FALSE PREMISES IN WELFARE AND SOCIAL SECURITY: CONTINUING OBSTACLES TO REFORM

INTRODUCTION

The American governmental assistance maze needs sweeping reform. Federal programs such as Aid to Families with Dependent Children (AFDC), Social Security, and state assistance subsidies overlap and yet leave gaps through which the unfortunate may fall.[1] Benefits and eligibility requirements of the programs vary widely from state to state[2] and their administration is both awkward and complex.[3]

Previous administrations and legislators attempted reform,[4] but despite widespread agreement on the need for change,[5] none of the proposed comprehensive reforms were adopted. The welfare system continues, with minor revisions, essentially unchanged. Legislators, fearful of public disapproval, shy away from major changes, especially in election years.

The American public and many legislators hold an inaccurate view of government aid programs. Views they hold are often based on myths which create and maintain illogical categories of deserving and undeserving recipients. According to one myth, people receiving benefits from programs such as AFDC generally do not deserve aid, but

1. *See Policy Statement on Welfare Reform*, 35 PUB. WELFARE 17, 18 (Spring 1977).
2. Thus, using the most well known cash assistance programs, an unemployed father may draw Aid to Families with Dependent Children for Unemployed Parents (AFDC-UP) or General Assistance (GA) and food stamps in Michigan, as well as associated medical assistance, but be ineligible for benefits other than food stamps and discretionary help from the local township trustee in Indiana. *See also* P. SOMMERS, WELFARE REFORM IN AMERICA 15 (1982). This fact takes on significant implications in light of Shapiro v. Thompson, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed. 2d 600 (1969). In *Shapiro*, the Supreme Court held that the right of citizens to travel throughout the United States is a basic right under the Constitution unless there is a compelling governmental interest to restrain this right. In this case, the Court found a statute requiring a one year residency in order to draw welfare benefits unconstitutional. The Supreme Court then went on to state in dicta:

   > [A] State may no more try to fence out those indigents who seek higher welfare benefits than it may try to fence out indigents generally. Implicit in any such distinction is the notion that indigents who enter a State with the hope of securing higher welfare benefits are somehow less deserving than indigents who do not take this consideration into account. But we do not perceive why a mother who is seeking to make a new life for herself and her children should be regarded as less deserving because she considers, among other factors, the level of a State's public assistance. Surely such a mother is no less deserving than a mother who moves into a particular State in order to take advantage of its better educational facilities.

   Id. at 631-32.
3. *See Policy Statement on Welfare Reform*, *supra* note 1.
4. *See generally* L. LYNN, JR. & D. WHITMAN, THE PRESIDENT AS POLICY MAKER (1980); V. BURKE & V. BURKE, NIXON'S GOOD DEED: WELFARE REFORM (1974).
5. L. SOBEL, WELFARE & THE POOR 1-2 (1977).

everyone else receiving government assistance not only deserves it, but also earned it.

For example, members of the public see Social Security as something they earned and are entitled to receive. Students from families in all income brackets eagerly obtain guaranteed student loans[6] and allow the government to pay the interest on the loan while the student is in school. Qualified middle class homeowners receive federally guaranteed mortgages to help them buy homes through the Federal Home Administration.[7] The trucking industry benefits from a publicly established and maintained highway system to help it compete with railroads.[8] These benefits are lower on a scale of human needs than a person's need to be fed and housed. Thus, the prevailing myths categorizing recipients as "deserving" or "undeserving" virtually preclude comprehensive reform.

THE HISTORICAL CONTEXT: PAST ADMINISTRATIONS' ATTEMPTS AT REFORM

President Johnson, speaking at the 1964 University of Michigan commencement, announced that it would be the goal of his Administration and this country to make a Great Society — one in which poverty was to be eliminated from the face of America in our time.[9] Thereafter, varieties of the Negative Income Tax (NIT)[10] appeared in disguised forms in the 1960's and early 1970's. They were offered as a remedy for poverty during the Johnson Administration[11] and as welfare reform measures under both the Nixon[12] and Carter Administrations.[13]

In 1969, President Nixon proposed the Family Assistance Plan (FAP), which included both a guaranteed income for families and wage supplements for poor fathers.[14] President Carter presented a Program for Better Jobs and Income (PBJI) that proposed a guaranteed income plan based on a negative income tax (NIT).[15] Both reform attempts failed and poverty still existed although massive welfare programs were in operation.

While comprehensive reform was being offered by the Carter Administration in PBJI, incremental changes were offered in bills by both the House and the Senate. Representative Al Ullman (D-Ore.), Chairman of the House Ways & Means Committee, drafted incremental

6. 20 U.S.C. §§ 421-425, 427-429 (1976).
7. 12 U.S.C. § 1701 (1982).
8. 23 U.S.C. §§ 101-104 (1976 & Supp. V 1981).
9. Address by President Johnson, University of Michigan Commencement Ceremony (May 22, 1964) *reprinted in* 18 ANN. OF AMERICA 216-18 (1968).
10. *See* L. LYNN & D. WHITMAN, *supra* note 4.
11. *See* V. BURKE & V. BURKE, *supra* note 4, at 141.
12. *See* L. LYNN & D. WHITMAN, *supra* note 4, at 20.
13. *Id.* at 263.
14. *See* V. BURKE & V. BURKE, *supra* note 4, at xvii.
15. *See* L. LYNN & D. WHITMAN, *supra* note 4, at 263.

changes in House bill 10711.[16] In the Senate, the Baker-Bellman bill,[17] and the Kennedy bill[18] proposed incremental changes, while the Moynihan-Long bill proposed a block grant approach.[19]

The change in administrations brought back an incremental approach under President Reagan. Congress passed the Omnibus Budget Reconciliation Act of 1981[20] implementing incremental changes including revised budgeting and eligibility requirements for AFDC.[21] These changes by the Reagan Administration cut the welfare budget to eliminate abuses in the welfare system. Studies are currently analyzing the impact of Reagan's budget revisions on the nation's needy.[22] Presently, however, no major reform measures are on the horizon,[23] and some writers suggest that welfare reform is politically impossible[24] because of the large number of people with vested interests in existing welfare programs.[25] To fully understand why the welfare system has evaded so many comprehensive reform measures, first it is necessary to examine the social attitudes, norms and mores underlying the present system.

Defining Welfare

The welfare problem begins with the definition.

