Book Review

Welfare and the Problem of Black Citizenship

Pitied But Not Entitled: Single Mothers and the History of Welfare. By Linda Gordon.* New York: The Free Press, 1994. Pp. viii, 419. \$22.95.

The Color of Welfare: How Racism Undermined the War on Poverty. By Jill Quadagno.** New York: Oxford University Press, 1994. Pp. viii, 240. \$24.00.

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Racial politics has so dominated welfare reform efforts that it is commonplace to observe that "welfare" has become a code word for race. When Americans discuss welfare, many have in mind the mythical Black "welfare queen" or profligate teenager who becomes pregnant at taxpayers' expense to fatten her welfare check.¹ Although most welfare recipients are not Black, Black single mothers do rely on a disproportionate share of Aid to Families with Dependent Children (AFDC).² It is likely, then, that the current campaign to slash funding for welfare programs, couched in a rhetoric that condemns welfare's social harms and recipients' irresponsibility, reflects a worsening racial crisis in America.³ At the same time, the exclusion from the

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1. See Wahneema Lubiano, *Black Ladies, Welfare Queens, and State Minstrels: Ideological War by Narrative Means*, in RACE-ING JUSTICE, EN-GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS, AND THE CONSTRUCTION OF SOCIAL REALITY 323, 332 (Toni Morrison ed., 1992).

2. See HOUSE COMM. ON WAYS AND MEANS, 103D CONG., 2D SESS., OVERVIEW OF ENTITLEMENT PROGRAMS: 1994 GREEN BOOK 444 (Comm. Print 1994); Teresa L. Amott, *Black Women and AFDC: Making Entitlement Out of Necessity*, in WOMEN, THE STATE, AND WELFARE 280, 281 (Linda Gordon ed., 1990).

3. See generally JOEL F. HANDLER & YEHESKEL HASENFELD, THE MORAL CONSTRUCTION OF POVERTY: WELFARE REFORM IN AMERICA (1991); Larry Cata Backer, *Welfare Reform at the Limit: The Futility of "Ending Welfare as We Know It,"* 30 HARV. C.R.-C.L. L. REV. 339 (1995); Martha Minow, *The Welfare of Single Mothers and Their Children*, 26 CONN. L. REV. 817 (1994).

mainstream debate of any consideration of *enhancing* public assistance to the poor signifies the resounding defeat of a progressive welfare ideal.⁴

Those seeking strategies to reverse this trend will profit from studying past welfare advocacy movements to learn what went wrong. Two recent books lend tremendous assistance to this project by explaining the social forces that thwarted the vision of a strong welfare state. What these books add to the voluminous literature on the history of welfare in America⁵ is their search for lessons from *defeated* alternatives, as well as their critique of politically successful programs. Both books also examine more thoroughly than others how racism structured the political choices that led to the current system of welfare.

In *Pitied But Not Entitled: Single Mothers and the History of Welfare*,⁶ Linda Gordon examines the feminist reform effort that produced the first mothers' aid laws during the Progressive Era and laid the foundation for the New Deal welfare programs. Jill Quadagno picks up here in *The Color of Welfare: How Racism Undermined the War on Poverty*⁷ to explore how a white backlash dismantled the antipoverty programs of the 1960s. Both books are enlightening in three ways. First, Gordon and Quadagno dispel the notion that the stingy American welfare system⁸ stems from noble liberal ideals; rather, they attribute its inadequacy to a racist unwillingness to include Blacks as full citizens and to patriarchal norms about women's place in society.⁹

Second, both books present an expansive definition of welfare that situates it within the broader context of citizenship in the national community—a much-needed perspective in the narrow contemporary debate centered on poor single mothers. At the most basic level, government aid provides individuals with the prerequisites for their participation in political decisionmaking and the social life of the community. As Gordon explains, "Without some minimum level of security, well-being, and dignity, people cannot function as citizens."¹⁰ But welfare programs, broadly defined, can also work to eradicate

4. See Personal Responsibility Act, H.R. 4, 104th Cong., 1st Sess. (1995) [hereinafter Personal Responsibility Act]; David Whitman & Matthew Cooper, *The End of Welfare—Sort of*, U.S. NEWS & WORLD REP., June 20, 1994, at 28 (discussing President Clinton's welfare reform proposal, the Work and Responsibility Act of 1994). The recent debacle of efforts to nationalize health insurance, a welfare program enacted as a matter of course in many industrialized countries, shows that Americans' aversion to welfare extends beyond payments to poor single mothers.

5. See, e.g., MIMI ABRAMOVITZ, REGULATING THE LIVES OF WOMEN: SOCIAL WELFARE POLICY FROM COLONIAL TIMES TO THE PRESENT (1988); HANDLER & HASENFELD, *supra* note 3; MICHAEL B. KATZ, THE UNDESERVING POOR: FROM THE WAR ON POVERTY TO THE WAR ON WELFARE (1989); FRANCES FOX PIVEN & RICHARD A. CLOWARD, REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE (1971).

6. LINDA GORDON, PITIED BUT NOT ENTITLED: SINGLE MOTHERS AND THE HISTORY OF WELFARE (1994) [hereinafter PITIED BUT NOT ENTITLED].

7. JILL QUADAGNO, THE COLOR OF WELFARE: HOW RACISM UNDERMINED THE WAR ON POVERTY (1994) [hereinafter COLOR OF WELFARE].

8. See PITIED BUT NOT ENTITLED, *supra* note 6, at 5 (noting that, by mid-1970s, public assistance programs "had become even stingier and more dishonorable than they had been originally").

9. See *id.* at 5–8, 187–97; COLOR OF WELFARE, *supra* note 7, at 10–13.

10. PITIED BUT NOT ENTITLED, *supra* note 6, at 142.

structural barriers to social membership so that citizens not only survive but also flourish. Unlike people subject to state control, citizens are entitled to state assistance as a matter of right to compensate them for their valuable contribution to society or to ensure their full participation in the polity.

Both authors condemn the stratification of welfare into two basic categories—social insurance and what is commonly called “welfare.”¹¹ While social insurance (Social Security and unemployment insurance) provides a dignified entitlement to wage earners and their spouses and children, welfare (mainly AFDC) doles out humiliating relief primarily to poor single mothers. Welfare recipients are stigmatized as shiftless and irresponsible, their personal lives are scrutinized by government workers, and they must conform to behavioral rules in order to receive their benefits.¹² The beneficiaries of social insurance, on the other hand, suffer none of these indignities.

Finally, both books suggest strategies necessary for any hope of reviving past visions of welfare and adapting them to current social realities. They highlight the peril in liberals’ present defensive posture. The fight to salvage pieces of the current welfare system from Republican annihilation tends to overlook the system’s serious flaws; the specter of completely destitute women and children makes even the state’s meager handout look generous by comparison. It is easy to forget that the system of poor relief many seek to save was also designed to subordinate Blacks, devalue women’s work, and mollify demands for economic justice.¹³ In this dispiriting age of welfare retrenchment, these books issue a call to rekindle the ideal of a universal, inclusive, and dignified welfare system that thus far has existed only as a defeated dream.

My only dissatisfaction with these books arises not from my disagreement with their central points, but from the fact that I found them so compelling. Gordon and Quadagno uncover from past movements the promise of a visionary welfare ideal only to explain how time and time again it was squelched by racism. Considering these books together highlights the dilemma that Black citizenship poses for radical welfare reform: While a strong welfare state is required to make Blacks full participants in the political economy, Blacks’ exclusion from citizenship persistently blocks efforts to establish an inclusive welfare system. On the one hand, racial justice demands aggressive government programs to relieve poverty and redress longstanding barriers to housing, jobs, and political participation. Yet, as Gordon and Quadagno

11. See *id.* at 293–303; COLOR OF WELFARE, *supra* note 7, at 8–10.

12. Lucy A. Williams, *The Ideology of Division: Behavior Modification Welfare Reform Proposals*, 102 YALE L.J. 719, 719–21 (1992) (essay).

13. See generally ABRAMOVITZ, *supra* note 5 (describing how welfare programs’ “family ethic” has enforced rigid gender roles); PIVEN & CLOWARD, *supra* note 5 (explaining how U.S. relief programs have regulated political and economic behavior of the poor); COLOR OF WELFARE, *supra* note 7, at 17–31 (discussing Blacks’ exclusion from New Deal welfare programs).

demonstrate, white Americans have resisted the expansion of welfare precisely because of its benefits to Blacks. Harold Cruse's words in 1968 still ring true today: "[W]hite America has inherited a racial crisis that it cannot handle and is unable to create a solution for it that does not do violence to the collective white American racial ego."¹⁴ Thus, Black citizenship is at once America's chief reason for and impediment to a strong welfare state. Neither author offers us a convincing way out of this deadlock.

I explore in this Book Review the case that these books make for the citizenship ideal of welfare and the problem of Black citizenship that they leave unresolved. After setting out in Parts I and II the gendered and racial origins of the current welfare system that the books disclose, I explain more fully in Part III the problem that Black citizenship poses for the American meaning of welfare. Part IV discusses how categories of welfare distinguish between citizens and subjects and how the most vilified welfare programs deny recipients the rights of citizenship. In Part V, I describe the new vision of welfare proposed by Gordon and Quadagno, which centers on welfare's connection to citizenship.

Finally, Part VI looks critically at strategies for establishing this citizenship vision of welfare despite America's racial impasse, as well as at the Black separatist alternative of rejecting the pursuit of American citizenship altogether. I conclude that, despite the political appeal of race-neutral, universal programs, advocacy for an inclusive welfare state must be grounded in the explicit demand for Black people's citizenship rights. On the other hand, I doubt whether separatist solutions that do not engage in a systemic assault on poverty and racial subordination can possibly achieve the massive economic and social transformation needed to improve the material status of the masses of Black urban poor; and I do not believe that we should relinquish the ideal of this radical change. Instead, I advocate in Part VII a strategy of developing Black economic, cultural, and political institutions as part of a struggle for a strong American welfare state to which Black people belong as citizens.

I. THE GENDERED ORIGINS OF WELFARE

Gordon traces the origins of welfare's stratified structure primarily to women's advocacy for maternalist legislation during the Progressive Era. Mothers' aid, initially provided through state and local programs, laid the groundwork for the modern federal welfare system and shaped the terms of the debate about single motherhood that still govern welfare policy discussions today.¹⁵ In some respects, the Progressive women's campaign achieved a

14. HAROLD CRUSE, *REBELLION OR REVOLUTION?* 104 (1968) [hereinafter CRUSE, *REBELLION OR REVOLUTION?*].

15. PITIED BUT NOT ENTITLED, *supra* note 6, at 37.

remarkable transformation of Americans' understanding of public welfare. Until then, local asylums or poorhouses distributed inadequate and discretionary relief to the "worthy" poor alone; only those stricken by natural calamity, such as the blind, deaf, or insane, and orphaned children, were deemed deserving of any public assistance.¹⁶ The mothers' aid programs not only rejected the prevailing laissez-faire approach to poverty, but also "sought to remove relief from the stigma of pauperism and the poorhouse."¹⁷ Through a crusade that identified exclusively with women and children, the women reformers convinced the public that single motherhood was an urgent social problem that should be addressed through social welfare.¹⁸ The resulting maternalist welfare policy provided government aid so that the female victims of misfortune and male irresponsibility would not have to relinquish their maternal duties in the home in order to join the work force.

Gordon's analysis is more critical than Theda Skocpol's history of this crusade in *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*.¹⁹ Skocpol lauds the Progressive women's monumental accomplishment: Their maternalist rhetoric was powerful enough to mobilize disenfranchised women, defeat conservative opponents, and persuade American legislatures to embark on social welfare programs far ahead of those of most European countries.²⁰ While recognizing the historical significance of the reformers' valuation of mothering and refutation of Social Darwinist assumptions, Gordon does not discount the programs' gross inadequacy at meeting the needs of female-headed families.²¹ Moreover, Gordon points out that mothers' pensions represented a defeat for more progressive, universalist models advocated at the time by organizations such as the National Consumers' League and the Women's Trade Union League.²² Rather than interpret mothers' aid as a victory for women's rights, Gordon seeks to unravel its paradox: Why did welfare programs designed by feminists end up failing women so miserably?

Gordon's answer to this paradox is the reformers' adherence to a patriarchal family norm that fostered a misguided faith in the "family wage"

16. Williams, *supra* note 12, at 721; see also KATZ, *supra* note 5, at 9–10 (describing Americans' ambivalent attitude towards the poor).

17. PITIED BUT NOT ENTITLED, *supra* note 6, at 38.

18. *Id.* at 24–32. On the political debate surrounding public assistance for single mothers during the Progressive Era, see THEDA SKOCPOL, *PROTECTING SOLDIERS AND MOTHERS: THE POLITICAL ORIGINS OF SOCIAL POLICY IN THE UNITED STATES* 424–28 (1992); SUSAN TIFFIN, *IN WHOSE BEST INTEREST? CHILD WELFARE REFORM IN THE PROGRESSIVE ERA* 126–29 (1982).

19. SKOCPOL, *supra* note 18.

20. *Id.* at 424–28.

21. In 1917, for example, Edith Abbott attributed the popularity of mothers' aid programs to their weakness: "[M]others' pensions do not interfere with any great vested interests, and they do not even interfere with the taxpayers' interests, since the laws are largely optional and local authorities are not required to appropriate . . . or may make their appropriations as niggardly as they please." PITIED BUT NOT ENTITLED, *supra* note 6, at 62.

22. *Id.* at 61–62.

and in mothers' economic dependence on men. The women crusaders believed in the prevailing sexual division of labor that "prescribes earnings as the sole responsibility of husbands and unpaid domestic labor as the only proper long-term occupation for women."²³ They therefore advocated a living wage for each family that enabled the husband to support a dependent, service-providing wife, rather than programs that would facilitate female independence.²⁴ The reformers' fear that welfare might provide an incentive for state dependency ("pauperization"), moral degeneracy, and family breakdown further limited the programs' generosity.²⁵

The New Deal, the end point for Gordon's account and the starting point for Quadagno's, established the stratified and unequal provision of public assistance. The fate of mothers' aid was sealed when it was assigned to a program separate from the government's provision for men.²⁶ Social insurance (Social Security and unemployment insurance) provided a dignified entitlement to primarily white, male wage earners and their wives; Aid to Dependent Children doled out humiliating relief to poor single mothers. While Social Security laws obligated the federal government to pay beneficiaries a fixed amount, "ADC clients faced caseworkers, supervisors, and administrators with discretion regarding who got aid and how much they got."²⁷ These government bureaucrats required recipients to meet not only means standards but also degrading morals, or "suitable home," tests that typically probed clients' sexual behavior.²⁸

ADC's inferiority was enhanced by its provision of aid exclusively to the child, defeating the position that mothers' aid compensated women's service to society as a principle of entitlement.²⁹ While rejecting this positive aspect of feminist reformers' view of mothers' aid, the male-dominated New Deal regime incorporated the most limiting aspects of the earlier reformers' view—the reliance on male wages to meet the needs of families and the moral supervision of recipients of poor relief.³⁰

23. *Id.* at 53.

