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A CRISIS OF CARING: A CATHOLIC CRITIQUE OF AMERICAN WELFARE REFORM

VINCENT D. ROUGEAU*

INTRODUCTION

The current deterioration of the American economy is bringing new attention to the problem of poverty in the United States. After falling over the last few years, the number of Americans living in poverty has begun to rise once again. Notwithstanding the achievements of recent “welfare reforms,” the American poor continue to be numerous by any measure.

Unfortunately, decades of affluence have exacerbated American tendencies to view liberal concepts such as freedom, autonomy, tolerance, and choice in ways that accentuate personal autonomy over community integration. These liberal values have been increasingly unhinged from strong countervailing principles like duty and responsibility, and many Americans feel no strong impetus to

* Associate Professor of Law, University of Notre Dame. This paper was prepared based on a panel presentation on welfare reform given by the author at the 2003 National Student Symposium of the Federalist Society, “Law and Human Dignity,” at the University of Notre Dame. It was presented as a completed paper in June, 2003 at “Transforming Unjust Structures: Capabilities and Justice,” the annual conference of the Von Hügel Institute at St. Edmund’s College, Cambridge University.

1. In 2002, the poverty rate rose, median household income fell, and the severity of poverty increased—the average amount by which the incomes of those in poverty fell below the poverty line rose to the highest level since 1979. CTR. ON BUDGET AND POLICY PRIORITIES, POVERTY INCREASES AND MEDIAN INCOME DECLINES FOR SECOND CONSECUTIVE YEAR, <http://www.cbpp.org/9-26-03pov.htm> (Sept. 26, 2003). Despite other signs of recent economic growth, unemployment in the United States remains near 6%. Gregory Ip, *Fed to Keep Rates at Historic Low Despite Growth*, WALL ST. J., Nov. 14, 2003, at A1. Moreover, during 2003 the unemployment rate rose to 6.4%, the highest level in nine years, and those who become unemployed experienced greater difficulty finding work. Gwendolyn Freed, *Jobless Rate Hits 9-Year High*, STAR TRIB. (Minneapolis-St. Paul), July 4, 2003, at A1. Income inequality has also increased dramatically in the United States. For a detailed discussion of the growing concentration of wealth at the top of the income spectrum, see Paul Krugman, *For Richer: How the Permissive Capitalism of the Boom Destroyed American Equality*, N.Y. TIMES, Oct. 20, 2002 (Magazine), at 62.

sacrifice in order to help the weakest members of their society.²

This situation continues unabated as a lack of common purpose in American life and a materialistic vision of society have made it extremely difficult for American law and public policy to confront poverty in the United States in a meaningful way. After explaining how strong propensities toward materialism and individualism in American culture have affected views toward welfare in the United States, I will explain how current American reforms of economic assistance for the poor are creatures of a political rendering of poverty that fails to take seriously the low regard in which many Americans hold the poor. From this it becomes clear that, in the long run little should be expected from American welfare reform. For an alternative vision, I will draw on Catholic social thought and David Hollenbach's recent work in Christian ethics to argue that the principles of solidarity and the common good as understood in Catholic social thought would: (1) offer the poor a more integrated role in American society, (2) function as a corrective to the ongoing erosion of a sense of communal responsibility in American culture, and (3) provide the theoretical foundation for a more comprehensive structure of income and social support for the American poor.

I. MORE PRECIOUS FOR WHAT THEY HAVE THAN FOR WHO THEY ARE: WELFARE REFORM IN A MATERIAL WORLD

The trend toward an excessively inward looking and materialistic culture has a long history in the United States. As early as the 1950s a trend was identified, and the tragic effects it would have on the lives of the American poor were recognized. In 1957, Catholic theologian John Courtney Murray wrote that human dignity was severely

2. There is little willingness to make meaningful structural changes in American life that might help to address poverty in the United States. On the commitment of both American liberals and conservatives to a "static paradigm" of poor relief, see Larry Catá Backer, *Medieval Poor Law in Twentieth Century America: Looking Back Towards a General Theory of Modern American Poor Relief*, 44 CASE W. RES. L. REV. 871, 884-900 (1995).

In concrete terms, the social and economic order is taken as a given—poor law programs do not challenge the status quo. In contemporary guise, any argument that the economic and social system currently in place is not the best possible is substantially taboo. Argument, as a result, is reduced to conflicts between those who have different notions of the means by which this current social and economic system, shorn of its impurities, is to be implemented.

Id. at 886-87. On the erosion of the concepts of duty and civic responsibility in Western democracies, see DAVID SELBOURNE, *THE PRINCIPLE OF DUTY* (1997).

threatened by what he termed American “practical materialism.”³ As increasing numbers of Americans adopted the belief that the accumulation of material goods and wealth was the highest attainment of human endeavor, Murray feared that deeper understandings of human dignity and purpose in American life would be destroyed:

[American practical materialism] has had, in fact, one dominating ideal: the conquest of the material world.... It has made one promise: a more abundant life for the ordinary man and woman, the abundance being ultimately in physical comfort. It has had one technique of social progress: the exploitation, for all they are worth in cold hard cash, of the resources of the land and forest and stream, and of the mechanical inventiveness of its citizens. It has recognized one supreme law: supply and demand. It has had one standard of value: the quantitative, that judges that best which is biggest. It has aimed at one order: the economic. It confers one accolade₄ on those who serve it: wealth. It knows one evil: poverty.

