

## In Focus

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# FOCUS

Institute for Research on Poverty  
Newsletter

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## THE USED CAR RIP-OFF

by

Felicity Skidmore

The sale of a used car is a classic stereotype of consumer fraud in America. And, indeed, only 3% of the public (less than for any other industry) seem to feel that the used car industry is doing a good job of serving the consumer.

The quality of the used car market is, however, more than a laughing matter. It is a \$33 billion-a-year industry—as large as the new car market. It is also an industry that is relatively important to the well-being of the poorer of us. Next to housing, the automobile is the most expensive purchase most people make. And the poorer you are the more likely it is that you will have to make that purchase in the used car

market. In spite of all this there has historically been no reliable study of the extent or nature of the exploitation in the buying and selling of used cars.

A new data source now permits examination of this and an important related issue. As the prices of new cars skyrocket, more middle income buyers can be expected to enter the used car market. It is reasonable to expect these more affluent buyers to exert greater leverage, financial and otherwise, to get fair treatment. This, in turn, can be expected to produce more regulation of standards in the industry. The question is: Does increased regulation improve the quality of the market?

A trend toward more regulation is already apparent. And the institution of minimum performance standards and consumer disclosure for used cars in Wisconsin presents the opportunity to look for answers to this question.

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The purpose of FOCUS is to acquaint a wide audience with the work of the Institute for Research on Poverty, by means of short essays on selected pieces of research.

The material in any one issue is, of course, just a small sample of what is being done at the Institute. It is our hope that these summaries will whet the appetite of the reader to learn more about the research itself, and more about other research on poverty—an area of vital social concern—by Institute staff.

The views expressed are those of individual members of the Institute; they do not represent the position of the Institute for Research on Poverty, the University of Wisconsin, the Department of Health, Education, and Welfare, or other funding agencies.

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## The Data

The Federal Trade Commission awarded a contract to the Center for Public Representation in Madison<sup>1</sup> to assess the effect of Wisconsin's 1974 used car disclosure law in raising the fairness standard in the Wisconsin used car market. This law requires dealers to inspect used cars before sale, to repair safety-related defects, and to disclose other defects to the consumer. In fulfillment of this contract the Center surveyed more than 1,000 used car buyers in Wisconsin (both before and after the law went into effect) and in the neighboring states of Iowa and Minnesota. The focus of the study for the FTC, carried out for the Center by David Trubek and John R. Nevin, was whether consumers in the aggregate got greater value per dollar in the used car market after the law went into effect than before. (The deterrent effect of the disclosure system does seem to have influenced dealer behavior in ways that benefit consumers as a whole.) Additional research designed by Kenneth McNeil and conducted with Lauren Edelman and the original researchers used the information thus collected to look within the group called "consumers" to see whether some people did worse than others and, in particular, whether how well off you are affects how well you do in the used car market.

## The Poor Do Pay More

The data from all three states (including both prelaw and postlaw data in Wisconsin) show that the poor do pay more for the purchase of a used car. This is true independently of the age and condition of the car, the age, sex, and other demographic characteristics of the buyer, or whether the car was bought from a dealer or a private seller. Those with annual incomes under \$6,000 paid almost 5% more for the equivalent car than those with annual incomes between \$12,000 and \$18,000. They paid almost 10% more for the same car than those with incomes over \$24,000 a year.

Even more startling, although the disclosure law in Wisconsin did improve the used car deals people of all income levels were able to get, it reduced the disparity among income groups not at all.

## Why Do the Poor Fare Worse?

What is it that prevents the poor from doing as well as the nonpoor in purchasing a used car? After all, having less money to spend certainly makes the potential buyer need a better deal and can be expected to make that buyer go to greater lengths to get one.

Several possibilities come to mind. Perhaps the poor make their purchases in different markets. Do they trade with dealers more than the nonpoor, or is it the other way around? Perhaps their relative lack of means makes them more hesitant to complain. Do the poor make fewer complaints than the rest of us? Perhaps they are less aware of the defects in the cars they choose. Do the poor notice fewer defects in their cars, either prior to purchase or after they have got the car home? Perhaps they are less successful in getting recompensed for defects they do complain about. The answers the researchers got to these and other questions are instructive, and may be counterintuitive to some.

Kenneth McNeil, John Nevin, David Trubek, and Lauren Edelman, "Bargaining Power and Consumer Protection: The Poor, Used Cars, and Wisconsin Disclosure Law," Institute for Research on Poverty Discussion Paper no. 486-78.

*The markets they deal in.* The evidence shows that those who trade with a dealer get a worse deal than those who buy from a private seller. But this is not the answer to our income difference puzzle, because the poor buy from dealers at the same rate that the nonpoor do.

*Their willingness to complain.* The poor do not complain less (or more) than the rest of us, at least not about their treatment in the used car market. Of the 395 buyers in the sample who became aware of a defect, low income buyers voiced complaints about as often as the nonpoor.

*Their awareness of defects.* According to the study, 43% of buyers notice defects before purchase. More people (46%) notice defects after they have bought the car. But neither group is composed disproportionately of the poor.

*Their ability to get satisfaction.* Here the researchers did find a difference. Although the poor and nonpoor are equally adept at finding defects and although both groups complain about them at the same rate, the poor spend significantly more money on repairs during the three months immediately following the purchase than do the nonpoor. The poor, thus, seem to have less success in getting objective satisfaction with respect to the complaints they voice, in that they have to spend more of their own money correcting the defects that caused the complaints.