24. *Id.* at 51–54.

25. *Id.* at 180.

26. *Id.* at 253–85.

27. *Id.* at 295.

28. *Id.* at 298.

29. *Id.* at 282. The reliance on male earnings also supported the elimination of public works and medical insurance from ADC, depriving poor women of the important support of jobs and health care. *Id.* at 258.

30. Contemporary welfare reform rhetoric resurrects the early reformers' anxiety about single-motherhood as well as their reliance on mothers' economic dependence on husbands. The House Republicans' proposed Personal Responsibility Act, for example, declares that "marriage is the foundation of a successful society" and "an essential social institution which promotes the interests of children and society at large." Personal Responsibility Act, *supra* note 4, § 100. A list of "the negative consequences of an out-of-wedlock birth on the child, the mother, and society," as well as measures designed to penalize unwed mothers and their children, follows. *Id.* §§ 100(3), 105. *Pitied But Not Entitled* thus lends historical weight to Martha Fineman's recent critique of the nuclear-family norm that leaves women with the burdens of caretaking while denying them adequate government support. See MARTHA ALBERTSON FINEMAN, THE

II. BLACKS AND THE HISTORY OF WELFARE

Does Gordon's focus on patriarchal norms fully explain the stratification and inadequacy of America's welfare system? In *The Color of Welfare*, Quadagno makes a convincing case that gender alone cannot account for American exceptionalism any more than can explanations based on the sequence of democratization, the legacy of a politically weak working class, or the liberal opposition to government intervention.³¹ For Quadagno, all of these explanations are inextricably tied to racial politics. And while centered on gender, Gordon's history of the first welfare programs reveals that the reformers' vision of welfare was shaped at least as much by race.³²

A. *The Racist Origins of Welfare*

Although much of the American public now views welfare dependency as a Black cultural trait, the welfare system systematically excluded Black people for most of its history.³³ Besides its misguided faith in the family wage, the Progressive welfare movement was flawed by the elitism of the privileged, white activist network that led it. As a result, a defining aspect of its welfare vision was the social control of poor immigrant families and the neglect of Black women.³⁴

Immigrant women, who reformers incorrectly believed made up a disproportionate share of deserted wives and illegitimate mothers, became the primary objects of reformers' moral concern.³⁵ Worried about urban immigrants' threat to the social order, the reformers treated welfare as a means of supervising and disciplining recipients as much as a means of providing charity.³⁶ According to this social work perspective, the cure for single

NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES (1995). Assigning the care of children to the traditional private family, Fineman argues, merely obscures the inevitability and costs of children's dependency. *See id.* at 163.

31. *See* COLOR OF WELFARE, *supra* note 7, at 187–96.

32. While Gordon's aim is to reveal the "gendered roots" of the current welfare system, PITIED BUT NOT ENTITLED, *supra* note 6, at 12, she acknowledges that the Progressive Era women's movement excluded Black women both as participants and as objects of concern, and that "one could say that the fate of ADC was defined by the Civil War and Reconstruction—by the economic race relations and party alignments then constructed," *id.* at 285.

33. *See id.* at 48 (exclusion of minorities from some early mothers' aid programs); COLOR OF WELFARE, *supra* note 7, at 18–24 (exclusion of Blacks from New Deal social insurance programs); WINIFRED BELL, AID TO DEPENDENT CHILDREN 34–35 (1965) (exclusion of Black mothers from ADC).

34. PITIED BUT NOT ENTITLED, *supra* note 6, at 304. For another analysis of maternalist welfare reform as a means of cultural regulation, see GWENDOLYN MINK, THE WAGES OF MOTHERHOOD: INEQUALITY IN THE WELFARE STATE, 1917–1942, at 3–120 (1995).

35. PITIED BUT NOT ENTITLED, *supra* note 6, at 29.

36. Many commentators have observed that the contemporary welfare system continues to function as a means of controlling poor people's behavior. *See, e.g.,* Williams, *supra* note 12, at 720–21 (identifying idea behind current welfare reform projects such as Learnfare, Family Cap, and Bridefare as "only those women and children who conform to majoritarian middle-class values deserve government subsistence benefits"); Rosemary L. Bray, "So How Did I Get Here?," N.Y. TIMES, Nov. 8, 1992, § 6 (Magazine), at

mothers' poverty lay in socializing foreign relief recipients to conform to "American" family standards.³⁷ Thus, aid generally was conditioned on compliance with "suitable home" provisions and often administered by juvenile court judges who specialized in punitive and rehabilitative judgments.³⁸

Black single mothers, on the other hand, were simply excluded. The first maternalist welfare legislation was intended for white mothers only: Administrators either failed to establish programs in locations with large Black populations or distributed benefits according to standards that disqualified Black mothers.³⁹ As a result, in 1931 the first national survey of mothers' pensions broken down by race found that only three percent of recipients were Black.⁴⁰ The exclusivity of mothers' aid programs coincided with the entrenchment of formal racial segregation—another Progressive reform intended to strengthen social order.⁴¹

In a fascinating chapter entitled "Don't Wait for Deliverers," Gordon demonstrates the welfare movement's *ideological* loss that resulted from excluding Black women by contrasting the elite white reformers' programs with the welfare vision of Black women activists of the era.⁴² Although Black women reformers also relied on motherhood as a political platform, their approach to women's economic role differed dramatically from that of their privileged, white counterparts. Black women eschewed the viability of the family wage and women's economic dependence on men. Instead, they accepted married women's employment as a necessity, advocating assistance for working mothers.⁴³

Moreover, while white reformers relied largely on the romantic rhetoric of moral motherhood, Black women's organizations stressed the value of mothers' work in the home. As historian Eileen Boris observes, "black suffragists were redefining the political and demanding votes for women on the basis of their *work* as—rather than their mere being—mothers."⁴⁴ Black activist women

35, 40 (calling social supervision of welfare recipients "a control many Americans feel they have bought and paid for every April 15").

37. PITIED BUT NOT ENTITLED, *supra* note 6, at 47.

38. *Id.* at 45; see also ABRAMOVITZ, *supra* note 5, at 202–03; MINK, *supra* note 34, at 27–52.

39. PITIED BUT NOT ENTITLED, *supra* note 6, at 48; see also ABRAMOVITZ, *supra* note 5, at 201 (noting that maternalist welfare legislation served very few Black women); HANDLER & HASENFELD, *supra* note 3, at 25–27.

40. PITIED BUT NOT ENTITLED, *supra* note 6, at 48.

41. *Id.* at 87; see also Herbert Hovenkamp, *Social Science and Segregation Before Brown*, 1985 DUKE L.J. 624 (examining Progressive Era judges' reliance on prevailing scientific view about racial separation); Michael W. McConnell, *Originalism and the Desegregation Decisions*, 81 VA. L. REV. 947, 1131 n.856 (1995) (noting that "[t]he progressive reform movement in the South, with few exceptions, was also the white supremacist movement"). On the connection between southern progressivism and white supremacy, see generally JACK TEMPLE KIRBY, *DARKNESS AT THE DAWNING: RACE AND REFORM IN THE PROGRESSIVE SOUTH* (1972); C. VANN WOODWARD, *THE STRANGE CAREER OF JIM CROW* (3d ed. 1974).

42. See PITIED BUT NOT ENTITLED, *supra* note 6, at 111–43.

43. *Id.* at 136–37.

44. Eileen Boris, *The Power of Motherhood: Black and White Activist Women Redefine the "Political,"* 2 YALE J.L. & FEMINISM 25, 26 (1989).

showed their respect for housewives, for example, by making them eligible for membership in the National Association of Wage Earners.⁴⁵

B. *The Perpetuation of the Racialized Welfare System*

The New Deal solidified welfare's stratification along racial as well as gender lines. Northern New Dealers struck a bargain with Southern Democrats that systematically denied Blacks' eligibility for social insurance benefits: Core programs allowed states to define eligibility standards and excluded agricultural workers and domestic servants in a deliberate effort to maintain a Black menial labor caste in the South.⁴⁶ Whites feared that Social Security would make both recipients and those freed from the burden of supporting dependents less willing to accept low wages.⁴⁷ In addition, New Deal public works programs blatantly discriminated against Blacks, offering them the most menial jobs and paying them sometimes half of what white workers earned.⁴⁸ Even Aid to Dependent Children was created primarily for white mothers, who were not expected to work;⁴⁹ the relatively few Black recipients received smaller stipends on the ground that "blacks needed less to live on than whites."⁵⁰

Quadagno connects racial politics both to the enactment and to the dismantling of the 1960s welfare programs that followed. She interprets the War on Poverty as an effort to eliminate the racial barriers of the New Deal programs and to integrate Blacks into the national political economy.⁵¹ For example, the Office of Economic Opportunity used federal funds to empower community action groups run by local Black activists; federal affirmative action and job-training programs broke longstanding racial barriers to union jobs; the Department of Housing and Urban Development gave housing subsidies to the poor.⁵²

At the same time, the National Welfare Rights Organization, a grassroots movement composed of welfare mothers, joined forces with neighborhood welfare rights centers and legal services lawyers to agitate for major changes in the welfare system's eligibility and procedural rules.⁵³ This welfare rights movement secured entitlements to benefits, raised benefit levels, and increased

45. *Id.* at 41.

46. PITIED BUT NOT ENTITLED, *supra* note 6, at 276–77; COLOR OF WELFARE, *supra* note 7, at 21.

47. PITIED BUT NOT ENTITLED, *supra* note 6, at 275; *see also* PIVEN & CLOWARD, *supra* note 5, at 130–45 (explaining AFDC rules as a mechanism for enforcing Black low-wage labor); COLOR OF WELFARE, *supra* note 7, at 21 (noting that plantation owners feared welfare program grants "could undermine the entire foundation of the plantation economy").

48. PITIED BUT NOT ENTITLED, *supra* note 6, at 197.

49. COLOR OF WELFARE, *supra* note 7, at 119.

50. PITIED BUT NOT ENTITLED, *supra* note 6, at 276.

51. COLOR OF WELFARE, *supra* note 7, at 28–31. For another account of the Great Society programs and their impact on the welfare system, *see* PIVEN & CLOWARD, *supra* note 5, at 248–338.

52. COLOR OF WELFARE, *supra* note 7, at 100–06.

53. *Id.* at 120; PIVEN & CLOWARD, *supra* note 5, at 285–338.

availability of benefits to families headed by women. As a result, "by 1967, a welfare caseload that had once been eighty-six percent white had become forty-six percent nonwhite."⁵⁴

But Black welfare activists won a Pyrrhic victory. As Gordon notes, they got themselves included "not in social insurance but mainly in public assistance programs, which by then had become even stingier and more dishonorable than they had been originally."⁵⁵ As AFDC became increasingly associated with Black mothers already stereotyped as lazy, irresponsible, and overly fertile, it became increasingly burdened with behavior modification, work requirements, and reduced effective benefit levels.⁵⁶ Social Security, on the other hand, effectively transferred income from Blacks to whites because Blacks have a lower life expectancy and pay a disproportionate share of taxes on earnings.⁵⁷ Meanwhile, a white backlash had decimated the War on Poverty programs within a decade.⁵⁸

III. THE PROBLEM OF BLACK CITIZENSHIP

Supporters of a strong welfare state puzzle over the rejection of evidence that more generous and universal welfare programs would improve the quality of life for everyone. Why have Americans disdained basic protections, such as national health insurance, family allowances, and paid parental leave, that citizens of other industrialized nations take for granted? Why do Americans prefer a stingy welfare system that fosters a society marred by poverty, poor health, crime, and despair? Gordon argues that the early feminists' reliance on an already-outdated family wage ideal stemmed from their misapprehension of the extent of and need for women's participation in the labor market. The movement suffered as well from forging the wrong alliances, with male social insurance advocates rather than with poor people and Black women reformers who could have redirected the movement's welfare vision.⁵⁹

While Gordon lays much of the blame for past failures on historical shortsightedness, I think Quadagno provides the correct explanation. *The Color of Welfare* highlights the dilemma that Black citizenship poses for welfare reform. Quadagno demonstrates that it was precisely the War on Poverty programs' link to Blacks' civil rights that doomed them: Whites opposed them as an infringement of their economic right to discriminate against Blacks and a threat to white political power. President Nixon abolished the Office of

54. Gwendolyn Mink, *Welfare Reform in Historical Perspective*, 26 CONN. L. REV. 879, 891 (1994).

55. PITIED BUT NOT ENTITLED, *supra* note 6, at 5.

56. Mink, *supra* note 54, at 891-92.

57. COLOR OF WELFARE, *supra* note 7, at 160-61. Because Black women are less likely than white women to qualify for spouse benefits and more likely to work if married, "their Social Security taxes subsidize the spouse benefits of white housewives." *Id.* at 162.

58. *Id. passim*.

59. PITIED BUT NOT ENTITLED, *supra* note 6, at 304.

Economic Opportunity in 1973, nine years after its creation, when its extension of political rights to Blacks through local community action agencies appeared to foment rebellion in cities such as Newark.⁶⁰ At a time when European trade unions were fighting for full-employment policies and more comprehensive welfare provisions, the AFL-CIO defended its "property right"⁶¹ to exclude Blacks from its ranks and opposed the civil rights campaign for an open labor market.⁶² Peaking in 1968, federal housing subsidies underwent a precipitous decline when white homeowners backed by the powerful real estate lobby adamantly resisted residential integration.⁶³

For Quadagno, our deficient welfare state is "the price the nation still pays for failing to fully incorporate African Americans into the national community."⁶⁴ Privileged racial identity gives whites a powerful incentive to leave the existing social order intact. White Americans therefore have been unwilling to create social programs that will facilitate Blacks' full citizenship, *even when those programs would benefit whites*. Even white workers' and feminist movements have compromised their most radical dreams in order to strike political bargains that sacrifice the rights of Blacks.⁶⁵ W.E.B. Du Bois explained white resistance to labor and education reform during Reconstruction by the fact that poor and laboring whites preferred to be compensated by the

60. COLOR OF WELFARE, *supra* note 7, at 33–59. As Richard Cloward and Frances Fox Piven point out, OEO funding enabled the federal government "to become directly involved with a population that was extremely volatile and politically rebellious—not because it had been aroused by federal funds and federal rhetoric . . . but because of the traumatic dislocations it had suffered." PIVEN & CLOWARD, *supra* note 5, at 272.