> Public welfare is the term usually used to describe income maintenance programs, medical aid, and social services provided to certain categories of needy people. Over the years, the term has gradually been ex-

16. H.R. 10711, 95th Cong., 2d Sess., 124 CONG. REC. 2141 (1978). H. R. 10711 was designed to amend the Internal Revenue Code of 1954, parts A and C of title IV of the Social Security Act, and the Food Stamp Act of 1977 for the purpose of revising, coordinating, and improving federal public assistance and food stamp programs and for the purpose of providing increased employment opportunities for needy families, and for other purposes. 95th Cong., 2nd Sess., 124 CONG. REC. 1751 (1978). For a general overview of reform during this period, *see* FOOD RESEARCH AND ACTION CENTER, INC., GUIDE TO WELFARE REFORM 33-34, 39 (1979).
17. S. 2777, 95th Cong., 2d Sess., 124 CONG. REC. 8061 (1978). S. 2777 was drafted by Howard Baker, R-Tenn., Henry Bellmon, R-Okla., John Danforth, R-Mo., and Abraham Ribicoff, D-Conn.
18. S. 3498, 95th Cong., 2d Sess., 124 CONG. REC. 29417 (1978).
19. S. 3505, 95th Cong., 2d Sess., 124 CONG. REC. 30090 (1978).
20. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357 (codified as amended 31 U.S.C. § 1331).
21. 31 U.S.C. §§ 2303-06, 2309, 2312-2315, 2319 (1981).
22. *See* T. Joe, Profiles of Families in Poverty: Effects of the FY 1983 Budget Proposals on the Poor (Feb. 25, 1982) (unpublished manuscript available through The Center for the Study of Social Policy, Washington, D.C.).
23. Apparently neither the House nor Senate plans further action for major welfare reform other than attempts to establish stricter child enforcement provisions. Interview with Sydney Olsen, Staff Member of the Senate Finance Office, in Washington, D.C. (Aug. 15, 1983). Interview with Allen Jensen, Staff Director, Subcommittee on Public Assistance and Unemployment Compensation, in Washington, D.C. (Aug. 17, 1983). For example, presently the Congress is considering H.R. 4325, 98th Cong., 1st Sess. (1983), a bill designed to deal with the problem of parents neglecting their child support responsibilities. *See Federal Funds Trimmed Gradually: Finance Compromise Sends Child Support Bill to Senate*, 42 CONG. Q. 737 (Mar. 31, 1984).
24. W. Albrecht, *Welfare Reform: An Idea Whose Time Has Come and Gone*, in WELFARE REFORM IN AMERICA 15, 16 (P. Sommers ed. 1982).
25. *Id.* at 17.

> panded — it originally applied exclusively to cash assistance or relief programs — until it now is frequently used to describe a network of government programs designed to protect the economic security, health and social well-being of all citizens. In the broadest sense, the term public welfare may even be defined as governmental stimulation of employment opportunities; the distribution of national income through taxes, subsidies, or income support programs; insurance against the loss of earnings; health care; and a wide range of efforts aimed at improving the quality of life.[26]

Thus the term welfare includes a much broader category of programs than "welfare" is normally thought to encompass.[27] Social Security, though not generally considered welfare, provides millions of people with an annual income far beyond the beneficiary's original contribution,[28] based partially on recipients' actual or legislatively perceived needs. Social Security, however, has not been included by legislators or the population at large in the definition of welfare. American society has created a two-tier system that defines some recipients as deserving and others as undeserving.

Defining the Welfare Population

The current system divides the welfare population into the "worthy poor" and the "unworthy poor."[29] The "worthy poor" are those who are unable, through age, blindness, or disability to care for themselves. Assistance is provided to these worthy poor with minimal verification requirements under Old Age, Survivor, and Disability Insurance (OASDI) and Supplemental Security Income (SSI).[30]

The others, the "unworthy poor", are eligible to receive assistance only if they fit into a specific legislatively defined category.[31] They also must meet a multitude of income, financial, and additional qualifications that are not required of a person drawing Social Security benefits. Thus, in some states an individual attempting to collect welfare benefits must prove that a child resides with him or her in the home and that the other spouse is absent before he or she will be considered for cash assistance benefits.[32] Only then will the individual's actual financial

26. Introduction, 35 PUB. WELFARE 5 (Spring 1977).
27. In 1977, the Institute for Socioeconomic Studies found 182 different programs operating under the broad title of assistance programs to eliminate poverty. *See* L. Greene, *Foreword* to G. WEILS, THE WELFARE DEBATE OF 1978, at vii (1978).
28. R. Myers & B. Schobel, *A Money's Worth Analysis of Social Security Retirement Benefits* (manuscript to be published in TRANSACTIONS); Chicago Tribune, Sept. 25, 1983, at 1, col. 3.
29. This classification evolved from the Elizabethan Poor Laws and remains to the present day. *See* J. Hansen, The Role of Government in American Social Welfare 2 (February 1982) (unpublished manuscript) (available through the National Conference on Social Work) [hereinafter cited as Role of Government].
30. *See generally* 20 C.F.R. §§ 404.701-.780, 416.901-.998 (1983).
31. These include such programs as Aid to Families with Dependent Children (AFDC), General Assistance if available, or other state assistance programs.
32. For example, Indiana has chosen not to adopt Aid to Families with Dependent Children-Unemployed Parent (AFDC-UP). Thus an unemployed family with the father in the home would not be able to draw cash assistance for rent, clothing or needed items other than

status be considered and his level of benefits determined. Finally, the individual must show that other resources were unavailable and may have to agree to fulfill work requirements before receiving cash benefits.[33]

Some sociologists classify welfare recipients as the "disreputable poor."

> This class includes the permanently unemployed, the homeless, the illiterate, the chronic welfare recipient, and the impoverished aged. They are virtually worthless on the labor market and so are virtually worthless in terms of power and prestige as well . . . . Members of this class are poorly regarded by other Americans. Their supposed laziness, promiscuity, or reliance on public handouts are contrasted with the morality of the middle class. They tend to lack a common class consciousness, to be alienated from and cynical about society and to be fatalistic about their own chances in life.[34]

Stigmatizing members of this class as "welfare recipients" suggests that they would not need assistance if they sought employment. Little evidence indicates that they could obtain employment.[35]

These pervasive public misunderstandings of welfare programs and welfare recipients have created a significant obstacle to welfare reform. These myths and definitional problems are subtly recognized and reflected in the legislation outlining the assistance programs. An analysis of two of these programs, AFDC and Social Security, illustrates how these underlying misconceptions hinder true reform.

AID TO FAMILIES WITH DEPENDENT CHILDREN

Since its inception in 1935 under the Social Security Act,[36] the Aid to Families with Dependent Children (AFDC)[37] program has become the single most controversial portion of the needs-based welfare programs.[38] Unlike Social Security, AFDC enjoys little public support. Over the years this program, perhaps the classic example of "welfare", has generated immeasurable criticism from liberal and conservative politicians, Republicans and Democrats, front line caseworkers at local

through the local township trustee. This type of assistance is limited to emergency needs where no other resources are available and certain residency requirements are met. IND. CODE ANN. § 12-2-1-1 to 12-2-1-39 (West 1982 & Supp. 1983-84).

33. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357 (1981) added work requirements to AFDC. 42 U.S.C. § 601 (1976 & Supp. V 1981).
34. I. ROBERTSON, SOCIOLOGY 246 (1977) (citations omitted).
35. *See* H. Jones, *The Problem Is (No) Jobs*, 38 PUB. WELFARE 27 (1980). "Full employment is defined by federal economists as the circumstance that pertains when the unemployment rate stands at 4 percent to 5 percent. This policy confirms structural unemployment as a permanent feature in our society and excludes at least four million of our citizens from the work force." *Id.*
36. Social Security Act of 1935, ch. 531, 49 Stat. 620 (1935) (current versions at 42 U.S.C. §§ 301-1397 (1976 & Supp. V 1981)).
37. Social Security Act of 1935, ch. 531, §§ 401-06, 49 Stat. 620, 627-29 (1935) (current version codified as amended at 42 U.S.C. §§ 601-610 (1976 & Supp. V 1981)).
38. S. LEVITAN, PROGRAMS IN AID OF THE POOR FOR THE 1970's 28 (rev. ed. 1973).