Equally sadly, on subjective measures of satisfaction the poor also fare less well. No matter what the price or age of the car they buy, or what market they buy it in, the poor feel more dissatisfied with their purchase than the nonpoor. (Dissatisfaction is also greater among older buyers, for transactions taking place in the dealer market, and for newer and more expensive cars.) And more of them than the nonpoor, irrespective of the objective facts of their purchase, sense that something about the purchase was misrepresented.

Delving deeper into why the poor are discriminated against both with respect to the price they pay and with respect to the satisfaction they receive when they complain, the researchers have two possible explanations. Although they cannot be tested with the FTC survey data, they certainly deserve further study.

One is the possibility that the poor are not as skillful in bringing leverage on a seller—whether because they are less articulate or because the seller realizes they are poor and therefore easy prey.

*(continued on page 6)*

# “AND JUSTICE FOR ALL”: LEGAL RIGHTS ACTIVITIES IN THE UNITED STATES

by

Roberta Kimmel

Prior to the War on Poverty, many problems of the poor were hidden or ignored. The benefits of most social programs, such as public assistance, were treated as privileges rather than rights. The last two decades, however, have seen a dramatic change in society's perception of the legal needs of the poor; many hitherto obscured problems were exposed and deemed amenable to correction via the legal system. New concepts of entitlements and of procedural due process in the areas of racial discrimination, welfare, housing, education, and employment, for example, emerged.

*Lawyers and the Pursuit of Legal Rights*, the fourth volume in the Poverty Institute's Poverty Policy Analysis Series, provides a stimulating view of the history and current scope of legal rights activities in the United States. Authors Joel Handler, Ellen Jane Hollingsworth, and Howard Erlanger<sup>1</sup> have based the monograph largely on extensive interviews conducted in 1973 and 1974 with lawyers in a wide variety of practice settings. One is left with little doubt as to the magnitude of the role played by aggressive legal rights organizations.

## Early Legal Rights Activities

Until relatively recently there was very little organized legal rights activity for the poor. Reduced-fee or no-fee work (called “*pro bono*”) has traditionally depended on the generosity of individual lawyers in private practice acting in part out of charity and in part out of a desire to justify the public service image of their profession. Efforts in the latter part of the nineteenth century to assist the poor with legal problems produced the first legal aid organizations. A survey of legal aid needs and organizations in the United States, published in 1919, prompted the American Bar Association to establish a standing committee in an effort to strengthen legal aid.

Legal aid offices spread slowly throughout the first half of the twentieth century. They were not, however, meant to replace the *pro bono* activities of private lawyers. A 1947 survey identified only 70 legal aid facilities, and most of these were small in staff size and limited in available time. Although this number grew to 249 by 1963, funding—primarily from community funds—was slender (\$4 million, or about \$16,666 per program).

A look at the general character of these legal aid programs shows them to stand in marked contrast to the aggressive approach of many subsequent organizations. Legal aid emphasized service to individuals exclusively, assuming that legal problems of the poor lay not in the law itself but in

obtaining access to the law. Law reform activities and class action litigation were virtually nonexistent. Constricted funding required strict client eligibility standards, and little or no money was available for community education and publicity.

For criminal cases the dominant form of representation traditionally has been the assigned counsel system whereby the judge assigns a practicing attorney to the case, usually without compensation. Alternatives to this system (i.e., defender programs with salaried lawyers) have been slow to emerge. This is due in part, the authors suggest, to our society's perception about the worthiness of representing the criminally accused as compared with the legal assistance client.

The early history of legal rights is summarized thus:

Although there had developed a long tradition of charitable legal work for the poor, and although this tradition was supported by the elites of the profession, it remained in fact in the backwaters. . . . Legal aid offices and defender programs were for decades few in number, and even when they became more numerous, they were poorly financed; they were staffed either by lawyers looking for something else or by those seeking security from a competitive society. With few exceptions, young, activist, social-minded lawyers would not join legal aid or defender programs.

But we discover that the pre-1960s also saw a modest amount of aggressive legal work by a few organizations.

At the same time that traditional legal representation for the indigent was expanding, a major thrust toward social reform by means of litigation got underway. The NAACP was among the most influential early organizations to use this strategy. Its Legal Defense and Educational Fund, Inc. (established in 1939), a forceful proponent of class action litigation, has exerted tremendous influence on the subsequent development of legal rights activities—namely, the OEO Legal Services program, consumer and environmental law, and public interest law. Another important organization was the American Civil Liberties Union, which was

## LAWYERS AND THE PURSUIT OF LEGAL RIGHTS

by

Joel F. Handler, Ellen Jane Hollingsworth,  
and Howard S. Erlanger

*Academic Press, \$14.50 (\$5.95 paper)*

established in 1920. It has built up a steady tradition of appellate court law reform work.

In the 1960s, aggressive legal rights activities emerged as a major theme of social reform. The Kennedy Administration's New Frontier was founded on the belief that social justice could and should be achieved through changing the institutions of American society. The crucial force in achieving reform was government agencies, which in turn were to be activated by individual citizens working in reform-oriented organizations. A proliferation of aggressive independent organizations, such as those developed by Ralph Nader, arose. These groups, started essentially to work for the "little person," the consumer, the victim of giant public and private corporations, concentrate today mainly on the failings of federal regulatory agencies.

The use of law to improve the lot of the unrepresented reflects the changing ideology of that decade, the authors suggest: "During the 1960s, there was an initial period of optimism about change through law reform, then a period of radicalism and disillusionment, and finally, at the end of the decade, the acceptance of goals of middle-range change through incrementalism."

Handler et al. categorize current legal rights activities into four areas: (1) public interest law, (2) the private bar, (3) organizations of the private bar, and (4) the Legal Services program.

