were constructed for emancipated slaves in the South following the Civil War. *Id.* at 235.

I. THE WAR ON POVERTY

The War on Poverty was but one skirmish on a relatively wide front of domestic initiatives. In implementing his Great Society plan, Johnson sometimes advanced proposals of the Kennedy Administration but more often forged boldly ahead with programs of his own. The targeting of welfare-related social programs at the poor, as evident in the Community Mental Health Centers Acts of 1963⁹ and 1965,¹⁰ the Elementary and Secondary Education Act of 1965,¹¹ Medicaid,¹² the Food Stamp Act of 1964,¹³ the Public Works and Economic Development Act of 1965,¹⁴ and the expansion of the Manpower Development and Training Act of 1962,¹⁵ significantly reinforced efforts of the anti-poverty campaign. Thus, although public attention may have been diverted toward the "poverty" programs, in fact much of the social legislation of the Great Society played a supporting role in combatting poverty. The many social programs of the Great Society, therefore, filled a void created by the New Deal: the provision of income and services to the poor, many of whom were African-American.

The Aid to Families with Dependent Children¹⁶ (AFDC) program filled another void left by the New Deal. Included in the Social Security Act as a public assistance program, the AFDC provisions were intended to assure income to families whose wage earners had died.¹⁷ Since the inception of AFDC, the makeup of the families sustained by the program has changed considerably. By 1989, only 1.9% of families participating in AFDC did so due to the death of a parent.¹⁸ In contrast, from 1969 to 1989 the percentage of AFDC families on the program as a result of the absence of a parent who had "no marriage tie" increased from 27.9% to

9. Pub. L. No. 88-164, 77 Stat. 290 (1963) (codified as amended at scattered sections of 42 U.S.C. (1988 & Supp. II 1990)).

10. Community Health Services Extension Amendments of 1965, Pub. L. No. 89-109, 79 Stat. 435 (codified as amended at scattered sections of 42 U.S.C.A. (West 1987 & Supp. 1991)).

11. Pub. L. No. 89-10, 79 Stat. 27 (1965) (codified as amended at scattered sections of 20 U.S.C.A. (West 1987 & Supp. 1991)).

12. Social Security Amendments of 1965, Pub. L. No. 89-97, 79 Stat. 286 (codified as amended at scattered sections of 26 & 42 U.S.C. (1988 & Supp. II 1990)).

13. Pub. L. No. 88-525, 78 Stat. 703 (1964) (codified as amended at 7 U.S.C.A. §§ 2011-2030 (West 1987 & Supp. 1991)).

14. Pub. L. No. 89-136, 79 Stat. 552 (1965) (codified as amended at scattered sections of 42 U.S.C. (1988)).

15. Pub. L. No. 87-415, 76 Stat. 23 (1962) (repealed 1973).

16. 42 U.S.C. §§ 601-617 (1988 & Supp. II 1990).

17. KATZ, *supra* note 4, at 237.

18. HOUSE COMM. ON WAYS AND MEANS, 102D CONG., 2D SESS., OVERVIEW OF ENTITLEMENT PROGRAMS 669 (Comm. Print 1992) [hereinafter OVERVIEW OF ENTITLEMENT PROGRAMS].

52.7%.¹⁹ While the characteristics of AFDC families were changing profoundly, their numbers increased dramatically. Between 1966 and 1971, the number of AFDC recipients more than doubled from less than five million to ten million, tripling the operating cost of the program.²⁰ These data paralleled an emerging stereotype of welfare. The public began to view AFDC as a welfare program for poor, unmarried African-American women and their children.

The main features of the War on Poverty, of course, consisted of the programs enacted under the Economic Opportunity Act of 1964.²¹ Among the services to be administered through the Office of Economic Opportunity (OEO) were Head Start, the Job Corps, the Neighborhood Youth Corps, Volunteers in Service to America, and the Legal Services Program.²² Undoubtedly the most controversial aspect of the War on Poverty was the creation of local Community Action Programs (CAPs) which were to coordinate OEO and other social programs within poor communities.²³ Minority militants seized the requirement that CAP boards of directors reflect the "maximum feasible participation" of the poor to confront urban power structures which were already antagonized by OEO's practice of bypassing state and local governments in funding CAPs.²⁴ The wrath brought upon OEO through the hostilities generated by CAPs in major cities led President Richard Nixon to dismantle the agency soon thereafter.²⁵ In the process, specific War on Poverty programs were reassigned to more mainstream federal departments.

The War on Poverty bears upon the Kerner Commission in two important ways. First, the failure of the Commission to convince the Johnson administration to launch new initiatives to address mounting needs of urban African Americans left the minority poor with little choice but to rely on existing social programs. Thus, in the period immediately following the hot summers of the mid-1960s, the number of people eligible for AFDC and the newer, means-tested programs of the Great Society—

19. *Id.*

20. DIANA M. DiNITTO, *SOCIAL WELFARE: POLITICS AND PUBLIC POLICY* 130 (3d ed. 1991).

21. Pub. L. No. 88-452, 78 Stat. 508 (1964) (codified as amended at scattered sections of 42 U.S.C. (1988 & Supp. 1990)).

