

Public Assistance, Post-New Deal Bureaucracy, and the Law: Learning from Negative Models

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In a society in which law and lawyers have always exercised disproportionate influence, it remains to be seen whether the profession can play a role in meeting the crisis in governmental bureaucracy and regulation today at the municipal, state, and federal levels. In many ways, this crisis is linked to the extraordinary influence of lawyers in public policy beginning with the New Deal. Professor Simon ascribes much of the transformation of the welfare system to the conquest of the power of the social work profession by lawyers and managers.¹ Parallel developments occurred in other government agencies. The resulting approach to management in government agencies often seems a caricature of modern management techniques. It is difficult to imagine that a business run like the welfare system Professor Simon describes could survive, except perhaps as a monopoly. But the swing from intrusive paternalism to legalism and formalism—to use Professor Simon's formulation—is not peculiar to the welfare system. It parallels and is facilitated by the complexities of life in an advanced society and by technological changes that encourage the use of more structured and rigorous procedures. Government agencies, businesses, universities, and other institutions are facing questions of first impression in organization and in service or product delivery that will profoundly affect the way they deal with their publics and their employees. The travail of the welfare bureaucracy, as it shed its intrusive persona only to become an over-instructed robot, warns of the danger of dialectic and the elusiveness of a satisfactory solution. As the technology to standardize organizational behavior improves, an easy marriage of law and technology could produce a satanic union with unintended and unhappy results.

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1. See Simon, *Legality, Bureaucracy, and Class in the Welfare System*, 92 YALE L.J. 1198 (1983).

I.

Professor Simon believes that something close to this has already occurred in the welfare system. The liberal bar encouraged the expansion of judicial discretion, partly to empower judges to overrule the administrative decisions the lawyers were challenging. At the same time, the bar succeeded in reducing administrative discretion in bureaucracies, such as the welfare system. The tradeoff for recipients was loss of the personalized treatment of the old system in return for a kind of objectivity that was not always beneficial.

Something akin to Professor Simon's "dominant vision," the post-New Deal law reform model, became pervasive in many government agencies in the 1960's and 1970's, which produced their own versions of the welfare agency crisis. As agency actions came increasingly under the scrutiny of lawyers and courts, substantive and procedural law and management techniques were often used to minimize discretion and maximize organizational formality so as to reduce arbitrariness in the bureaucracy. Professor Simon describes the paradoxes that have resulted in the welfare system, especially the elimination of much of the social service and individualized treatment that might be thought necessary to humanize a system that deals with the basic needs of people. But he rejects the dialectical poles of both rigid rule-bound bureaucracy and agency standards so lax that discretion is easily abused.

Cautiously and critically, Professor Simon attempts a synthesis that he describes as no more than a "prescriptive theme" in what is primarily a "historical and critical" essay² largely devoted to two competing views of welfare administration. He advocates an "opposed vision involv[ing] a legality of relative informality, a decentralized enforcement structure, and a corps of enforcers with some of the attributes of skill, education, and status associated with professionalism."³ The competing or opposed view attempts to synthesize the two visions but partakes more of the original New Deal social work administration of the welfare system than it does of the post-New Deal law reform model.⁴

II.

I would like to look more closely at Professor Simon's dominant and opposed visions, using my own government experience as a frame of reference. I have encountered vivid examples of both "visions" in government administration, especially at the municipal level, from which I draw much

2. *Id.* at 1200.

3. *Id.*

4. *Id.*

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of this discussion. In New York City, I headed two government agencies—the New York City Commission on Human Rights and, simultaneously, the Office of Neighborhood Government (ONG).⁵ Later, I headed a federal agency, the United States Equal Employment Opportunity Commission (EEOC).⁶ What the government agencies I headed had in common were seriously flawed bureaucratic mechanisms⁷ paralleling those of the welfare system described by Professor Simon. The resulting bureaucratic crises offered a rare opportunity to rethink and redesign both structure and operations. Normally, the press of business and of public demands for immediate relief encourage bureaucrats to correct malfunctions in an ad hoc way that often compounds the overall problems of the bureaucracy; there is little incentive to engage in diagnosis or careful reconstruction of failed systems. However, the agencies I shall discuss faced especially difficult problems, requiring more systematic treatment.