Charity-supported public interest law firms began to proliferate in the early 1970s, largely with support from the Ford Foundation. Some of them are formally affiliated with another organization (e.g., the Sierra Club), others are independent but typically have organizations as clients. Almost all are small and slimly financed, in comparison with the resources of their adversaries. Most prominently identified with environmental and consumer cases, these firms have been attacked for ignoring the interests of the poor and minorities. In fact, however, much public interest work lies in the areas of employment and voting discrimination, education, criminal justice, and health.

*Pro bono* activity of the private bar, according to the survey, is clearly traditional in nature. In most cases it consists of general legal advice given during regular practice hours to individuals; very seldom is litigation involved.

In the third category are more systematic attempts by private practitioners to organize *pro bono* work: public interest departments of large and elite private firms, public interest firms funded by bar groups, and law communes (radical versions of private, public interest firms whose primary aim is political activism). On the traditional end of this spectrum are local legal service clinics for the poor, lawyer councils, and clearinghouses.

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## FORTHCOMING INSTITUTE BOOK

Fall 1978

Duane Leigh, **An Analysis of the Determinants of Occupational Upgrading**

In this monograph the author examines the occupational advancement of individual workers within the framework of the dual labor market and human capital theories. In doing so Leigh takes a critical look at black-white income differentials, estimating the effects on occupational mobility of length of education, vocational and on-the-job training, and inter-industry mobility for male workers.

The results of this study show that education has an important effect on mobility of both blacks and whites, though the relationship is stronger for whites. But formal vocational training and firm-specific training show at least as strong an effect for blacks as whites. In addition, for both blacks and whites the effect of initial industry and geographic location seem relatively unimportant in occupational upgrading because of sufficient mobility between employers. The impact of interfirm and interindustry mobility seem as large for blacks as whites, controlling for personal endowments. Among those workers who remain in the same firm or industry, the evidence indicates that the hypothesis of a systematic racial differential in occupational upgrading within internal labor markets may be rejected.

Leigh argues that the dual labor market hypothesis does not adequately describe the labor market status of black men, and continued policy emphasis on improving initial education and training of black men is called for.

Initially prepared for the Manpower Administration of the Department of Labor, the volume is a further addition to growing Institute literature on dual labor market theories and occupational mobility.

This book will be available from the publisher, Academic Press, 111 Fifth Avenue, New York, New York 10003.

## A NEW MEASURE OF ECONOMIC STATUS

The extent to which a society provides aid and opportunities to its least fortunate members depends in part on the society's beliefs regarding the causes of poverty and inequality. While a strong case can be made for aiding the poor irrespective of the source of their poverty, those who oppose increased aid to low income groups frequently justify their position by asserting that the poor themselves are to "blame" for their condition; that is, they are poorer than the rest of us because the rest of us try harder.

To what extent is inequality attributable to differences in opportunity, on the one hand, and to differences in the extent to which people take advantage of their opportunities, on the other? Are the poorest among us poor because they work less or because they have less to work with? In their monograph *Earnings Capacity, Poverty, and Inequality*, Professors Irwin Garfinkel and Robert Haveman address these and other questions by means of a new concept and measure of economic status called "earnings capacity." Earnings capacity, defined as the income stream that would be generated if each household employed its human and physical assets to capacity, is estimated for each individual and family in the population. This estimate of earnings capacity is then compared with actual earnings to see how different groups in the population take advantage of or utilize the capacity they possess.

For the nonaged population—the group for which the notion of capacity utilization is most relevant—Garfinkel and Haveman find that the rate of capacity utilization is about two-thirds if no value is attributed to services in the home produced by spouses and nearly three-fourths if such attribution is made. While the rate of capacity utilization is significantly higher for men than for women, virtually no difference is found between the rates of blacks and whites. Indeed, blacks of a given economic status, by and large, have slightly higher utilization rates than do whites of similar economic status. Also, families of low economic status are found to utilize their capacity at about the same rate as high-status families.

Clearly, differences in work effort among households contribute to observed inequality in the distribution of income. Because estimates of capacity utilization provide an indicator of household work effort, the authors also estimate the extent of the contribution of this phenomenon to income inequality. Comparing the distributions of earnings capacity and pretransfer income, they conclude that at least 80% of the variation in income is caused by factors other than differences in capacity utilization. These factors include education, age, race, and geographic location, but not differences in work effort.

Based on their findings, the authors conclude that those who are poor by the income measure are not in that state because of relative failure on their part to exploit economic capacities. This suggests that neither laziness nor reliance upon public income transfers is responsible for low earnings. To the extent that public income transfer policy is shaped by the belief that the poor do not exploit their capacities—that they are "undeserving"—these findings may ultimately help to reshape such policy.

Garfinkel and Haveman also employ the concept of earnings capacity to develop a definition of poverty based on the capabilities of households rather than on money income. This definition is then used to identify the composition of the earnings capacity poor and to compare it with that of the poor as officially defined. They find that blacks, those who live in large families, and those who live in families with strong attachments to the labor market are more likely to be poor by the capacity-based definition than by the standard definition. The last finding suggests that the inadequate coverage of the working poor provided by our current income maintenance programs may be even less justifiable than evaluations that define poverty on the basis of current income have suggested. They also find that families headed by women are just as likely to be poor in terms of earnings capacity as in terms of current income. Thus, even if female heads of families worked at full-time, full-year jobs, they would need support from public income maintenance programs to lift them out of poverty.

