Work, parenthood, and the idea of reciprocity in American social policy

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The welfare reform legislation of 1996 signaled a profound shift in policy toward the poor. One year later, President Clinton signed into law the Adoption and Safe Families Act (ASFA). This act was part of an equally dramatic, though perhaps less controversial change in federal policy; it addressed child protection, foster care, and adoption. These two acts involved ostensibly separate policy arenas. But I argue that taken together, they reflect a fundamental philosophical change in American social policy.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and ASFA both reflected and reinforced the idea that all Americans have minimum civic responsibilities. Both acts greatly expanded the government's ability to outline these responsibilities, make moral judgments about individual behavior based on conformity to those norms, and enforce or at least constrain behavior through the mechanism of the state. PRWORA established work as part of an individual's minimum civic responsibility. ASFA helped establish that good parenting—providing a safe and decent upbringing for children—was another such responsibility.

In PRWORA, the state ended entitlement to cash welfare, mandated work in exchange for benefits, and set time limits upon the receipt of benefits. In so doing it assumed the right to enforce the expectation that each recipient of

Economic justice as "fair reciprocity"

In his book *The Civic Minimum: On the Rights and Obligations of Economic Citizenship*, Stuart White, a political philosopher at Oxford University, explores some very large questions: "What are the proper distributive goals of the state in the economic sphere? Do citizens have certain rights that derive from, or which constrain the pursuit of, these goals? What responsibilities do citizens have to make productive contributions to their society? To what extent may and should the state enforce these responsibilities?"

White offers a conception of economic justice as "fair reciprocity": "Stated in its most general, abstract form, this principle holds that each citizen who willingly shares in the social product has an obligation to make a relevantly proportional productive contribution to the community in return.... In rough, intuitive terms: in a context of otherwise sufficiently fair economic arrangements, everyone should do their bit." [p. 18]

For its part, society must create and sustain those arrangements. "[O]ne attractive approach is to ask what these institutions would have to achieve so as to enable all citizens to avoid the bads classically associated with the proletarian condition: brute luck poverty, market insecurity and consequent domination by an employer, a lack of opportunity to treat one's working life as a site of intrinsically valuable challenge, and the more general life-shaping effects of being disadvantaged in access to education and wealth. The institutions that govern economic life must eliminate these bads. . . . The civic minimum is simply that set of institutions and policies which satisify the demands of fair reciprocity in its non-ideal form." [p. 96] Achieving this arrangement thereby creates a reciprocal responsibility for the citizen to give something back: to contribute to the community. "How can citizens satisfy this contributive obligation? Thus far we have assumed that they can meet this obligation through work or labour. . . .granting this assumption for the moment, what kinds of work can plausibly be seen as satisfying this obligation? For labour to count as contributive in this sense it must be what I shall call *civic labour*: roughly speaking, labour that provides a significant service for, or on behalf of, the wider community. . . . It is not enough that I regard the work I do as valuable to others. It must indeed be so, and indeed it must be recognizable as such by them." [pp. 98–99]

The Civic Minimum: On the Rights and Obligations of Economic Citizenship
(Oxford University Press, 2003)

assistance should make an effort to contribute to his or her own economic support. "As a matter of equal justice," says Stuart White (see box) "other citizens have the right to expect you to make this effort. Failure to do so . . . exploits them"[p. 62]. At the same time, by making aid conditional, the government also accepted responsibility to help ensure that recipients could meet those conditions. For example, Congress recognized that if single mothers were going to work, they would need child care, and between 1994 and 1999 child care funding rose by 60 percent. During the 1990s, significant increases in the Earned Income Tax Credit and in the minimum wage lent support to the underlying principle of welfare reform that families should be better off working than receiving cash assistance. Welfare reform, then, established a framework within which government and recipient were understood to have reciprocal responsibilities.

ASFA manifested these same features. Its underlying assumption is that taking responsibility for one's children is part of what constitutes minimal citizenship in the United States. ASFA established standards for these personal responsibilities; if these standards were not met, comparatively severe and time-sensitive consequences ensued. As with welfare reform, many critics question whether the state's actions sufficiently meet their reciprocal obligations. Nevertheless, seen against previous child welfare legislation, ASFA articulated a new ethos.