Social Service offices and welfare recipients.[39] Both AFDC administrators and welfare study groups criticize the programs on the theoretical as well as the practical levels.[40]

Despite the acknowledged need for reform, viable alternatives have not been developed to reform AFDC. One fundamental reason for the lack of reform is the general public misconception of how the program has come to exist as it does today.

The Advent of AFDC

With the Industrial Revolution in the 1600's came a great socioeconomic upheaval.[41] Elizabethan society found it could no longer provide for the poor on a "piece-meal" voluntary basis as determined by local law and charities. The problem of providing for the poor had become too big and too varied to be handled by voluntary charity.[42] Parliament addressed the problem by enacting the Poor Laws from which American notions of welfare descended.[43]

The Great Depression of the 1930's[44] stimulated the same need for new legislation for the poor in America as that generated in England during Elizabethan times. During the Depression, poverty became an unmistakeably national problem.[45] What had once been solely the providence of the states and local charities overwhelmed available resources.[46] Only the Federal Government was thought capable of alleviating the poverty. The Social Security Act of 1935, implemented in response to the Depression, was the fundamental legislation in the development of the present-day welfare system.[47]The Act established cat-

39. L. GREENE, FREE ENTERPRISE WITHOUT POVERTY 45 (1981); W. Bell, *AFDC: Symptom and Potential*, in JUBILEE FOR OUR TIMES 231 (A. Schorr ed. 1977); S. Danziger & R. Plotnick, *The War on Income Poverty: Achievements and Failures*, in WELFARE REFORM IN AMERICA: PERSPECTIVES AND PROSPECTS 31-52 (P. Sommers ed. 1982); R. Lerman, Discussion, *Single-Parent Households under Alternative Transfer and Tax Systems*, in INCOME-TESTED TRANSFER PROGRAMS: THE CASE FOR AND AGAINST 446 (I. Garfinkel ed. 1982); H. Aaron, *Why is Welfare so Hard to Reform?* in STUDIES IN SOCIAL ECONOMICS, THE BROOKINGS INSTITUTION 1, 7, 8, 11, 16 (1973); Interview with Deborah Colton, Policy Associate with the American Public Welfare Association, in Washington, D.C. (Aug. 1983); C. Murray, *Safety Nets and the Truly Needy: Rethinking the Social Welfare System*, THE HERITAGE FOUNDATION 1, 2 (1982); *Policy Statement on Welfare Reform*, *supra* note 1, at 17; *But see* W. Albrecht, *Welfare Reform: An Idea Whose Time Has Come and Gone*, in WELFARE REFORM IN AMERICA: PERSPECTIVES AND PROSPECTS 15-28 (P. Sommers ed. 1982).

40. *See* authorities cited at *supra* note 39.

41. W. TRATTNER, FROM POOR LAW TO WELFARE STATE: A HISTORY OF SOCIAL WELFARE IN AMERICA 6 (1974).

42. *Id.* at 6-12.

43. *See Role of Government*, *supra* note 29, at 2.

44. *Id.* at 3. The 1929 stock market crash precipitated a severe economic depression which lasted several years. Millions of workers lost their jobs and their life's savings when factories and banks closed. Poverty and suffering existed on a larger scale than had ever been known in the United States. W. TRATTNER, *supra* note 41, at 228-29.

45. W. TRATTNER, *supra* note 41, at 229; J. Hansen, *An Overview of the State-Federal Relationship in Public Welfare Programs* 2 (Feb. 1982) (unpublished manuscript) (available from the National Conference on Social Welfare) [hereinafter cited as *An Overview*].

46. *Id.*

47. *An Overview*, *supra* note 45, at 2; Role of Government, *supra* note 29, at 3.

egories of federally-funded aid to those unable to work, which at that time included the blind, the aged, the disabled, and dependent children without fathers.[48] The major criterion for the Aid to Dependent Children program (now known as AFDC) was, and still is, the continued absence of the child's father.[49]

The AFDC grants provided financial support in lieu of that which would normally have been provided by the father to the children.[50] Other programs were created to put able-bodied men back to work,[51] however, in the mainstream society of the 1930's a woman with children was not expected to work outside the home;[52] her role was solely to care for the home and children. These grants were meant to enable the mother to fulfill her role at home.[53]

Since this meager beginning in 1935, the AFDC program has grown tremendously. Its growth doubled between 1947 and 1957,[54] doubled again between 1957 and 1967,[55] then doubled once more in the five years between 1967 and 1972.[56] The total expenditure through the AFDC program in 1980 was approximately $12.9 billion.[57] The Federal Government's share of the bill was approximately $6.9 billion.[58]

Popular Myths and Misconceptions

The cause of the present-day public misconception of AFDC is that American society underwent a tremendous social and moral change after AFDC was conceived and implemented. In essence, two key premises underlying the program changed. First, increasing numbers of women with children are now working outside the home, even in two parent families.[59] Women who work outside the home, even though they have small children, are rapidly becoming the norm.[60] Consequently, the very idea that an able-bodied female can get government "hand-outs" to stay at home, while taxpayers must work outside the

48. Social Security Act of 1935, ch. 531, 49 Stat. 620 (current version at 42 U.S.C. §§ 301-1397 (1976 & Supp. V 1981)); L. GREENE, *supra* note 39, at 47.
49. Social Security Act of 1935, ch. 531, 49 Stat. 620 (current version at 42 U.S.C. §§ 601-610 (1976 & Supp. V 1981)).
50. H. Watts, G. Jakubson & F. Skidmore, *Single-Parent Households Under Alternative Transfer and Tax Systems*, in INCOME-TESTED TRANSFER PROGRAMS: THE CASE FOR AND AGAINST 410 (I. Garfinkel ed. 1982).
51. Work Relief and Public Works Appropriation Act of 1938, ch. 554, 52 Stat. 809. The programs terminated as provided in section one of the Act.
52. H. Watts, G. Jakubson & F. Skidmore, *supra* note 50, at 410-11.
53. L. GREENE, *supra* note 39, at 36; H. Watts, G. Jakubson & F. Skidmore, *supra* note 50, at 410-11.
54. S. LEVITAN, *supra* note 38, at 30.
55. *Id.*
56. *Id.*
57. CONGRESSIONAL RESEARCH SERVICE, CASH AND NON-CASH BENEFITS FOR PERSONS WITH LIMITED INCOME: ELIGIBILITY RULES, RECIPIENT AND EXPENDITURE DATA 3 (Report No. 83-110) (1983) (prepared by V. Burke).
58. *Id.* at 172.
59. In an estimated 51.4% of American married couples the wife works outside the home. *The Average Family, Then and Now*, U.S. NEWS & WORLD REP., Nov. 21, 1983, at 79.
60. N.Y. Times, Feb. 16, 1983, at C13, col. 1.

home, breeds public contempt for the program. Second, a tremendous increase in single parenting has occurred since the 1930's.[61] When AFDC was first implemented, the predominant cause of the fathers' absence was his death.[62] Congress did not anticipate the relatively new and still growing group of never-wed or divorced parents.[63] Yet, in the poverty-stricken population that includes AFDC recipients as well as the general American population, the number of single parents continues to grow.[64] In fact, some estimates indicate that almost half the children born in the early 1970's will live in a single parent home before age eighteen.[65] In the majority of instances the mother has custody of the dependent children.[66] In essence, this relatively new breed of eligible recipients has changed the public concept of AFDC from its traditional "help-the-(worthy)-widow" image to one of rewarding careless illegitimacy and marital failure. This image, coupled with that of the lazy but able-bodied unemployed female, casts AFDC in an extremely unfavorable light in public opinion. The social, economic, and moral grounds upon which the parameters of AFDC were originally conceived no longer exist in modern America.