22. *Id.*

23. Paul E. Peterson & J. David Greenstone, *Racial Change and Citizen Participation: The Mobilization of Low-Income Communities Through Community Action*, in *A DECADE OF FEDERAL ANTIPOVERTY PROGRAMS: ACHIEVEMENTS, FAILURES, AND LESSONS* 241, 241 (Robert E. Haveman ed., 1977).

24. The brief and volatile history of CAPs is best chronicled in DANIEL P. MOYNIHAN, *MAXIMUM FEASIBLE MISUNDERSTANDING* 81-165 (1969).

25. Peterson & Greenstone, *supra* note 23, at 266.

particularly Food Stamps and Medicaid—skyrocketed. Second, the participatory feature of the CAPs—one of the rare instances in which power was redistributed through public policy—was retracted, and most CAPs were disbanded. While much of the national leadership of the African-American community would later be traced to OEO programs, the breadth of that leadership would probably have been greater had the CAPs continued, if only as a coordinative function in poor communities. These factors were to prove instrumental when Ronald Reagan's administration chose to reevaluate welfare policy in the 1980s.

II. THE REAGAN REVOLUTION

The 1970s were inauspicious for poor African Americans. The failure of the Kerner Commission to devise a comprehensive strategy for urban minorities left them more dependent on existing, means-tested social programs. As the 1980s were to demonstrate, reliance on means-tested programs to accomplish social objectives was flawed because recipients—low-income, poorly educated, politically impotent—were relatively powerless. When conservatives in the 1970s began to indict the means-tested programs of the War on Poverty for inducing dependency, encouraging promiscuity, and subverting the family, poor minorities who relied upon these programs were unable to mount a counteroffensive.

Unfortunately, during this period liberal academics who could have stepped into this breach were dissuaded from doing so. The furor following the publication of Daniel Patrick Moynihan's report, *The Negro Family: A Case for National Action*²⁶ in 1965, made it emphatically clear to social researchers that investigations of the dysfunctional features of African-American families would not go unchallenged. Instead, researchers were encouraged to focus on the strengths of African-American families in order to identify how, under the most adverse of circumstances, so many had persevered. The consequence of this, as William Julius Wilson argued later, was the failure of the academic research community to chronicle the considerable deterioration of African-American institutions in urban areas during the period.²⁷ Census data indicate that ghettoization had increased significantly during the 1970s, further isolating poor, urban African Americans from the American mainstream:

26. U.S. DEP'T OF LABOR, OFFICE OF POLICY PLANNING & RESEARCH, *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* (1965).

27. WILLIAM J. WILSON, *THE TRULY DISADVANTAGED* 4 (1987).

TRENDS IN SOCIAL CONDITIONS OF LARGE CENTRAL CITIES, 1970-1980 (IN PERCENT)²⁸

Indicator	Census Tracts with 20 Percent Poor			Census Tracts with 40 Percent Poor		
	1970	1980	% Change	1970	1980	% Change
Employment rate						
males, age-16+	63.3	56.0	-13	56.5	46.0	-22
AFDC families	19.8	28.0	+40	30.2	42.0	+40
Black persons	27.2	26.5	-3	6.3	8.3	+32
Poor blacks	28.3	30.5	+8	9.4	13.1	+40

While the number of AFDC families increased in census tracts that were 20% poor as well as those that were 40% poor, other social indicators of ghettoization—the unemployment rate of young males, the number of African Americans, and the number of African Americans in poverty—had worsened in the 40% poor tracts during the 1970s.

The direction the Reagan “revolution” was to take in welfare policy was evident in the writings of conservative scholars of the early 1980s. On the eve of the Reagan presidency, Martin Anderson of the Hoover Institute claimed that “[t]he war on poverty has been won, except for perhaps a few mopping-up operations. The combination of strong economic growth and a dramatic increase in government spending on welfare and income transfer programs for more than a decade has virtually wiped out poverty in the United States.”²⁹ Taking a somewhat punitive tack, George Gilder argued that social programs represented “moral hazards,”³⁰ protecting the poor from risks inherent in a market economy. The poor, Gilder contended, did not need government welfare programs, but “the spur of their [own] poverty” to improve their plight.³¹ Yet the most telling analysis was to come from a previously obscure scholar, Charles Murray, whose book, *Losing Ground*, was to become the conservative statement of the decade on welfare. Welfare programs had become so convoluted, concluded Murray, that the only solution consisted of “scrapping the entire federal welfare and income support structure for

28. This chart was adapted from Sara McLanahan et al., *Family Structure, Poverty, and the Underclass*, in URBAN CHANGE AND POVERTY 102, 130 (Michael G.H. McGeary & Lawrence E. Lynn, Jr. eds., 1988).