Family privacy and cultural pluralism: Child welfare legislation and practice before ASFA

In the United States, the right of parents to raise their children as they see fit has long been established in law and custom. Taking a child away from a parent is universally regarded as among the most severe interventions that the state can undertake; "only the death penalty is a more severe intrusion."[1] During the 1970s, this longstanding concern for privacy and parental rights combined with a newfound and hard-fought awareness of cultural pluralism. In particular, the adoption of black children into white families was decried as tantamount to "genocide." The National Association of Black Social Workers, among others, asserted that any black child adopted into a white family would grow up confused about racial identity and ill-prepared to deal with the realities of racism and segregation. Transracial adoptions also harmed black people as a group, because they ignored the fact that black culture was different. Black families did not necessarily correspond to the nuclear model, extended families frequently lived together, children lived with different family members, and black communities routinely if informally took in children when parents fell into difficulties of one sort or another. As a result of these arguments, transracial adoptions, never numerous, came under heavy attack.

Concern for the realities of cultural pluralism and eagerness to take seriously the legacy of oppression in American society was manifested in one of the first federal pieces of legislation regarding adoption and child welfare, the Indian Child Welfare Act of 1978, which reversed long-standing patterns of removing Native American children from their families and placing them in boarding schools or with white parents. The act defined Native American culture as unique, and Native American children as the most important means by which that culture might sustain itself. In consequence, it became more difficult to remove a child from a Native American family. Further, Native American children put up for adoption had to be placed in Native American homes. By accepting the claim that Native American and black children had distinctive needs that could really only be understood and met by members of the same community, the federal government raised the bar against breaching the privacy of the family. The long-standing legacy of family rights was now reinforced by concerns regarding cultural diversity.

In this intellectual and political climate, Congress in 1980 passed the Adoption Assistance and Child Welfare Act, which established federal standards for child welfare that prevailed until the passage of ASFA some 17 years later. Confronted with rising numbers of children in foster care and the rising length of their stays, Congress passed the 1980 law in order to reduce out-of-home care and increase "permanency planning"—children needed to be kept or reunited with their families, or they needed to be adopted. States were required to make "reasonable efforts" both to keep families together and to return children who had been removed. Federal funds were allocated to preventative and reunification services. In 1993, the Family Preservation and Family Support Program appropriated nearly $1 billion nationwide over a five-year period to "promote family strength and stability, and . . . reduce the need for out-of-home placement of children."[2]

Adoption, not long-term foster care, was clearly the preferred option for children who could not be reunited with their families. In actual practice, however, the family preservation requirement of the legislation became the predominant emphasis of child welfare services, and the adoption provisions very largely fell by the wayside. This was perhaps because the "reasonable effort" requirement, reinforced by the newfound concern for cultural pluralism, fitted naturally into the longstanding American emphasis on privacy and parental rights. But as a result, the state became more reluctant to intervene in family crises, and less able to establish the universal standards of child welfare that might justify intervention.

The crisis in foster care

Between 1983 and 1993, reports of child abuse and neglect nearly doubled, and foster care caseloads grew by

two-thirds. Families entering the child welfare system were more troubled and had more complex needs than before. More toddlers and especially infants were entering the system; the percentage of children under a year old also increased by two-thirds between 1983 and 1990.[3] In this overburdened system, with its large caseloads, high staff turnover, and inexperienced caseworkers, African American and other minority children were dramatically overrepresented at all stages, waited far longer than white children for adoption, and were at far greater risk of never being adopted at all. Meanwhile, white couples wishing to adopt African American children were rejected as unsuitable. Vituperative debate surrounded the reasons for the exploding foster care population—the crack cocaine epidemic and the onset of AIDS were often cited—but whatever the causes, racial and ethnic matching policies clearly did not promote increased adoption or reduced use of foster care. States that continued to observe same-race placement policies experienced even longer waiting periods for minority children than states where policies were less rigorous.

At this point some researchers began to challenge the idea that transracial adoptions undermined children's sense of identity or were contrary to children's best interests, citing longitudinal research that extended back to1972.[4] So, at a moment of systemic crisis, there emerged an intellectual argument that the effects of transracial adoption were largely benign, and certainly better than long-term foster care.

The immediate legislative response to this crisis was the Multiethnic Placement Act of 1994. The act acknowledged that the foster care population was out of control and that children who stayed in the system confronted ever-diminishing chances for adoption. Yet the act's objectives were narrow. It did not directly challenge the idea that same-race placement was preferable for children. It simply sought to outlaw the consideration of race as a reason to halt or delay the adoption of a child. At best, the act merely enabled parents to adopt children of another ethnicity or color who were languishing in foster care. But it failed to meet even these minimal objectives—neither foster care rates nor transracial adoptions changed notably. By the end of 1996, there were half a million children in foster care, and rising rates and inevitable scandals led to public and congressional demands for change. In the words of Senator Mike DeWine of Ohio, "there are too many children in this country today being returned to the care of people who have already abused and battered them. . . .Children are being returned to homes that are homes in name only and to parents who are parents in name only."[5]

At just this time, in the mid-1990s, major changes in American politics and social policy thinking came together to impel the legislative and public action that led to both PRWORA and ASFA.