61. COLOR OF WELFARE, *supra* note 7, at 65. For a fuller explication of whiteness as a property right, see Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707 (1993). Harris's analysis parallels Quadagno's historical claim about racial privilege, *id.* at 1741–42, but Harris also notes the continuing salience of this racialized property right:

The wages of whiteness are available to all whites regardless of class position, even to those whites who are without power, money, or influence. Whiteness, the characteristic that distinguishes them from Blacks, serves as compensation even to those who lack material wealth. It is the relative political advantages extended to whites, rather than actual economic gains, that are crucial to white workers.

Id. at 1759.

62. COLOR OF WELFARE, *supra* note 7, at 61–87.

63. *Id.* at 107–15.

64. *Id.* at 4; see also Kenneth L. Karst, *Citizenship, Race, and Marginality*, 30 WM. & MARY L. REV. 1, 6–7 (1988) ("One factor that weakens the American public's support for social welfare programs is the perception, widely shared among whites, that 'welfare' means aid to the members of racial and ethnic minorities.").

65. On white feminist movements' exclusion of Black women and their concerns, see ANGELA Y. DAVIS, *WOMEN, RACE & CLASS* 174–90 (1981); BELL HOOKS, *AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM* 119–58 (1981). For accounts of racism in American trade unions, see HERBERT HILL, *BLACK LABOR AND THE AMERICAN LEGAL SYSTEM* (1977); John Payton, *Redressing the Exclusion of and Discrimination Against Black Workers in the Skilled Construction Trades: The Approach of the Washington Lawyers' Committee for Civil Rights Under Law*, 27 HOW. L.J. 1397 (1984). See also *United Steelworkers v. Weber*, 443 U.S. 193, 198 n.1 (1979) ("Judicial findings of exclusion from crafts on racial grounds are so numerous as to make such exclusion a proper subject for judicial notice."); Elizabeth M. Iglesias, *Structures of Subordination: Women of Color at the Intersection of Title VII and The NLRA*, Not!, 28 HARV. C.R.-C.L. L. REV. 395 (1993) (discussing legal barriers to minority women's empowerment in integrated unions).

"public and psychological wage" of racial superiority.⁶⁶ Derrick Bell has similarly argued that whites in America—even those who lack wealth and power—believe that they gain from continued economic disparities that leave Blacks at the bottom.⁶⁷ In his most recent exposition of this thesis, Bell dismally concludes, "Black people will never gain full equality in this country."⁶⁸ Thus, opposition to Black citizenship has had a profound impact on our conception of welfare: It not only denied Blacks benefits to which whites were entitled; it also constrained the meaning of citizenship for all Americans.⁶⁹

From the founding of the nation, the meaning of American citizenship has rested on the denial of citizenship to Blacks living within its borders.⁷⁰ Citizenship had to be defined so as to account for the anomaly of slavery existing in a republic founded on a radical commitment to liberty, equality, and natural rights.⁷¹ As Eric Foner observes, "Slavery helped to shape the identity of all Americans, giving nationhood from the outset a powerful exclusionary dimension."⁷² The development of a republican conception of citizenship corresponded with the Founders' insistence on a white national identity.⁷³ Republicanism defined the requirements for citizenship in opposition to the traits whites attributed to Blacks. Whites rationalized Blacks' exclusion from citizenship by claiming that Blacks lacked the capacity for rational thought, independence, and self-control that was essential for self-governance.⁷⁴

Emancipation did not change the racial definition of citizenship. Despite the passage of the Reconstruction amendments to grant citizenship rights to freed Black slaves, an official regime of segregation, disenfranchisement, and

66. W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA 1860–1880*, at 700 (August Meier ed., Atheneum 1985) (1935).

67. Derrick Bell, *After We're Gone: Prudent Speculations on America in a Post-Racial Epoch*, 34 ST. LOUIS U. L.J. 393, 402–03 (1990).

68. DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 12 (1992) [hereinafter BELL, *FACES AT THE BOTTOM OF THE WELL*] (emphasis omitted).

69. Cf. Eric Foner, *Who Is an American?*, 4 CULTURE FRONT, Winter 1995–1996, at 4. Foner notes the positive implications of Black people's struggle for citizenship: "American history is not simply the story of a fixed set of rights to which one group after another has gained access. On the contrary, the definition of those rights has changed as a consequence of battles at the boundary over the demands of excluded groups for inclusion." *Id.* at 7. I discuss this transformative potential in Parts V–VII, *infra*.

70. On the Constitution's accommodation of slavery, see DERRICK BELL, *The Real Status of Blacks Today: The Chronicle of the Constitutional Contradiction*, in *AND WE ARE NOT SAVED* 26 (1987) [hereinafter BELL, *AND WE ARE NOT SAVED*]; PAUL FINKELMAN, *AN IMPERFECT UNION* 23 (1981). See also *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393, 423 (1856) (holding that no person of African descent is "citizen" within meaning of U.S. Constitution).

71. See Barbara Jeanne Fields, *Slavery, Race and Ideology in the United States of America*, 181 NEW LEFT REV. 95, 114 (1990); Foner, *supra* note 69, at 7.

72. Foner, *supra* note 69, at 7; cf. Karst, *supra* note 64, at 3 ("To define the scope of the ideal of equality in America is to define the boundaries of the national community:").

73. RONALD T. TAKAKI, *IRON CAGES: RACE AND CULTURE IN 19TH-CENTURY AMERICA* 15 (1990). The Naturalization Law of 1790, for example, reserved citizenship for whites only. *Id.* at 14–15.

74. Eric Foner, *The Meaning of Freedom in the Age of Emancipation*, 81 J. AM. HIST. 435, 443–44 (1994); see also TAKAKI, *supra* note 73, at 11–17, 28–35, 42–55.

terror practically reduced Blacks to their former status.⁷⁵ Soon after the Civil War, Frederick Douglass observed that the same ideology employed in defense of slavery was “employed as a justification of the fraud and violence by which colored men are divested of their citizenship, and robbed of their constitutional rights.”⁷⁶ Blacks’ status now resembled that of colonial subjects rather than of independent and equal beings.⁷⁷

A century later, the Swedish economist Gunnar Myrdal identified as white Americans’ “Negro problem” this same “ever-raging conflict between . . . the ‘American creed’” and racial subordination.⁷⁸ Myrdal found that America remained “a white man’s country.”⁷⁹ Not only were Blacks systematically excluded from the material privileges that white Americans enjoyed but Black people did not fit in the image of American national identity. Black people were in this sense aliens in America, “not really an integral part of the American nation beyond the convenient formal recognition that [they] live[] within the borders of the United States. From the white’s point of view, the Negro is not related to the ‘we,’ the Negro is the ‘they.’”⁸⁰ Although Blacks’ struggle to transform the meaning of citizenship has yielded some partial victories (the Reconstruction amendments and the Civil Rights Act of 1964, for example),⁸¹ America’s stratified and unequal welfare state reflects Americans’ adherence to a racial definition of citizenship.

Gordon cautions that we should not “oversimplify or dehistoricize” the white women reformers’ reasons for excluding Black women from their programs.⁸² But what was the reformers’ historical context? The first decades of this century witnessed official disenfranchisement of Blacks in the South, a virulent campaign to stem immigration of “inferior races,” and imposition of eugenic sterilization laws—all implemented as Progressive reforms.⁸³ Gordon seems unwilling to attribute the reformers’ oversight to sheer racial hatred, but even her reading of history reveals their problem with Black citizenship. Gordon explains: “For the white northern reformers early in the century, the primary fact was that they did not notice these minorities—did not imagine

75. See ERIC FONER, *NOTHING BUT FREEDOM* (1983); RAYFORD W. LOGAN, *THE BETRAYAL OF THE NEGRO* (1965); WOODWARD, *supra* note 41.

76. Frederick Douglass, *The Nation’s Problem*, in *NEGRO SOCIAL AND POLITICAL THOUGHT, 1850–1920*, at 311, 312 (Howard Brotz ed., 1966).

77. CRUSE, *REBELLION OR REVOLUTION?*, *supra* note 14, at 76; see also ROBERT L. ALLEN, *BLACK AWAKENING IN CAPITALIST AMERICA 1–17* (2d ed. 1970) (describing Black America’s status as a “semicolony” of white America).

78. GUNNAR MYRDAL, *AN AMERICAN DILEMMA* at lxxi (2d ed. 1962).

79. *Id.* at lxxvi.

80. CRUSE, *REBELLION OR REVOLUTION?*, *supra* note 14, at 77.

81. See ERIC FONER, *RECONSTRUCTION: AMERICA’S UNFINISHED REVOLUTION, 1863–1877* (1988); ROBERT WEISBROT, *FREEDOM BOUND: A HISTORY OF AMERICA’S CIVIL RIGHTS MOVEMENT* (1990).

82. PITIED BUT NOT ENTITLED, *supra* note 6, at 87.

83. See MARK H. HALLER, *EUGENICS: HEREDITARIAN ATTITUDES IN AMERICAN THOUGHT* (1963); JOHN HIGHAM, *STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM, 1860–1925*, at 300–30 (2d ed. 1965); WOODWARD, *supra* note 41.

them as indicated objects of reform. For the southerners, the immigrants appeared reformable and integratable as blacks did not."⁸⁴ Their maternalist legislation was intended to assimilate women who had the potential of becoming citizens. Blacks, who lacked this potential, stood entirely outside the elite white women's paternalistic concept of the national community.⁸⁵

Race helps to explain why the maternalist rhetoric that propelled welfare reform during the Progressive Era has lost all its persuasive force. While mothers' aid at the outset of this century supported white women in exchange for their valuable caretaking, welfare reform at the end of the century castigates Black single mothers whose work in the home is devalued.⁸⁶ Because the public views Black mothers as "less fit, less caring, and less hurt by separation from their children," it seems inconceivable to compensate their domestic contribution and natural to make them work outside the home.⁸⁷ More generally, Black single mothers are the target of measures that cut back benefits to welfare recipients and that attempt to reform their behavior because they are not considered to be citizens.

IV. WELFARE AND THE DENIAL OF THE RIGHTS OF CITIZENSHIP

One way of understanding the injustice of the current welfare system is to examine how its stratified structure distinguishes between citizens and subjects. Citizens, primarily wealthy and middle-class white Americans, receive government assistance as a dignified entitlement. Subjects, who are disproportionately Black, are stigmatized as undeserving recipients of public charity. I explore in this part several ways in which the form of government aid known as welfare denies to recipients the rights of citizenship.⁸⁸

A. *The Distinction Between Citizens and Subjects*

The stratification of our welfare system that distributes benefits according to race and gender also differentiates between two classes of inhabitants—citizens and subjects. Citizens receive welfare as an entitlement:

84. PITIED BUT NOT ENTITLED, *supra* note 6, at 87 (footnote omitted). Gwendolyn Mink similarly observes that even in the North, Blacks were excluded from maternalist cultural reform efforts designed to assimilate European immigrants: "Pegging equality to cultural conformity while withholding the tools and choice of conformity from African Americans, liberal racism marked the Black mother, worker, and child as unassimilable." MINK, *supra* note 34, at 120.

85. For an illustration of feminists' paternalism toward their less fortunate sisters, see Johanna Brenner, *Towards a Feminist Perspective on Welfare Reform*, 2 YALE J.L. & FEMINISM 99, 120-23 (1989).

86. Dorothy E. Roberts, *The Value of Black Mothers' Work*, 26 CONN. L. REV. 871 (1994).

87. *Id.* at 874.

88. It is true that the dichotomy between citizens and subjects does not fall perfectly along racial lines: Many poor whites also receive the degrading form of welfare. But the impact of America's hostility to Black citizenship is far more profound than the racial allocation of welfare benefits. The primary reason the American welfare state denies even to white people some of the privileges of citizenship is its reluctance to establish programs that will grant these privileges to Blacks.

Government has an obligation to support citizens as compensation for their social contribution or as a prerequisite to their full participation in political and economic life. For example, the government pays citizens Social Security benefits that are unencumbered by behavioral conditions, caseworker investigations, or social stigma.⁸⁹

Subjects, on the other hand, receive inferior, inadequate, and stigmatizing relief at the government's discretion. Poor mothers who receive AFDC, for example, are considered unworthy of government assistance; their benefits, set below the poverty level, are conditioned on conformance to behavioral rules and submission to government inspection.⁹⁰ This surveillance of welfare recipients' everyday lives is so contrary to the government's respect for citizens that it unmistakably marks these families as government subjects.⁹¹ Black organizers who agitated for relief entitlements during the Depression suggested that the investigation of applicants' morals was a violation of citizenship rights. One complained:

"Your Administrators here in Baltimore take it upon themselves to inquire into the morals of the applicant. . . . The writer does not believe that the letter of the Relief law, or even its spirit gives the Administrators that authority. May I mention that in France, to hold a moral inquest upon the applicant for aid is forbidden by law."⁹²

Given this connection between citizenship and entitlement to welfare, it is not surprising that current welfare reform proposals include the elimination of public assistance for undocumented immigrants.⁹³

The critical difference between these two forms of welfare lies in their relation to individuals' autonomy. While welfare for citizens enables them to be self-ruling persons, welfare for subjects enables the government to rule them. Gordon makes this distinction in her defense of welfare entitlements: "Citizens have rights to which they are entitled by law, and losing this understanding endangers the republic. . . . Moreover, the *feeling* of entitlement

89. See generally ERIC R. KINGSON & EDWARD D. BERKOWITZ, *SOCIAL SECURITY & MEDICARE* (1993) (describing social policy and eligibility rules governing Social Security).

90. See ABRAMOVITZ, *supra* note 5, at 349–68; Williams, *supra* note 12, at 721–24. Current welfare reform proposals would replace the federal guarantee of AFDC with block grants to the states. Elizabeth Shogren, *House OKs Welfare Overhaul That Cuts Off Aid Guarantees*, L.A. TIMES, Mar. 25, 1995, at A1.