In an American society obsessed with material consumption and wealth creation, the existence of the poor and the intractable nature of poverty are discomfoting signs of the limits of the nation’s materialistic ethos. It also reveals that core ideologies, such as unfettered individual liberty, and the inevitability of American-style capitalism and political democracy have failed to realize an end to poverty. But rather than question these shibboleths, Americans instead have become more cynical and less compassionate toward the poor.⁵ Poverty is seen as a failure of personal virtue, as opposed to a statement on the limits of an economic and social structure that exalts atomized individualism and consistently devalues communal sacrifice and sharing.⁶ Indeed, commentators abroad have looked with

3. John Courtney Murray, *The Construction of a Christian Culture*, Lecture Series at Loyola University (1940), *quoted in* ROBERT W. MCELROY, *THE SEARCH FOR AN AMERICAN PUBLIC THEOLOGY: THE CONTRIBUTION OF JOHN COURTNEY MURRAY* 48 (1989).

4. *Id.*

5. HERBERT J. GANS, *THE WAR AGAINST THE POOR: THE UNDERCLASS AND ANTIPOVERTY POLICY* 1 (1995).

Since the beginning of the 1980s, the war against the poor has escalated, and it bids to escalate further. Unknowingly repeating old battle strategies, the leaders of this war continue to decrease the welfare benefits that go to poor mothers unable to work or find jobs, threaten to end welfare altogether, increase the punitive conditions under which all help is given, and fan further the hatred of the poor among the more fortunate classes.

Id.

6. Backer, *supra* note 2, at 895. Backer notes that the static economic and social

increasing concern at these directions in American culture; the United States is virtually alone in the industrialized world in the degree to which it abandons the individual to the whims of the economy and in its rejection of traditional community checks on individual freedom of action.

An intense American focus on individual freedom and free market liberalism has distorted the way Americans view the poor and the impact of poverty within American society. By and large, Americans take a relatively uncritical view of the current state of American economic life and the costs the economic system exacts from the nation's social fabric. One way Americans cope with the economic and social stress inherent in capitalism is by viewing one's ability to avoid poverty and dependence as a mark of strength and moral superiority. The poor thus become weak, morally flawed, and ultimately, responsible for their own problems. In his book, *The War Against the Poor*,⁸ Herbert Gans termed this the "ideology of undeservingness." One important consequence of this ideology is that:

[i]f poor people do not behave according to the rules set by mainstream America, they must be undeserving. They are undeserving because they believe in and therefore practice bad values, suggesting that they do not want to be part of mainstream America culturally or socially. As a result of bad values and practices, undeservingness has become a major cause of

paradigm:

[P]rovides a key assumption: income inequality is a function of productivity or wealth accumulation, and even a minimum of productive conduct would be sufficient to provide an adequate amount of wealth or income to meet one's needs. Poverty and destitution follow only those who refuse or who are unable to be productive.

Id.

7. This rejection of community is viewed as emblematic of the United States' role in international policies and the global economy. Several books recently published in Europe and widely read outside the United States have argued that strong individualistic and anti-communitarian strains in American culture have produced an economic model that expands globally by undermining communal values and institutions in other societies, even those that accept the free market model. On the comparison between the individual orientation and short-term vision of American capitalism and the collective orientation and long-term vision of German and Japanese capitalism, see MICHEL ALBERT, *CAPITALISM VS. CAPITALISM* (Paul Haviland trans., Four Walls Eight Windows 1993). On the cultural stagnation and dislocation of the United States and other highly developed societies and the implications for global capitalism, see EMMANUEL TODD, *L'ILLUSION ÉCONOMIQUE: ESSAI SUR LA STAGNATION DES SOCIÉTÉS DÉVELOPPÉES* (1998). On the pretensions of an American-led worldwide global free market and the ultimate impossibility of such a project, see JOHN GRAY, *FALSE DAWN: THE DELUSIONS OF GLOBAL CAPITALISM* (1998).

8. GANS, *supra* note 5, at 6.

contemporary poverty. If poor people gave up these values, their poverty would decline automatically, and mainstream Americans would be ready to help them, as they help other, “deserving” poor people.

The passage into law of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”)¹⁰ has revealed this ideology in full flower, most particularly in the view that participation in the paid labor force should be a key indicator of whether a poor person deserves help from the state.¹¹ Even the key terms in the title of the legislation—“personal responsibility” and “work opportunity”—demonstrate the centrality of individualistic and market-oriented values in American welfare policy. Upon its passage, President Clinton hailed the PRWORA as the “end of welfare as we know it.”¹² What ended was the political consensus that supported the concept of welfare as an entitlement provided by the federal government.¹³

9. *Id.*

10. Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended primarily in scattered sections of 42 U.S.C.).

11. The historical dichotomy of the deserving and undeserving poor is central to any coherent understanding of American economic support for the poor. In his study of 500 years of English poor laws, William Quigley traces the statutory origins of the deserving/non-deserving poor distinction to the Statute of Laborers in 1349. For those willing to work, the Statute attempted to regulate wages during a period of acute labor shortages. For those who preferred to beg, which prior to this time had been a socially acceptable way for the non-working poor to sustain themselves, the Statute allowed the able-bodied to be seized and put to work. See William P. Quigley, *Five Hundred Years of English Poor Laws, 1349-1834: Regulating the Working and Nonworking Poor*, 30 AKRON L. REV. 73, 84-92 (1996). “The regulation of the nonworking poor depended completely on whether the poor person was able to work. If they were able to work, the choice was work at the wages offered or prison. If they could not work, then they were not prohibited from begging.” *Id.* at 90.

12. “Predictably labeled a ‘crisis,’ welfare became an issue in the 1992 presidential campaign when candidate Bill Clinton promised to ‘end welfare as we know it.’ Welfare dependency, he said, had become ‘a way of life.’” JOEL F. HANDLER & YEHESKEL HASENFELD, *WE THE POOR PEOPLE: WORK, POVERTY, AND WELFARE* 5 (1997).