The politics of child welfare reform

The midterm elections of 1994 returned the first Republican-led Congress in four decades. They also set in motion dramatic changes in social policy that had been prefigured in the Republican Party's political platform, "A Contract with America." In that document, Congressional Republicans presented an account of the problems of the inner city and an argument for the overhaul of welfare—Aid to Families with Dependent Children (AFDC)—that linked the issues of poverty and child welfare.

In so doing, the Contract drew upon arguments put forward principally by the prominent conservative scholar, Charles Murray. For Murray, the key to every major problem in the inner city was the rise of out-of-wedlock childbearing: "Illegitimacy is the single most important problem of our time—more important than crime, drugs, poverty, illiteracy or homelessness because it drives everything else."[6] Since illegitimacy was at the heart of poverty and poverty was at the heart of welfare, Murray proposed that the only way to change the lives of poor was to end welfare for unmarried mothers. Murray's proposal was clearly radical, but it reflected a central political dilemma of AFDC: adults usually bear some responsibility for their circumstances, but children manifestly do not, so that "policymakers usually cannot take the politically popular step of helping poor children without the politically unpopular step of helping their custodial parents."[7] If the prescription was to eliminate all economic support for single mothers, what was to become of the children of those mothers? Murray's answer was more and easier adoptions—streamlined procedures, elimination of restrictions on interracial adoptions, and rapid surrender of parental rights—and for those unadoptable or not adopted, "the government should spend lavishly on orphanages."[8]

In terms that directly echoed Murray, the Contract for America maintained that the problem of poverty was the result of illegitimacy, and that Congress needed to change the perverse incentives operating under AFDC. Its solution: a "Personal Responsibility Act" that cut unwed teenage mothers off welfare, and refused additional payments for any child born while a mother was still on welfare or for whom paternity had not been established. The bill proposed that the savings so generated be used to expand programs to prevent out-of-wedlock pregnancies and establish orphanages and group homes for unwed mothers. Finally, the Contract included provisions for interracial adoptions.

The orphanage proposal, mercilessly attacked from the right and the left, was rapidly dropped. Even so, issues associated with child welfare remained active. From the first bill introduced into the House to the legislation signed into law, each version included the demand that mothers establish paternity and pursue child support as a

condition of aid. By focusing on "dead-beat dads," Congress was able to show itself as tough on welfare and address the illegitimacy issue, yet avoid confronting the dilemma of enabling the sins of the parents while helping the children.

President Clinton's words reflected this pattern. He was especially virulent in rejecting the orphanage proposal. But he supported the child support provisions. Further, he accepted and even reinforced the notion that all parents must meet minimum standards for raising their children. The president stressed that work and parenthood both were integral parts of the American notion of responsibility:

> We have to change the welfare system so that it demands the same responsibility already shouldered by millions and millions of Americans who already get up every day and go to work and struggle to make ends meet and raise their children. Anyone who can work should do so. Anyone who brings a child into this world ought to take responsibility for that child.[9]

The debate over welfare brought into light the parlous state of the American child welfare system; it also raised questions about what children need and the degree to which the government is responsible for abused and neglected children. Most important for the future of child welfare legislation, it showed that one aspect of the child welfare issue was not in dispute: parenthood as well as work were understood to be responsibilities that all Americans should meet. And the standards for parental responsibility that emerged in the welfare reform debate influenced Congressional understanding of what a parent was, and who could legitimately lay claim to that title.

One additional factor changed the policy climate surrounding child welfare. Contemporary trends in research regarding early brain development lent strong support to the argument for moving children out of foster care and into permanency.[10] This work suggested that the years from birth to age three were critical for children's cognitive and emotional growth, and that if developmental milestones for these years were not met, they would be very difficult to reach later, even with intense and expensive interventions. Yet the stress on family preservation in current child welfare law and practice meant that children often spent those early years in a series of temporary foster care placements, as the state made "reasonable efforts" to keep families together. Family preservation, in the view of some legislators, had come to swamp any other consideration, including the best interests of the child. In light of the parental responsibility debate, thinking about the rights of parents had begun to change. Once it came to be believed that any person could be a good parent to any child, the standards for what might be considered "reasonable effort" also began to change.