Numerous income transfer programs—ranging from the negative income tax to earnings supplements to children's allowances—have been designed to reduce poverty. Because most of these measures are conditioned on income, they target their benefits on the income poor. They tend to be less effective in assisting the earnings capacity poor. The authors analyze how the target effectiveness of 10 income support programs is altered when the definition of poverty is shifted from the official income definition to one based on earnings capacity. They find that the differences among programs in target effectiveness are significantly changed when earnings capacity rather than current income is used as the measure of economic status. In general, universal programs—those which are not conditioned on income

### EARNINGS CAPACITY, POVERTY, AND INEQUALITY

by

Irwin Garfinkel and Robert Haveman, with  
the assistance of David Betson

*Academic Press, \$12.00*

level—improve relative ranking in terms of aiding low income groups when earnings capacity is used to define the target group. These results call into question the usefulness of the criterion of target effectiveness based on money income for evaluating income transfer programs.

Finally, the concept of earnings capacity is used to evaluate the contribution of labor market discrimination to black-white earnings differences. The estimates presented lead to several conclusions. If economic status is presumed to be better reflected in earnings capacity than in current income, the disparity between blacks and whites is even greater than income differences imply. Perhaps even more serious, the disparity in status between blacks and whites is greater for low capacity families than for high capacity families. This disparity between the races is caused in large measure by discrimination against blacks in labor markets: Between 43% and 60% of the gap for men and between 30% and 39% of the gap for families is attributable to such discrimination. The authors conclude that policies designed to reduce labor market discrimination should play a prominent role in the overall effort to reduce racial differences in income. Garfinkel and Haveman also examine the degree to which the severity of labor market discrimination varies with earnings capacity and find no clear-

cut pattern. They argue, consequently, that there is no justification for focusing antidiscrimination policy on a particular part of the distribution of earnings capacity.

As Robert Lampman notes in his foreword to the book, the earnings capacity study “contributes to the long tradition of research designed to improve the measurement of economic status and inequality, a tradition that has experienced a major increase in interest in the last decade.” Lampman also says:

By criticizing the standard approach to measuring economic position and inequality, and suggesting an alternative to it, the volume fits what Alice Rivlin has termed “forensic social science.” Because such an approach does not provide the sorts of arguments and evidence present in a legal brief for the opposition the reader will need to test the authors’ arguments as he goes along. . . . For what sorts of policy issues, for instance, is a longer term indicator of economic status, such as earnings capacity, more appropriate than an indicator of current need, such as annual money income? The alert and questioning reader will find this study a challenging one that stimulates reexamination of both social policy goals and social practices.

#### Used Car Rip-Off

*(continued from page 2)*

The other is a “rotten dealer” explanation. It is quite plausible that certain dealers consciously seek out the poor in order to exploit them. They may bribe the poor, say, with better credit terms but charge them higher prices and remain unresponsive when defects show up later. As the authors warn:

If this second explanation for discrimination is true, then disclosure regulation as a strategy for giving leverage to the low-income consumer would be misplaced. It may only increase restrictions on decent dealers who would abide by the law to maintain their reputation, while rotten dealers would continue to ignore the legal regulations in all but the most symbolic ways.

The FTC study shows that direct consumer complaints to government agencies are rare. Of the 220 or so who complained—89% of whom bought from a dealer—only 6 said they had contacted a public remedy agent. However, the study suggests that state inspectors do offer secure benefits for the relatively few consumers who complain officially.

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<sup>1</sup> The nonprofit Center for Public Representation in Madison was founded in 1974 to provide representation for groups of citizens whose lack of organization or resources prevent them from financing their own representation before state and local administrative agencies. The Center engages in advocacy, research, and citizen education. It also trains law students through a clinical placement program that provides experiences in state and local administrative law and public interest advocacy, while helping them to develop a substantive knowledge of crucial areas of law.

#### SELECTED PAPER

“On the Efficiency of Income Testing in Tax-Transfer Programs,” by Jonathan R. Kesselman and Irwin Garfinkel. Institute for Research on Poverty Discussion Paper no. 339-76.

This paper demonstrates that target efficiency is a conceptually flawed measure of economic efficiency with respect to tax-transfer programs. It thus casts doubt on the widely shared view that income-tested programs are more efficient than non-income-tested ones. To illustrate some quantitative aspects of the economic efficiency of income testing the authors calculate several feasible overlapping negative income taxes and corresponding credit income taxes. They show that the difference in welfare loss between the two types of programs is invariably small—less than one-half of 1% of aggregate earnings. This leads to a major implication for policy formulation—specifically, that any differential economic efficiency costs between a credit income tax (non-income-tested) and a negative income tax (income-tested) may well be dominated by other program differences.

## NEW INSTITUTE BOOKS

### **ESTIMATING LABOR SUPPLY EFFECTS OF INCOME MAINTENANCE ALTERNATIVES**

Stanley Masters and Irwin Garfinkel

The importance of labor supply issues in evaluating income maintenance alternatives is a primary motive for the work presented in this volume. The authors have carefully designed empirical estimates of income, wage, and substitution effects and show how these estimates can be used to simulate the effects of various negative income tax, wage subsidy, and earnings subsidy proposals.

This monograph lays the technical groundwork for a companion volume, *Welfare Reform and the Work*

*Disincentive Issue*, which will relate the results of the present volume to policy alternatives.

*Academic Press, \$17.50*

### **EARNINGS CAPACITY, POVERTY, AND INEQUALITY**

Irwin Garfinkel and Robert Haveman, with the assistance of David Betson

*See article on page 5.*

### **LAWYERS AND THE PURSUIT OF LEGAL RIGHTS**

Joel F. Handler, Ellen Jane Hollingsworth, and Howard S. Erlanger

*See article on page 3.*

### **A CONFERENCE ON UNIVERSAL VERSUS INCOME-TESTED TRANSFER PROGRAMS**

November 1978, Institute for Research on Poverty

The debate over whether income maintenance programs should be universal or income-tested is an old one, but perhaps more crucial now than ever before. In universal programs, rich and poor alike participate; gross benefits are not related to income. In income-tested programs, only those with low incomes (and low assets) are eligible. This issue is a principal source of disagreement, for example, among advocates of various kinds of national health insurance programs; it plays a key role in the question of how to integrate the Supplemental Security Income program with Old Age Insurance; and it enters debate over the kind of public financing to be provided for daycare.