Because Professor Simon's criticism is particularly relevant to government administration at the municipal level, I rely here principally on the New York City neighborhood government experience, although the reform of the EEOC addressed some of Professor Simon's major concerns, including the reconciliation of fairness with efficiency⁸ and the downgrading of the work force.⁹ The problems and changes Professor Simon describes are more visible on the local level. Of course, public reaction to perceived bureaucratic excesses is less well formed than on other political issues because government organization is an elusive target for populist discontent. But politicians have succeeded in arousing public feeling about

5. I held the chair of the New York City Commission on Human Rights from 1970 to 1977 and simultaneously carried out unrelated duties as executive assistant to Mayor John Lindsay from 1972 to 1974. In my capacity as executive assistant, the mayor's ONG reported to me.

6. I held the chair of the EEOC from 1977 to 1981.

7. ONG, a small temporary agency attached to the mayor's office was formed to redesign and improve the bureaucracies of other municipal agencies. Its structure and processes are not in issue.

8. The General Accounting Office (GAO) reported that in a test of the new procedures, case processing time was 44 days from the date of filing to resolution; that when the procedures were put in place in all offices a 50% settlement (remedy) rate was achieved, as compared with 11% under the old procedures; and that the average monetary benefit rose almost 150%, from \$1400 under the old procedures to \$3400. COMPTROLLER GENERAL OF THE UNITED STATES, EEOC ENFORCEMENT ACTIVITIES 8-9 (1981).

9. For example, the intake of discrimination complaints had been a clerical function with almost no judgment required, resulting in the receipt of many inappropriate and non-jurisdictional complaints and the growth of a large backlog. The reformed procedures used professional investigators for intake procedures, and enlarged both the scope and the responsibilities of the intake interview to include eliciting a complete set of facts and available evidence from the client. Enhancement of the intake investigator's functions both to aid the investigative process and to refer people elsewhere if they required other services, helped to streamline the overall process and avoid backlogs. The investigation process became more professional. Investigators no longer followed a time-consuming, largely paper, investigation. They took on the trappings of administrative law judges but used negotiation rather than litigation as the basic process of dispute resolution. The face-to-face fact-finding process brought both sides together and quickly got the important facts out to provide a realistic basis for each side to judge the possibilities for success and enable the investigator to settle most cases.

the responsiveness and salaries of civil servants, the cost of government, and overregulation. These concerns are felt most intensely at the municipal level. It is there that the individual citizen is immediately and tangibly a client of government services.

In New York City in the 1970's, the ONG sought to address citizen disaffection with the delivery of services. ONG was engaged in very detailed, often technical and managerial work to administratively decentralize New York City's service delivery departments, such as sanitation and police. The ONG sought to put greater control and decisionmaking in the hands of civil service line managers and their subordinates as a means of improving the delivery of services to the city's many diverse neighborhoods. In the 1960's and 1970's, several neighborhood empowerment experiments had produced confusion and polarization without tangible improvements in neighborhood life. In the wake of these failures and problems, neighborhoods were responsive to the more mundane and focused work of the ONG. This tolerance of the ONG's methodical approach apparently developed because of the priority that hard-pressed neighborhoods of all income and ethnic compositions placed on improved city services as urban conditions deteriorated.