The Adoption and Safe Families Act, 1997

A system in crisis, new data on child well-being, changing views of family privacy and parental responsibility, and a turnover of power in Congress thus came together in the mid-1990s to generate a demand for political intervention. In 1996 bills regarding adoption were introduced in both houses of Congress, and the president issued a memorandum on the subject. Each one declared that the safety of the child was the paramount consideration, that foster care ought to be temporary, and that children should be moved quickly toward permanency.

The Adoption and Safe Families Act (PL 105-89) expressed a fundamental preference for the safety and well-being of the child even over family preservation: "nothing in federal law requires that a child remain with or be returned to an unsafe home." For children in state custody, the act set standards for the licensing of foster care homes and mandated criminal background checks on all prospective foster parents. It also sought to make it easier for children to exit foster care through adoption. Permanency hearings were to be held no later than 12 months after a child's "original placement;" moreover, the act established one uniform national definition of "entry into care" so that the time limits were general and uniform.

ASFA also set limits to the meaning of "reasonable efforts." Under previous law, "reasonable efforts" had meant that recruitment of a permanent adoptive home began only after reunification efforts had been exhausted; often an agency might have spent one to three years providing services to parents. Under ASFA, even if birth parents were actively seeking reunification the state was required to identify and recruit qualified adoptive families, so that no time should be lost if reunification efforts failed. States were further required to initiate termination of parental rights if children had been in the foster care system for 15 out of the preceding 22 months. Finally, the law established an incentive program for states—the more children placed in adoptive homes, the higher the next year's federal grant. Each of these provisions was designed to move a child out of an untenable family or foster care situation and to a permanent home as quickly as possible.

To balance more stringent standards for parents of at-risk children, ASFA increased the funds available for family preservation, reauthorizing (and renaming) the Family Preservation Program, which became the Promoting Safe and Stable Families Program. Congress also called for a report from the Department of Health and Human Services concerning the extent and effects of substance abuse in populations within the child welfare system (such problems appear to be implicated in some 70–80 percent of child abuse or neglect cases).[11] The call for a report at least acknowledged the government's responsi-

bility to address the connection between substance abuse and parental failure. But although ASFA set stricter time limits for parents to deal with the problems impeding their parental responsibilities, no funds for remedial efforts were included in the legislation.

The first shoe . . . and the other shoe

By outlining expectations regarding work in PRWORA, and making aid conditional to those expectations, the state assumed the right to make and enforce moral judgments about individual behavior. But the expectations constituted a reciprocal agreement. If the conditions imposed on the recipient were not met, aid would be reduced or eliminated. In return, government accepted that it had some limited responsibility to help ensure that recipients could meet those conditions. Under the welfare reforms, work, "doing one's bit" in White's term, was not just a condition for aid; it was a precondition for full membership in society. On the Senate floor, Senator Howell Heflin (D-AL) explicitly connected the terms of work and citizenship. Outlining his support for the bill, Heflin lauded reforms in the law that would "empower recipients to break cycles of dependency, to focus on work and responsibility, and to become successful and productive citizens."[12]

ASFA, I believe, evidences these same features. It argues, first, that parenthood is not simply a biological concept; it is also a moral one. Within broad but not unlimited terms, all parents must strive to ensure that children are safe and provided for. Under the prevailing interpretation of preceding law, government had been too slow to respond to parental failure, and as a result children were suffering. In the welfare reform debate, fathers who had failed to provide for their children were "dead-beat dads" who had failed to live up to the very concept of fatherhood. Under ASFA, this notion was extended. One is only a parent if one meets certain standards of behavior. If a child is abused or neglected, the parent has failed to meet those standards and thereby risks losing parental rights.

As with welfare reform, however, developing tougher standards means that the state has reciprocal responsibility. That responsibility is twofold. First, if parents fail in their parental duties, the state must move quickly to help the child find new parents who will meet those standards. And if the state is raising the standards under which people can keep their own children, then it must make sure that parents at risk have access to resources that might help them meet the requirements. This is why ASFA increased money for prevention services, and why Congress requested an investigation of the link between child welfare and parental drug and alcohol abuse. Reciprocity demands that if the government is going to tighten time limits for termination of parental rights, it is morally obligated to address the reasons why parents may be failing.

To be sure, the government's response in this case was very limited. For a parent at risk of losing parental rights, it is little help to know that a study has been undertaken. Parental drug abuse reveals both the government's burden of reciprocity and the limits placed upon it. Addiction is a chronic condition, often requiring extensive, long-term treatment, but the interests of the child are seen to demand rapid resolution. In a classic instance of the dual clientele trap, "there is an irreconcilable clash between the rapidly ticking clock of cognitive and physical development for the abused and neglected child and the slow motion recovery for the parent addicted to alcohol and drugs."[13]

The preliminary data regarding ASFA are positive: adoptions are up, and the total number of children in foster care is down. But here I am less concerned with those effects than I am with another issue: What might the new climate of opinion mean for policy advocates and others concerned about child welfare issues?