91. Cf. Austin Sarat, " . . . The Law Is All Over": *Power, Resistance and the Legal Consciousness of the Welfare Poor*, 2 YALE J.L. & HUMAN. 343, 344 (1990) (noting that public authorities regulate people on welfare more intensively than they do people not on welfare).

92. PITIED BUT NOT ENTITLED, *supra* note 6, at 245 (quoting Letter from Gribov to Harry Hopkins (Dec. 12, 1934)).

93. See Personal Responsibility Act, *supra* note 4, § 402 (denying AFDC benefits to undocumented aliens); Jennifer M. Bosco, Note, *Undocumented Immigrants, Economic Justice, and Welfare Reform in California*, 8 GEO. IMMIGR. L.J. 71, 72–76 (1994) (describing anti-immigration measures proposed and adopted in California); Dan Balz, *A Historic Republican Triumph: GOP Captures Congress; Party Controls Both Houses for First Time Since '50's*, WASH. POST, Nov. 9, 1994, at A1, A22 (describing California's Proposition 187, which denies a number of social services to undocumented aliens).

is also vital to the republic. It is the attitude of citizenship, the essence of independence; *without it we would have subjects, not citizens.*"⁹⁴

The very relegation of subjects to inferior programs that supervise and humiliate them reinforces their lack of citizenship qualities while bolstering the virtues of the citizens who receive dignified entitlements. Citizens' compensation by social insurance makes them appear independent and self-sufficient; subjects' receipt of charity makes them appear dependent and irresponsible. Current welfare reform rhetoric condemns mothers who receive AFDC for transmitting a pathology of "welfare dependency" to their children.⁹⁵ According to this view, reliance on this form of welfare reflects a lack of work ethic and leads to a myriad of social problems, including crime, unwed motherhood, and long-term poverty.⁹⁶ Yet Americans do not view reliance on Social Security as "dependency" at all, despite the program's strong redistributive effects and the millions of nonworking wives and children who in fact depend on its benefits for subsistence.⁹⁷ Gordon gives the following example of the downward-spiraling process that results from stigmatizing welfare recipients:

The stigmas of "welfare" and of single motherhood intersect; hostility to the poor and hostility to deviant family forms reinforce each other. The resentment undercuts political support for the program, and benefits fall farther and farther behind inflation. The resulting immiseration makes poor single mothers even more needy and less politically attractive. The economic downturn of the last decade has deepened both the poverty and the resentment, and created the impression that we are experiencing a new, unprecedented, and primarily minority social problem.⁹⁸

94. PITIED BUT NOT ENTITLED, *supra* note 6, at 288 (second emphasis added).

95. Martha L. Fineman, *Images of Mothers in Poverty Discourses*, 1991 DUKE L.J. 274, 281-85.

96. See, e.g., MICKEY KAUS, *THE END OF EQUALITY* 121 (1992); LAWRENCE M. MEAD, *THE NEW POLITICS OF POVERTY: THE NONWORKING POOR IN AMERICA* 185-209 (1992).

97. See HANDLER & HASENFELD, *supra* note 3, at 18-19; KINGSON & BERKOWITZ, *supra* note 89, at 23-25; Stephen D. Sugarman, *Reforming Welfare Through Social Security*, 26 U. MICH. J.L. REF. 817, 817-23 (1993) (noting that, in 1992, nearly 4 million children and caretaker parents received Social Security benefits totaling about \$14 billion). Theresa Funicello explains the unfairness of the distinction made between children supported by Social Security and those supported by AFDC:

No one has suggested the mother on social security suffers from "dependency," yet everyone seems concerned about dependency when it comes to welfare. There is no rational public policy basis for treating families in essentially identical circumstances in such radically different ways. . . . The only real difference between "survivor" and "welfare" families . . . is the imprimatur of the father. The message: the needs and rights of women and children are determined not by universal standards but by the nature of their prior relationship to a man.

THERESA FUNICELLO, *TYRANNY OF KINDNESS: DISMANTLING THE WELFARE SYSTEM TO END POVERTY IN AMERICA* 9 (1993).

98. PITIED BUT NOT ENTITLED, *supra* note 6, at 6. Gwendolyn Mink makes a similar point: "The politics of backlash marked the welfare mother as Black and took her newly unregulated 'dependence' on welfare as proof of her irremediable failure to assimilate the work, cultural, and family values of the American middle class." MINK, *supra* note 34, at 183.

Thus, Black single mothers' inferior status in the welfare state has intensified their political and economic marginalization, making them even less worthy of citizenship rights. By casting their need for public assistance as "dependency," welfare reform rhetoric suggests that these women lack the independence required to be citizens, entitled to dignified government support.⁹⁹

B. *Welfare as a Waiver of Privacy*

One of the key differences between welfare extended to citizens and welfare extended to subjects is the degree to which each conditions its benefits on government intrusion into recipients' privacy. Public relief for single mothers is structured to permit bureaucratic supervision of clients in order to determine their eligibility based on both means and morals testing.¹⁰⁰ Citizens avoid these impositions because they receive their benefits in the form of entitlements that are not subject to the discretion of caseworkers, supervisors, or administrators.¹⁰¹ Since welfare's inception, states have conditioned payments on mothers' compliance with standards of sexual and reproductive morality, such as "suitable home" or "man in the house" rules.¹⁰² More recently, welfare mothers have been required to undergo mandatory paternity proceedings involving state scrutiny of their intimate lives.¹⁰³ Over the last three years, at least thirty states have applied for federal waivers allowing them to change their welfare programs to incorporate a form of behavior modification.¹⁰⁴

Means testing and morals testing allow welfare bureaucrats to place recipients under surveillance to check for cheating or lapses in eligibility. Such testing also forces recipients to assume a submissive stance lest offended

99. For critiques of the welfare dependency thesis, see Nancy Fraser & Linda Gordon, *A Genealogy of Dependency: Tracing a Keyword of the U.S. Welfare State*, 19 SIGNS 309 (1994); Lucie E. White, *No Exit: Rethinking "Welfare Dependency" from a Different Ground*, 81 GEO. L.J. 1961 (1993).

100. PITIED BUT NOT ENTITLED, *supra* note 6, at 294-99.

101. *Id.* at 295.

102. ABRAMOVITZ, *supra* note 5, at 323-26; PITIED BUT NOT ENTITLED, *supra* note 6, at 45-46; Williams, *supra* note 12, at 723-24; *see* S. REP. No. 628, 74th Cong., 1st Sess. § 402(b), at 36 (1935) ("[The State] may, furthermore, impose such other eligibility requirements—as to means, moral character, etc.—as it sees fit."); H.R. REP. No. 615, 74th Cong., 1st Sess., § 402(b), at 24 (1935).

103. FINEMAN, *supra* note 30, at 186; *see* *Roe v. Norton*, 422 U.S. 391 (1975) (per curiam) (noticing federal requirement of welfare mothers' cooperation in establishing paternity of children born out of wedlock); *Allen v. Eichler*, No. 89A-FE-4, 1990 WL 58223 (Del. Super. Ct. Apr. 3, 1990) (upholding denial of benefits to woman who refused to submit calendar on which she had allegedly written names of her sexual partners). Under the Family Support Act of 1988, the states are required to meet federal standards to establish the paternity of children born out of wedlock as a means of procuring child support from the absent fathers. Family Support Act of 1988, Pub. L. No. 100-485, tit. I, 102 Stat. 2343, 2344 (1988). The Personal Responsibility Act would deny AFDC benefits for a child whose paternity has not been established unless the unmarried mother cooperates in tracking down the child's father. Personal Responsibility Act, *supra* note 4, §§ 101, 103.

104. *See* Susan Bennett & Kathleen A. Sullivan, *Disentitling the Poor: Waivers and Welfare "Reform,"* 26 U. MICH. J.L. REF. 741, 742 (1993).

caseworkers cut them from the rolls.¹⁰⁵ A Black domestic's experience with poor relief in the 1930s remains typical of welfare recipients today:

"The investigators, they were like detectives, like I had committed a crime. . . . I had to tell them about my life, more than if I was on trial . . . the investigator searched my icebox . . . I was ashamed of my life . . . that's how you're made to feel when you're down and out like you're nothing better than a criminal."¹⁰⁶

Privacy doctrine does not shield from state intrusion people who receive welfare as subjects; rather, their acceptance of government benefits constitutes a waiver of privacy. Because families are not entitled to government support, the Supreme Court has reasoned, the government may force them to open up for inspection, shrink, rearrange, or break up in order to qualify for benefits.¹⁰⁷ Courts sometimes find egregious invasions of poor families' privacy to be unconstitutional, but most of the day-to-day decisions of family life remain vulnerable to legitimate state supervision.¹⁰⁸ While poor single mothers (subjects) must endure government surveillance for their paltry benefits, "self-sufficient" traditional families (citizens) receive huge public subsidies—Social Security, tax breaks, and government-backed mortgages—without any loss of privacy.¹⁰⁹

The Supreme Court invalidated early welfare eligibility requirements, such as AFDC's "man in the house" rule, designed to "legislate morality" of recipients.¹¹⁰ Other precedents, however, affirm the state's power to

105. For a poignant story of a welfare recipient's use of submissive identity as a strategy for survival in the context of a welfare hearing, see Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1 (1990). Noncompliant recipients sometimes suffer brutal retaliation at the hands of government agents. See FUNICELLO, *supra* note 97, at 24–53.

106. BRENDA CLEGG GRAY, *BLACK FEMALE DOMESTICS DURING THE DEPRESSION IN NEW YORK CITY, 1930–1940*, at 103 (1993), *quoted in* PITIED BUT NOT ENTITLED, *supra* note 6, at 192 (alterations in original). Lucie White recounts a contemporary mother's similar experience with welfare workers: "I know they be wanting to *know* everything. They are so nosy. They control your life. I don't like it." White, *supra* note 99, at 1973; *see also* Patrick J. Horvath, *Has Harassment Become the Plan for Reducing Welfare Rolls?*, N.Y. TIMES, Aug. 15, 1995, at A16 (letter) (describing harassment of New York City welfare recipients under Mayor Rudolph Giuliani's plan to weed out fraudulent claims).

107. *See, e.g.*, *Bowen v. Gilliard*, 483 U.S. 587 (1987) (upholding AFDC regulation determining families' eligibility for benefits despite negative effects on families' chosen living arrangements); *Lyng v. Castillo*, 477 U.S. 635 (1986) (rejecting constitutional challenge to provision in federal food stamps program that determined eligibility based on households); *Wyman v. James*, 400 U.S. 309 (1971) (rejecting welfare mother's right to resist state home inspection as condition of welfare eligibility).

108. *See* FINEMAN, *supra* note 30, at 185.

109. *See id.* at 191; *see also* Iris M. Young, *Mothers, Citizenship, and Independence: A Critique of Pure Family Values*, 105 ETHICS 535, 550 (1995) ("[C]itizens judged self-sufficient have a right to autonomy, but those who are not independent in this sense often have their autonomy limited in many ways.").

110. *Williams*, *supra* note 12, at 724 n.39; *see* *Lewis v. Martin*, 397 U.S. 552 (1970) (holding unconstitutional a regulation allocating to mother for purposes of AFDC eligibility income of man who shares her home with no legal obligation to provide support); *King v. Smith*, 392 U.S. 309 (1968)

condition eligibility for benefits on conformity with majoritarian family norms. In *Dandridge v. Williams*,¹¹¹ for example, the Court upheld Maryland's regulation that placed an absolute cap of \$250 monthly per family, regardless of the family's size or financial need. The Court found that the state's interest in encouraging employment was a sufficiently rational reason to defeat recipients' equal protection challenge. The Court rejected the objection that some families had no employable member on the ground that "the Equal Protection Clause does not require that a State must choose between attacking every aspect of a problem or not attacking the problem at all."¹¹²

Nor do welfare recipients fare well under the unconstitutional conditions doctrine, which provides that the government may not condition the conferral of a benefit on the beneficiary's surrender of a constitutional right, although the government may choose not to provide the benefit altogether.¹¹³ The Court has avoided the unconstitutional conditions problem in cases involving public assistance to the poor by distinguishing between direct state interference with a protected activity and the state's mere refusal to subsidize a protected activity.¹¹⁴ The former, the Court concedes, raises a constitutional issue because it involves state action, whereas the latter is a constitutionally insignificant failure to act.¹¹⁵ For example, the Court refused to require the state or federal governments to pay the cost of abortion services for poor women, even though they pay for the expenses incident to childbirth, reasoning that "[a]lthough government may not place obstacles in the path of a woman's exercise of her freedom of choice, it need not remove those not of its own creation."¹¹⁶ By regarding welfare benefits as an undeserved subsidy, the Court allows the state to treat recipients as subjects whose behavior may be modified to fit current social policy.

(invalidating Alabama's regulation disqualifying from AFDC any mother living with man who was not obligated to provide support).

111. 397 U.S. 471 (1970).

112. *Id.* at 486-87.

113. See Kathleen M. Sullivan, *Unconstitutional Conditions*, 102 HARV. L. REV. 1413, 1415 (1989) (stating the doctrine).

114. See, e.g., *Rust v. Sullivan*, 500 U.S. 173 (1991) (upholding prohibition on use of federal family-planning funds for abortion counseling as not unduly restrictive of individual's right to choose abortion); *Webster v. Reproductive Health Servs.*, 492 U.S. 490 (1989) (upholding prohibition on use of state funds, employees, or facilities to perform abortion as not unduly restrictive of individual's right to choose abortion).

115. See CASS R. SUNSTEIN, *THE PARTIAL CONSTITUTION* 298-301 (1993).

116. *Harris v. McRae*, 448 U.S. 297, 316 (1980). The abortion-funding cases raise an unconstitutional conditions problem when the government's refusal to pay for abortions is viewed as a condition on the receipt of Medicaid funds: Pregnant women may receive medical benefits as long as they do not use them to exercise their right to obtain an abortion.