In most large cities, increasingly difficult urban conditions produced disenchantment with some of the great reforms in municipal management from earlier in this century, especially the professionalization of services in hierarchically organized departments run largely by civil servants.¹⁰ These reforms parallel those of the dominant vision Professor Simon describes in the welfare system—a formal hierarchical bureaucracy and a subordinated employee cadre whose discretionary power has been replaced, over the years, by objective rules and standards. One articulation of the phenomenon in city bureaucracy sounds strikingly like Simon's description of the welfare system. John Mudd, a key figure in the 1970's in New York City's bureaucratic reform efforts, writes that city services had fallen victim to:

- (1) programmatic specialization in an expanding range of services;
- (2) the centralization of executive authority; and
- (3) the rise of new institutional constraints that simultaneously undercut the territorial political party without replacing its capacity to articulate local needs or adapt general policies to particular concerns. Many of these developments reflect successes in implementing key parts of the municipal reform agenda for rooting out the corruption of the clubhouse politicians.¹¹

10. T. DYE, *POLITICS IN STATES AND COMMUNITIES* 225-57 (1977).

11. J. Mudd, *Government in Urban Neighborhoods: Reorganization Strategies to Improve Public Services in Big Cities* 33 (1978) (unpublished Harvard University Ph.D. dissertation). John Mudd

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In municipal governments, the growth of specialized departments distanced the professional civil service that operated them from the neighborhoods they served, and lodged administrative responsibility in a mayor who often resembled a business executive. These changes came at the expense of the service- and patronage-oriented political party, which, like Simon's professional social workers, had provided personalized attention to citizens' needs. It was in reaction to the favoritism, corruption and fraud within these parties that government reformed employment practices by replacing patronage employees with professional civil servants selected according to legally mandated standards and tests.

Parallels to the transformation Professor Simon describes are discernible in two contrasting descriptions of the way government helped families before and after the advent of civil service reform. In the early 1900's in New York, Boss George W. Plunkitt said:

What tells in holdin' your grip on your district is to go right down among the poor families and help them in the different ways they need help. I've got a regular system for this. If there's a fire in Ninth, Tenth, or Eleventh Avenue, . . . any hour of the day or night, I'm usually there with some of my election district captains as soon as the fire engines. If a family is burned out, . . . I don't refer them to the Charity Organization Society, which would investigate their case in a month or two and decide they were worthy of help about the time they are dead from starvation. I just get quarters for them, buy clothes for them . . . and fix them up til they get things runnin' again.¹²

In the early 1970's, Mudd reports, the Standard Operating Procedures of the New York Fire Department provided:

For a family caught in a burn-out, the Fire Department's battalion chief at the scene issues a written "notification of possible need for temporary or permanent shelter for persons due to fire" for the occupants . . . and calls his dispatcher who in turn informs the central Emergency Desk at the Department of Relocation, which reports the case to their [sic] personnel in the nearest hotel or shelter that the agency uses for such cases—if the fire is between 9 a.m. and 5 p.m., Monday through Friday. If not, the fire dispatcher notifies the Red

was deputy director of ONG when I was the mayor's executive assistant with responsibility for the ONG. I am grateful to John Mudd for sharing with me his thesis and the epilogue to a book in progress based on the thesis. His work is the only comprehensive examination of the attempt to administratively decentralize various New York City government management and service functions in the 1970's.

12. See W. RIORDAN, *PLUNKITT OF TAMMANY HALL* 27-28 (1963); J. Mudd, *supra* note 11, at 71.

Cross, which places the family overnight and refers the case to relocation officials in the morning—*assuming* the family is living in a private dwelling. If the house or apartment is owned by a public agency like the New York City Housing Authority, the Department of Real Estate, or Urban Renewal, the Department of Relocation has no jurisdiction. In these cases, the Department of Social Services is responsible, *if* the family is already on public assistance or qualifies for special emergency aid. After the family is housed, it must make an appointment at the nearest Income Maintenance (Welfare) Center for an interview to apply for a “disaster relief grant” covering clothes, food, and lost furniture; arrange for children to go to schools in a new area, since the shelters are usually not in the same community; and begin to look for an apartment with the assistance of housing staff in the Departments of Relocation or Social Services.¹³

The judgments Simon makes about the history of welfare reform have echoes in John Mudd’s appraisal of municipal service agencies following civil service reform:

Many of the virtues in the institutions and values of the earlier reformers now appeared to be defects. The civil service (and unionization) protected public employees not only from the vagaries of political whim but from the need to respond to new direction. Bureaucratic efficiency came to mean red tape, with questioned [sic] gains over the older forms of corruption. Objectivity in administration led to inflexibility. Professionalism brought the benefits of expert knowledge but also a disregard for client judgments—a situation exacerbated in central cities by the increasing racial differences between the providers and the recipients of services. Programmatic specialization focused attention on parochial fragments of problems, rather than their interrelatedness. Centralization for the public good produced insensitivity to the particular needs of individuals or local communities.¹⁴

13. J. Mudd, *supra* note 11, at 72.

14. *Id.* at 49–50. Here is one of Mudd’s telling examples:

A neighborhood police . . . commander is . . . harangued by local homeowners in . . . the northern Bronx. They complain that the sanitation streetsweepers . . . drive . . . without touching the mess in the gutters because commuters . . . jam their block with parked cars. Diligently, the sergeant files a report, which goes through police supervisory channels over to the Sanitation Department, where the problem is referred back down the chain of command to the district superintendent in the community. He in turn requests that 8 a.m.-9 a.m. no-parking regulations be installed because his sweeper operates on this schedule The recommendation goes back up through the sanitation hierarchy where it is duly forwarded to the Traffic Department. Traffic sends out an investigator who turns down the suggestions because the department has never approved no-parking 8 a.m.-9 a.m. on a non-metered street.

Id. at viii.

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Government tended to become dominated by bureaucracy itself; judgment and discretion were exercised at increasingly higher levels, service was uneven, and correct procedures became ends unto themselves.

As a result, in the 1960's and 1970's, there was a populist reaction against the old municipal reforms. The civil service was the focal point of much of the criticism. However, city governments were also strained by the age and deterioration of the cities, the loss of jobs, population and tax diversity, and by the needs of large concentrations of newly vocal poor and minority populations. Nevertheless, the old city bureaucracies were blamed for failing in their essential function of delivering basic services. The reaction took the form of demands for more decentralized control of government and produced citizen movements with many of the trappings of the welfare rights movement. Nowhere was the demand greater or the experimentation with neighborhood models more varied than in New York City. This is not surprising. The size and complexity of New York accentuated the urban pressures that were being felt everywhere.

The decentralization that resulted was not a lasting or satisfactory alternative to the old reformed model of municipal government. Professor Simon sets out the ingredients necessary to develop a viable alternative. He seeks reconciliation, not reaction, and strives to bring together the best of the old and new approaches.¹⁵ What occurred in New York and many cities was reaction. The citizen revolt could hardly have been expected to take account of the multiple variables necessary to produce a satisfactory reform of municipal organization. The citizen response assumed that if the bureaucracy was malfunctioning, it could be improved by making it accountable through citizen participation. By the early 1970's, sixty-five percent of American cities and counties with populations over 25,000 had established citizen advisory groups in some form to improve service delivery.¹⁶ These efforts to bring citizens closer to government were legitimate and logical responses to urban distress, and they represented an important new direction in American cities in the 1960's and 1970's. Yet, whatever the benefits of citizen participation, long-standing, powerful governmental bureaucracies were hardly prepared to cede power. Citizens lacked the time, skill, and sophistication necessary to reform the bureaucracy. Thus, public attention gravitated toward a more tangible strategy. An emphasis on citizen participation, even citizen power, developed as an alternative to bureaucratic power. Citizens created their own formal structures to compete with or replace existing governmental structures. Mudd's description of the paradox that resulted illuminates Simon's view of the difficulty of

15. Simon, *supra* note 1, at 1200.

16. ADVISORY COMM. ON INTERGOVERNMENTAL RELATIONS, *THE NEW GRASS ROOTS GOVERNMENT: DECENTRALIZATION AND CITIZEN PARTICIPATION IN URBAN AREAS* 9-10 (1972).

post-New Deal reform efforts:

Given the frequent antagonism between central managers and citizen participants, there was an ironic similarity in their assumptions about the techniques to change bureaucratic behavior. Both presupposed that formal authority would increase accountability and improve performance¹⁷

Many citizen participation models were tried in New York City: community planning boards, neighborhood councils, local school boards, citizen advisory committees for various city services and their federally mandated counterparts, Model Cities boards and Community Action (poverty) Program boards. Neither in New York nor in other large cities were there any substantial effects on city services. The bureaucracy was too well insulated by old reforms such as civil service tenure that often extended even to managerial levels.