Aside from the change in the socio-economic setting, the internal structures of AFDC and other welfare programs badly need reform. AFDC and its related welfare programs are riddled with duplication and overlapping services, a multiplicity of eligibility criteria, run-away costs, work disincentives, administrative mismanagement and cheating by recipients.[67] Eligibility levels and other administrative rules and regulations are implemented to allay public fear and distrust of the program, but they increase bureaucracy and administrative costs and add to the complexity of the program itself.

Unfortunately, attempts to improve the program's poor public image have created additional problems for the recipients and have further damaged its public image. For example, eligibility regulations designed to prevent assistance to all except the truly needy have in fact created a work disincentive.[68] An AFDC mother earning a minimal

61. Statement of Alice M. Rivlin, Director of the Congressional Budget Office, before the House Select Committee on Children, Youth, and Families (a copy of which is on file at the offices of the *Journal of Legislation*). *See also* 129 CONG. REC. D572 (daily ed. Apr. 28, 1983).
62. L. GREENE, *supra* note 39, at 47.
63. H. AARON, *supra* note 39, at 7.
64. N. Y. Times, Feb. 16, 1983 at C13, col. 1; *See* Statement of A. Rivlin, *supra* note 61.
65. *The Average American Family, Then and Now*, *supra* note 59, at 79; H. Watts, G. Jakubson & F. Skidmore, *supra* note 50, at 410-11.
66. *See* Statement of A. Rivlin, *supra* note 61.
67. CONGRESSIONAL RESEARCH SERVICE, WORK DISINCENTIVES AND INCOME MAINTENANCE PROGRAMS: A REVIEW OF THE EMPIRICAL LITERATURE 9 (REPORT. NO. 80-119 E) (1980); *Policy Statement on Welfare Reform*, *supra* note 1, at 18-20; J. Turem, *Can We Fix AFDC: It is Time to Consider Possibilities Apart From Ideology and Budget*, 40 PUB. WELFARE 27 (Fall 1982).
68. T. Joe, *supra* note 22, at ii. This 1982 study on the proposed FY 1983 Federal budget predicted that:

> Incomes for working AFDC families would be reduced so much that parents who work would generally be little better off — or worse off — than AFDC mothers who

income at a low paying job ends up having less for her family than she would by not working at all.[69] Thus, she stays at home, furthering the public notion of welfare laziness.

The AFDC program, as it presently exists, has insurmountable problems. A new system is needed — a system premised upon modern concepts of working mothers and present-day economic realities. The overriding obstacle to true welfare reform, however, is not the difficult task of developing a comprehensible, affordable program of caring for poor children. The problem is in overcoming the public and legislative fear of welfare. In a tightening economy with high unemployment,[70] taxpayers are fearful of seeing their paychecks decrease as others live "on the dole." Legislators are hesitant to even consider attempting reform because they fear alienating the public. AFDC recipients, unlike other segments of the population, generally do not have strong election day turnouts. Although other segments of the population receive various government benefits,[71] the AFDC segment has received more than its fair share of criticism because of misunderstandings about the program's nature and purpose. Until the public becomes more aware of the background and purpose of AFDC, it is unlikely that needed reform will be politically feasible.

SOCIAL SECURITY: MIDDLE CLASS WELFARE?

Many programs which provide federal assistance to individuals are not generally perceived as welfare. Well-known examples include student loans and interest payments, FHA loans, and tax deductions for mortgage interest payments. Social Security is frequently described as an "insurance" program,[72] but it provides beneficiaries with an annual income based partially on their actual or legislatively perceived needs.[73] Surprisingly, Social Security does not require its recipients to undergo rigorous scrutiny in overcoming eligibility requirements as

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> do not work. In 24 of the 48 states included in the study, the AFDC working mother earning average wages would end up with less dispensable income than the AFDC mother who does not work . . . . These 24 states include 65 percent of all AFDC working parents.

See also L. GREENE, *supra* note 39, at 32, 42; W. Bell, *supra* note 39, at 243.

69. Because Medicaid and food stamp eligibility is often based on the same criteria as AFDC eligibility, a person who attains income to become disqualified for AFDC benefits may also lose Medicaid and food stamp coverage. Even if the income is sufficient to offset the loss of AFDC payments, the disqualification for these two related programs may cause a net loss of support for the family. W. Bell, *supra* note 39, at 243. *See also* L. GREENE, *supra* note 39, at 32.
70. N.Y. Times, Apr. 29, 1983, at A12, col. 1.
71. *See infra* notes 72-78 and accompanying text.
72. 42 U.S.C. § 401 (1976). The Social Security Act refers to the fund in which taxes are deposited as the "Federal Old Age and Survivors Insurance Trust Fund."
73. Note the minimum benefit provision instituted in the 1939 amendments to the Social Security Act, § 209(e)(l), 53 Stat. 1360 (1939) (current version at 42 U.S.C. § 402(m) (1976 & Supp. II 1978) (repealed 1981) (reinstated by Act of Dec. 29, 1981, Pub. L. No. 97-123, 95 Stat. 1661)). Also, the average beneficiary gets more out of the program than he puts into it. *See* R. Myers & B. Schobel, *supra* note 28.

does the AFDC program.[74] Furthermore, recipients of Social Security do not carry the stigma that follows the recipients of AFDC. There is a pervasive and significant welfare element embodied in Social Security, but it is often rationalized as merely a "good deal" for those middle class recipients fortunate enough to participate in the largest income transfer program in the United States.[75]

Advent of Social Security

Compulsory social insurance is the hallmark of the welfare state.[76] The social collapse following the Great Depression informed this nation's political leaders that *laissez-faire* capitalism could not remedy the extreme crisis of ten million citizens unemployed and eighteen million people dependent upon emergency relief.[77] Attitudes toward social welfare changed across the nation as a new theme of federal policymaking emerged.[78] Federal and state governments became underwriters and insurers of the individual's employment, health, income, family and many risks of modern industrial society.[79] Today, Social Security is the single largest federal program designed to insure retirees and others against loss of income in old age.[80]

Congress originally designed Social Security to meet the problems of the urban, lower middle class of the 1930's.[81] Initially, the benefit schedule provided only a minimal retirement income for recipients.[82] Over the next four decades Congress amended the program to include survivors, disabled workers, and health insurance recipients.[83] Congress regularly increased benefit levels and expanded the number of workers contributing to the program.[84] Although it originally resem-