C. *Welfare and Conditions on Reproduction*

The goal of some welfare reform proposals is to discourage poor women from having children. These measures include both "family cap" legislation, which denies additional benefits for children born to women already on welfare,¹¹⁷ and proposals for cash bonuses to encourage these women to use Norplant.¹¹⁸ This degree of government control over reproductive decisionmaking would surely amount to a violation of citizens' procreative liberty if imposed directly by law.¹¹⁹ Protection of such deeply personal matters from government intrusion is "[a]t the heart of liberty."¹²⁰ I have described government restrictions on procreation as a form of dehumanization:

The right to bear children goes to the heart of what it means to be human. The value we place on individuals determines whether we see them as entitled to perpetuate themselves in their children. Denying someone the right to bear children—or punishing her for exercising that right—deprives her of a basic part of her humanity. When this denial is based on race, it also functions to preserve a racial hierarchy that essentially disregards Black humanity.¹²¹

In thinking about welfare's relationship to citizenship, I have come to view provisions designed to deter welfare recipients from having children as another denial of citizenship rights. One of the privileges of citizenship is the ability to contribute one's children to the next generation of citizens. Subjects, on the other hand, are considered unworthy of adding their offspring to the national community. This aspect of citizenship explains, as well, the present campaign to deny automatic citizenship to children born in the United States of undocumented immigrant parents.¹²²

117. See Mike Dorning, *Welfare Cap on Families Shows Signs of Success*, CHI. TRIB., Mar. 12, 1995, at 1; Melinda Henneberger, *Rethinking Welfare: Deterring New Births—A Special Report; State Aid Is Capped, but to What Effect?*, N.Y. TIMES, Apr. 11, 1995, at A1. A federal judge recently upheld the constitutionality of New Jersey's "family cap" law. See *CK v. Shalala*, 883 F. Supp. 991 (D.N.J. 1995).

118. See Tamar Lewin, *A Plan to Pay Welfare Mothers for Birth Control*, N.Y. TIMES, Feb. 9, 1991, at A9. At least two states have proposed legislation to mandate the use of Norplant as a condition of receiving welfare benefits, though both proposals were ultimately rejected. See Judy Mann, *Punishment Is Not a Contraceptive*, WASH. POST, Mar. 2, 1994, at E15. For discussions of the constitutionality of legislation conditioning welfare benefits on Norplant use, see Tracy Ballard, *The Norplant Condition: One Step Forward or Two Steps Back?*, 16 HARV. WOMEN'S L.J. 139 (1993); Laurence C. Nolan, *The Unconstitutional Conditions Doctrine and Mandating Norplant for Women on Welfare Discourse*, 3 AM. U. J. GENDER & L. 15 (1994).

119. See generally JOHN A. ROBERTSON, *CHILDREN OF CHOICE: FREEDOM AND THE NEW REPRODUCTIVE TECHNOLOGIES* (1994) (discussing constitutional protection of individuals' procreative freedom).

120. *Planned Parenthood v. Casey*, 112 S. Ct. 2791, 2807 (1992) (referring to "personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education").

121. Dorothy E. Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality and the Right of Privacy*, 104 HARV. L. REV. 1419, 1472 (1991) (footnote omitted).

122. See Robert J. Shulman, Comment, *Children of a Lesser God: Should the Fourteenth Amendment Be Altered or Repealed to Deny Automatic Citizenship Rights and Privileges to American Born Children*

D. *Welfare and Forced Labor*

Welfare work policies also reflect the distinction between citizens and subjects. Welfare for citizens addresses defects in the economic *structure* in order to protect citizens' economic security. Welfare for subjects, on the other hand, attempts to change the individual's *character* in order to improve her motivation or ability to work.¹²³ The most popular welfare reform provisions are those that attempt to end welfare dependency by requiring recipients to work at government-created jobs or by cutting off benefits after a set period of years.¹²⁴

Programs that force recipients to perform menial labor for subsistence benefits resemble involuntary servitude more than the creation of meaningful work.¹²⁵ Work programs cannot possibly enable untrained and poorly educated women to achieve financial self-sufficiency, especially in an economy structured against women and with diminishing demand for unskilled workers.¹²⁶ Any work disincentive that exists for welfare mothers is caused not by overly generous welfare benefits, but by the miserable conditions of available full-time jobs: poverty wages, loss of welfare benefits, and inadequate child and health care.¹²⁷ In the end, workfare programs leave poor mothers *worse off* economically because they remain at the same AFDC level but incur the added costs of going to work.¹²⁸ Treating AFDC recipients as citizens rather than as subjects would require dramatic economic and social changes,

of Illegal Aliens?, 22 PEPP. L. REV. 669 (1995) (discussing American tradition of granting automatic citizenship at birth and proposed constitutional changes); see also PETER BRIMELOW, *ALIEN NATION: COMMON SENSE ABOUT AMERICA'S IMMIGRATION DISASTER* 178-86 (1995) (advocating curtailment of immigration from Third World countries to preserve America's cultural identity); PETER H. SCHUCK & ROGERS M. SMITH, *CITIZENSHIP WITHOUT CONSENT: ILLEGAL ALIENS IN THE AMERICAN POLITY* 90-115 (1985) (criticizing birthright citizenship for ascribing membership in American polity without consent of polity or citizen).

123. See *COLOR OF WELFARE*, *supra* note 7, at 67; Backer, *supra* note 3, at 354-56 (arguing that behavior modification policies stem from erroneous assumptions about causes of poverty: "One of the main purposes of welfare is to eliminate the personal weaknesses that prevent the able bodied from fending for themselves.").

124. For descriptions of mandatory work programs, see Julie A. Nice, *Welfare Servitude*, 1 GEO. J. ON FIGHTING POVERTY 340, 342-44 (1993); Joanna K. Weinberg, *The Dilemma of Welfare Reform: "Workfare" Programs and Poor Women*, 26 NEW ENG. L. REV. 415, 425-50 (1991); Jason DeParle, *Clinton Idea Used to Limit Welfare: States Issue Their Own Plans to Put Two-Year Curbs on Those Getting Benefits*, N.Y. TIMES, June 2, 1993, at A12.

125. See Nice, *supra* note 124, at 344-55 (arguing that mandatory work programs impose involuntary servitude and therefore violate Thirteenth Amendment).

126. See MILDRED REIN, *DILEMMAS OF WELFARE POLICY: WHY WORK STRATEGIES HAVEN'T WORKED* (1982); Minow, *supra* note 3, at 831-38; Weinberg, *supra* note 124, at 448-52; see also Diana Pearce, *Welfare Is Not for Women: Why the War on Poverty Cannot Conquer the Feminization of Poverty*, in *WOMEN, THE STATE, AND WELFARE* 265, 267-69 (Linda Gordon ed., 1990) (describing uniqueness of female poverty).

127. See CHRISTOPHER JENCKS, *RETHINKING SOCIAL POLICY: RACE, POVERTY, AND THE UNDERCLASS* 223-26 (1992); Lee Anne Fennell, *Interdependence and Choice in Distributive Justice: The Welfare Conundrum*, 1994 WIS. L. REV. 235, 281; see also White, *supra* note 99, at 1975-91 (describing barriers to Black women's exit from welfare).

128. See Joel F. Handler, *Two Years and You're Out*, 26 CONN. L. REV. 857, 864 (1994).

including aggressive job creation, a higher minimum wage or a guaranteed minimum income, subsidized child and health care, and elimination of inequalities in the labor market.

Pitied But Not Entitled and *The Color of Welfare* reveal how welfare policy was structured to maintain a Black menial labor force. The fear that welfare would allow recipients to resist poverty wages was a chief justification for excluding Blacks from New Deal welfare programs and opposing guaranteed-income proposals during the 1970s.¹²⁹ As one Georgia Democratic Congressman warned in opposition to President Nixon's guaranteed-income proposal, "'There's not going to be anybody left to roll these wheelbarrows and press these shirts.'" ¹³⁰ In addition, welfare officials used work programs as a source of Black labor to fill degrading jobs.¹³¹ The subsequent "deindustrialization" of the U.S. economy has rendered Black menial labor largely superfluous and cast the masses of Black Americans even further from citizenship status.¹³²

V. CITIZENSHIP AND A NEW VISION OF WELFARE

By connecting welfare to social citizenship, both Gordon and Quadagno seek to expand welfare's cultural meaning beyond its current definition as a public handout to the very poor. Welfare's role in fostering citizenship suggests its potential for helping to achieve racial justice instead of perpetuating racial inequities. Moreover, Black people's demand for citizenship rights is a powerful catalyst for reimagining our conception of welfare. Paradoxically, white Americans' resistance to Black citizenship has prevented this vision from achieving fruition. After describing the citizenship ideal of welfare, I will discuss in Part VI possible strategies for overcoming this impediment.

An early example of the citizenship vision of welfare comes from the convergence of welfare advocacy and "race uplift" work in Black women's activism at the turn of the century. At a time when most Americans viewed welfare as undeserved relief for social inferiors, Black women reformers advocated welfare as a prerequisite for Black people's citizenship, similar to

129. PITIED BUT NOT ENTITLED, *supra* note 6, at 275; COLOR OF WELFARE, *supra* note 7, at 21. See generally PIVEN & CLOWARD, *supra* note 5 (describing how welfare system historically has been used to regulate low-wage labor).

130. COLOR OF WELFARE, *supra* note 7, at 130 (quoting Rep. Phillip Landrum).

131. Under the Work Incentive Program in the South, for example, "welfare recipients are made to serve as maids or to do day yard work in white homes to keep their checks. During the cotton-picking season no one is accepted on welfare because plantations need cheap labor to do cotton-picking behind the cotton-picking machines." *Id.* at 128 (quoting U.S. Congress, Hearings on H.R. 16311, at 1511).

132. See Derrick Bell, *Black History and America's Future*, 29 VAL. U. L. REV. 1179, 1186-87 (1995) (describing demographic shifts having severe impact on minority workers); Ronald Takaki, *A Dream Deferred: The Crisis of "Losing Ground,"* in FROM DIFFERENT SHORES: PERSPECTIVES ON RACE AND ETHNICITY IN AMERICA 257, 259 (Ronald Takaki ed., 2d ed. 1994).

the right to vote or to equal access to public accommodations.¹³³ For these advocates, "[r]ace issues were poverty issues, and women's issues were race issues. Race uplift work was usually welfare work by definition, conceived as a path to racial equality. And black poverty could not be ameliorated without challenges to white domination."¹³⁴ Black women's citizenship perspective helped to structure the welfare programs they advocated: They preferred universal programs and a broad meaning of welfare that included public education and accessible health care.

Following in their foremothers' tradition, Black people's organizing for relief during the Depression combined civil rights and welfare activism.¹³⁵ Quadagno, moreover, applies this citizenship orientation to her analysis of the War on Poverty, in which she discusses a wide range of government programs because of her focus on Black Americans' equal participation in society rather than the narrow issue of payments to the needy. Thus, Quadagno devotes as much attention to fair housing policy, political empowerment, and affirmative action in employment as to Social Security and AFDC. The history of welfare in the 1960s reminds us that many of these currently vilified programs were established as remediation for centuries of institutionalized repression.

Particularly enlightening is Quadagno's constant attention to the interdependence of our civil rights. Quadagno links together Blacks' ability to enter the labor market, to participate in politics, and to choose where to live. The right to work without coercion depends on the right to fair housing: People must enjoy the liberty to live where they can find jobs and take advantage of investment opportunities.¹³⁶ For this reason, "[r]esidence is more than a personal choice; it is also a primary source of political identity and economic security. Likewise, residential segregation is more than a matter of social distance; it is a matter of political fragmentation and economic stratification along racial lines"¹³⁷ Quadagno sees residential segregation as a major obstacle to the formation of class solidarity across racial boundaries as well.¹³⁸ Because "working-class politics generally operated on the basis of membership in the local community rather than membership in a union," Blacks' spatial isolation impeded multiracial political organizing.¹³⁹

133. PITIED BUT NOT ENTITLED, *supra* note 6, at 111–43.

134. *Id.* at 132. For other accounts of Black women's activism at the turn of the century, see EVELYN BROOKS HIGGINBOTHAM, *RIGHTEOUS DISCONTENT: THE WOMEN'S MOVEMENT IN THE BLACK BAPTIST CHURCH, 1880–1920* (1993); CYNTHIA NEVERDON-MORTON, *AFRO-AMERICAN WOMEN OF THE SOUTH AND THE ADVANCEMENT OF THE RACE, 1885–1925* (1989).

135. PITIED BUT NOT ENTITLED, *supra* note 6, at 245.

136. *HOUSING IN AMERICA: PROBLEMS & PERSPECTIVES* 3 (Roger Montgomery & Daniel R. Mandelker eds., 2d ed. 1979) (defining housing as "a specific location in relation to work and services, neighbors and neighborhoods, income and investment opportunities").

137. Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1841, 1844 (1994) (footnote omitted).

138. COLOR OF WELFARE, *supra* note 7, at 59.

139. *See id.* On the interaction between racially identified spaces and local government politics, see Ford, *supra* note 137, at 1860–85.

Thus, decades of forced residential segregation that concentrated Blacks in inner cities compounded the racial barriers to their employment and political participation.¹⁴⁰

Similarly, the right to vote depends on the right to work without coercion: People who are economically subjugated have less freedom to assert their political will.¹⁴¹ For example, Quadagno points out that the critical determinant of Black political participation in the South was the source of Blacks' income: "[C]ounties with high black voter turnouts were those in which African Americans depended least on whites for their livelihood."¹⁴² And Quadagno notes that white Southerners opposed President Nixon's guaranteed-income proposal, the Family Assistance Plan, because it threatened to upset the racial caste system by emancipating the Southern Black labor force.¹⁴³

Quadagno also demonstrates the interdependence of public and private barriers to equality. After the New Deal and prior to the War on Poverty, for example, the federal government tacitly allowed racial discrimination by trade unions, even on projects using federal funds.¹⁴⁴ Federal housing policies also reinforced the private residential discrimination carried out by homeowners, brokers, and lenders: Government-subsidized mortgages were virtually reserved for whites, and public housing for Blacks was confined to inner cities.¹⁴⁵ Federal housing subsidies, then, are a form of welfare needed to redress decades of enforced isolation and to enable Blacks to participate fully as citizens in the national polity and economy.

Gordon and Quadagno suggest a conception of welfare's enabling role in citizenship that is more radical than the civic republican defense of minimum entitlements.¹⁴⁶ Welfare is more than a minimal means of survival for the

140. COLOR OF WELFARE, *supra* note 7, at 89. See generally DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993) (demonstrating that existence of persistently poor "underclass" resulted from systemic racial discrimination in public and private housing markets).