29. Martin Anderson, *Welfare Reform, in THE UNITED STATES IN THE 1980s* 139, 145 (Peter Duignan & Alvin Rabushka eds., 1980).

30. GEORGE F. GILDER, *WEALTH AND POVERTY* 108 (1981). Gilder defines “moral hazard” as “the danger that a policy will encourage the behavior—or promote the disasters—that it insures against.” *Id.*

31. *Id.* at 118.

working-aged persons, including AFDC, Medicaid, Food Stamps, Unemployment Insurance, Worker's Compensation, subsidized housing, disability insurance, and the rest."³² Consistent with the tone established by conservative ideologues, the Reagan administration moved swiftly against social programs.

Within seven months after assuming office, President Reagan showed his hand on welfare by signing the Omnibus Budget Reconciliation Act (OBRA) of 1981.³³ OBRA proceeded on a dual track, cutting public assistance benefits while at the same time combining categorical programs into a Social Services Block Grant. The new AFDC eligibility guidelines were particularly punitive since they were directed at poor families who were participating in the labor force. Suddenly, AFDC family heads who were trying to improve their economic lot found that they could deduct only \$160 per month per child for child care, that the deduction for work expenses was limited to \$75 per month, and that the earned income disregard (the first \$30 per month and one-third of income thereafter) was eliminated after four months.³⁴ As if to strangle the welfare bureaucracy in paperwork, OBRA required the welfare department to redetermine *monthly* the eligibility of those on AFDC who insisted on working. These, among other measures, had an immediate impact on the AFDC rolls: 408,000 families lost eligibility altogether, and another 299,000 had their benefits reduced.³⁵ Federal and state governments realized savings of \$1.1 billion in 1983.³⁶ Significantly, OBRA disintitiled working poor families; five percent of the total AFDC caseload became ineligible due to OBRA, and "about 35 percent of those who were working were terminated by the legislation."³⁷

For most of the families AFDC ineligible by the OBRA provisions, loss of benefits submerged them in poverty. Monthly income loss ranged from \$229 in Dallas to \$115 in Boston.³⁸ Former AFDC beneficiaries in these cities had also lost Medicaid coverage. In Dallas, 59.2% of terminated families could not secure alternative health insurance; in Boston,

32. CHARLES MURRAY, *LOSING GROUND* 227-28 (1984).

33. Pub. L. No. 97-35, 95 Stat. 357 (1981) (codified as amended at scattered sections of 5 U.S.C.A. to 50 U.S.C.A. (West 1987 & Supp. 1991)).

34. HOWARD KARGER & DAVID STOESZ, *RECONSTRUCTING THE AMERICAN WELFARE STATE* 51 (1992).

35. HOUSE COMM. ON WAYS AND MEANS, *BACKGROUND MATERIAL AND DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS* 376 (1985) [hereinafter *BACKGROUND MATERIAL*].

36. *Id.*

37. Robert Moffitt & Douglas A. Wolf, *The Effect of the 1981 Omnibus Budget Reconciliation Act on Welfare Recipients and Work Incentives*, 61 SOC. SERV. REV. 247, 248 (1987).

38. *BACKGROUND MATERIAL*, *supra* note 35, at 377.

27.5% could not.³⁹ A study of AFDC families in Georgia found that 79% fell below the poverty level as a result of OBRA, compared to 70% before 1981.⁴⁰ An investigation of the quality of life of 129 AFDC families in New Jersey that had lost benefits was Dickensian in its portrayal:

More than half the families were below the poverty level, 4 out of 10 families did not have enough to eat, 2 out of 10 were spending less than the amount required to provide a minimally adequate diet, almost 3 out of 4 had problems paying rent and utility bills, and most significantly, nearly 8 out of 10 families had to forego or delay medical and/or dental care.⁴¹

Despite changes in tax policy which benefitted low-income workers, particularly increased tax expenditures through the Earned Income Tax Credit,⁴² the poor fared badly during the 1980s. The tax rebates given the poor through tax policy failed to compensate for the losses of benefits through welfare programs. "Low-income families, especially the working poor, lost appreciably more by cuts in government services than they gained in tax reduction," admitted conservative analyst Kevin Phillips.⁴³ And since the wealthy continued to benefit from less progressive taxation, the income disparity between rich and poor widened. Between 1980 and 1990, the federal tax burden for the richest quintile of tax-filers *decreased* 5.5%, while taxes of the poorest fifth *increased* 16.1%, *despite tax expenditures for the poor*.⁴⁴ Predictably, the rich gained a larger portion of the nation's income during the Reagan era.⁴⁵

39. *Id.*

40. John S. Wodarski et al., *Reagan's AFDC Policy Changes: The Georgia Experience*, 31 Soc. WORK 273, 275 (1986).

41. Isabel Wolock et al., *Forced Exit from Welfare: The Impact of Federal Cutbacks on Public Assistance Families*, J. SOC. SERVICE RES., Winter 1985-Spring 1986, at 71, 94.