74. *Compare* 42 U.S.C. §§ 401-403 (1976 & Supp. II 1978) (Social Security eligibility standards) *with* 7 U.S.C. § 2014 (1982) (food stamp eligibility standards) *and* 42 U.S.C. § 608 (1976 & Supp. II 1978) (AFDC eligibility standards).
75. *See* R. Myers & B. Schobel, *supra* note 28.
76. S. Danziger and R. Plotnick, *Income Maintenance Programs and the Pursuit of Income Security*, ANNALS OF THE AM. ACAD. OF POL. AND SOC. SCI. 130 (1980); H. Girvetz, *Welfare State*, in 16 INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL SCIENCES 512 (D. Sills ed. 1968); STATUTORY HISTORY OF THE UNITED STATES: INCOME SECURITY 59 (R. Stevens ed. 1970) [hereinafter cited as STATUTORY HISTORY].
77. 2 A. SCHLESINGER, THE AGE OF ROOSEVELT: THE COMING OF THE NEW DEAL 297-315 (1959).
78. *See generally id.*
79. *See generally* Y. AHARONI, THE NO-RISK SOCIETY (1981); T. LOWI, THE END OF LIBERALISM: IDEOLOGY, POLICY, AND THE CRISIS OF PUBLIC AUTHORITY (1979).
80. B. PAGE, WHO GETS WHAT FROM GOVERNMENT 63 (1982); P. Peterson, *Social Security: The Coming Crash*, 29 N.Y. REV. BOOKS 34 (Dec. 2, 1982).
81. STATUTORY HISTORY, *supra* note 76, at 11.
82. A. MUNNELL, THE FUTURE OF SOCIAL SECURITY 155 (1977); STATUTORY HISTORY, *supra* note 76, at 136, 170.
83. For the amendments to include survivors, *see* Social Security Act Amendments of 1939, ch. 666, 53 Stat. 1360 (1939). *See also* STATUTORY HISTORY, *supra* note 76, at 246-49, 251. For amendments to include the disabled, *see* Social Security Act Amendments of 1950, ch. 666, 64 Stat. 477 (1950). *See also* STATUTORY HISTORY, *supra* note 76, at 484, 488. For amendments to include health insurance, *see* Social Security Act Amendments of 1965, Pub. L. No. 89-97, 79 Stat. 286 (1965). *See also* STATUTORY HISTORY, *supra* note 76, at 750-58.
84. Social Security Act Amendments of 1939, ch. 666, 53 Stat. 1360; Social Security Act Amendments of 1946, ch. 951, 60 Stat. 978; Social Security Act Amendments of 1950, ch. 809, 64

bled an insurance plan in which benefits were based on the worker's total contributions, the 1939 amendments shaped the program into a strange hybrid of insurance and social welfare characteristics that distributed benefits based on the worker's average monthly earnings.[85]

The history and structure of the Social Security system show that although the system mainly benefits the middle class, it contains significant welfare aspects. While members of the middle class may have contempt for lower income welfare recipients, many middle to upper class members also receive welfare in various forms but with no stigma.

Background

The history of Social Security tells the story of American social reform. Prevailing attitudes toward social insurance crumbled during the Depression.[86] New federal and state programs developed to soften the impact of unemployment in old age.[87] The 1935 Social Security Act established a system of benefits for the aged, blind, dependent children and survivors.[88] As one historian described the purpose of the Act: "[o]verall then, the 1935 Social Security Act seemed calculated to overturn a system born of the worst excesses of *laissez-faire* capitalism."[89]

The law originally intended to create a system closely resembling a fully-funded insurance plan based on employment.[90] Under the original system, workers would contribute a small portion of their earnings to trust funds so that upon retirement at age 65, they would begin to receive benefits proportionate to their total contributions.[91] Social Security also resembled an annuity because benefits were related to life-

Stat. 1, 477; Social Security Amendments of 1954, ch. 1206, 68 Stat. '1052; Social Security Amendments of 1956, ch. 836, 70 Stat. 807; Social Security Amendments of 1958, Pub. L. No. 85-840, 72 Stat. 1013; Social Security Amendments of 1960, Pub. L. No. 86-778, 74 Stat. 925; Social Security Amendments of 1961, Pub. L. No. 87-64, 75 Stat. 131; Social Security Amendments of 1965, Pub. L. No. 89-97, 79 Stat. 286; Social Security Amendments of 1968, Pub. L. No. 90-248, 81 Stat. 821; Social Security Amendments of 1969, Pub. L. No. 91-172, 83 Stat. 737; Act of March 17, 1971, Pub. L. No. 92-5, 85 Stat. 5; Act of July 9, 1973, Pub. L. No. 93-66, 87 Stat. 152; Social Security Amendments of 1977, Pub. L. No. 95-216, 91 Stat. 1509. *See also* STATUTORY HISTORY, *supra* note 76, at 247, 303, 372, 505, 529, 584, 609, 758; A. MUNNELL, *supra* note 82, at 164-65, 170, 171, 181, 184.

85. *See generally* A. MUNNELL, *supra* note 82, at 5-7; R. CAMPBELL, SOCIAL SECURITY: PROMISE AND REALITY 10-12, 13, 14, 58-63, 71-82 (1977); A. ROBERTSON, THE COMING REVOLUTION IN SOCIAL SECURITY 13-28, 108-10, 306 (1981); STATUTORY HISTORY, *supra* note 76, at 6, 8-15, 223, 224, 226, 228, 229; P. Peterson, *The Salvation of Social Security*, 29 N.Y. REV. BOOKS 50-57 (1982); Telephone interview with Rudolph Penner, American Enterprise Institute, in Washington, D.C. (July 20, 1983).

86. *See* 2 A. SCHLESINGER, *supra* note 77.

87. STATUTORY HISTORY, *supra* note 76, at 4-12. *See generally An Overview*, *supra* note 45, at 2, 3, 9; R. LEVY, T. LEWIS & P. MARTIN, CASES AND MATERIALS ON SOCIAL WELFARE AND THE INDIVIDUAL 44-60 (1971).

88. Social Security Act of 1935, ch. 531, 49 Stat. 620 (current version at 42 U.S.C. §§ 301-1397 (1976 & Supp. V. 1981)). *See also* STATUTORY HISTORY, *supra* note 76, at 167.

89. STATUTORY HISTORY, *supra* note 76, at 10.

90. *Id.* at 127, 227-30.

91. *Id.* at 169; The Social Security Act of 1935, ch. 531 § 201(a), 49 Stat. 620 (current version at 42 U.S.C. § 401(a) (1976 & Supp. V 1981)). This Act set up a reserve account in the U.S. Treasury for these purposes.

time earnings.[92] Much like a fully-funded pension plan, taxes or contributions were held in a reserve fund until the individual became eligible for benefits.[93]

Within four years of passing the Social Security Act, Congress significantly altered the insurance aspects of the legislation.[94] The amended Act of 1939 emphasized social welfare and social adequacy rather than a return of the worker's contributions.[95] Congress emphasized social adequacy by adding a minimum benefit provision entitling individuals to a minimum monthly payment regardless of whether that payment exceeded the individual's average contributions.[96] The amendments also set up a new pay-as-you-go plan which based benefits on the contributor's average wage rather than on his or her total earnings, as the previous plan had done.[97] Instead of accumulating a reserve fund, contributions (tax revenues) were immediately paid to current retirees with excesses retained in a new trust fund.[98] The amended Act thus moved the system away from the insurance plan Congress originally envisaged, and replaced it with a plan containing a number of characteristics usually found in need-based welfare programs, such as minimum benefits and benefits in excess of contributions.