After these efforts played themselves out, frustration with exclusive reliance on citizen participatory strategies produced its own instructive reaction. No new view of municipal organization developed. But a gradual process began in New York to combine the most functional elements of the old municipal systems and the new decentralized citizen-centered experience.

The ONG was in the vanguard of this effort. Formed in 1970, the ONG sought to provide an alternative to the poles of centralized mayoral and agency power on the one hand and demands for decentralized neighborhood power on the other. Exhaustion from failed efforts to transfer power from government professionals to citizen activists had helped create an atmosphere conducive to the less dramatic work of making the bureaucracy serve its citizen clients. ONG profited from a newly recognized reality that it was able to document by 1970: that “[c]ivic leaders in urban neighborhoods want concrete service improvements, not abstract power.”¹⁸ Not only in New York but in other cities, “[m]ost [civic leaders] seem to favor some middle ground between the extremes of traditional centralized city government and community control.”¹⁹

In place of exclusive reliance on decentralization through citizen participation, the ONG sought to decentralize management, although citizen participation was important in the overall process of reform. In the ONG diagnosis, like that of Professor Simon, the problems of the bureaucracy flowed in part from excessive centralization of decisionmaking and respon-

17. J. Mudd, *supra* note 11, at 96-97.

18. *Id.* at 396.

19. *Id.* at 397.

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sibility. ONG proposed to reach citizens, not so much through the use of formal citizen structures, as by giving city employees the authority to deal directly with citizen needs.

The essential strategy was command decentralization—ceding authority to line managers and their subordinates, whose work and positions necessarily placed them close to the neighborhoods. These employees were empowered to act on neighborhood problems without first navigating up the bureaucracy and then back down again after receiving permission to carry out a solution, or worse, after the solution was devised above, far from the realities of neighborhood problems. This process was an attempt to reverse the proletarianization of the work force that Professor Simon describes in the welfare system. New York City services had suffered from dramatic subordination of workers throughout the ranks, including managerial and supervisory level civil servants, who were relegated to higher level counterparts of Professor Simon's welfare workers. The effects on residents and neighborhoods were not unlike those on the welfare clients that Professor Simon describes. Like the social service aspects of the welfare system, police and sanitation services atrophied. With command decentralization, ONG sought to transfer decisionmaking and power from headquarters in Manhattan to line officers and civil servants in the neighborhoods.

At the same time, ONG tried to cure horizontal bureaucratic isolation and dysfunction by creating a structure to assure appropriate integration of service delivery—the district cabinet. It was composed of up to fifteen of the major line managers with responsibility for services provided in a neighborhood: the police precinct captain, the district health officer, the parks foreman, the sanitation district superintendent, and others. The district cabinet was an instrument to overcome the negative effects of the division of labor inherent in the specialized departments.²⁰ The ONG concept sought to deal simultaneously with alienation among parts of the same city bureaucracy through the district service cabinets, and with alienation between civil servants and citizens through decentralization of decisionmaking.

Although Professor Simon's opposed vision is linked to "legal norms," he believes that these "must be qualified and mediated . . . [by] non-legal practices and institutions."²¹ The ONG attempt to put the line manager and the civil servant close to the citizen client is the analogue of putting the social worker back into the welfare system. In both cases, service that

20. In Professor Simon's discussion, this division is exemplified by the decomposition of the welfare worker's job into "many more specialized functions," including the separation of social service and financial assistance. Simon, *supra* note 1, at 1216.