42. I.R.C. § 32 (1988).

43. KEVIN PHILLIPS, *THE POLITICS OF RICH AND POOR* 87 (1990).

44. ROBERT GREENSTEIN & SCOTT BARANCIK, *DRIFTING APART* 17 (1990).

45. *Id.* at 10. The table below illustrates the proposition:

CHANGE IN DISTRIBUTION OF TOTAL U.S. AFTER-TAX INCOME,
1980-1990

Income Quintile	1980	1990
Richest fifth	44.8%	49.9%
Next richest fifth	22.6	21.7
Middle fifth	16.2	14.9
Next poorest fifth	11.4	9.9
Poorest fifth	5.4	4.3

III. THE RISE OF THE UNDERCLASS

Upward redistribution of wealth was to be of substantial consequence for poor, urban African Americans. Increasingly reliant on public assistance programs that were not indexed for inflation, poor minorities saw their benefits drop precipitously during the 1980s. Between 1972 and 1992 the value of AFDC benefits declined 43% due to inflation. Combining benefits for Food Stamps and AFDC left the 1992 median benefit for an American family of three at \$647 per month (28% below the poverty level).⁴⁶ In 1983, the median worth of nonwhite and Hispanic families was only \$6,900, 12.7% of the median worth of white families; but by 1989 it had fallen to \$4,000, 6.8% of the median worth of white families.⁴⁷ By the late 1980s, the poverty rate of African Americans was three times that of whites.⁴⁸

Compounding the erosion of income and assets, urban African-American communities were further disadvantaged by the exodus of middle-income African Americans to the suburbs and the replacement of high-wage, manufacturing jobs with low-wage service jobs. The interaction of middle-class flight and technological transformation proved devastating for minorities residing in older industrial cities. For example, the plight of young African Americans is immediately apparent if the unemployment rate is combined with the labor force nonparticipation rate, as shown below. By the mid-1980s young African-American males were not participating to a significant extent in two primary institutions: work and school. Compared to their white counterparts, young African-American men were much more likely to be unemployed in every region of the United States. But, if they were not working, neither were they in school. This institutional alienation was to portend a rapid escalation of drug-related street violence during the 1980s. Life circumstances of young African-American males were particularly grim in the old industrial cities of the Northeast. In 1985, 68.0% of African-American young men living in the Northeast were unemployed, not in school, or not working, compared to 38.9% who lived in the West:

46. OVERVIEW OF ENTITLEMENT PROGRAMS, *supra* note 18, at 637, 641.

47. *Id.* at 1449.

48. LAWRENCE MISHEL & DAVID FRANKEL, *THE STATE OF WORKING AMERICA* 171 (1991).

UNEMPLOYMENT RATES AND PROPORTION OF MALE CENTRAL CITY RESIDENTS AGE 16-24 WHO ARE NOT IN SCHOOL AND NOT IN THE LABOR FORCE, BY RACE AND REGION, 1985⁴⁹

Region and Race	Unemployment Rate	Percentage Not in School and Not in Labor Force
All regions		
White	13.5	6.1
Black	37.1	14.1
Northeast		
White	16.7	9.4
Black	43.5	24.5
Midwest		
White	19.1	7.1
Black	44.5	not available
South		
White	8.9	3.7
Black	29.2	14.3
West		
White	11.3	5.5
Black	29.6	9.3

The consequences of such deterioration in opportunity are predictable enough. Many urban neighborhoods began to show characteristics that were qualitatively different from—and more troubling than—than those of communities that were simply poor. “What distinguishes members of the underclass from those of other economically disadvantaged groups,” wrote William Julius Wilson, “is that their marginal economic position or weak attachment to the labor force is uniquely reinforced by the neighborhood or social milieu.”⁵⁰ By the 1990s, areas of many industrial cities had virtually imploded.⁵¹ The “wilding” of New York teenagers who savagely beat a female jogger was replicated when a gang of Boston youth raped and murdered a young mother.⁵² Gang killings in Los Angeles soared by 69% during the first eight months of 1990.⁵³ Gang-related murders in the nation’s capital reached a three-year high,

49. See John D. Kasarda, *Jobs, Migration, and Emerging Urban Mismatches*, in *URBAN CHANGE AND POVERTY* 148, 187 (Michael G.H. McGeary & Lawrence E. Lynn Jr. eds., 1988).

50. William J. Wilson, *Public Policy Research and THE TRULY DISADVANTAGED*, in *THE URBAN UNDERCLASS* 460, 474 (Christopher Jencks & Paul E. Peterson eds., 1991).