Following this major, relatively unpublicized legislative change, each Administration after Roosevelt from 1938 to 1983 pressured Congress to increase both the number of workers covered by Social Security and the amount of benefits paid retirees.[99] In almost all instances Congress responded generously. In 1954, Congress added disability insurance to the program.[100] Medical insurance followed in 1965.[101] By the time President Johnson ushered in his "Great Society" programs in the mid-1960's, Social Security was politically "sacrosanct."[102] As a re-

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92. *See* STATUTORY HISTORY, *supra* note 76.
93. *See* The Social Security Act of 1935, ch. 531, § 201(a), 49 Stat. 620.
94. The Social Security Act Amendments of 1939, ch. 666, 53 Stat. 1360. This Act completely amended Title II of the original act to set up a trust fund, changing the benefit formula from "cumulative lifetime earnings after 1936" to "average earnings in covered work." *See* STATUTORY HISTORY, *supra* note 76, at 242, 247.
95. Social Security Act Amendments of 1939, ch. 666, 53 Stat. 1360. *See* STATUTORY HISTORY, *supra* note 76, at 242, 247.
96. The Social Security Act Amendments of 1939, ch. 666, § 209(e)(1), 53 Stat. 1360. Portions of this Act established a minimum benefit. *See* STATUTORY HISTORY, *supra* note 76, at 247-52.
97. The Social Security Act Amendments of 1939, ch. 666, 53 Stat. 1360. *See also* STATUTORY HISTORY, *supra* note 76, at 247-52. A. MUNNELL, *supra* note 82, at 110, 127, 128.
98. The Social Security Act Amendments of 1939, ch. 666, 53 Stat. 1360.
99. *See* Statutory History, *supra* note 76, at 247, 303, 372, 505, 529, 584, 609, 758, 884. The Social Security Amendments, *supra* note 84 often resulted from the efforts by each administration to enlarge the Social Security system as discussed in STATUTORY HISTORY, *supra* note 76, at 95, 315, 489, 601, 663, 687, 707, 884.
100. Social Security Act Amendments of 1954, Pub. L. No. 83-767, 68 Stat. 1130 (1954). *See also* STATUTORY HISTORY, *supra* note 76, at 485.
101. The Social Security Act Amendments of 1965, Pub. L. No. 89-97, 79 Stat. 286 (1965). *See also* STATUTORY HISTORY, *supra* note 76, at 758.
102. STATUTORY HISTORY, *supra* note 76, at 5; D. Koitz, G. Kollman & N. Miller, *Financing Social Security: Options considered in 1983*, CONGRESSIONAL RESEARCH SERVICE 4 (Issue Brief No. 82-126, archived May 16, 1983) [hereinafter cited as *Financing Social Security*].

sult of the changes in Social Security and because Congress indexed benefits to the Consumer Price Index in 1972 to allow for inflation during the 1970's, expenditures for Social Security rose from sixteen billion in 1965 to over 100 billion in 1980.[103] Even when adjusted for inflation the total amount expended for Social Security from 1940 to 1980 has increased substantially.[104] In 1960 Social Security constituted 12.6%[105] of the Federal budget, as compared to 20.6% in 1980.[106]

Thus, the Social Security system no longer resembles the fully-funded insurance program originally designed by Congress in 1935.[107] In addition to providing a marginal insurance plan, Congress amended the program to focus on eliminating poverty among the aged by redistributing income from workers to retirees.[108] After the 1939 amendments, the system no longer related the benefits workers received to their payroll contributions, but rather linked benefits, in a rough fashion, to the worker's average wage.[109] The 1939 amendments also secured minimum monthly benefits for those workers whose contributions were insufficient.[110] Because Congress has expanded the system by including more employees and increasing their benefits and because the system is funded by a pay-as-you-go financing method, most retirees and benefit recipients since 1940 have received much more in benefits than they ever contributed.[111] Therefore, the Social Security program is no longer simply an insurance program. It has significant welfare aspects, because benefits are based on the needs of the recipients. Today Social Security benefits have essentially two main socioeconomic effects: to reduce poverty among the elderly, and to redistribute income from workers to the older retired sector.[112]

NATURE OF SOCIAL SECURITY—INSURANCE OR WELFARE?

Social Security is financed with a regressive payroll tax which places a greater burden on lower income earners.[113] This vertical inequity is somewhat balanced by the marginally progressive benefit struc-

103. B. PAGE, *supra* note 80, at 65; *Financing Social Security*, *supra* note 102, at 4 (Table 1); P. Martin, *The Art of Decoupling: Keeping Social Security's Promise Up to Date*, 65 CORNELL L. REV. 748-800 (1980).
104. Y. AHARONI, *supra* note 79, at 98-109; B. PAGE, *supra* note 80; *Financing Social Security*, *supra* note 102, at 4 (Table 1).
105. *Financing Social Security*, *supra* note 102.
106. *Id.*
107. *See* STATUTORY HISTORY, *supra* note 76.
108. B. PAGE, *supra* note 80, at 63; Telephone interview with Rudolph Penner, *supra* note 85.
109. *See supra* note 83 and accompanying text.
110. *Id.*
111. R. Myers & B. Schobel, *supra* note 28.
112. B. PAGE, *supra* note 80, at 63; P. Peterson, *supra* note 85, at 50. Telephone interview with Rudolph Penner, *supra* note 85. *See generally* G. TULLOCK, THE ECONOMICS OF INCOME DISTRIBUTION (1983).
113. R. CAMPBELL, *supra* note 85, at 6-9; A. MUNNELL, *supra* note 82, at 89-90; B. PAGE, *supra* note 80, at 66, 67. A regressive tax is a tax that has a greater incidence on lower income earners; that is, dollar for dollar, lower income earners pay a greater *percent of their total income* than higher income earners under such a tax.

ture.[114] Consequently income is redistributed from higher income classes to lower income classes. In essence, higher level income earners receive a larger absolute share under the system, but they receive proportionately less than lower income contributors. Nevertheless, most beneficiaries receive substantially similar benefits regardless of their contribution.[115] The redistribution of income through the benefit structure reveals that the primary function of Social Security is to eliminate poverty in old age.

Social Security also redistributes income from the young to the old. The pay-as-you-go system taxes present-day workers to pay benefits to today's retirees, survivors, disabled, sick and dependent children.[116] The system requires a large ratio of workers to retirees.[117] Because workers have historically far outnumbered retirees, Congress has been able to enact benefit increases each year.[118] If the proportion of workers to retirees becomes too small, then payroll contributions will be insufficient to meet the demands of the program. Social Security benefits to the retirees may then have to be reduced. Because the average age of Americans is rising,[119] each year there are more retirees demanding Social Security benefits.[120] Thus, each year the cost of redistributing income from the earner to the retiree becomes greater and the ability of the government to transfer income from the earner to the retiree becomes more difficult.[121] Sometime in the next century, payroll taxes must be significantly raised, benefit levels cut, or both.[122] The abundant benefits enjoyed by present retirees will not be available to the future retirees whose payroll taxes currently support the system, unless payroll taxes rise with the increasing proportion of retirees.[123] The payroll tax workers pay must rise to supply benefits for the steadily increasing number of retirees, but the number of workers is not rising fast enough to provide sufficient revenues.[124]

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114. *See* B. PAGE, *supra* note 80, at 67; R. CAMPBELL, *supra* note 85, at 6-9. Because the benefit structure is progressive, the more the earner contributes, the higher the total monthly amount the earner receives at retirement. The Social Security benefit structure is only *marginally* progressive, that is, the earner does not receive an extra dollar for every additional dollar contributed, but somewhat less, as the earner's total contributions pass a specified amount. The actual benefit structure is complex and technical. For a detailed account, *see generally* R. CAMPBELL, *supra* note 85.