Some sources of disagreement clearly stem from contrasting value judgments, others are empirical in nature. While the subjective differences are the most difficult to resolve, the empirical questions are ripe for scholarly examination. To this end the Institute will hold a conference in the fall of 1978. Ten papers have been commissioned whose authors represent the fields of economics, sociology, political science, and social work. The first five topics listed below explore the benefits and costs of universal and income-tested programs in general; the last five examine the benefits and costs of particular kinds of programs.

Other conferees will include 20 discussants and several invited participants from government and the academic community.

1. *Arnold Heidenheimer*: A historical study of the use of and rationales for universal and income-tested programs in the United States and other developed countries
2. *Lee Rainwater*: An analysis of the effects of the two types of programs on the self-respect and treatment of beneficiaries
3. *James Coleman*: An analysis of the effects of the two types of programs on social cohesion
4. *Gordon Tullock*: A theoretical and empirical political economy study of which type of program provides more aid to the poor
5. *Kenneth Arrow*: The welfare economics of the two types of programs
6. *David Greenberg, David Betson, and Richard Kasten*: A simulation of income distribution, labor supply, GNP, and efficiency effects of negative income tax and credit income tax proposals
7. *Jonathan Kesselman*: An analysis of the differential administrative and taxpayer incentives and tax simplification aspects of negative income tax and credit income tax proposals
8. *David Berry, Irwin Garfinkel, and Raymond Munts*: Alternative strategies for providing minimum income support to the aged
9. *Harold Watts and Felicity Skidmore*: Alternative strategies for aiding female heads of family
10. *Brian Abel-Smith*: Issues specific to programs providing in-kind benefits, with particular emphasis on national health insurance

# THE INHERITANCE OF WEALTH: LIKE PARENT LIKE CHILD?

by

Paul L. Menchik

A large body of economic literature exists on the intragenerational distribution of income and wealth. Some of it is devoted to specific historical periods or trends over time; other work scrutinizes the tools and methods used to measure this distribution. Until recently, however, little effort was devoted to studying intergenerational effects on this distribution—the passing on of wealth from parent to child; and most of those studies concentrate on the transmission of human wealth (lifetime earnings ability) rather than nonhuman wealth (wealth received through gifts and bequests).

To illuminate the process of the transmission of nonhuman wealth across generations, an analysis was done of Connecticut probate records of parents who died during the 1930s and 1940s. These records were matched with the probate records of their children who died prior to 1977. The following specific issues were examined:

- (1) How is estate wealth divided among children? Does sex or birth order have any influence, and does asset composition make a difference?
- (2) Do the children of wealthy parents tend to be well off themselves? How much wealth mobility exists between generations?
- (3) What is the relationship between the wealth inherited by children from their parents and the wealth these children leave upon their own death?

## Primogeniture or Equal Sharing?

Is there a tendency for male or firstborn children to enjoy a greater material inheritance than female or later-born children? Since, in applying economic models that predict the distribution of income and wealth over a number of generations, primogeniture results in more inequality than does equal sharing, this question is clearly an important one.

Probate data drawn from 379 estates revealed that the parents provided, on average, equal shares to male and female children; moreover, the proportion of the estate bequeathed to each sex did not vary significantly with estate size. The data also showed that firstborn children did not receive more material inheritance than their siblings. The median bequest per child varied inversely with family size, due to wealth-splitting. This finding is in accord with the human inheritance literature which suggests that human endowments per child fall as family size increases.

Equal sharing of parents' estates among children appears to be the rule: In 60 to 70% of the cases, each child received an equal (or within one percentage point of equal) share. This contradicts the hypothesis of some scholars that differential bequests are used by parents as compensatory or

equalizing devices, the child (children) with lower earnings ability receiving the greater share. But even if we assume that *all* within-family variation is for compensatory purposes—and this is by no means clear—it is not apt to attenuate greatly the relative economic position of the children for two reasons. First, the overall degree of bequest inequality is quite low—much lower than earnings inequality in the economy or among siblings. Second, for the overwhelming majority of heirs, wealth received by inheritance is dwarfed by lifetime earnings.

Is there less bequest equality in families holding farms and businesses than in those whose wealth is primarily in liquid assets? Though it was found that the value of such estates as a whole was shared equally, among smaller estates it is more likely that a male child received the family enterprise than a female. Since smaller businesses are more likely to be owner-operated, this is consistent with some sociological literature on unequal inheritance of occupation between the sexes.

## Wealth Mobility

The question of wealth mobility of individuals and family members over time is another generally neglected area. Societies characterized by a given degree of inequality can be either static, with individuals and families at the top maintaining their position, or mobile, with a shuffling of the distribution over time based upon individual abilities. Most people would, in line with normative judgments about the value of equality of opportunity, consider the latter state to be more "fair."

If we were to array parents and children according to their places in the wealth distribution, it is evident that for a child of parents at the bottom to rise to the top, it would be necessary for a child of parents at the top to move down. Thus, to the extent that material inheritance ensures that children born into the top groups maintain their position, it lessens the degree of wealth mobility in a society.

How much wealth mobility is there in our society? What are the chances that you will fail to be wealthy if your parents are wealthy? Again using Connecticut probate records from the 1930s and 1940s, the estates of 300 children were matched with the estates of their parents to answer this question in three different ways. The sample of parents was a relatively wealthy one, with at least one in each pair of parents possessing an estate of at least \$40,000.