141. Both liberal and republican political theories hold that economic independence is a prerequisite to democracy and political liberty. See JAMES W. ELY, JR., *THE GUARDIAN OF EVERY OTHER RIGHT: A CONSTITUTIONAL HISTORY OF PROPERTY RIGHTS* (1992); JENNIFER NEDELSKY, *PRIVATE PROPERTY AND THE LIMITS OF AMERICAN CONSTITUTIONALISM: THE MADISONIAN FRAMEWORK AND ITS LEGACY* 141-202 (1990); Charles A. Reich, *The New Property*, 73 YALE L.J. 733, 779 (1964); Cass R. Sunstein, *On Property and Constitutionalism*, 14 CARDOZO L. REV. 907 (1993) ("A right to private property, free from government interference, is . . . a necessary basis for a democracy.").

142. COLOR OF WELFARE, *supra* note 7, at 129.

143. *Id.*

144. *Id.* at 61.

145. MASSEY & DENTON, *supra* note 140, at 17-82; COLOR OF WELFARE, *supra* note 7, at 90-91; Ford, *supra* note 137, at 1848. Today, race-neutral legal doctrine and public policy serve to perpetuate already-established racial segregation and its attendant problems. See *id.* at 1844-45.

146. See, e.g., SUNSTEIN, *supra* note 115, at 138-40; Akhil Reed Amar, *Forty Acres and A Mule: A Republican Theory of Minimum Entitlements*, 13 HARV. J.L. & PUB. POL'Y 37 (1990); Frank I. Michelman, *Welfare Rights in a Constitutional Democracy*, 1979 WASH. U. L.Q. 659. For an argument that the tradition of democratic constitutionalism supports a more radical vision of economic rights, see William E. Forbath, *Why Is This Rights Talk Different from All Other Rights Talk? Demoting the Court and Reimagining the*

poor; it is a badge of citizenship, a prerequisite to full membership in the national community. Both books make clear that building a just welfare state requires abolishing its stratification based on earned entitlements and undeserved handouts. Advocates must strive to place individual welfare programs in their larger context of "all of a government's contributions to its citizens' well-being."¹⁴⁷ This view would include as welfare not only AFDC, Social Security, and unemployment insurance, but also presently concealed benefits such as home mortgage deductions, public schools and parks, garbage disposal, farm subsidies, and corporate tax breaks.¹⁴⁸ The view would thus reveal that most welfare helps Americans who are not poor.

This broader view of welfare would dramatically change the debate about single mothers receiving AFDC, for example. Far from being seen as undeserving and irresponsible dependents on public relief, these women would be seen as mothers whom the government should be obligated to compensate for their valuable contribution to society. We would view them as no less entitled to government aid than retired elderly people or mothers who rely on Social Security benefits to support their children. In addition, a citizenship view of welfare would seek to bring these women into full participation in the labor market rather than merely helping them to subsist. Under this approach, welfare would support working mothers through day care, medical insurance, education, paid parental leave, and a guaranteed income, as well as an aggressive policy to restructure the economy to provide more decent jobs.¹⁴⁹

VI. STRATEGIES FOR TRANSFORMING THE AMERICAN WELFARE SYSTEM

Given the defeat of past efforts to create an inclusive welfare state, how should contemporary visionaries promote the citizenship ideal of welfare? Gordon and Quadagno find lessons for future welfare movements in the failed strategies and alliances that they studied. Racism's crucial role in past setbacks makes it clear that strategies must center on resolving the dilemma of Black citizenship. This part discusses three strategies that have been proposed for resolving this problem: universal programs, multiracial organizing, and Black separatism.

One strategy advocated by Gordon and Quadagno, universalism, seeks to avoid the problem of Black citizenship by soliciting white support for programs that benefit all citizens. A second strategy organizes for institutional

Constitution, 46 STAN. L. REV. 1771 (1994) (reviewing CASS R. SUNSTEIN, *THE PARTIAL CONSTITUTION* (1993)).

147. PITIED BUT NOT ENTITLED, *supra* note 6, at 2.

148. See *id.*; see also KINGSON & BERKOWITZ, *supra* note 89, at 14 (discussing public income transfers structured through income tax system); THEODORE R. MARMOR ET AL., *AMERICA'S MISUNDERSTOOD WELFARE STATE* 90-95 (1990).

149. See PITIED BUT NOT ENTITLED, *supra* note 6, at 306.

change through multiracial coalitions that overcome racism by focusing on groups' common goals. Finally, the separatist agenda eschews white acceptance of Blacks as citizens and provides for Black people's welfare through independent community development. I conclude that none of these strategies by itself can achieve the radical transformation of American political and economic structures necessary to make real the citizenship ideal of welfare. While the universal and multiracial solutions underestimate the force of white Americans' opposition to Black citizenship, the separatist solution underestimates the need for systemic change.

A. *The Universalist Solution*

Gordon and Quadagno both signal the political vulnerability of "targeted" welfare policies—programs that are means-tested or designed to benefit a disadvantaged group, such as Blacks.¹⁵⁰ Targeted programs that have a high proportion of Black beneficiaries, such as subsidized housing, are easily plucked from the budget when opposed by white taxpayers.¹⁵¹ Instead, the authors (Gordon more enthusiastically than Quadagno) advocate programs that base eligibility on universal criteria as a way of eliminating welfare's stratified structure and of building broad-based support.¹⁵² Because people who benefit from welfare support welfare, Gordon argues, "a bigger welfare state is likely to be a more popular one."¹⁵³ Quadagno recommends that welfare programs garner support by "reward[ing] those who pay their costs."¹⁵⁴ William Julius Wilson advocated a similar strategy of enhancing the political viability of government programs by deemphasizing their racial objectives: "The hidden agenda is to improve the life chances of groups such as the ghetto underclass by emphasizing programs in which the more advantaged groups of all races can positively relate."¹⁵⁵ By obscuring welfare's benefits for poor Blacks, the universalist reasoning goes, an array of race-neutral programs will garner more support than the current system, which the public associates with Blacks.

Universal programs that benefit all citizens would constitute a significant improvement over the current, inadequate system. National health insurance, for example, would secure desperately needed medical care for the thirty-nine million, mostly working poor, Americans who are currently uninsured.¹⁵⁶

150. See *id.* at 305; COLOR OF WELFARE, *supra* note 7, at 155.

151. See COLOR OF WELFARE, *supra* note 7, at 114.

152. See PITIED BUT NOT ENTITLED, *supra* note 6, at 305–06; COLOR OF WELFARE, *supra* note 7, at 185.

153. PITIED BUT NOT ENTITLED, *supra* note 6, at 305.

154. COLOR OF WELFARE, *supra* note 7, at 185.

155. WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY 120 (1987).

156. See Erik Eckholm, *Frayed Nerves of People Without Health Coverage*, N.Y. TIMES, July 11, 1994, at A1 (profiling various low-wage families with no health insurance); Sonia Nazario & Douglas P. Shuit, *Many in Middle Class Turn to County for Medical Help*, L.A. TIMES, Oct. 30, 1995, at A1.

Child allowances would similarly provide an important assurance of children's well-being and eliminate the less visible system of income tax deductions that benefits only those with high enough incomes to take advantage of it. Earned income tax credits offer similar advantages: By subsidizing low-wage jobs, they "blur the distinction between the single parent family moving off welfare, or combining welfare and work, and the non-welfare family."¹⁵⁷

Faith in universalism, however, underestimates America's problem with Black citizenship. Universalist solutions center on eliminating the stigma that welfare's stratification places on Black Americans, but overlook the degree of white Americans' unwillingness to accept Blacks as full citizens in the first place. Universalism focuses on implementing restructured programs without paying sufficient attention to the social forces that structured the current stratified system and that have similarly stratified every other aspect of American society. Some advocates of universal programs naively believe that the barriers to Black citizenship stem from flaws in welfare policy itself, rather than from the racism that drives those policies.¹⁵⁸

Universal programs are inadequate for three reasons. First, universal programs alone constitute an improbable guarantee that the poor will receive sufficient benefits.¹⁵⁹ Universal programs have a "trickle-up" effect.¹⁶⁰ Programs designed to benefit all citizens, rich and poor, are likely to benefit rich citizens the most because they have greater political and economic resources to structure programs to their advantage. At the very least, universal benefits must be supplemented with need-based programs to ensure that those at the bottom actually receive adequate aid. Benefits that provide the necessities of a decent life—housing, nutrition, adequate income, jobs for unskilled workers—must be administered directly to those who need them, or the very poor risk falling below the minimum level of welfare.

Second, universal programs do not attempt to dismantle the institutionalized impediments to Blacks' social and economic citizenship. They leave racist social structures in place, relying on the distribution of benefits to relieve the problems these structures create. Universal programs are subject to Iris Marion Young's criticism of the distributive definition of justice: By

(describing plight of uninsured in Los Angeles County). Had President Clinton's plan for national health care reform succeeded, it might have provided a model for government assistance that would improve the welfare of most of the population. See Abigail Trafford & Cristine Russell, *Opening Night for Clinton's Plan*, WASH. POST, Sept. 21, 1993, at Z12 (discussing history of presidential health care reform efforts).

157. Handler, *supra* note 128, at 868. For other universalist proposals that include assistance to the working poor, such as earned income tax credits, see JENCKS, *supra* note 127, at 233–34; David T. Ellwood, *Reducing Poverty by Replacing Welfare*, in WELFARE REALITIES: FROM RHETORIC TO REFORM 143, 148 (Mary Jo Bane & David T. Ellwood eds., 1994).

158. See COLOR OF WELFARE, *supra* note 7, at 10.

159. *Id.* at 156 (quoting Kenneth S. Tollett, *Racism and Race-Conscious Remedies*, 3 AM. PROSPECT 91 (1991)); Robert Greenstein, *Universal and Targeted Approaches to Relieving Poverty: An Alternative View*, in THE URBAN UNDERCLASS 437, 456–58 (Christopher Jencks & Paul E. Peterson eds., 1991).

160. I am indebted to Iris Marion Young for suggesting this phrase.

focusing attention on the allocation of material goods, Young argues, the distributive paradigm fails to scrutinize the institutional context that helps to determine distributive patterns.¹⁶¹ I have a similar fear about universalism's effort to maneuver around racism. The process of making programs race-neutral and therefore more palatable to white Americans is likely to weaken their power to eradicate systemic oppression.¹⁶²

Finally, and most devastatingly, universal programs are hindered by their ultimate appeal to the public's self-interest. Strategizing to expand the welfare state has involved devising ways to convince Americans that helping others is in their own interest. Social Security retains its political popularity because it appeals to Americans' individual self-interest: It is perceived as an insurance program in which beneficiaries recoup what they contributed. Social theorists have noted the political attractiveness of using the Social Security model for other welfare programs;¹⁶³ even liberal theories of justice rely on a model of self-insurance.¹⁶⁴

White supremacy, however, complicates reformers' reliance on universalism and self-interest to promote the welfare state. The assumption that universal programs are intrinsically appealing because they benefit everyone crumbles in the face of racism. Many white Americans remain uninterested in advancing the welfare of Black Americans; many others see helping everyone as contrary to their self-interest because they perceive Black people's social position in opposition to their own.¹⁶⁵ Under American racist ideology, universal programs that benefit Blacks are necessarily antithetical to white interests because Blacks' social advancement diminishes white superiority.

Indeed, the popularity of "universal" social insurance programs has hinged on their formal or effective exclusion of Black people. New Deal reformers could promote Social Security as a universal program designed to benefit all classes only by first disqualifying most Black workers. "Instead of a 'universal' welfare state that could create solidarity among workers,"

161. IRIS MARION YOUNG, *JUSTICE AND THE POLITICS OF DIFFERENCE* 15-33 (1990).

162. Critical race scholars have demonstrated that the liberal reliance on seemingly neutral principles, including "color blindness," actually legitimates the interests and experiences of white people. See, e.g., PATRICIA J. WILLIAMS, *The Obliging Shell: An Informal Essay on Formal Equal Opportunity*, in *THE ALCHEMY OF RACE AND RIGHTS* 98 (1991); Richard Delgado, *Rodrigo's Fourth Chronicle: Neutrality and Stasis in Antidiscrimination Law*, 45 *STAN. L. REV.* 1133, 1139-47 (1993); Neil Gotanda, *A Critique of "Our Constitution is Color-Blind"*, 44 *STAN. L. REV.* 1 (1991).

163. See, e.g., CHARLES LOCKHART, *GAINING GROUND: TAILORING SOCIAL PROGRAMS TO AMERICAN VALUES* 4 (1989) (proposing that "design features of social security could be adapted for the development of social merging programs directed at reducing poverty"); Stephen D. Sugarman, *Financial Support of Children and the End of Welfare as We Know It*, 81 *VA. L. REV.* (forthcoming 1996) (proposing child support assurance scheme modeled on Social Security).

164. Fennell, *supra* note 127, at 272-73 & n.142 (referring to JOHN RAWLS, *A THEORY OF JUSTICE* (1971) and Ronald Dworkin, *What is Equality? Part 2: Equality of Resources*, 10 *PHIL. & PUB. AFF.* 283, 315 (1981)).

165. See *supra* text accompanying notes 61-69; cf. TONI MORRISON, *PLAYING IN THE DARK: WHITENESS AND THE LITERARY IMAGINATION* 52 (1992) (describing how whiteness is valued in relation to Blackness in white literary imagination).

Quadagno notes, "the New Deal welfare state instituted a regime that reinforced racial inequality."¹⁶⁶ Ironically, then, while universal programs are advocated as a pragmatic means of racial inclusion, their implementation realistically may depend on racial exclusion. Quadagno defines universalism as "benefits granted as a right of citizenship."¹⁶⁷ Perhaps universalism is the only politically feasible strategy for expanding the welfare state; but until Blacks are counted as citizens, they will never receive purportedly universal entitlements—even if denying entitlements to Blacks means denying needed benefits to everyone.

In recommending universal programs, Gordon overlooks the very lessons of history she uncovers. Black women activists advocated universal programs when white reformers rejected them because Black women identified with their poorer sisters and understood that programs to eliminate poverty and deprivation ultimately benefited the entire race. Their motto, "Lifting As We Climb," signified Black women's commitment to collective action and responsibility: "It was not enough for clubwomen individually to succeed; clubwomen shared a sense that they were representatives of their race and their gender so that their goals were unfulfilled to the extent that any member of their community was left behind."¹⁶⁸

Using the metaphor of family, Gordon contrasts the Black women's collective perspective with the approach of the white feminist reformers of that time:

White maternalism was also a way of separating helper from helped, of constructing those who needed welfare or charity as "other." Their poor, immigrant "children" were, at the closest, "adopted." But [to Black women reformers,] black women's "children" were very much "family." There was little chronological distance, because the privilege of elite blacks was so recent and so tenuous. There was little geographical distance, because residential segregation did not allow the black middle class much insulation from the black poor.¹⁶⁹

Black women activists preferred universal programs because the circumstances of race tied all Black people together as "family." It is precisely the privatized family model of social accountability that robs universal programs of a strong ideological foundation. According to this model, our empathy extends only to people "whom we can imagine as potential lovers or family members."¹⁷⁰

166. COLOR OF WELFARE, *supra* note 7, at 19.

167. *Id.* at 156.