13. From the 1930s through the 1960s and 70s, American welfare policy provided a system of

social insurance (to protect workers against income loss from retirement, disability, unemployment, death of a breadwinner) and means-tested public assistance (‘welfare’), which transferred income to certain deserving categories of destitute nonworkers. This meant a de facto separation of the welfare income transfer program from the world of work and labor market policies.

Hugh Heclo, *The Politics of Welfare Reform*, in *THE NEW WORLD OF WELFARE* 169, 172-73 (Rebecca M. Blank & Ron Haskins eds., 2001).

A. "Personal Responsibility" and "Work Opportunity"

By the mid-1990s, the social and economic changes of the 1960s and 1970s and the conservative political reaction these changes produced in the 1980s had revealed important flaws and tensions in the American system of economic provision for the poor.¹⁴ These social changes, however, ought to have suggested to members of Congress that it was time for a broad review of the American system of entitlements. Instead, Depression-era and post-World War II entitlements that benefited those of middle- and upper-income, such as the home mortgage interest deduction, farm subsidies, and Social Security became sacred cows while the target for reduction in spending was aid to the poor. "[A]lthough government spending on the non-poor far exceeds expenditures directed to the poor, it is the entitlement programs aimed at the poor which have received the scrutiny of the budget-cutters and provided the ammunition to the enemies of big government."¹⁵ These elements of the welfare system continued to have profound impact on the mid-1990s reforms, helping to shape the structure of the PRWORA.

The details of the PRWORA are complex, but a focus on the Temporary Assistance for Needy Families ("TANF") program highlights several key aspects of the legislation that are particularly significant. TANF ended welfare as a federal entitlement,¹⁶ turning over the reins to the states. TANF is funded through a "block grant" or lump-sum payment to each state, and the states are given wide

14. *Id.* at 173.

[A] program that stays the same while the society around it is changing can actually amount to a transformed policy. Such policy morphing is essentially what happened to Washington's welfare program as the American society and economy evolved around it [O]ther developed countries have also had to substantially modify, if not abandon, the older male-breadwinner vision of income security, but in the United States the path to doing so has been uniquely contentious and socially divisive.

Id.

15. Kenneth R. Himes, *Rights of Entitlement: A Roman Catholic Perspective*, 11 NOTRE DAME J.L. ETHICS & PUB. POL'Y 507, 509 (1997). Himes argues that, from the perspective of the Catholic tradition, the entrenched tendency for American democracy to preference unnecessary benefits for the rich over fundamental needs of the poor and the disadvantaged raises fundamental questions about the ability of the American economic and political system to offer basic justice to all of its citizens. "The Church's teaching appeals to our national and individual conscience to remember that in whatever strategies we adopt it is the rights of the most needy which have a priority over the entitlement claims of the rest of us." *Id.* at 529.

¹⁶ Prior to PRWORA welfare was administered through the Aid to Families with Dependent Children ("AFDC") program, which provided direct assistance from the federal government to needy families.

discretion to set their own criteria for eligibility. TANF also created a block grant to support childcare for low-income families. Adults receiving benefits were required to begin working within two years of receiving aid, with certain exceptions for parents of children under a year of age.¹⁷

Despite the wide discretion given to states in administering the program, certain limits placed on the use of money are particularly notable for their role in furthering the legislation's stated goals of achieving independence through work, reducing out-of-wedlock pregnancies, and encouraging the creation of two-parent families.¹⁸ The money from these block grants cannot be used for any welfare recipient who has received welfare for more than five years, though up to 20% of a state's welfare caseload can be exempted from this time limit. No funds may be used for a recipient who does not work after two years. Failure to comply with these and other work requirements means that a state's block grant will be reduced. States have the option to deny benefits to children born to welfare recipients, individuals convicted of drug-related felonies, and unwed parents under age 18 who do not live with an adult or attend school. In addition, newcomers from states with lower benefit amounts can be given the lower amount for up to twelve months.¹⁹

Much has been made of the success of the TANF programs in getting welfare recipients into jobs and off the welfare rolls. In recent legislative proposals to reauthorize TANF, Congress found that: (1) there had been dramatic increases in the employment and earnings of current and former welfare recipients, (2) welfare dependency had plummeted, and (3) the teen birth rate had dropped.²⁰ Given the threat the states face of lost funding, the strict time limits for benefits, the numerous reasons that can be employed to deny or terminate benefits, and a booming economy, it is not particularly surprising that the number of welfare recipients decreased in the years immediately following the creation of TANF. Yet, these touted successes also

17. VEE BURKE, CONG. RESEARCH SERV., WELFARE REFORM: AN ISSUE OVERVIEW (2002).

18. See THE WHITE HOUSE, WORKING TOWARD INDEPENDENCE (2002), at <http://www.whitehouse.gov/news/releases/2002/02/welfare-reform-announcement-book.html>; SHARON HAYS, FLAT BROKE WITH CHILDREN: WOMEN IN THE AGE OF WELFARE REFORM 17 (2003).

19. Jeffrey L. Katz, *Provisions of Welfare Bill*, 54 CONG. Q. WKLY. REP. 2192-93 (Aug. 3, 1996); see also THE WHITE HOUSE, *supra* note 18.