The first method was to compare the wealth of the children with that of their parents. Such a comparison showed children of wealthy parents to be nearly as wealthy as their parents—this in spite of the equalizing effect of estate-splitting among heirs. The median child at the time of his death possesses an estate 85% the size of his parents', even after all "transaction costs" (inheritance and estate taxes, costs of administration, legal fees) and inflation have been accounted for.

A second method was to assess the relation between the wealth of the parent and the child. One measure of this

relation is the coefficient of correlation—which can range from -1.0 for perfect mobility (i.e., if every rich [poor] parent had poor [rich] children) to +1.0 for perfect immobility (i.e., if every rich [poor] parent had rich [poor] children). According to our probate data, this coefficient of correlation is +.635—rather nearer the immobility pole. The comparable coefficient for parent-to-child *earnings*, in contrast, has been calculated as +0.2 to +0.3—indicating much more mobility in the earnings distribution than in the wealth distribution.<sup>1</sup>

A third method was to measure how the wealth of children differs with respect to differences in the wealth of their respective parents. The Connecticut data show that if one child's parents are 10 times as wealthy as another's, that child will be 8 times as wealthy as the other.

### How Does Inherited Wealth Influence Final Wealthholding?

The first way to answer this is to compare what a child inherits with what that child leaves at death. One finds, from the Connecticut data again, that 30% of the child's wealth can be attributed to parental inheritance if the actual amounts listed in the records are compared. This, however, is clearly not the appropriate comparison, because wealth earns returns over time and inherited wealth can certainly be expected to grow over the rest of the inheritor's life. On the conservative assumption that the inheritance earns the bond rate of return over the rest of the child's lifetime, the proportion of the child's wealth at death that is attributable to what he inherited from his parents is 50%. Using a stock market index and assuming that all dividends are reinvested raise the proportion to substantially more than 50%.

The second way to relate inherited wealth to final wealthholding is to look at "lifesaving"—the difference between lifetime resources (earnings plus inheritances and gifts) and lifetime expenditures. For the wealthy Connecticut sample, the *share* of their lifetime resources saved rose substantially as resources increased. According to the data, if the lifetime resources of one person were 10% higher than those of a second person, the estate left by the first would be, on average, 25% higher than that left by the second.

### Implications for a Consumption Tax

There has been recent interest in some quarters in changing the federal tax system from one based on personal income tax to a system based on a consumption tax. An annual tax on consumption, with a lifetime averaging scheme in which each year's tax is based on the average of present and past years, is tantamount to a lifetime consumption tax.<sup>2</sup>

To guarantee that such a tax will not be regressive—that is, to ensure that the burden will not fall disproportionately on the less well off—the total tax bill levied from each in-

come group must, of course, be the same proportion of their total resources. Since the tax base is *consumption* spending, the tax base will shrink as a proportion of total resources as those total resources increase, given that *lifesaving* increases with increases in total lifetime resources. That rate at which that base is taxed will have to increase very sharply as consumption increases in order to counteract the fact that for every 10% increase in lifetime resources (as we saw) lifesaving increases at two and one-half times that rate. If a progressive tax were desired, the rate structure would have to rise even more quickly than lifesaving for specified resource levels.

### Implications for the Equality/Output Debate

A second implication of this work concerns the effect of the distribution of income on total spending in the economy. If lifesaving rises disproportionately with income, as reported, then redistribution of income toward equality would ultimately lead to increased levels of spending. If, as Keynesian economists hold, unemployment in our economy is partially a consequence of a shortfall of total spending, then income redistribution in the direction of greater income equality would lead to lower levels of unemployment and higher levels of output. Thus, the argument often made that reducing inequality must come at the expense of the level of output in the economy as a whole is not consistent with the finding reported here. Indeed, increased equality and greater output would seem to go hand in hand.

<sup>1</sup>The Connecticut data did not include earnings. Proxy data linking earnings to inheritance received was used from J. Morgan et al., *Income and Welfare in the U.S.* (New York: McGraw Hill, 1962).

<sup>2</sup>For two differing views on the desirability of a consumption tax, see Michael K. Taussig, "The Treatment of Wealth in Means-Tested Transfer Programs" and Paul L. Menchik, "A Note: Should Wealth Matter?" in *The Treatment of Assets and Income from Assets in Income-Conditioned Government Benefit Programs* (Washington, D.C.: Federal Council on the Aging, 1977).

Paul Menchik, "Primogeniture, Equal Sharing, and the U.S. Distribution of Wealth," Institute for Research on Poverty Discussion Paper no. 390-77.

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**“And Justice for All”**  
(continued from page 4)

The fourth category, the federally funded Legal Services program, has been the largest and most influential effort.

### The Legal Services Program

Established by the Office of Economic Opportunity in 1965 as a component of the War on Poverty, the Legal Services program has grown to be the largest legal rights organization in the country. Funding increased from \$27 million in fiscal 1966 to \$71.5 million in fiscal 1972; 1976 saw the program reorganized at the national level and the budget increased further. At its peak, it has employed well over 2,000 lawyers. While OEO gradually weakened and died, the authors report that Legal Services generally has enjoyed good publicity, growth, and successful recruitment of young lawyers. But at the same time the program has been the target of considerable controversy, and has felt a variety of pressures at both national and local levels.

There was criticism on legal ethics issues (mostly involving solicitation of clients and violations of client eligibility guidelines) and objections were raised about the types of cases taken or the ways in which they were handled. Where programs had main and branch offices, friction was generated by lack of communication and by caseload distribution. Finally, external pressure to reduce the amount of class action and law reform work clashed with internal pressure to do more of it.