51. Christopher Jencks, *Deadly Neighborhoods*, *NEW REPUBLIC*, June 13, 1988, at 23, 23; Juan Williams, *Hard Times, Harder Hearts*, *WASH. POST*, Oct. 2, 1988, at C1.

52. *Eight Boston Teenagers Charged in Savage Slaying of Young Mother*, *L.A. TIMES*, Nov. 21, 1990, at A-4.

53. Louis Sahagun, *Gang Killings Increase 69%, Violent Crime Up 20% in L.A. County Areas*, *L.A. TIMES*, Aug. 21, 1990, at B-8.

leading the police department's spokesperson to quip, "at the rate we're going the next generation is going to be extinct."⁵⁴

Observers of urban poverty described a serious deterioration in inner-city communities of the 1980s contrasted with those of the 1960s. When Claude Brown returned to Harlem twenty years after the publication of his *Manchild in the Promised Land*,⁵⁵ he was shocked by the casual viciousness of gang members toward their victims.⁵⁶ "In many if not most of our major cities, we are facing something very like social regression," wrote Daniel Patrick Moynihan.⁵⁷ "It is defined by extraordinary levels of self-destructive behavior, interpersonal violence, and social class separation intensive in some groups, extensive in others."⁵⁸ In the socioeconomic vacuum that had developed in the poorest urban neighborhoods, the sale and consumption of drugs became central to community life. The toll this conversion was to take on young African Americans proved astonishing. As of 1988, 43% of those convicted of drug trafficking were African-American. In New York, Hispanics and African Americans accounted for 92% of arrests for drug offenses in 1989. In 1990, a criminal justice reform organization, the Sentencing Project, reported that one-fourth of all African Americans between the ages of twenty and twenty-nine were incarcerated, on parole, or on probation. Harvard economist Richard Freeman calculated that 35% of all African Americans aged sixteen to thirty-five had been arrested by 1989.⁵⁹ Indeed, drugs had become so associated with poor minority neighborhoods that it became a cause *celebre* among American intellectuals—evident in Dennis Hopper's movie, *Colors*,⁶⁰ and Richard Price's book, *Clockers*.⁶¹

In this context, the only change in poverty policy that was to emerge during the 1980s, the Family Support Act of 1988,⁶² was largely ineffectual. Under the Family Support Act, \$3.34 billion was to be allocated for a five-year period to establish education and job-seeking opportunities—

54. Gabriel Escobar, *Slayings in Washington Hit New High*, 436, for 3rd Year, L.A. TIMES, Nov. 24, 1990, at A-26.

55. CLAUDE BROWN, *MANCHILD IN THE PROMISED LAND* (1965).

56. Claude Brown, *Manchild in Harlem*, N.Y. TIMES, Sept. 16, 1984, § 6 (Magazine), at 36.

57. DANIEL P. MOYNIHAN, *CAME THE REVOLUTION* 291 (1988).

58. *Id.*

59. Jonathan Marshall, *Targeting the Drugs, Wounding the Cities*, WASH. POST, May 25-31, 1992, at 23 (Weekly Edition).

60. Stanley Kauffmann, *Stanley Kauffmann on Films*, in NEW REPUBLIC, May 15, 1988, at 20, 20-21 (reviewing *COLORS*).

61. RICHARD PRICE, *CLOCKERS* (1992).

62. Pub. L. No. 100-485, 102 Stat. 2343 (1988) (codified as amended at scattered sections of 5, 26, & 42 U.S.C. (1988)).

Job Opportunities and Basic Skills (JOBS)—for AFDC recipients. During 1990 and 1991, states would have to enroll at least 7% of AFDC parents in workfare; by 1995, the required enrollment will rise to 20%. Although two-parent families are covered by the act, beginning in 1997 one parent will be required to work at least sixteen hours a week in an unpaid job in exchange for benefits.⁶³ The more progressive provisions of the bill included the extension of eligibility for day-care grants and Medicaid for one year after a client leaves AFDC for private employment. The bill also mandated the automatic deduction of child support from an absent parent's paycheck. The promised savings of workfare soon faded, however. Two years into the JOBS program, the Congressional Budget Office projected that 10,000 families would be off AFDC by 1991, 20,000 by 1993, and 50,000 by end of the five years of the program—only a 1.3% reduction in the number of AFDC families. "The effect of the JOBS program on the number of AFDC recipients or on spending on benefits in welfare programs is thus expected to be modest," concluded the House Ways and Means Committee.⁶⁴ In a review of workfare projects, Harvard's David Ellwood calculated increased earnings of \$250 to \$750 per year. According to Ellwood, "most work-welfare programs look like decent investments, but no carefully evaluated work-welfare programs have done more than put a tiny dent in the welfare caseloads, even though they have been received with enthusiasm."⁶⁵ By the early 1990s, studies conducted by the Manpower Demonstration Research Corporation (MDRC) cautioned against dramatic claims by workfare advocates.⁶⁶ Citing San Diego's Saturation Work Initiative Model (SWIM) as typical of the mandatory workfare program required by the Family Support Act, MDRC found that the average earnings by participants increased only \$889 per year, representing savings in welfare payments of just \$608 annually.⁶⁷ Thus, on the basis of either criterion—increased income or benefit savings—the workfare provisions of the Family Support Act failed as a radical departure in welfare policy.