168. Monica J. Evans, *Stealing Away: Black Women, Outlaw Culture and the Rhetoric of Rights*, 28 HARV. C.R.-C.L. L. REV. 263, 277-78 (1993).

169. PITIED BUT NOT ENTITLED, *supra* note 6, at 127-28.

170. STEPHANIE COONTZ, THE WAY WE NEVER WERE: AMERICAN FAMILIES AND THE NOSTALGIA TRAP 115 (1992).

The limits of support for universal programs correspond to the scope of our empathy, and, consequently, our image of the family. Most white Americans, however, cannot imagine Black people as part of their families.¹⁷¹ The circumstances that bound elite Black reformers to their poor brothers and sisters—residential segregation, economic discrimination, and social inferiority—continue to separate the races. While the white feminist reformers were at least willing to “adopt” poor, immigrant children, they excluded Black children from their “family” altogether.¹⁷²

Thus, both Gordon and Quadagno expose how racism has thwarted the citizenship vision of welfare and how it limits the potential for universal programs. Yet both authors leave unanswered this difficult quandary: How would an expanded welfare state compensate white Americans for their loss of racial privilege?

B. *The Potential for a Multiracial Social Movement*

The previous section argued that the American practice of defining universal rights in racial terms will continue to restrict society’s vision of government provision for all citizens. Universal programs that appeal to white Americans’ self-interest are unlikely to change Black Americans’ subordinated status. We must therefore advocate a citizenship vision of welfare not as the fulfillment of self-interest but as a matter of racial justice. If there is any hope for realizing the citizenship vision of welfare, it must come from a progressive social movement that not only sees a common interest in the welfare state but also is dedicated to struggle explicitly for Black citizenship. Both books suggest the potential and limitations of this type of social activism.

One of the strengths of *Pitied But Not Entitled* is its vivid portrayal of the social movements and individual actors that inspired and shaped welfare legislation. Gordon is especially interested in probing the ways in which choices appeared to historical actors and their reasons for embracing one design over another. As Deborah Stone notes, the book is less about single mothers than about “how reformers thought about poor single mothers.”¹⁷³ *The Color of Welfare*, on the other hand, examines the social forces that dismantled the War on Poverty programs, but fails to investigate the social movement that installed these programs in the first place. *The Color of Welfare* would have been enriched by more information about the work of Black activists and other progressives who agitated for the short-lived antipoverty programs the book describes.

171. See Dorothy E. Roberts, *The Genetic Tie*, 62 U. CHI. L. REV. 209 (1995) (discussing how race influences social meaning of genetic relatedness).

172. PITIED BUT NOT ENTITLED, *supra* note 6, at 46–49.

173. Deborah A. Stone, *Of Alms and the Woman*, NEW REPUBLIC, Dec. 26, 1994, at 27, 27 (reviewing PITIED BUT NOT ENTITLED, *supra* note 6).

Neither book, then, explores a movement that successfully implemented a welfare program designed to enhance Black citizenship. One possibility is that a social movement composed of progressive whites committed to racial justice along with Blacks and other people of color will unite to transform the American welfare state. What does the history of welfare tell us about the potential for such a multiracial movement at the turn of the twenty-first century?

The achievements of early feminist reformers suggest that the common concerns of working mothers offer a basis for progressive coalition building. Lucie White calls on middle-class and elite women to follow in the footsteps of their Progressive Era foremothers, suggesting that they replace the Progressives' focus on "pensions to protect poor women from the workforce" with "reforms for all parents in the workplace itself."¹⁷⁴ Theda Skocpol also believes that the way to achieve universal family security programs is for feminist groups to join a broad democratic political alliance, thereby "recapitulat[ing] in contemporary ways some of the best ideas and methods once used by proponents of maternalist social policies."¹⁷⁵ Women's increasing presence in the labor market and changes in attitudes about family and work may "make it possible for the first time since the emergence of industrial capitalism to challenge women's assignment to unpaid caring work."¹⁷⁶ Contemporary feminist activists therefore operate in a context in which they can link together the interests of working mothers of different races who need government assistance to care for their children.

Workers' common interest in economic justice offers another basis for promoting the citizenship vision of welfare. The shift from an industrial to a service economy and the massive exportation of manufacturing jobs overseas have plunged the United States into an economic crisis that threatens the livelihoods of Black and white workers alike.¹⁷⁷ Taking a historical perspective, Margaret Weir suggests that a full-employment policy could have united Blacks and labor unions facing similar pressures of high unemployment in the past.¹⁷⁸ Likewise, Karl Klare advocates an aggressive jobs policy, advanced by a coalition of poor people's advocates and organized labor, that recognizes the common interest of welfare recipients and low-wage workers in raising the labor market floor.¹⁷⁹

174. See Lucie E. White, *On the "Consensus" To End Welfare: Where Are the Women's Voices?*, 26 CONN. L. REV. 843, 853 (1994).

175. SKOCPOL, *supra* note 18, at 539.

176. Brenner, *supra* note 85, at 129.

177. See generally SHELDON DANZIGER & PETER GOTTSCHALK, *AMERICA UNEQUAL* (1995); see also Bell, *supra* note 132, at 1186-87 (describing problem of current economic crisis).

178. Margaret Weir, *The Federal Government and Unemployment: The Frustration of Policy Innovation from the New Deal to the Great Society*, in *THE POLITICS OF SOCIAL POLICY IN THE UNITED STATES* 149, 181-84 (Margaret Weir et al. eds., 1988).

179. Karl E. Klare, *Toward New Strategies For Low-Wage Workers*, 1 PUB. INTEREST L.J. 1, 6-12 (1995).

Pitied But Not Entitled and *The Color of Welfare*, however, cast doubt on the potential for such multiracial organizing. Gordon's research suggests that elite and middle-class women reformers have a vested interest in explaining poverty in terms of cultural and personal weakness, rather than in transforming the structure of economic and racial inequality.¹⁸⁰ Quadagno portrays white trade unions as the principal antagonists of federal affirmative action efforts during the 1960s and doubts that even full employment would have reduced union racism.¹⁸¹ Far from linking workers and poor people across racial lines, the economic crisis has led many whites to blame welfare recipients for wasting their tax dollars and affirmative action for stealing their jobs.¹⁸² We are witnessing the abolition of programs designed to foster Black citizenship, not their promotion by a multiracial workers' movement.¹⁸³

It seems that even progressive whites falter on the problem of Black citizenship. Their own perspective on social problems and stake in the racial order raise some of the same difficulties for multiracial organizing that confront universalist programs. Perhaps due to their equation of Black nationalism with white supremacy, progressive whites have found it hard to comprehend the liberating meaning of race consciousness.¹⁸⁴ The history of racial segregation as a means of white domination makes separatist efforts on the part of Blacks look to many whites like a form of racism to be rejected. Years ago, Harold Cruse noted the inability of white progressives to cope with racial equality and Black activism in a scathing indictment of the internal racial politics of Marxist groups:

Ironically, even within Marxist organizations Negroes have had to function as a numerical minority, and have been subordinated to the will of a white majority on all crucial matters of racial policy. What the Marxists called "Negro-white unity" within their organizations was, in reality, white domination. Thus the Marxist movement took a position of favoring a racial equality that did not even exist within the organization of the movement itself. . . . Marxism has stripped the Negro question of every theoretical concern

180. See *PITIED BUT NOT ENTITLED*, *supra* note 6, at 67–108. The growing realization that feminist politics must incorporate coalitions of women of diverse backgrounds as well as an antiracist platform provides some hope that future welfare activists need not repeat the fatal errors of past feminist reform movements. See, e.g., Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Deborah L. Rhode, *Feminism and the State*, 107 HARV. L. REV. 1181 (1994).

181. See *COLOR OF WELFARE*, *supra* note 7, at 61–87.

182. See Bruce D. Butterfield, *Affirmative Action under Fire: Shunning Old Paths to Equality at Work*, BOSTON GLOBE, Oct. 20, 1991, at 1.

183. For a vision of a multiracial workers' movement developed through theories and strategies that account for both race and class, see Frances Lee Ansley, *Stirring the Ashes: Race, Class and the Future of Civil Rights Scholarship*, 74 CORNELL L. REV. 993 (1989).

184. Gary Peller, *Race Consciousness*, 1990 DUKE L.J. 758, 762.

for the class, color, ethnic, economic, cultural, psychological, and "national" complexities.¹⁸⁵

Cruse also faulted these progressives for failing to explain how socialism would eliminate white supremacy and foster Blacks' cultural identity:

What guarantee do Negroes have that socialism means racial equality any more than does capitalist democracy? Would socialism mean the assimilation of the Negro into the dominant racial group? . . . In other words, the failure of American capitalist abundance to help solve the crying problems of the Negro's existence cannot be fobbed off on some future socialist heaven.¹⁸⁶

It is this persistent racism and resulting weakness of *progressive* movements in America that lead some well-meaning strategists to relinquish hope in radical change and to rely instead on universal programs.

C. *Separatism and Black Community Development*

The problem that Black citizenship poses for the American welfare state may point organizing in another direction. Cognizant of the futility of appeals to whites' self-interest and common concerns, Blacks might turn their efforts inward. The notion of Black citizenship is not a predicament reserved for white people; it is a problem for Black folks as well. Blacks are skeptical not only about the prospect of their acceptance in American society, but also about whether, "should complete integration somehow be achieved, it would prove to be really desirable, for its price may be the total absorption and disappearance of the race—a sort of painless genocide."¹⁸⁷ Why should Blacks petition for citizenship in a nation that disparages their character, denies them its material benefits, and treats them with brutality? The project of seeking inclusion in a welfare system designed to denigrate Blacks seems extremely suspect, to say the least. Thus, an alternative to the universalist and coalition-building strategies for welfare reform is for Blacks to repudiate the quest for citizenship altogether.

The separatist alternative is supported by Derrick Bell's heavy dose of "racial realism."¹⁸⁸ Bell draws our attention to whites' persistent refusal to abdicate their racial domination and their repeated sacrificing of Black people's rights. Despite decades devoted to civil rights protest and litigation, the economic and political condition of the majority of Blacks has worsened. Bell

185. CRUSE, REBELLION OR REVOLUTION?, *supra* note 14, at 92.

186. *Id.* at 93.

187. Robert S. Browne, *A Case for Separation*, in SEPARATISM OR INTEGRATION 7, 10 (Robert Browne & Bayard Rustin eds., 1968).

188. See Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363 (1992).

draws the conclusion that our commitment to racial equality is not only a miserable failure but may even perpetuate Blacks' disempowerment. Bell therefore adopts the following bleak manifesto:

Black people will never gain full equality in this country. Even those herculean efforts we hail as successful will produce no more than temporary "peaks of progress," short-lived victories that slide into irrelevance as racial patterns adapt in ways that maintain white dominance. This is a hard-to-accept fact that all history verifies. We must acknowledge it and move on to adopt policies based on what I call: "Racial Realism." This mind-set or philosophy requires us to acknowledge the permanence of our subordinate status. That acknowledgement enables us to avoid despair, and frees us to imagine and implement racial strategies that can bring fulfillment and even triumph.¹⁸⁹

For Bell, Blacks may triumph by engaging in oppositional acts that defy the white power structure without harboring the unrealistic expectation of toppling it.¹⁹⁰

In light of these racial realities, many Blacks favor building separatist economic and political institutions in lieu of reliance on government aid. This rejection of the American welfare state is part of the long tradition of Black nationalism that sees Blacks as forming a distinct community that should resist assimilation into white society.¹⁹¹ Black nationalists have condemned the integrationist vision of the civil rights movement for capitulating to white cultural imperialism and advocating ineffective remedies for racial subordination.¹⁹² Because Blacks can only expect to receive the degrading form of welfare from white America, a more plausible and liberating strategy is to strive for Black economic self-sufficiency.

Regina Austin, for example, advocates that Blacks concentrate their struggle on developing the Black public sphere, which she describes as "a space in which blacks generate and consolidate wealth through the production of goods and services and the creation of markets and audiences that fully utilize their labor power and creativity."¹⁹³ Rather than appealing to whites'

189. *Id.* at 373-74. Bell reaches a similar conclusion in two books, *BELL, FACES AT THE BOTTOM OF THE WELL*, *supra* note 68, and *BELL, AND WE ARE NOT SAVED*, *supra* note 70.

190. Bell, *supra* note 188, at 379.

191. See generally ROBERT L. ALLEN, *A GUIDE TO BLACK POWER IN AMERICA* (1970); HAROLD CRUSE, *THE CRISIS OF THE NEGRO INTELLECTUAL* (1967) (analyzing historical tension between integrationism and Black nationalism); Peller, *supra* note 184 (describing struggle between integrationism and Black nationalism since late 1960s).

192. See, e.g., STOKELY CARMICHAEL & CHARLES HAMILTON, *BLACK POWER* 54-55 (1967) ("'Integration' as a goal today speaks to the problem of blackness not only in an unrealistic way but also in a despicable way. . . . The fact is that integration, as traditionally articulated, would abolish the black community.").