115. *See* B. PAGE, *supra* note 80, at 67; R. CAMPBELL, *supra* note 85, at 6-9.

116. *See* discussion *supra* note 83 and accompanying text. The 1939 Social Security Amendments, ch. 666, 53 Stat. 1360, changed the program to a pay-as-you-go system. *See generally* A. MUNNELL, *supra* note 82, at 84.

117. *See* U.S. NATIONAL COMMISION ON SOCIAL SECURITY REFORM, REPORT OF THE NATIONAL COMMISSION ON SOCIAL SECURITY REFORM 55-59 (1983) [hereinafter cited as REPORT ON SOCIAL SECURITY REFORM].

118. *See* STATUTORY HISTORY, *supra* note 76 and accompanying text; A. MUNNELL, *supra* note 82, at 160-61, 172-81.

119. *See* REPORT ON SOCIAL SECURITY REFORM, *supra* note 117, at 76, 79.

120. *Id.* at 293 (Table 11).

121. *See* P. Peterson, *supra* note 80, at 37-38.

122. *See* A. ROBERTSON, *supra* note 85, at 51-54, 56, 81-104, 290-92; P. PETERSON, *supra* note 80, at 37-38.

123. *See* A. ROBERTSON, *supra* note 85, at 51-54, 56, 81-104, 290-92.

124. *Id.*

The Social Security system also redistributes income through the minimum benefit formula.[125] This formula provides that any worker having worked a minimum number of hours every ninety days will receive a minimum benefit. Thus, in a substantial number of instances benefits do not even remotely match the individual's contributions.[126]

The Social Security system contains far-reaching and substantial "welfare" aspects since it provides benefits far in excess of individual contributions. The term "welfare" denotes government programs that provide payments or services based on need, not previous tax contributions.[127] "Welfare" may also denote government payments in excess of individuals' tax contributions when the payments are made because of a perceived need. Social Security resembles welfare because Congress presumes the elderly need benefit payments far in excess of their contributions to prevent them from falling below the poverty level.[128] Any payments beyond an individual's contribution are thus based on need, not earnings. As in other welfare programs, this proportion of Social Security benefits is neither earned nor contributed by the recipient.

In many respects the program resembles welfare more than insurance; yet unlike welfare, Social Security curiously benefits primarily middle-income workers.[129] In spite of its welfare characteristics, standards of eligibility under Social Security differ substantially from means-tested programs such as AFDC or Food Stamps.[130] Applicants for these benefit programs must show need by demonstrating that their income falls below certain official levels.[131] The scope of inquiry allowed the administrators of such programs to investigate an applicant's income level is much broader than that of administrators of the Social Security program. The primary differences in Social Security recipients and AFDC or Food Stamp recipients are the recipient's age, historical and present income, and in the case of AFDC, marital status.[132] The policy distinction appears to derive from historical attitudes which

125. *See* A. MUNNELL, *supra* note 82, at 38, 51-52. The minimum benefit formula was introduced in 1939 and provided a minimum monthly benefit as a floor for beneficiaries, to provide for their need.
126. *See* B. PAGE, *supra* note 80, at 67.
127. This is the author's definition based on a functional, not a categorical conception of government benefits. The distinction between need-based programs and contributory programs is less clear than the public believes or the programs seem to imply.
128. If the total amount that average OASDHI recipients have received in retirement checks above contributions deducted from their payroll earnings could be compared with the amount of funds allocated to AFDC and food stamp programs, then a better comparison would be possible between "welfare" payments to the poor and "welfare" payments to the middle class.
129. *See* B. PAGE, *supra* note 80, at 32-35.
130. The OASDHI system is also more efficient and enjoys more public support. *Compare* 42 U.S.C. §§ 401-403 (1976 & Supp. II 1978) *and* 7 U.S.C. § 2014 (1982) (food stamp program eligibility standards) *with* 42 U.S.C. § 608 (1976 & Supp. II 1978) (AFDC eligibility standards).
131. *See generally id.*
132. 7 U.S.C. § 2014; (1982) (Food Stamp eligibility standards); 42 U.S.C. § 608 (1976 & Supp. II 1978) (AFDC eligibility standards); 42 U.S.C. § 401 (1976 & Supp. II 1978) (Social Security entitlement status).

place a heavier burden on the poor to prove their claims under the relevant programs.[133] Myths behind Social Security, on the other hand, absolve recipients under the program from this burden because many believe that these benefits are entirely earned.

The primary myth surrounding Social Security benefits is that they are earned. In contrast, the public perceives AFDC and Food Stamp benefits as "handouts." While many needy persons must struggle to subsist on AFDC and Food Stamps, middle-income Social Security recipients receive benefits many times exceeding their original contributions.[134] These excess benefits might also be called "handouts" but usually the public rationalizes them as a "good deal." The public generally does not perceive these inequities, but if it did, Congress probably could no longer justify this middle class welfare program.[135] The American system of social welfare perpetuates present economic inequities based on outmoded attitudes and public misperceptions.[136]

For example, the Federal Government has characterized Social Security as insurance since the act was passed in 1935.[137] Government officials use terms such as "insurance," "beneficiary," "premium," "earned right," "insured worker" and "insured status."[138] This unfortunate use of words confuses the public and misleads it into overlooking the welfare aspects inherent in the system. The myth perpetuates itself since taxes come from employment earnings and are paid into a separate trust fund[139] rather than into the general treasury fund. The myth that Social Security is insurance fails because benefits are structured not on continual contributions, but to protect individuals against poverty and income inequality in old age. Finally, unlike the Social Security System, no private insurance program structures its benefits to favor lower income classes while requiring beneficiaries to make compulsory contributions and satisfy statutory conditions in order to receive benefits.[140]

Social Security has evolved into the largest federal income transfer program designed to protect middle class wage earners against poverty in old age.[141] In 1981, retirees under the plan received an average benefit of $4,614 a year.[142] Still, only nine percent of benefits paid under the program go to individuals below the official poverty level.[143] A full thirty percent go to those who have incomes between the poverty level

133. *See An Overview*, *supra* note 45, at 3-9.
134. *See* B. PAGE, *supra* note 80, at 67.
135. *See* R. MYERS & B. SCHOBEL, *supra* note 28, at 39.
136. STATUTORY HISTORY, *supra* note 76, at 242, 247.
137. *See* STATUTORY HISTORY, *supra* note 76, the comments of President Roosevelt upon signing the Social Security Act, at 166-67, 247.
138. *See* BOARD OF TRUSTEES OF OLD-AGE, SURVIVORS AND DISABILITY INSURANCE TRUST FUND, 1983 ANNUAL REPORT 46, 84 (1983) [hereinafter cited as BOARD OF TRUSTEES].
139. 42 U.S.C. § 401(a) (1976 and Supp. II 1978).
140. *Id.*
141. *See* B. PAGE, *supra* note 80, at 67.
142. *Id.*
143. *See* P. Peterson, *supra* note 85, at 53. *See also* OFFICE OF RESEARCH AND STATISTICS, SO-

and twice that level.[144]