IV. POLICY OPTIONS FOR THE POOR

Policy options to address the needs of disadvantaged African Americans have been proposed by liberals and conservatives alike. The plausi-

63. Spencer Rich, *Panel Clears Welfare Bill*, WASH. POST, Sept. 28, 1988, at A4.

64. OVERVIEW OF ENTITLEMENT PROGRAMS, *supra* note 18, at 618.

65. DAVID T. ELLWOOD, POOR SUPPORT: POVERTY IN THE AMERICAN FAMILY 153 (1988).

66. JUDITH M. GUERON & EDWARD PAULY, FROM WELFARE TO WORK: SUMMARY 11-14 (1991).

67. *Id.* at 12.

bility of new initiatives, however, has been constrained by the federal budget deficit, as well as fiscal straits experienced by most states and many local jurisdictions. Many states have chosen to reduce or eliminate public assistance benefits in order to relieve budget pressures. By 1991, fourteen states had reduced General Assistance benefits, the most dramatic example being Michigan's elimination of the program in October 1991, leaving approximately 82,000 beneficiaries without help to face the winter.⁶⁸ In addition, nine states cut AFDC benefits for 1991.⁶⁹

Fiscal gridlock reached such an impasse by the early 1990s that liberal and conservative intellectuals in the nation's capital speculated about a "new paradigm" for social policy.⁷⁰ The unwillingness of the Bush administration to embrace the concept, coupled with suspicions of congressional Democrats, has left the idea in embryonic form. Consequently, options in welfare policy have tended to follow the conservative and liberal cleavage that has defined the Republican and Democratic parties. Conservatives have fielded enterprise zones, tax expenditures, and reciprocity of the poor⁷¹ as bases for welfare policy, while liberals have proposed child support enforcement, civic obligation, and development accounts.

A. Enterprise Zones

The enterprise zone concept can be traced to the Adam Smith Institute of England where researcher Stuart Butler elaborated the work of others who promoted market strategies for community development. Entrepreneurial activity could be promoted in poor areas, reasoned conservatives, by reducing taxes, employee expenses, and health and safety regulations.⁷² Imported to the United States by the Heritage Founda-

68. ISAAC SHAPIRO ET AL., *THE STATES AND THE POOR* 21 (1991) (published jointly by the Center on Budget and Policy Priorities and the Center for the Study of the States).

69. *Id.*

70. James Pinkerton and David Osborne have been the principal architects of the "new paradigm." See DAVID OSBORNE, *LABORATORIES OF DEMOCRACY* 11-13 (1988); James Pinkerton, *Post-Modern Politics: The Search for a New Paradigm*, Remarks to the Illinois New Paradigm Society (September 16, 1991) (transcript on file with author). In October 1991, the emerging consensus around a new paradigm for domestic policy led the Heritage Foundation and the Progressive Foundation to co-sponsor a conference, "Left and Right," in Washington, D.C. See LEFT AND RIGHT; *THE EMERGENCE OF A NEW POLITICS IN THE 1990S?* (1992) (transcript of conference held Oct. 30, 1991, available from the Progressive Policy Institute). For a critical examination of "new paradigm" thought, see MICKEY KAUS, *Paradigm's Lost*, *NEW REPUBLIC*, July 27, 1992, at 16, 22.

71. See *infra* notes 72-78 and accompanying text.

72. George Sternlieb, *Kemp-Garcia Act: An Initial Evaluation*, in *NEW TOOLS FOR ECONOMIC DEVELOPMENT: THE ENTERPRISE ZONE, DEVELOPMENT BANK, AND RFC* 42, 42-44, 48 (George Sternlieb & David Listokin eds., 1981).

tion, Butler's ideas came to the attention of then-Congressman Jack Kemp, who convinced the Reagan administration to make them the centerpiece of urban policy. Through the 1980s, Kemp's Urban Enterprise Zone (UEZ) legislation stalled in Congress. Undaunted, the Heritage Foundation promoted UEZs in states and localities; by mid-decade thirty states and cities had created approximately three hundred UEZs.⁷³ Local experimentation notwithstanding, the UEZ concept continued to languish until the Los Angeles riot propelled it to the center of the urban policy debate in the spring of 1992. Despite the worst civil disturbance in memory, UEZ provisions of the 1992 Urban Aid Act amounted to a modest \$2.5 billion for the creation of fifty enterprise zones. Unrelated tax concessions added by the House and Senate increased appropriations to \$28 billion, an amount unacceptable to President Bush, who vetoed the measure.⁷⁴