20. Personal Responsibility, Work, and Family Promotion Act of 2002, H.R. 4737, 107th Cong. § 4.1(a-c), 2(a) (2002).

expose two fundamental weaknesses in the PRWORA. First, a prolonged economic downturn will reveal the dark side of denying poor people the economic assistance they need when unemployment is rising and few low wage jobs are available.²¹ In fact, over the past two years, as an economic recession has ebbed and flowed, case loads have increased, work participation rates have declined, and the percentage of welfare recipients who are minorities has increased.²²

Second, and more disturbing, is the social engineering that ties TANF benefits to “appropriate behavior.” The issues of decline in traditional marriage, increase in out-of-wedlock births, and changes in sexual morality are causing problems and challenges throughout American society. Yet it is the poor who are being punished for not living up to values the rest of the society seems anxious to reject. Denying benefits to poor children as a way of punishing their mothers, for example, reveals the importance the “ideology of undeservingness” as an underlying rationale for this change in public policy.²³

21. For a recent assessment of the pros and cons of TANF reforms to welfare, see BRENDON O’CONNOR, MORALISM, PATERNALISM AND CONSERVATISM: A NEW AMERICAN APPROACH TO THE POOR? (Von Hügel Inst. Working Paper Series, WP2003-1, 2003), at <http://www.st-edmunds.cam.ac.uk/vhi/research/workpap.shtml>.

22. BURKE, *supra* note 17. For instance, recent unemployment statistics indicate that African-American unemployment increased a full percentage point from May to June in 2003, rising to 11.8%. John M. Berry, *Unemployment Rate Surges to 6.4%*, WASH. POST, July 4, 2003, at <http://www.washingtonpost.com/ac2/wp-dyn/A3007-2003Jul3?language=printer> (last visited Oct. 20, 2003). The rate of black unemployment rose twice as fast as the rate for whites from March 2001 to June 2003. Louis Uchitelle, *Blacks Lose Better Jobs Faster as Middle-Class Work Drops*, N. Y. TIMES, July 12, 2003, at A1.

23. The PRWORA legislation also represents the triumph of an intellectual vision of welfare reform championed by Charles Murray and Lawrence Mead. CHARLES A. MURRAY, LOSING GROUND: AMERICAN SOCIAL POLICY, 1950-1980 (2d ed. 1994) (arguing that American social programs since 1964 had failed by creating disincentives among the poor that discouraged workforce participation, education, and traditional marriage/childbearing. Murray suggested ending AFDC and other federal Great Society poverty programs in favor of locally created and controlled assistance programs designed to move the poor toward self-sufficiency); LAWRENCE M. MEAD, BEYOND ENTITLEMENT: THE SOCIAL OBLIGATIONS OF CITIZENSHIP (1986) (arguing that social welfare recipients would benefit more from expecting certain obligations in return support). In particular, Mead’s idea of a “new paternalism” toward the poor exposes key aspects of the underlying theoretical framework that animates TANF. THE NEW PATERNALISM: SUPERVISORY APPROACHES TO POVERTY (Lawrence M. Mead ed., 1997) (explaining the trend toward government programs that supervise the lives of the poor in return for offering support, with “paternalism” signifying close supervision of dependents and “welfare reform” primarily meaning that aid recipients are required to work).

B. Critiquing the Culture that Produced "Welfare Reform"

In order to understand the true import of the PWROWA, one must confront four important cultural realities about how Americans view poverty and the poor. Two deal with the impact racism has on American attitudes towards poverty. First, since the 1960s, which was the point in American history at which the urban, non-white poor become particularly visible to "mainstream" American society, there has been an expanded notion of undeservingness within the dichotomy of the deserving and undeserving poor.²⁴ Second, all discussions of American welfare policy are either implicitly or explicitly racialized—standard American tropes about the poor, like "welfare queen," are racially charged and when used in public life are designed to decrease voter sympathy for the poor by manipulating racial fears. The remaining two issues isolate key cultural traits that form American political attitudes. First, because American society and culture are fundamentally materialist in their orientation, the value of the poor's membership in the broader community tends to be assessed based on material costs and benefits. Second, conceptions of community in American culture that might offer the poor a meaningful sense of belonging tend to be undermined by American individualism and libertarianism, which have made most Americans highly tolerant of huge disparities of wealth and generally unsympathetic to investment in public goods or programs that might be of particular benefit to the poor.

*1. Racism and the Poor: More Undeserving,
Less "White," More Threatening*

Until the 1960s, the American welfare system reflected the nation's racist culture. The welfare needs of African-Americans and other nonwhite groups were often completely ignored in some states, typically in the South, while in others discretionary rules were manipulated to deny or limit benefits.²⁵ The "deserving poor" that the

24. The massive internal migration of rural African-Americans from the South to the industrial cities of the Northeast and Midwest, which peaked during the mid-20th century, added new complexity to American racial relations. The relegation of African-Americans to socially and economically marginalized ghettos at a time when most Americans became urban dwellers helped to racialize the nation's understanding of poverty. On the African-American migration and its social implications for American life, see generally NICHOLAS LEMANN, *THE PROMISED LAND: THE GREAT BLACK MIGRATION AND HOW IT CHANGED AMERICA* (1991).

25. JAMES T. PATTERSON, *AMERICA'S STRUGGLE AGAINST POVERTY, 1900-1985*, at

system was designed to help were married white women who had lost wage-earner husbands and needed to support legitimate children. There was no question that these “respectable” women should stay at home to raise their children and that this activity should be encouraged by providing financial assistance. Poor nonwhites were generally expected to fend for themselves. The social and political upheaval of the 1960s forced American society, for the first time in its history, to engage nonwhites and the poor as full citizens endowed with rights, regardless of entrenched racial stereotypes or the perceived immorality of their lifestyles. Over time, however, the expansion of welfare to minorities, and the high concentration of the nonwhite poor in the urban ghettos of rapidly growing cities, made welfare policy the repository of America’s unresolved, and increasingly unspoken, racial demons:

To understand public opposition to welfare then, we need to understand the public’s perception of welfare recipients.... First, the American public thinks that most people who receive welfare are black, and second, the public thinks that blacks are less committed to the work ethic than are other Americans. There exists now a widespread perception that welfare has become a ‘code word’ for race.