Admittedly, Social Security has lifted large numbers of individuals from the poverty level.[145] Nevertheless, total expenditures for the Social Security program have generally exceeded the entire outlay for food stamps, AFDC, Medicaid and Supplementary Security Income.[146] In simple dollars expended, welfare for the poor falls far short of welfare for the middle class.[147] A remarkable thirty percent of Social Security benefits goes to the top twenty percent of retiree households. These households are the most prosperous in the United States and receive forty percent of the nation's total income.[148] One may wonder why a system aimed at alleviating poverty and redistributing income to lower income groups pays these sums to the wealthiest classes. One reason is that if higher income classes were cut out of Social Security, the program could no longer maintain its broad base of acceptance and a stigma would overshadow benefits. The focus of the system would then shift entirely to eliminating poverty.

The benefits presently paid to the average Social Security recipient will far outweigh contributions until well into the next century.[149] Social Security expenditures can not continue to rise at this rate because the American population continues to age and birth rates continue to fall.[150] Even the minimal change brought by immigration alone will not be enough to increase government revenues to support the elderly in the twenty-first century.[151] Current myths, propounded by opportunists and short-sighted public officials, do nothing but further postpone the attention and the leadership this situation calls for.

RECOMMENDATIONS FOR THE SOCIAL SECURITY SYSTEM

The public does not understand the nature of Social Security and the rocks toward which the ship of middle class entitlements is headed. The system needs long-term financial reform beginning with realistic projections of future economic and demographic trends of the working population by the trustees of Social Security. Future recipients cannot base their retirement plans on present unrealistic projections which derive from unduly optimistic economic and demographic assumptions.[152] So long as taxes under the Social Security system and worker

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CIAL SECURITY ADMINISTRATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, STAFF PAPER NO. 41, INCOME OF THE POPULATION 55 AND OVER 54 (1981).

144. *See* P. Peterson, *supra* note 85, at 53.

145. *See Financing Social Security*, *supra* note 102, at 4. Only 9.5% of Americans aged 55 to 64 and 15.7% of those 65 and older lived in poverty in 1960 compared with 21.5% and 35.2% for each group respectively in 1980 as shown by Table 1. *See also* B. PAGE, *supra* note 80, at 63-65.

146. *See* Y. AHARONI, *supra* note 79, at app.

147. *See* B. PAGE, *supra* note 80, at 67.

148. *See* P. Peterson, *supra* note 85, at 53.

149. *See generally* A. ROBERTSON, *supra* note 85, at 82-99.

150. *See* REPORT ON SOCIAL SECURITY REFORM, *supra* note 117, at 43, 79.

151. *See* A. Munnell, *A Calmer Look at Social Security*, 30 N.Y. REV. BOOKS 41 (1983); R. Rinder, *We Can Afford to Support the Elderly*, 30 N.Y. REV. BOOKS 46 (1983).

152. *See* BOARD OF TRUSTEES, *supra* note 138, at 2-5, 34, 45-49.

participation are compulsory, Congress should have a legal duty to guarantee present-day workers a fair return on their payroll contributions while re-establishing a benefit structure which is reasonably related to workers' contributions. Congress should examine why middle income earners in retirement presently receive benefits exceeding many times their contributions to the program, while AFDC and food stamp recipients must carry a heavier burden to receive their welfare benefits. Each contributor should receive an annual benefit statement to show what he or she has contributed.[153] Each contributor should know what benefits are forthcoming and receive current and accurate statements and projections of Social Security trust funds from year to year, and decade to decade. If workers must participate in the system to prevent poverty among the elderly, then they deserve a disclosure of the solvency of the system. Future demographic and economic trends will seriously threaten the Social Security system. Social Security cannot continue to provide benefits at the present rate in the next century. The system should be reformed by disclosing to the public the real purpose and the long-term insolvency of this major income-transfer program. The program cannot simply continue on the same course of annual financing increases and broadening the benefit structure by Congress. To do so would leave a bleak future for today's worker.

CONCLUSION

When President Roosevelt wrote his plan in 1935 for social security,[154] he perceived the changing needs of American social and economic structure. American society had evolved, at that point, from a rural farming community where a person could survive by living off the land, to an urban industrial society where the cities no longer met the needs of all its inhabitants. His program reflected this need and created a fallback system for those who were victims of that change.

As American society enters a highly technological age, machines are replacing many unskilled laborors.[155] The system that President Roosevelt created in the 1930's was never designed to meet today's problems. It was never intended to deal with permanent unemployment. Rather it was designed to provide assistance only until every member of society was fully employed.

Existing subsidy programs reflect the idea that large groups of people in our society — children, students, the disabled, blind, and infirmed — cannot be expected to seek employment. Those whose skills are not needed by society are also entitled to draw benefits regardless of whether they fit into a particular category, until they can be retrained or society again has a need for their services.

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153. *See generally* A. ROBERTSON, *supra* note 85, at 111-21 for this suggestion.
154. STATUTORY HISTORY, *supra* note 76, at 242. *See* A. SCHLESINGER, *supra* note 77.
155. *Manufacturing Is in Flower*, TIME, March 26, 1984, at 50-52.

Americans at every income level receive significant subsidies from the Federal Government, such as home mortgage assistance, student loans, and Social Security benefits. Yet, the people who are in greatest need are living below the poverty level and are labeled as undeserving. This label of "undeserving poor" developed despite the substantial similarities between programs such as AFDC and Social Security, which are targeted for very different groups of people but meet similar needs.

When closely examined, the conclusion that Social Security recipients are worthy and AFDC recipients are unworthy is illogical. The paralyzing myths defining government benefit plans must be discarded now and an uncategorized, integrated plan must be enacted to meet human needs in America.

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APPENDIX I

INDICATORS OF SOCIAL SECURITY'S GROWTH AND RELATIVE IMPORTANCE

	1960	1980
	(OASDI)*	
Expenditure as % of Federal budget	12.6%	20.6%
Expenditure as % of GNP	2.33%	4.79%
Tax rates	3.0%	5.08%
Taxes paid by worker with average earnings	$120.21	$635.68
Covered workers	73 million	115 million
Beneficiaries	14 million	35 million
Worker to beneficiary ratios	5.1 to 1	3.3 to 1
Earnings replacement for new retirees (benefits as a % of final earnings for average earner)	33.3%	51.1%
Social security as % of personal income	2.8%	5.6%
Poverty trends (% in poverty) 1959 and 1980		
Age 55 to 64	21.5%	9.5%
Age 65 and older	35.2%	15.7%
Total population	22.4%	13.0%

* Note: Excludes Health Insurance

SOURCES: D. Koitz, G. Kollman & N. Miller, Financing Social Security: Options Considered in 1983, CONGRESSIONAL RESEARCH SERVICE 4, at Table 1 (Issue Brief No. 82-126 archived May 16, 1983).