From the start, the most fevered debate centered on the degree to which the program’s services would be traditional—that is, service-oriented in the legal aid mold, or aggressive—law reform-oriented and stressing social change through litigation.

The early leadership pushed for an aggressive program emphasizing law reform, and this approach became the target of much criticism on political and pragmatic grounds. First, it was argued that vigorous reform work might alienate the local establishment (including bar associations), and that it would sap funds from service activities. Second, doubts were raised as to the efficacy of law reform and its appropriateness to the program. Third, critics claimed that this approach affected recruitment patterns by attracting primarily graduates of elite schools who were interested only in law reform and appellate work, and who departed after a short period of service.

The Handler et al. study addresses these criticisms, and refutes several other popularly held beliefs about the program, the kinds of activities Legal Services lawyers engaged in, and job satisfaction among the lawyers themselves.

It is based on a questionnaire which was administered to large samples of 1967 Legal Services lawyers and 1972 Legal Services lawyers. Numerous issues are included: the kinds of clients served, the types of problems dealt with, the legal services performed, the mix of law reform and service cases, and the extent to which these activities have changed over time. Let us highlight some of these findings.

*The work of the offices.* The four principal areas of Legal Services activity (accounting for almost 80% of all activity), in 1972 as in 1967, were family, consumer, housing,

and welfare law. Table 1 breaks down total workload by type of work. Over time, family and consumer law have decreased while housing and welfare law have increased.

As for the distribution of time between service work and law reform work, there was little change. Lawyers in 1967 report, on average, spending 25% of their time on law reform; for 1972 the figure is 31.2%. Typical activity of this sort would be done on behalf of welfare rights organizations against state or county welfare departments.

**Table 1**  
**Work Done by Legal Services Lawyers**

Type of work	Percentage of total workload	
	1967	1972
Family	30.4	21.7
Consumer	24.1	21.6
Housing, landlord-tenant	18.2	23.3
Welfare	6.2	12.2
Employment	2.9	5.3
Juvenile	2.0	4.6
Criminal	4.4	.5
Others mentioned (each less than 2%)	11.8	10.8
Total	100.0	100.0

**Source:** Joel F. Handler et al., *Lawyers and the Pursuit of Legal Rights* (New York: Academic Press, 1978).

Other reported activities besides service and law reform were community work (speaking, counseling, and organizing), economic development, legislative work, and lobbying.

Another aspect of a Legal Services job is the amount of court activity. In 1972, two-thirds of Legal Service lawyers report that more than 20% of their time is spent in court (an increase over 1967), the bulk of it in lower state and local courts. Another increased activity is dealing with government agencies, primarily those relating to welfare.

One steady, overwhelming problem has been caseload pressures. Legal Services lawyers average 100 open files at a time, much higher than the number for private practitioners or public defenders. According to recent estimates, about 17 million poor people ostensibly covered by Legal Services have approximately 4 million legal problems a year.<sup>2</sup> Since Legal Services is able to handle just over a million cases a year, a severe gap obviously exists.

*Job satisfaction and morale.* In both 1967 and 1972, job satisfaction among Legal Services lawyers was high. Almost 90% of the 1972 respondents reported being either satisfied (59.3%) or very satisfied (27.9%) with their work, and the figures for 1967 are not appreciably different.

Most, too, thought quite highly of their program, which probably accounts in large part for the high satisfaction rate. An important finding with regard to program evaluation was the fact that "lawyers who spent proportionately more time in law reform were inclined to view their programs more favorably than lawyers who spent more time in service work."

Most Legal Services lawyers viewed their positions as temporary, for such reasons as the desire to earn more, the desire to be in private practice or have another kind of job, or reservations about the nature of the job. But the evidence indicates that the average stay in Legal Services—about three years—was not too much less than the first-job tenure of their peers who did not enter the program.

"Thus," the authors conclude, "not only is turnover, or attorney retention, less of a problem than many believe, but

it may be more an aspect of the career mobility of young lawyers than of the Legal Services organization itself."

## Six Years Later: The Fate of Activist Lawyers

Do activist lawyers tend to "burn out" after a few years? Do they continue to do reform-oriented work and to represent low status clients but in another setting? Are their commitments to legal activist work of brief or long duration? To answer these questions on the subsequent career paths of Legal Services lawyers, part of the survey involved a comparison of jobs held in 1973 by the 1967 Legal Services lawyers with jobs held in 1973 by other lawyers who were bar members in 1967.<sup>3</sup> In order to eliminate the substantial effects of race, sex, and year of graduation the book focuses discussion on results for white males; and the year of graduation of lawyers in the comparison group has been standardized to have the same distribution as that of the Legal Services lawyers.

Table 2 shows that, contrary to popular belief, Legal Services lawyers are much less likely to be in private practice (39% as compared with 67%) and more likely, furthermore, to be in jobs oriented toward legal rights or public service activity than are other lawyers. Table 3, which for

**Table 2**  
**Adjusted Professional Positions at Time of Interview<sup>a</sup>**

	Percentage	
	1967 Legal Services lawyers	Lawyers in bar
Private practice		
Solo	17	19
Firm of 2-4 members	17	25
Firm of 5-9 members	4	11
Firm of 10+ members	1	12
Subtotal	39	67
Salaried positions		
Counsel for business	1	9
University position	3	2
Activist government agency <sup>b</sup>	5	1
Legal rights work <sup>b</sup>	5	0
Other	13	10
Subtotal	27	22
Legal services		
Same legal services job	22	—
New legal services job	7	—
Other		
Nonlaw	4	9
Retired, unemployed	1	2
Total	100	100
N	228	981

Source: See Table 1.