My first point is largely empirical. ASFA and PRWORA marked the end of the entitlement regime. Seven years later, virtually no one claims that either policy shift is a failure. Given the at least modest successes associated with both laws and continued public support of these changes, return to the status quo ante is unlikely. Regardless of how one views the laws, they will set the frame for future policy discussions. Most important, the new policy climate opens up new ways of advocating for poor children and families. By accepting the idea that work and responsible parenthood constitute a civic minimum, the political climate may become more receptive to initiatives to support poor Americans who meet it.

If, after ASFA, the state is going to diminish the standing of parental rights, and speed up the process by which it takes children away from their parents, then reciprocity means that the state is morally obliged to make it possible for individuals to meet their parental responsibilities. There are two aspects to this strategy, one within the context of the law, and the other as part of a broader pro-family agenda.

First, if the child's best interest requires that the bar for parental performance be raised and time limits be imposed, then the state cannot be indifferent to the quality and availability of treatment for the addiction problems that are at the root of so many cases of child abuse. If government is to demonstrate good faith, it needs to go beyond the gestures toward research outlined in ASFA. It must take seriously the problem of addiction and the failure of most addiction treatment programs. Legislation to do so, the Child Protection Alcohol and Drug Partnership Act was introduced into the Senate in 2000, and every session since, but has gone nowhere. This failure is fundamental. For if reciprocity does not work both ways, it does not work at all. If government is going to require more of poor parents, it must require more of itself.

There is a broader issue, raised by Stuart White, among others. PRWORA, by stipulating that work only "counts" if it is compensated, undermined the idea that care work is civic labor; the civic value of care is only acknowledged if the family is able to support itself. Yet the work that parents do has a public value that extends to all citizens: "Parents should see themselves, in part, as trustees for the wide community who, in return for public support, are responsible for raising children in ways that serve the public good."[14] By setting behavioral standards for parenthood, ASFA reinforced the connection between parenthood and the public good. In doing so, it also raised the government's responsibility to support the care work of parents. A whole litany of policy initiatives follows from this linkage: at-home infant care, an end to mandatory overtime, paid sick leave, universal health care for children, and so forth. Just as work expectations make demands for opportunity more viable, expectations for parents make support for poor families more viable. Viability does not lead inevitably to enactment, but the least one can say is that the civic minimum creates arguments—and thus, opportunities for advocacy—that were not available under an entitlement regime.■

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[1]C. Hewitt, quoted in D. Lindsey, *The Welfare of Children*, 2nd ed. (New York: Oxford University Press, 2004), p. 78.

[2]Mary Jo Bane, Assistant Secretary for Children and Families in the Department of Health and Human Services, quoted in a press release on Tuesday Oct. 4, 1994. Accessed at http://www.hhs.gov/news/press/pre1995pres/941004a.txt on April 24, 2006.

[3]U.S. General Accounting Office (now U.S. Government Accountability Office), *Child Welfare: Complex Needs Strain Capacity to Provide Services*, GAO HHES-95-208, September 1995, http://www.gao.gov/archive/1995/he95208.pdf.

[4]See, e.g., R. Simon, H. Altstein, and M. Melli, *The Case for Transracial Adoption* (Washington, DC: American University Press, 1994).

[5]Congressional Record, S11175, October 24, 1997.

[6]Charles Murray, "The Coming White Underclass," *Wall Street Journal*, October 29, 1993.

[7]R. Weaver, *Ending Welfare as We Know It* (Washington, DC: Brookings Institution Press, 2000), p. 45.

[8]Murray, "The Coming White Underclass."

[9]Presidential Radio Address, December 10, 1994, Weekly Compilation of Presidential Documents, pp. 2491–2492. Accessed April 25, 2006, through http://www.gpoaccess.gov/wcomp/index.html

[10]See, e.g., R. Shore, *Rethinking the Brain: New Insights into Early Development* (New York: Families and Work Institute, 1997).

[11]E. Bartholet, *Nobody's Children: Abuse and Neglect, Foster Drift, and the Adoption Alternative* (Boston: Beacon Press, 1999), p. 207.

[12]Congressional Record, S9387, August 1, 1996.

[13]CASA (National Center on Addiction and Substance Abuse at Columbia University), *No Safe Haven*, New York, 1999 (p. iv).

[14]White, *Civic Minimum*, p. 111.