21. *Id.* at 1243.

meets the felt needs of the citizen is considered an indispensable function of the bureaucracy. The values Professor Simon articulates, especially individual participation and "relatively individualized communication by decisionmakers or professional advocates,"²² were at the heart of the ONG experiment.

That experiment did not run its course. Outside events determined its fate, especially the 1973 elections, which brought to power a new mayor who chose not to identify with the previous mayor's programs. Moreover, a charter reform referendum that originated in the citizen participation mood of earlier years was passed in 1975. Nevertheless, it was influenced by the ONG experiment with district service cabinets. In practice, however, management decentralization was subordinated to the community planning heads who received new powers in the politically important land use and budget areas. Without leadership interested in the imperfections of the bureaucracy as such, the district cabinet members became complaint retailers. They never institutionalized a new command structure to personalize service or completed the ONG's plan to eliminate most complaints concerning service lapses. The district cabinets were reduced to handling complaints on an individual basis. It is true that many professionals in the New York City bureaucracy today recognize the need to come to grips with the ONG attempt to disentangle and humanize the bureaucracy. Many of ONG's core ideas have continued to influence city bureaucratic behavior. On balance, however, the integration of services and the decentralization of power to professional civil servants to bring service closer to citizen clients are still ideas for the future.

III.

Although Professor Simon disavows the fashioning of remedies as a primary purpose of his essay, he ventures prescriptive ideas that seem anticlimactic and ineffective after his bold criticisms. To be sure, his suggestions clearly have been adjusted in light of an assessment of the unlikelihood of obtaining extensive changes, but they just as clearly flow from Professor Simon's analysis. He proposes a "modest reform"²³—the replacement of the present rigid quality control system in welfare with review procedures and hearings. Simon may choose this approach because there is already an appeal system to build upon. But, particularly as the exclusive way to control abuse, resort to hearing mechanisms, even for limited reform purposes, has several drawbacks. The most expensive, slowest and least direct way to improve a bureaucracy and control errors is through due process

22. *Id.*

23. *Id.* at 1267.

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machinery employed after the fact. Although selected precedents would be published, they could not be self-executing, and it is doubtful that they would adequately deter bureaucratic excess.

To avoid such problems as resort to appeals only by knowledgeable clients and the relegation of staff to clerk-like roles, Professor Simon sets up a complicated system for initiation of proceedings. In his view, review could be sought not only by aggrieved recipients, as presently, but also by employees who disagree with instructions from superiors. In addition, employees would be empowered to secure a sample of cases to take to hearing. Even if the present governmental climate were more tolerant of the elaboration of hearing procedures, there would be strong arguments against their use. Overreliance on hearings to correct errors produces delays and backlogs. As in the dominant vision, which Professor Simon criticizes, exclusive reliance on legal strategies to cure bureaucratic problems is likely to produce its own set of problems, given the rigidity inherent in legal processes, even under the best of circumstances. In any case, to insinuate quality control through appeal mechanisms without even attempting prophylactic measures aimed at the first-level bureaucracy is too indirect either to be cost effective or to correct the largest number of problems.

Professor Simon seems to advocate these reforms largely because they appear possible to him, not because they approximate his ideal. He believes that “more thoroughgoing reforms would require more adventurous decentralization and redistribution of wealth, power, and status.”²⁴ Yet the chances may be greater that his more comprehensive reforms, at least some of them, will find acceptance sooner than the peculiar and highly unorthodox review procedures he advocates. For example, he suggests an “organizational structure . . . that . . . is more decentralized and prescribes a higher degree of education, skill, status, and reward for front-line decisionmakers.”²⁵ While reforms of this magnitude may be unable to elicit the requisite political support today, public assistance may well be ripe for overhaul because of widespread public dissatisfaction from all parts of the political spectrum. Neither the reforms of the sixties and seventies nor the drastic cuts of the eighties have restored public confidence. Meanwhile, today, growing numbers of children—including the majority of black children in this country—are born to single women,²⁶ most of them poor.²⁷ These frustrations, combined with unparalleled public dissatisfaction with the program, may create opportunities to do more than

24. *Id.* at 1269.