The image of the typical welfare recipient in the United States has become the black single-mother whose children have different, absent, fathers.²⁷ For much of American society, “poor” is simply a

68-70 (2d ed. 1986) (discussing how the emphasis on localism allowed states to apply prejudicial criteria to families seeking assistance); Hecl, *supra* note 13, at 173-74.

26. MARTIN GILENS, *WHY AMERICANS HATE WELFARE: RACE, MEDIA, AND THE POLITICS OF ANTIPOVERTY POLICY* 3 (1999).

27. This perception holds despite statistics, readily available, that demonstrate otherwise. In 2000, 31.1 million Americans were classified as poor by the U.S. Census Bureau and of this group, 21.29 million were white and 7.9 million were black. JOSEPH DALAKER, U. S. DEP’T OF COMMERCE, *POVERTY IN THE UNITED STATES: 2000*, at 2 tbl.A (2001). The rate of African-American poverty was 22%, as opposed 9.4% for whites. *Id.* Although the black poverty rate is twice as high, three times as many whites are poor. Much of the perception that poverty is a “black” problem can be explained by certain racist social constructions that are inherent in American society.

The racial image of the black welfare dependent woman and her poverty-causing, extramarital childbearing jibes with the social construction of black womanhood. Like the matriarch, who does not submit to her man’s authority, the welfare dependent single mother is a ‘bad’ woman whose dominance wrecks the natural order of things Like Jezebel, who is overtly sexual and lascivious, the welfare dependent single mother’s hyper-sexuality is responsible for her anti-patriarchal childbearing. Like the breeder, whose owner imposed on her a duty to procreate, the welfare dependent single mother’s extramarital childbearing is a learned response to the financial incentive provided by AFDC.

Lisa A. Crooms, *Don’t Believe the Hype: Black Women, Patriarchy and the New*

way of saying “black” at a time when American conceptions of liberal neutrality increasingly reject the idea of race-specific remedies and language when addressing social problems.²⁸ Americans are loathe to acknowledge the essential role of race-based chattel slavery and racial segregation in the formation of the nation’s identity and culture, or the racism inherent in the American attitude toward the poor. The image of the poor has long been politically and culturally manipulated to create the impression that most poor people are undeserving because they are unwilling to work (lazy and irresponsible—traits often culturally attributed to black men) and insist on having children out-of-wedlock that they cannot support (promiscuous and matriarchal—traits often culturally attributed to black women). Thus, work requirements, punitive time limits, and the emphasis on “behavior modification” through the encouragement of traditional marriage and abstinence education become somewhat more loaded when properly situated in an honestly rendered American cultural context.²⁹

Because a large percentage of white Americans believe blacks are lazy, the identification of blacks with poverty becomes a way of

Welfarism, 38 *How. L.J.* 611, 626 (1995). For more on the racist construction of the poor in the United States and how that has contributed to a more punitive and less generous welfare programs, see generally GILENS, *supra* note 26.

28. In the 400 year history of Anglo-American settlement in what is now the United States, African-Americans have either been enslaved or subject to legally and socially sanctioned racial discrimination for all but the last 40 years.

[T]he [socially constructed] truth about black women and welfarism . . . renders ‘black poverty’ redundant. Blackness has become the conceptual norm for poverty. No one can talk about the poor without violating the new rules of public discourse which state that race-specific measures are automatically suspect, and feigned color-blindness, no matter how illusory, is the politically popular way to remedy race and sex discrimination. This approach, however, fails to appreciate the fact that the damage has already been done. The rhetoric remains racist as long as its socially constructed meaning infuses it with a racial subtext.

Crooms, *supra* note 27, at 627.

29. In a recent interview, Ron Haskins, President Bush’s chief welfare advisor stated:

I am flabbergasted by the values young people have. [He then goes on to describe a young, “extraordinary” African-American woman from Washington, D.C. who had two children by age 17 because everyone in her community expected it and it was “no big deal.”] We should be very careful not to condemn single parents, but we need to let kids know this is the wrong thing for you and for the kids and for society. And it’s irresponsible to do it. . . . I think there is considerable agreement, and there’s never been any question about the American public. They think it’s wrong.

O’CONNOR, *supra* note 21, at 7. It is significant that, in order to make his point, Haskins chooses a young black woman from inner-city Washington, D.C., the population of which is approximately two-thirds black. He then goes on to juxtapose her values and the values of her community with those of the “American public,” giving the impression that the values of the poor, particularly poor blacks, are somehow other-worldly and not an integral part of the myriad contradictions of American life and culture.

releasing mainstream society from any moral responsibility or communal obligation for the poor and their circumstances:

Long before the birth of the welfare state, the defenders of slavery argued that blacks were unfit for freedom because they were too lackadaisical to survive on their own. This stereotype has been traced by social psychologists through generations of white Americans. Although some evidence suggests it is not as widespread as it once was, the belief that blacks lack a commitment to the work ethic remains a popular perception among whites and . . . an important influence in their political attitudes.

These political attitudes are rooted in the American individualist ideology, which, while not rejecting the concept of welfare in principle for those who “deserve” to be helped, places an inordinately high value on self-sufficiency and “making it on your own.” Groups or individuals who question that ideology, either explicitly or implicitly, and groups that labor under certain culturally constructed stereotypes that suggest they are insufficiently hard-working, are immediately suspect and tagged as undeserving.