B. *Earned Income Tax Credit*

In 1975 Congress instituted the Earned Income Tax Credit (EITC), whereby low-income taxpayers would be given a rebate from the Internal Revenue Service.⁷⁵ Although the EITC was a negative income tax, for conservatives it proved a suitable substitute for welfare; it was paid to those who worked and it required beneficiaries to participate in the tax system. In fact, during the 1980s and early 1990s—the period during which direct public welfare expenditures for the poor were under assault—indirect payments under EITC actually increased substantially, as shown below:

TOTAL AMOUNT OF EARNED INCOME TAX CREDIT REBATES, SELECTED YEARS⁷⁶

Year to Which Credit Applies	Total Amount (millions)
1975	\$ 1,250
1980	1,986
1985	2,088
1990	6,929
1991	8,806
1992	10,697*
1993	11,914*

*projected

73. Gilbert A. Lewthwaite, *Heritage Foundation Delivers the Right Message*, BALTIMORE SUN, Dec. 4, 1984, at 1A, 8A.

74. Art Pine, *President Vetoes Urban Aid Measure*, L.A. TIMES, Nov. 5, 1992, at A5.

75. OVERVIEW OF ENTITLEMENT PROGRAMS, *supra* note 18, at 1013.

76. *See id.* at 1019.

The rather remarkable growth of EITC tax expenditures suggests that it has become a viable option for providing income security for the working poor.

C. *Reciprocity in Public Assistance*

A staple of conservative thought on welfare throughout the Reagan era was that welfare programs contributed to dependency and dysfunctional behaviors, especially when benefits were not conditioned on reciprocity or, in other words, a standard of conduct expected of recipients. Lawrence Mead observed that "[t]he damage [by welfare programs] seems to be done, not by the benefits, themselves, but by the fact that they are *entitlements*, given regardless of the behavior of clients. They raise the income of recipients, but, more important, free them to behave without accountability to society."⁷⁷ Capitalizing on the workfare provisions of the Family Support Act, conservatives included a number of other desirable behaviors as prerequisites to receipt of public assistance. Recently, states have placed new requirements on the poor in order to qualify for AFDC, Food Stamps, and Medicaid. Wisconsin introduced "learnfare," a program requiring beneficiaries to attend school or risk the loss of benefits. In addition to requiring school attendance, Maryland soon made it necessary for parents to assure that their children received preventive health care. New Jersey thereafter denied additional assistance for children born after a grant has been awarded. Not to be outdone, Wisconsin introduced "wedfare," providing incentives for Moms on AFDC to marry.⁷⁸

D. *Child Support*

That so many families on AFDC had outstanding child support orders on absent parents convinced many liberals that public assistance could be enhanced by enforcing child support. Since 1975, child support enforcement has been emphasized in the AFDC program; by 1991, \$1.8 billion had been spent to collect \$6.9 billion.⁷⁹ Enthusiasm about making child support a primary feature of income support for poor women with children led child welfare advocates to propose Child Support Assurance (CSA) as welfare reform. Under the CSA proposal, child support would essentially replace AFDC through three provisions: setting child support

77. LAWRENCE M. MEAD, *BEYOND ENTITLEMENT* 65 (1986).

78. See Elaine C. Kamarck, *The Welfare Wars*, *NEW DEMOCRAT*, July 1992, at 12, 13-15. For a critique of "social engineering," see *Innovations, New Directions, and New Convergences in Poverty Alleviation: Hearing before the Select Committee on Hunger, H.R.*, 102d Cong., 2d Sess. 39-48 (1992) (statement of Douglas J. Besharov).

79. OVERVIEW OF ENTITLEMENT PROGRAMS, *supra* note 18, at 706.

as a percentage of the absent parent's income; automatically withholding child support from income, as has been done with Social Security taxes; and assuring a minimum benefit to children if the absent parent defaults on payments.⁸⁰

E. Civic Liberalism

Through the 1980s, social philosophers restated the importance of the civic foundations of American culture.⁸¹ The implications of a civic orientation for welfare policy received their most provocative treatment by Mickey Kaus, a senior editor of *The New Republic*. In *The End of Equality*, Kaus contrasts "money liberalism" with "civic liberalism," contending that the latter provides a more realistic basis for social policy.⁸² Given American antipathy for income redistribution as a goal of public policy, Kaus argues that the creation of class-mixing situations would be more plausible.⁸³ The classes of American culture tend to diverge and fragment unless public programs are deliberately fashioned to reintegrate them. Thus, Kaus favors a national service that would expose the affluent to circumstances of poorer fellow citizens;⁸⁴ but he also suggests limits on welfare. Specifically, recipients of public assistance, such as AFDC, would be offered income and training benefits for a fixed period of two years after which, if private employment were not secured, they would be required to accept a public works job or lose their benefits.⁸⁵

F. Development Accounts

Recently, "stakeholding"—the substitution of assets for income transfers through social policy—has become an option in poverty policy. Pioneered by Michael Sherraden of Washington University, stakeholding is advocated in response to the realization that the distribution of assets is even more skewed than income, and that the poor can profit directly from benefits that encourage savings and asset accumulation rather than spending and income distribution. Accordingly, Sherraden has proposed

80. Irwin Garfinkel, *Bringing Fathers Back In: The Child Support Assurance Strategy*, 9 AM. PROSPECT 74, 75 (1992); David T. Ellwood, Child Support Enforcement and Insurance: A Real Welfare Alternative, 9-10 (1992) (unpublished manuscript on file with David T. Ellwood at the Kennedy School of Government, Harvard University).