25. *Id.* at 1241.

26. U.S. BUREAU OF THE CENSUS, AMERICA'S BLACK POPULATION: 1970-1982, A STATISTICAL VIEW, Series P10/POP-83-1, 2 (1983).

27. U.S. BUREAU OF THE CENSUS, MONEY INCOME AND POVERTY STATUS OF FAMILIES AND PERSONS IN THE UNITED STATES, Series P60, No. 134, 21 (1981).

tinker with public assistance. ONG experiences may yet be instructive. The command decentralization experience demonstrates the potential to reverse the rigidification of bureaucracies. The most basic lesson of the New York City government experience is that the tendency of an overcentralized, hierarchical system to break down or malfunction, when confronted with accumulated problems, may encourage decentralized administrative reform not unlike Professor Simon's ideal.

IV.

Concentration on organizational forms should not lead us to overlook the pressing need to reassess the basic goals of many welfare programs. My own view of Professor Simon's essay is colored by the difficulty I have in regarding present welfare approaches, even Simon's suggestions for improvement, with equanimity. The New Deal invention of public assistance for mothers who had no means to support their children was a major contribution. But AFDC in anything resembling its present form is an anachronism that cannot adequately serve most of its present clientele. Over the years, welfare has become a negative symbol of outsized proportions to all parties to the debate. The AFDC program, for example, was created for society's exceptions in the 1930's, when a relatively small number of children were left in the care of widows, or divorced or separated women. The program was never designed to support large numbers of victims of other problems, such as structural and cyclical unemployment, racial discrimination, and generational poverty and disadvantage. If the New Deal welfare program was not meant to be a multi-purpose response to such complicated problems, it will not become so by modernizing and humanizing the old New Deal bureaucracy. Still, the Orwellian bureaucracy that has emerged as the present welfare system needs criticism, not only for its own sake but also so that its features as a negative model may be understood.

Experience has taught that dependence on the present program to aid impoverished families, however structured, will likely continue to prove socially unsatisfactory and costly. To succeed, an agency that offers support for young women and children should return to the New Deal aim of helping a small number of exceptional cases who cannot expect to become financially independent. For what has become the mainstream clientele of AFDC, other programs must be created with new assumptions and new goals. This is an urgent necessity in light of the rapid growth of dependent female-headed households.²⁸ In a rich democracy, a welfare clientele

28. Between 1970 and 1981, female-headed households increased by 97%. Half of all poor families were headed by women in 1981. U.S. COMM'N ON CIVIL RIGHTS, A GROWING CRISIS: DISADVANTAGED WOMEN AND THEIR CHILDREN 5-7 (1983).

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that has become so large, pervasive, and homogeneous may be the best evidence of the need for other solutions, especially when that clientele consists of millions of young women and children for whom self-sufficiency and economic independence, rather than maintenance, would seem to be the natural and most appropriate goals.

When public assistance was established in the New Deal, few women worked, and child care, except by mothers, was frowned upon. Training and education to prepare women for a lifetime of work was the exception. Today these have become routine expectations for young American women. If welfare clients have not been reached by the education and training institutions that have helped create a future for their counterparts, then their matriculation through welfare could become the occasion for reaching these recipients. The extraordinary desire for training and work shown by women on welfare is matched only by the unavailability of such opportunities. As presently conceived, AFDC resembles programs for the aged and the disabled who can no longer work. Given the youth and pliability of most of these women, models that contemplate graduation in the manner of education and training programs seem more appropriate solutions than maintenance programs, however remodeled. The greater costs incurred in the short term for programs providing training and child care structured for graduation and independence would surely be more cost effective than the billions spent in the maintenance bureaucracy, old, new or improved, that Professor Simon so tellingly describes and criticizes.