2. “They are not My Poor”: Individualism, Materialism, and a Weak Sense of Community

Along with the problem of dishonesty regarding race, many Americans also refuse to recognize how the aggressive promotion of individual autonomy in American life has undermined traditional family structures and other communal support systems essential to the nation’s social stability.³² The weakest members of society—children, the poor, the disabled—have suffered disproportionately the negative effects of these changes.³³ Furthermore, the rhetoric of American welfare reform, as evidenced, for example, in the title of the Personal Responsibility and Work Opportunity Reconciliation Act, demonstrates how Murray’s “practical materialism” has continued to consume American culture nearly fifty years after its initial identification. One result of this unrelenting materialism has been a

30. *Id.* at 78.

31. See GILENS, *supra* note 26, at 61-72.

32. For an in depth sociological study of the breakdown in “social capital” in the United States, see generally ROBERT PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000).

33. Children have been particularly hard hit, as fully sixteen percent of American children lived in poverty in 2000, and, more importantly, constituted nearly a third of all of the nation’s poor (of the 31.1 million poor, 11.6 million were children). DALAKER, *supra* note 27, at 28 tbl. A-4.

certain idealization and objectification of work as the primary means for achieving social status (money) and meaning in one's life. Nonparticipation in the wage labor market is seen as parasitic and leads to social ostracism, except in certain highly circumscribed contexts (such as a married woman raising young children).³⁴ Thus, the position of the poor in society tends to be evaluated based on a rigid cost/benefit analysis that evaluates their role in the broader community in one of two ways: as independent workers, helping to create personal and societal wealth, or as dependent parasites, drawing on collective resources they did not help to create and therefore do not deserve.³⁵

One pointed critique of welfare from libertarians demonstrates the importance many Americans place on individual autonomy and a limited role for government in relieving social ills. Libertarians have argued that attempts to secure economic entitlements through rights language distort the traditional idea of rights by moving away from an emphasis on political liberties. Self-styled "traditional" or "classical" liberals view rights as shields or weapons designed to protect individuals from the tyranny of the state, and they tend to see the creation of entitlements as an ill-conceived attempt to free individuals from the consequences of life's inevitable harms, leading to the

34. See David L. Gregory, *Catholic Labor Theory and the Transformation of Work*, 45 WASH. & LEE L. REV. 119, 133 (1988).

In the United States . . . there is an almost manic desire to work, both for its own sake, and more often in order to make more money—an uncertain means to a perhaps forgotten end of greater human dignity. Work is one important element in, but not identical with, the whole of an integrated life. Social ostracism almost universally attaches to unemployment. This is especially the case of those unable to support themselves financially.

Id.

35. Amy Wax offers a particularly compelling theory of "strong reciprocity" to explain the "typical" American's hostility to providing public assistance to poor single mothers who do not work. See Amy L. Wax, *Rethinking Welfare Rights: Reciprocity Norms, Reactive Attitudes, and the Political Economy of Welfare Reform*, 63 LAW & CONTEMP. PROBS. 257 (2000).

The analysis suggests that a belief that unconditional public assistance for single mothers violates norms of reciprocity begins with a perception that welfare mothers and their families give back to society less than they receive. . . . [A]n imbalance between individual contribution and public support does not pose a problem for strong reciprocity if the individual who calls upon group support is unable to improve upon the situation or to reduce her need for public funds. . . . But whether the neediness of many poor single mothers is in some sense 'involuntary' is a hotly contested question that, for many voters, yields a negative answer.

Id. at 279.

creation of “welfare rights.”³⁶ This critique is closely related to a broader neo-conservative model of civil society that also sees rights primarily as tools of defense against the state, and which identifies the freedom³⁷ of civil society with economic liberalism and the free market.

This rejection of the idea of positive rights secured by the state in an effort to promote the common good has increasingly drawn attacks from political thinkers and academics around the world. In his book *False Dawn*, John Gray makes a particularly scathing critique of this attempt by many American conservatives and others to recast free market capitalism as a fundamental underpinning of liberal democracy and individual freedom:

American capitalism [is] freedom in action. The structure of the American free market coincide[s] with the imperatives of human rights. Who dares condemn the burgeoning inequalities and social breakdown that free markets engender, when free markets are no more than the right to individual freedom in the economic realm?

The philosophical foundations of these rights are flimsy and jerry-built. There is no credible theory in which the particular freedoms of deregulated capitalism have the standing of universal rights. The most plausible conceptions of rights are not founded on seventeenth-century ideas of property but on modern notions of autonomy. Even these are not universally applicable; they capture the experience only of those cultures and individuals for whom the exercise of personal choice is more important than social cohesion,³⁸ the control of economic risk or any other collective good.

When the tenets of free market capitalism become inseparable from the rhetoric of individual freedom, inequalities that are exacerbated by capitalism start to be seen as a necessary cost of democracy. Attempts by the state to temper economic inequalities in the interest of promoting other communal and public goods are seen as a “tyrannical”³⁹ exercises of state power against the rights of free citizens. This is where the American model of “freedom,” the

36. E.g., J. L. A. Garcia, *Liberal Theory, Human Freedom, and the Politics of Sexual Morality*, in RELIGION AND CONTEMPORARY LIBERALISM 218, 219 (Paul J. Weithman ed., 1997).

37. See, e.g., PETER L. BERGER & RICHARD JOHN NEUHAUS, TO EMPOWER PEOPLE: THE ROLE OF MEDIATING STRUCTURES IN PUBLIC POLICY (1977); MICHAEL NOVAK, THE SPIRIT OF DEMOCRATIC CAPITALISM, 56-57 (2d ed. 1991).