81. See, e.g., HARRY C. BOYTE, COMMONWEALTH: A RETURN TO CITIZEN POLITICS 156-57 (1989); WILLIAM M. SULLIVAN, RECONSTRUCTING PUBLIC PHILOSOPHY 226-27 (1982).

82. MICKEY KAUS, THE END OF EQUALITY 18 (1992).

83. *Id.* at 20-22.

84. *Id.* at 79-85.

85. *Id.* at 124-27.

the creation of Individual Development Accounts (IDAs) to bolster assets for the working poor. IDAs would be designated for specific purposes: housing, postsecondary education, self-employment, and retirement. The federal government would simply match IDA deposits made by people in qualifying low-income families. The amount of the federal supplement would vary with the importance of the activity—say \$5 in federal match to \$1 saved for housing, or \$2 in federal match to \$1 saved for retirement.⁸⁶ One such strategy—the Human Investment Policy for Oregon—is now in a planning phase, having been approved by that state's legislature and governor.⁸⁷

V. THE PROSPECTS FOR URBAN AFRICAN AMERICANS

The election of Bill Clinton to the presidency offers a measure of optimism for disadvantaged African Americans on what has been an otherwise bleak landscape. Yet, it would be naive to be sanguine about the prospect of significant improvement in their circumstances. Between 1980 and 1992 the number of AFDC recipients increased from approximately 10.6 million to 13.5 million while the purchasing power of benefits remained virtually static.⁸⁸ Yet during the same period, federal aid to the cities plummeted. From 1980 to 1992, urban aid through General Revenue Sharing, Community Development Block Grants, Urban Development Action Grants, the Economic Development Administration, Low-income housing, the Job Training Partnership Act (previously the Comprehensive Employment Training Act), and the McKinney homeless assistance program fell from \$41.4 billion to \$16.9 billion.⁸⁹ Clearly, urban aid has not been a substitute for diminishing support for welfare programs.

Short of a complete restructuring of welfare, which may be prohibitively expensive,⁹⁰ the best way to improve the lot of poor African Americans is through economic empowerment. As a result of reductions in federal aid to cities during the 1980s, innovative social advocates began experimenting with entrepreneurial strategies to help the minority poor. Such endeavors as the Ford Foundation's Local Initiative Support Corporation, James Rouse's Enterprise Foundation, and the Mott Founda-

86. See MICHAEL SHERRADEN, *ASSETS AND THE POOR* 220-23 (1991).

87. STAFF OF OREGON HOUSE OF REPRESENTATIVES LEGISLATIVE COMM., 65TH LEGISLATIVE ASSEMBLY, 2D SESS., *OREGONIANS INVESTING IN OREGONIANS: AN ECONOMIC DEVELOPMENT STRATEGY 2* (Comm. Print 1990).

88. OVERVIEW OF ENTITLEMENT PROGRAMS, *supra* note 18, at 660, 653.

89. Shari Rudavsky, *Financially Taxed Cities Seek Help*, WASH. POST, July 9, 1992, at A21.

90. Stoesz & Karger, *supra* note 3, at 170-73.

tion's microenterprise initiative generated an extensive list of successful projects.⁹¹ Among the most significant of such ventures are the Cooperative Home Care Associates of New York City, a worker-owned home health agency that has employed many former-AFDC participants,⁹² and Reach Inc., a \$20 million network of nonprofit enterprises in Mississippi and Alabama operated by African Americans, many of whom had been dependent on public assistance.⁹³ Fulfilling the promise of these experiments will depend on the capacity of program advocates to integrate public assistance and community development strategies in ways that effectively incorporate the diverse abilities and needs of poor African Americans. While the details of such a plan have yet to be developed, the rationale for an economic empowerment strategy was outlined more than three decades ago by the Kerner Commission.

91. See THE ASPEN INST., 1992 DIRECTORY OF MICROENTERPRISE PROGRAMS (Margaret Clark & Tracy Huston eds., 1992).

92. Jonathan Rowe, *Up from the Bedside: A Co-op for Home Care Workers*, 72 AM. PROSPECT 88, 89 (1990).

93. William Claiborne, *Mississippi Earning*, WASH. POST, Nov. 2-8, 1992, at 10 (Weekly Edition).