193. Regina Austin, *Beyond Black Demons and White Devils: Antiblack Conspiracy Theorizing & the Black Public Sphere*, 22 FLA. ST. U. L. REV. 1021, 1043 (1995) [hereinafter Austin, *Beyond Black*].

self-interest, fostering the Black public sphere enables Blacks to pursue collectively their own self-interest. This approach answers Bell's concerns about the permanence of racism by providing for Black people's welfare without the need for white people's assistance. As Austin explains:

Although blacks must resist white supremacy at every turn, blacks should also recognize the inadequacy of the concessions white supremacy is likely to accord them and proceed on the assumption that they must generate and sustain a black public sphere, that is, a space in which they can pursue the good life both in spite of white people and without regard to them.¹⁹⁴

Perhaps the faith in Black economic self-sufficiency is utopian, but no more so than is the faith in white people's miraculous inclusion of Blacks in the economic mainstream.¹⁹⁵

VII. CAN RACIAL REALISTS PURSUE SYSTEMIC CHANGE?

The separatist approach has the distinct advantage of confronting the problem that Black citizenship poses for the American welfare state. It is based on a realization that white Americans are unlikely to relinquish their racial privilege to create a welfare system that incorporates Blacks as citizens. It affirms as well ordinary Black folks' ability to determine their own destiny. But, like the universalist approach, a completely separatist program evades racist institutions rather than dismantling them. Are there nevertheless reasons to struggle for radical, systemic change in America? Is it worthwhile to sustain a vision of a strong welfare state that regards Black people as citizens? I argue in this part that, despite racism's intransigence, these are necessary goals for both moral and strategic reasons.

Those who rely on community development alone must think hard about its real potential for achieving the drastic changes needed to improve the material conditions of Black people. While Black economic self-sufficiency is an understandable goal, the community's ravaged resources are unlikely to provide an adequate means of raising the masses of Black people out of poverty. The very evidence of Blacks' economic and political marginalization upon which Bell relies to prove the permanence of racism demonstrates the imperative of radical change. While we should recognize and defend ordinary

Demons]. Austin has elaborated a strategy of developing the Black informal economy in a series of articles. See Regina Austin, "The Black Community," *Its Lawbreakers, and a Politics of Identification*, 65 S. CAL. L. REV. 1769, 1799-1817 (1992); Regina Austin, *Concerns of Our Own*, 24 RUTGERS L.J. 731 (1993); Regina Austin, "An Honest Living": *Street Vendors, Municipal Regulation, and the Black Public Sphere*, 103 YALE L.J. 2119 (1994); Regina Austin, "A Nation of Thieves": *Securing Black People's Right to Shop and to Sell in White America*, 1994 UTAH L. REV. 147.

194. Austin, *Beyond Black Demons*, *supra* note 193, at 1042-43.

195. See CRUSE, *REBELLION OR REVOLUTION?*, *supra* note 14, at 95.

people's everyday resistance to racism, we must also acknowledge that collective action for structural change is more effective than solitary acts of harassment.¹⁹⁶ Surely we do not expect that Blacks must forever hustle to survive.

Thus, Black Americans face a dilemma of their own: America's deeply ingrained racial injustice makes Black nationalism a necessity, yet this injustice seems too profound to be fixed by isolationist self-help measures. Harold Cruse's piercing analysis of the Negro's dilemma in the 1960s, *Rebellion or Revolution?*, sheds helpful light on this quandary. After acknowledging compelling support for the view of white America as a sinking ship, Cruse nevertheless wondered whether Blacks can safely jump off:

The flaw for us in the sinking ship forecast is that we are more or less doomed to sink with it. The American Negro, caught in a social situation from which he cannot readily depart, retreat, or easily advance, resembles Jean Paul Sartre's existential man who is "condemned to be free."¹⁹⁷

Neither an integrationism that relies on white people's accommodation of Blacks nor a separatism that ignores America's overall condition can provide Black people with a path out of this predicament. Cruse concluded that the American Negro had no choice but to "stand up and fight his way out of the social trap in which Western civilization has ensnared him."¹⁹⁸ Despite the intractability of racism, Blacks resign from the struggle to transform America at their peril.

The commitment to building independent Black institutions need not entail extrication from the pursuit of radical economic and social change in America.¹⁹⁹ On the contrary, Black political, economic, and cultural self-determination is a necessary condition for social change. First, Black nationalist organizing is essential to acquiring the clout required for effective agitation, political bargaining, and coalition building.²⁰⁰ Whites' unwillingness to cede their racial privilege means that Blacks must support their demands with increased political unity and economic strength. This position of strength opens the possibility of Blacks' effective alliances with

196. See Joel F. Handler, *Postmodernism, Protest, and the New Social Movements*, 26 LAW & SOC'Y REV. 697, 715 (1992) (contrasting 1960s accounts of collective political struggles with postmodern stories of individual and isolated acts of resistance).

197. CRUSE, *REBELLION OR REVOLUTION?*, *supra* note 14, at 104.

198. *Id.*

199. I consider in this part the development of Black institutions within the United States. An alternative form of nationalism is the establishment of an independent Black nation. An independent Black nation would also resolve the problem of Black citizenship, but raises additional questions of feasibility.

200. See Frances Fox Piven & Richard A. Cloward, *The Case Against Urban Desegregation*, in *THE POLITICS OF TURMOIL: ESSAYS ON POVERTY, RACE AND THE URBAN CRISIS* 177, 196-98 (Richard A. Cloward & Frances Fox Piven eds., 1974).

other people of color and progressive whites—alliances that, although difficult to forge, are necessary for systemic change. Strengthening Black community institutions provides bases of power needed to advance Black people's distinct interests. Racial solidarity must be nourished by a vital cultural life shared in community associations.²⁰¹

Second, a strong Black political apparatus is critical to ensure that government welfare actually benefits Black communities. As I argued above, centuries of racial oppression and marginalization have diminished the Black community's potential to improve the lot of its most deprived members entirely on its own. Yet the white-dominated welfare system has always administered its charity in a way that reinforces Black subordination. As a result, Robert Allen contended, "if neocolonialism is to be avoided, it is essential that control over the use of any outside aid must rest completely in the hands of the black community."²⁰² Separatist political organizations provide the means to channel state monies and programs in the interests of Black people.

In *The Color of Welfare*, for example, Jill Quadagno explores the impact of grants issued by the newly created Office of Economic Opportunity (OEO) directly to neighborhood Community Action Agencies during the 1960s.²⁰³ In a number of cities, OEO circumvented local politicians and welfare authorities to place federal resources in the hands of community civil rights organizations. Quadagno notes that Newark's community action program was particularly successful at wresting control of antipoverty funds from the local Democratic machine: "As civil rights activists seized the community action program, social policy became a weapon in the battle for racial equality."²⁰⁴ Quadagno attributes Newark's achievement to the "numerical dominance of the African American community plus the presence of civil rights activists organized for radical action."²⁰⁵ By contrast, Mayor Daley's entrenched political power in Chicago prevented community action there from fostering Black political empowerment.

Finally, Black nationalism can make a theoretical contribution to the citizenship vision of welfare. Racism has stunted the creative imagination of progressive thinkers in America, limiting their conception of the possibilities of a welfare state. Gordon's history of white feminist reformers discloses that their vision of welfare was spoiled by their inability to embrace Black women either as equal participants in their movement or as objects of their concern.

201. CRUSE, *REBELLION OR REVOLUTION?*, *supra* note 14, at 66 (asserting that "the Negro problem in the United States [is] primarily a cultural question"). *But see* ALLEN, *supra* note 77, at 171–80 (criticizing Cruse's reliance on democratic cultural pluralism to launch the Black revolution). Allen argued that cultural nationalism as a separate ideology will fail to alter existing power relationships and must be incorporated into a revolutionary political movement. *See id.* at 164–71.

202. ALLEN, *supra* note 77, at 233–34.

203. *See* THE COLOR OF WELFARE, *supra* note 7, at 33–59.

204. *Id.* at 50.

205. *Id.*

While affirming Black people's authority to shape their own identities, we should not neglect Blacks' role in creating a revolutionary theory that redefines the American identity. Thus, Cruse condemned Western philosophers' theories of social revolution as "bankrupt, passé, and irrelevant" in light of the American racial deadlock, proposing that Blacks take up the question of transforming their rebellion into "a movement with revolutionary approaches, ideas, and appeals."²⁰⁶ Black creativity fostered in separatist cultural forums may provide a radical vision for all of America.²⁰⁷

In short, neither the simple reliance on community development nor the promise of Blacks' integration into white-dominated structures provides a realistic avenue for Black liberation. What is needed is a complex approach that fosters nationalist institutions as part of a program for systemic change, including the realization of a citizenship vision of welfare.

It is the embrace or rejection of this revolutionary aim that distinguishes various strains of Black separatism. "Self-help" is currently the slogan of Black conservatives who eschew structural explanations for Black poverty and seek to take advantage of the U.S. capitalist system.²⁰⁸ Hence Clarence Thomas, one of the most conservative Justices on the Supreme Court, recently espoused separatist leanings in voting to overturn a district court's school desegregation plan: "It never ceases to amaze me," Thomas declared, "that the courts are so willing to assume that anything that is predominantly black must be inferior."²⁰⁹ Thomas's primary quarrel with the district court's remedy, however, was that it held Missouri liable for the continuing effects of an official segregation policy that had ended thirty years earlier.²¹⁰ Although Thomas exalted the value of Black schools, he had no desire to confront the white power structure responsible for giving Black children a manifestly inferior education.

Because a Black separatist approach need not upset the current arrangements of power, some versions may be quite acceptable to whites. With the exception of the 1960s militants, Black nationalist movements in America

206. CRUSE, *REBELLION OR REVOLUTION?*, *supra* note 14, at 107.

207. See Austin, *Beyond Black Demons*, *supra* note 193, at 1043 ("Black folks . . . should operate under the influence of the conceit that their vision of the good life for themselves is broad enough to encompass a good life for others."); John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World*, 65 S. CAL. L. REV. 2129, 2157 (1992) (describing the element of creativity in Black intellectual life).

208. See Ellen Futterman, *Black Republicans: A Contradiction, Or the Wave of the Future?*, ST. LOUIS POST-DISPATCH, Sept. 22, 1991, at 8; Paul Richter & Sam Fulwood III, *Blacks on the Right: Voices Rise; With the Choice of Clarence Thomas for the Supreme Court, Black Conservatives Gain Recognition, Their Guiding Principle Is Self-Help*, L.A. TIMES, July 15, 1991, at A1 (discussing ideas of Black conservatives such as economist Thomas Sowell, writer Shelby Steele, social activist Robert L. Woodson, and political economist Glenn C. Loury). For examples of Black conservatives' self-help philosophy, see generally GLENN C. LOURY, *ONE BY ONE FROM THE INSIDE OUT: ESSAYS AND REVIEWS ON RACE AND RESPONSIBILITY IN AMERICA* (1995); SHELBY STEELE, *THE CONTENT OF OUR CHARACTER* (1990).

209. *Missouri v. Jenkins*, 115 S. Ct. 2038, 2061 (1995) (Thomas, J., concurring).

210. See *id.* at 2063-64.

have historically advocated policies that were just as, if not more, accommodationist than the integrationist agenda.²¹¹ At the inception of the War on Poverty, for example, whites found the concept of "community development" reassuring because "they understood it to mean that the assault would be on the 'pathology of the ghetto,' not on white stakes in neighborhoods, schools, jobs, or public services."²¹² It is when Black institutions confront white domination and seek, in coalition with other progressive groups, to abolish America's systemic injustices that they achieve their revolutionary potential.

Building independent Black political, economic, and cultural institutions, then, is an essential component of a movement for widespread social change in the United States. In *Black Awakening in Capitalist America*, Robert Allen outlined a program that embraced the revolutionary aim of Black nationalism. Allen saw community development as the center of a transitional program designed to achieve interim reforms until "full liberation through social revolution" becomes possible.²¹³ This program included building an independent Black political party whose rank and file and leadership would come from ordinary Black working people. Allen also endorsed the concept of a "co-operative commonwealth" in Black America proposed by W.E.B. Du Bois in his autobiographical essay *Dusk to Dawn*.²¹⁴ Du Bois advocated a planned, communal social system that would reject capitalism and apply instead democratic principles to Black economic and social relations. As Allen elaborated:

Planned, in the sense that all important aspects of this system were to be thought out and analyzed in advance and then carefully guided in order to facilitate community development. Communal, in the sense that property relations would become social rather than private, thereby avoiding economically inspired class division, and making economic exploitation more difficult. Communal, in the sense also of strengthening family and group ties and building a stronger sense of community among black people so that all become dedicated to the welfare of the group rather than personal advancement.²¹⁵

Allen doubted the feasibility of Du Bois's vision of this system as separate and self-sufficient; he acknowledged, however, that implementing this system on a national scale could secure concrete reforms and increase the capital

211. Peller, *supra* note 184, at 826-28; see also ALLEN, *supra* note 77, at 125 ("Actually, traditional black nationalism all too often represents a denial of the possibility of social revolution.").

212. PIVEN & CLOWARD, *supra* note 5, at 276. Robert Allen noted that America's corporate leaders responded to the 1967 urban uprisings by supporting a Black capitalist class that could demonstrate to the ghetto masses the potential for assimilation into the current system. ALLEN, *supra* note 77, at 212.

213. ALLEN, *supra* note 77, at 274.

214. W.E.B. DU BOIS, *DUSK TO DAWN* (1968).

215. ALLEN, *supra* note 77, at 277.

resources within Black control, thereby helping to break Black dependency on white society.²¹⁶ The success of this program, Allen argued further, would require close working relationships with Third World revolutionary forces and with domestic allies who supported the Black liberation movement and social change in white America.²¹⁷

Yet for Allen, as for Cruse, separation from white society was not an option. His ultimate goal was systemic change in white America, without which, he predicted, "the racism and exploitative social relations which characterize that society will defeat even the best efforts of black freedom fighters."²¹⁸ Despite the accurate assessment of racial realists like Derrick Bell, Blacks must continue to struggle for citizenship—not in America as we know it, but in a nation radically transformed by Blacks' very efforts to achieve social justice.

* * *

On what terms can Blacks in America become full citizens in the next century? Is the hope for a welfare state that treats Blacks as equal citizens a delusion in light of America's deep and abiding racial crisis? Or is the citizenship vision of welfare America's only way out of catastrophe? I find it hard to choose between these two prospects. While I share the nationalist hope in Black self-determination and Derrick Bell's pessimism about the chances of white metamorphosis, I nevertheless subscribe to a vision of a strong, inclusive, and dignified welfare state. It is unlikely that the masses of poor urban Blacks will enjoy the good life without drastic, systemic change that includes aggressive government assistance, and it is unjust for them to be denied this right of citizenship. Gordon and Quadagno make a compelling case for pursuing this citizenship vision of welfare while recognizing the formidable obstacle posed by America's persistent hostility to full Black citizenship. Only a theory that combines the nationalist development of Black institutions and social thought with the pursuit of systemic change can guide us out of America's racial impasse.

216. *Id.* at 278.

217. *Id.* at 278–79.

218. *Id.* at 281.