38. GRAY, *supra* note 7, at 108.

39. See William O’Neill, *Poverty in the United States*, in READING THE SIGNS OF THE TIMES: RESOURCES FOR SOCIAL AND CULTURAL ANALYSIS 68, 74 (T. Howland Sanks &

product of a general American propensity toward an absolutist construction of rights, begins to reveal its tendency to breed selfishness and greed, and an indifference to the human needs of the poor. As Mary Ann Glendon has written, this “illusion of absoluteness,”

promotes unrealistic expectations, heightens social conflict, and inhibits dialogue that might lead toward consensus, accommodation, or at least the discovery of common ground. . . . In its relentless individualism, it fosters a climate that is inhospitable to society’s losers, and that systematically disadvantages caretakers and dependents. . . .”⁴⁰

American society has drifted so deeply into an absolutist construction of personal freedom that there is widespread public support for a “reform” of welfare, which in a purported effort to “help” places tremendous burdens on the poor by requiring them to work as a condition for receiving economic assistance, while asking almost nothing of the broader society. It also rejects a rich, humanistic understanding of community membership or citizenship for poor people, one that might value them as something beyond wage laborers or a drain on the public fisc. This is a notion of rights and human dignity that Catholic teaching rejects.

II. TOWARD A FULLY HUMAN VISION OF WELFARE REFORM

A Catholic understanding of rights begins with the notion of the inherent dignity of the human person, who is created in the image and likeness of God. “Rights and duties come to every human, in the first place, not based on the grounds of another social contract, but based on humans’ origin.”⁴¹ Inseparable from this concept of *imago Dei* is the concept that the human person is inherently social. “Sociality is

John A. Coleman eds., 1993).

Justice, once the fruition of the common good, is rendered as fair or impartial rules safeguarding individuals’ liberties and property rights. Vast inequalities of wealth are thereby justified, for if, as is generally assumed, our social institutions rest on fair and impartial rules, themselves derived from individual consent, poverty can no longer be regarded as a failure of moral entitlement or right. To restrict my liberty (e.g., through tax or transfer policies) rather than to appeal to my voluntary charity is to ‘conspire against’ my freedom.

Id.

40. MARY ANN GLENDON, RIGHTS TALK: THE IMPOVERISHMENT OF POLITICAL DISCOURSE 14 (1991).

41. L. ROOS, *The Human Person and Human Dignity as Basis of the Social Doctrine of the Church*, in PRINCIPLES OF CATHOLIC SOCIAL TEACHING 53, 57 (David A. Boileau ed., Marquette Univ. Press 1998) (1994).

understood to be as essential a part of our humanity as rationality. That is, the person is viewed relationally—by the relationships he or she has with God, other persons, [and] other creatures.”⁴² Thus, Catholicism takes a communitarian view of the person and rejects a contractarian view of social relations. The communitarian perspective of Catholic social teaching

has led the Church to place all rights within the context of community and to endorse a broader array of rights than the classical liberal account of rights founded on personal liberty. . . . The Catholic concern for a person’s ability to participate in the life of a community rather than any individualistic notion of freedom abstracted from social relations offers an alternative formulation of entitlement rights.⁴³

In his recent book *The Common Good and Christian Ethics*, lawyer and theologian David Hollenbach addresses directly the exclusion of the urban poor from mainstream American life and argues that, “a revival of commitment to the common good and a deeper sense of solidarity are preconditions for significant improvement of the lives of the poor in large cities of the United States.”⁴⁴ The concept of the common good flows directly out of the Catholic understanding of the human person’s sacredness and sociability:

the good of the individual never stands *against* the good of society . . . Being thrown into each other’s company is not a humiliation; letting oneself be helped belongs to magnanimity. Humans desire to stand in a relation of exchange with each other and to share their thoughts and possessions with others.⁴⁵

Translating this idea to the current circumstances of American public life, Hollenbach notes that “the common good of public life is a realization of the human capacity for intrinsically valuable relationships, not only a fulfillment of the needs and deficiencies of individuals.”⁴⁶

Hence, the Catholic conception of the common good stresses the inherent value of human relationships:

The common good, therefore, is not simply a means for attaining

42. Himes, *supra* note 15, at 516.

43. *Id.* at 519-20.

44. DAVID HOLLENBACH, *THE COMMON GOOD AND CHRISTIAN ETHICS* 173 (2002).

45. L. J. Elders, *Common Good as Goal and Governing Principle of Social Life: Interpretations and Meaning*, in *PRINCIPLES OF CATHOLIC SOCIAL TEACHING*, *supra* note 41, at 103, 107-08.

46. HOLLENBACH, *supra* note 44, at 81.

the private good of individuals; it is a value to be pursued for its own sake. This suggests that a key aspect of the common good can be described as *the good of being a community at all*—the good realized in the mutual relationships in and through which human beings achieve their well-being.

In the United States, human sacredness and the common good demand recognition of, and an ongoing response to, the legacy of slavery and racism in American culture, and how this legacy continues to demean individuals and detract from the common good. Furthermore, members of the community who are socially isolated, or unable to participate in the life of the community because they lack basic security, food, health care, or housing, are unable to participate fully, if at all, in the good that is democratic self-governance.⁴⁸ “In other words, the common good of a republic fulfills needs that individuals cannot fulfill on their own and simultaneously realizes non-instrumental values that can only be attained in our life together.”⁴⁹

In his encyclical *Sollicitudo Rei Socialis*, Pope John Paul II described the Catholic idea of solidarity as a recognition of the moral value of the interdependence among individuals and nations. The virtue of solidarity “is a firm and persevering determination to commit oneself to the *common good*; that is to say to the good of all and of each individual, because we are *all* really responsible for all.”⁵⁰

The exercise of solidarity *within each society* is valid when its members recognize one another as persons. Those who are more influential, because they have a greater share of goods and common services, should feel *responsible* for the weaker and be ready to share with them all they possess. Those who are weaker, for their part, in the same spirit of *solidarity*, should not adopt a purely *passive* attitude or one that is *destructive* of the social fabric, but, while claiming their legitimate rights, should do what they can for the good of all.⁵¹

Solidarity is about sharing one’s life with others. The sense of responsibility and reciprocity that solidarity requires does not grow

47. *Id.* at 81-82.