<sup>a</sup>White males only; year of graduation of lawyers in the bar standardized to that of lawyers in Legal Services.

<sup>b</sup>Defined in text.

**Table 3**  
**Professional Positions at Time of Interview for Lawyers Who Left Legal Services<sup>a</sup>**

	Percentage	
	Former Legal Services lawyers	Lawyers in bar
Distribution within private practice		
Solo practice	43	27
Small firm (2-4 lawyers)	43	37
Medium firm (5-9 lawyers)	10	17
Larger firm (10+ lawyers)	4	18
Total	100	99
N	92	621
Distribution of other jobs		
Nonlaw job	13	30
Salaried counsel for business	3	30
Legal rights work <sup>b</sup>	15	2
Activist government agency <sup>b</sup>	16	2
Other salaried counsel (mostly government agencies)	43	30
University faculty	10	7
Total	100	101
N	77	306

Source: See Table 1.

<sup>a</sup>White males only; year of graduation of lawyers in the bar standardized to that of lawyers in Legal Services.

<sup>b</sup>Defined in text.

Legal Services shows only the lawyers who left the program, illustrates this more clearly. Only 16% of Legal Services lawyers are salaried counsels for business corporations or working in nonlaw jobs, as opposed to 60% of lawyers in the bar. Former Legal Services lawyers who are not in private practice are heavily concentrated in non-business pursuits—doing legal rights work (e.g., in a public defender's office), working for government agencies, or teaching law.

Former Legal Services lawyers in private practice tend to have practices oriented away from wealth and power; most are affiliated with solo or small firms, and deal primarily with the affairs of modest income individuals or small businesses. Lawyers in the bar, in contrast, tend to practice in larger firms.

As for type of professional work, Legal Services lawyers are much less likely to designate business and real estate, more likely to list criminal and marital law; they report less litigation activity and less work with wills, trusts, and estates. (To some extent, of course, type of work is a reflection of the smaller size of the firms they are with.) They report doing more hours of *pro bono* work, and more of it is for under-represented individuals and groups.

It is one thing to describe the career patterns of these lawyers and compare it with that of lawyers who were not in Legal Services; it is another to evaluate the differences—to separate program effects from self-selection effects. To clarify the issue, regression analysis was employed; this is a statistical technique that specifies the strength of relationships when other variables (i.e., social background variables, in this case) are taken into account or controlled. The authors conclude that their control variables (e.g., family and education characteristics) have little effect on the tendency for Legal Services lawyers to avoid those types of practice that have traditionally been accorded high status and to do more reform-oriented *pro bono* work. Variation in experience within the program (i.e., law reform versus service work) affects subsequent career patterns somewhat, but not as much as participation itself.

The authors are optimistic about the future of Legal Services. In 1974 the program became, by a statute of Congress, the Legal Services Corporation. It is run by an 11-person board of directors appointed by the President. The

statute attempts to cut down on the more controversial aspects of Legal Services (for example, law reform litigation and contracting with public interest law firms are restricted; certain political activities are proscribed for lawyers in its employ). Still, the aggressive tradition from which Legal Services sprung has sympathy in its current leadership; and the service component (which constitutes the bulk of its work) takes a basically nontraditional approach employing more litigation and a client perspective. →

## Selected Articles

Howard Erlanger, "Social Reform Groups and the Subsequent Careers of Participants: A Follow-Up Study of Early Participants in OEO Legal Services." *American Sociological Review* 42 (April 1977): 233-248. Institute for Research on Poverty Reprint no. 233.

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Ellen Jane Hollingsworth, "Ten Years of Legal Services for the Poor." In *A Decade of Federal Antipoverty Programs*, ed. Robert H. Haveman (New York: Academic Press, 1977).

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## Conclusion

Legal rights organizations have grown tremendously in budget and staff size during the last twenty years. With this growth a number of important functions have evolved. First, they have sensitized the country to the legal needs of the poor and provided long neglected services to the poor. With regard to the intrinsic benefits of services delivered, analysis has shown Legal Services to be a highly cost-effective antipoverty program.<sup>4</sup> The effects, however, must be gauged not only by numbers but also by the individuals who participate.

The Legal Services program has consistently attracted a large number of applicants and recruits representing a broad spectrum of young lawyers. It has provided a structured opportunity for those lawyers who want to work in legal rights. It performs a cycling function as well: Lawyers in the survey left after a period of service averaging three years, but with reinforced commitments to legal rights activities in subsequent jobs.

The single most important policy implication to arise from this study, the authors state, concerns provisions to increase the number of lawyers working on legal rights activities. To this end we must increase the number of structured opportunities available for new recruits proportionate with the increase in the bar. Otherwise, they warn, "a major opportunity to increase the rights of groups underrepresented in the legal system will be lost."

<sup>4</sup>All are affiliated with the Poverty Institute and the University of Wisconsin-Madison; Joel Handler is an Institute Affiliate and Professor of Law, Ellen Jane Hollingsworth is an Institute Research Associate, and Howard Erlanger is an Institute Affiliate and Associate Professor of Sociology.

<sup>2</sup>L. H. Goodman and M. H. Walker, *The Legal Services Program: Resource Distribution and the Low Income Population* (Washington, D.C.: Bureau of Social Science Research, 1975).

<sup>3</sup>All analysis of "current jobs" refers to the predominant job—defined as the one from which the respondent received 60% or more of his income—held at the time of the interview.

<sup>4</sup>See Earl Johnson Jr., *Justice and Reform: The Formative Years of the OEO Legal Services Program* (New York: Russell Sage Foundation, 1974).

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