48. *Id.* at 82.

49. *Id.* at 83.

50. Pope John Paul II, *Sollicitudo Rei Socialis* (1987), reprinted in CATHOLIC SOCIAL THOUGHT: THE DOCUMENTARY HERITAGE 395, 421 (David J. O’Brien and Thomas A. Shannon eds., 1997).

51. *Id.* at 422.

out of vague emotion or by intellectual engagement, but through a lived experience of community.⁵² Together with the common good, solidarity forms the foundation from which Catholics understand their obligations to the poor. These are not private notions of charity, but affirmative obligations of faith to bring the poor into full community membership in the life of a democratic republic by engaging their humanity, calling them to responsible citizenship and participation, and by sharing material goods.

The current state of American culture and civic life, both of which lack any coherent understanding of the common good, make solidarity with the poor quite difficult in the United States. Hollenbach uses the example of the isolation of the American poor in urban areas as one particularly obvious example of how the structures of American society operate to deny justice to the poor. Although he recognizes the aspirational character of the virtue of solidarity, he does not believe this means that solidarity should be dismissed as an inappropriate standard for public life in American cities.⁵³ Civil law can and should seek to create moral objectives, and thereby create certain minimal expectations of community life within society.

Most American metropolitan areas are structured to quarantine the poor in certain disfavored areas of the region. This structure is maintained and enhanced through various mechanisms, particularly archaic forms of local government and systems of funding for public services and schools that rely on property taxes, which allows wealthy localities⁵⁴ to hoard revenue for the exclusive benefit of their residents. Recognizing this reality, Hollenbach argues that the

52. DONAL DORR, *OPTION FOR THE POOR: A HUNDRED YEARS OF VATICAN SOCIAL TEACHING* 332-33 (rev. ed. 1992).

53. HOLLENBACH, *supra* note 44, at 190-91.

54. Many commentators have pointed out the tendency for suburban municipalities to become enclaves of privilege under the legal cover of local autonomy. Huge disparities exist among jurisdictions in terms of the level of public services offered, and there is a tendency to concentrate the least desirable land uses in jurisdictions with high concentrations of poor or minority residents. For example, Richard Briffault argues that:

[m]ore affluent localities can . . . use their regulatory authority to maintain their preferred fiscal position. To the extent that more affluent localities are able to deploy exclusionary zoning techniques as an informal wealth test that keeps out newcomers who bring less to the locality in tax base than they cost in local services, these localities can continue to offer better services and/or hold down their taxes.

Richard Briffault, *The Local Government Boundary Problem in Metropolitan Areas*, 48 *STAN. L. REV.* 1115, 1136 (1996). Building on Briffault, Sheryll Cashin notes that this phenomenon creates a "tyranny of the favored quarter," whereby certain high growth, high income suburbs representing about 25% of the population of many American metropolitan

minimal demands of justice require “lowering the structural and economic barriers that prevent the inner-city poor from sharing in the common good of their larger metropolitan areas.”⁵⁵ The marginalization of the inner-city poor is one measure of how far short the metropolitan areas of the United States are falling from being communities whose citizens are treated with the respect they deserve. The willingness of the well-off to tolerate such conditions and even to take actions that perpetuate them shows how far the larger citizenry of the United States is from an effective commitment to the common good.⁵⁶

CONCLUSION

American welfare reform is a product of a limited view of the range of possibilities for social integration of the poor, and an impoverished notion of the shared sacrifice required to foster the solidarity that would lead to true social justice in the United States. Unable to construct an honest shared narrative about the nation’s ongoing struggle with its legacy of slavery and racism, American politicians use coded racialist imagery to pander to voters’ prejudices, make financial assistance unpopular, and keep the poor at society’s margins. Unable to confer meaning and value on the role of dependence in social and cultural life, Americans support a welfare reform that sends poor mothers with children into the workforce so that they can justify their membership in the broader society by earning their keep. Unwilling to fund public services that they do not use, Americans consign the poor to isolation and degradation, expecting people without automobiles to have mobility in a car-dependent society; expecting people without decent schools to thrive in an educational meritocracy that favors the wealthy; and expecting people without money to accept without question the values of free market liberalism.

Catholic social teaching offers a different vision, one in which the entire society assumes responsibility for access to decent public goods

regions capture the lion’s share of the regions infrastructure expenditure and job growth: “the theoretical justifications for local governance should be tested against the empirical reality of the favored quarter. The collective action problem wrought by fragmented local governance creates a system in which the ‘free riders’ are the most privileged people in our society.” Sheryll D. Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 GEO. L.J. 1985, 1990 (2000).

55. HOLLENBACH, *supra* note 44, at 200.

56. *Id.* at 202.

for all as one of the obligations of living in community. It is a vision that recognizes the human potential of the poor in ways that move beyond cost-benefit analysis, and in which the objective flaws of the current economic and social structure are not regarded as acceptable prices for “freedom.” It is a vision that sees government as more than a referee for the aggressive pursuit of individual self-interest and one in which the poor are not viewed with pity or scorn, but seen as essential participants in the work of creating a truly just society.