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CASE LAW AND SOCIAL WELFARE:
A FRAMEWORK FOR ANALYSIS

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ABSTRACT

This paper illustrates an approach for analyzing case law within the framework of social welfare programs and policies. Drawing on a framework first developed by Burns and later expanded by Gilbert and Specht, selected court decisions related to income maintenance are categorized on the basis of four parameters: basis of social allocation, the nature of social provisions, the structure of the delivery system, and the method of financing. Unlike the legal framework typically used to analyze court decisions, an assessment of court decisions along the parameters of social welfare policies and programs highlights the court's role and its importance in social welfare policy.

INTRODUCTION

Although much narrower in scope than statutes or administrative rules and regulations, decisions made by the judicial branch of government frequently have a significant impact upon the provision of services and benefits by social welfare institutions. Given the implications of some of these decisions in terms of eligibility criteria, adequacy

of benefits, and procedural restrictions, it is appropriate that a model be developed for the analysis of court decisions within the context of social welfare policy. The legal frameworks typically used to analyze court decisions related to welfare law generally emphasize the constitutional parameters, the impact of case law on the structure of federal-state relations, and a case-by-case analysis of eligibility conditions and benefit entitlement. Framing the analysis of court decisions around the parameters of social welfare policies and programs may enhance understanding of judicial decisions and their applications.

Such an approach for analyzing case law within the framework of social welfare programs and policies is illustrated in this paper through the application of an analytic framework to selected court cases. Drawing on a framework first developed by Eveline Burns (1946) and later refined by Gilbert and Specht (1974), court decisions related to income maintenance programs and policies are categorized on the basis of four parameters: the basis of social allocation; the nature of social provisions; the structure of the delivery service; and the method of financing (see table 1). This process helps to specify the usefulness of the model as well as to identify limitations in its application. By assessing court decisions along these four parameters, one measure of the court's role and its importance in social welfare is provided.

MODEL

Although components of this model have been used by others such as Rein (1970), Titmuss (1968), and Kahn (1969), the original and most elaborate application of the model was done by Eveline Burns (1946) in her classic analysis of the social security program. She specifically dealt with decisions that are made about the nature and amount of benefits, eligibility conditions, risks covered, financing structure, and administrative

structure. Gilbert and Specht have adapted this model and further clarified the options and the underlying value systems of each component within the framework. The framework places social welfare policy "in the context of a benefit-allocation mechanism functioning outside the marketplace" (Gilbert and Specht, 1974, p. 28). The central concern is the plausible alternatives within social welfare policy or, as they prefer to call it, the dimensions of choice. (Table I highlights the components of each dimension.) Given its comprehensiveness and wide range of application, this framework is a useful one for analyzing judicial decisions related to social welfare, particularly income maintenance.

APPLICATION OF THE MODEL

To illustrate the use of the model in analyzing judicial decisions, selected court decisions related to income maintenance programs are discussed within the framework of the dimensions of choice.

Basis of Social Allocation

Within the social allocation dimension, the U.S. Supreme Court has set limits on eligibility conditions imposed by the states, distinguished between recipients of means tested and attributed need programs, fostered the concept of social integration, and affirmed the use of work requirements in income maintenance programs.

For example, in 1976, the Court was asked in Mathews v. Eldridge, 424 U.S. 319, what procedures were necessary prior to the initial termination of disability insurance benefits. The Social Security

Administration terminated disability benefits without the beneficiary being provided with an evidentiary hearing prior to that termination. The beneficiary was, however, informed by the state agency that he might request additional time to submit additional information pertaining to his condition and later, by the Social Security Administration that he could seek reconsideration within six months. Legally, the issue before the Court was clearly one of due process; specifically, what procedural safeguards were necessary to satisfy the due process requirement of the constitution. A previous ruling in Goldberg v. Kelly, 397 U.S. 254 (1970), had indicated that a hearing prior to termination was an essential part of procedural due process. However, the Court noted in this case that a disabled workers' need is likely to be less than a welfare recipient's and that other sources of potential temporary income are available to disabled workers. In justifying its position that less than an evidentiary hearing was sufficient prior to the termination of benefits, the Court discussed at length the issue of cost effectiveness:

Financial cost alone is not a controlling weight in determining whether due process requires a particular procedural safeguard prior to some administrative decision. But the Government's interest, and hence that of the public, in conserving scarce fiscal and administrative resources, is a factor that must be weighed. At some point the benefit of an additional safeguard to the individual affected by the administrative action and to society in terms of increased assurance that the action is just, may be outweighed by the cost (96 S. Ct. at 909).

In arriving at its decision, the Court clearly distinguished between recipients of a program which is means tested and one in which the need for benefits is assumed. In this decision, then, the Court addressed the issues of cost effectiveness and the allocative principles of means tested need and attributed need. This latter distinction seems to imply two separate systems for procedural due process in income maintenance programs.

If one measure of social integration is the ability of a society's members to move freely within that society, then the Court has twice acted to uphold the principle of social integration. In the first instance, The People of California v. Edwards, 314 U.S. 160 (1941), a California statute making it a misdemeanor to bring or assist in bringing a non-resident indigent person, knowing him to be indigent, into the state was challenged. The state attempted to justify its statute on the basis of the tradition of the English poor laws. However, the Court held that the state could not restrict the transportation of indigent persons across its boundaries because it interfered with interstate commerce, the regulation of which is reserved by the constitution to Congress. This decision threw into question the constitutionality of the state durational residency requirements which was not settled until 1969. In Shapiro v. Thompson, 394 U.S. 618 (1969), the Court held that the durational residency requirements denied equal protection of the law under the constitution by restricting the right to interstate travel.

The issue of work incentives has also been addressed by the Court. In Dublino, 413 U.S. 405 (1973), the major question before the Court was whether federal work incentive requirements prevented

the states from having more stringent work requirements. Legally, the issue before the Court was one of federal preemption, a doctrine which makes state laws in a particular area invalid if Congress has demonstrated a clear intent to regulate the entire area through its own legislation (Hill, Mossen, and Sogg, 1976, p. 23). Although the Court required that the New York Work Rules be examined to see if they conflicted with the federal work incentive requirements, it did not accept the argument that the federal laws had preempted the field for work requirements.

Nature of Social Provisions

As might be expected, the Court has had little to say about the various forms of social provisions. Determining the form of social provisions rests with the legislative branch of government. However, the Court had to address the use of vendor payments in Engleman v. Amos, 404 U.S. 23 (1971). The use of vendor payments rather than cash seriously compromises the concept of consumer sovereignty and introduces an element of social control into the provision of benefits. In Engleman, a New Jersey regulation which allowed the state to make vendor payments under its welfare statutes was challenged as being in conflict with the Social Security Act. The Court held that states were not prohibited from using vendor payments as long as no federal matching funds were involved. Whether or not such payments violated constitutional or statutory conditions was not addressed. Protective payments, which also compromise consumer sovereignty, have been challenged as well. Thus far, protective payments have been upheld as constitutional (Hodges v. Weinberger, 429 F. Supp. 756, 1977). In general, it would appear that protective payments and payments to vendors are permissible forms of social provisions.

Delivery System

Most of the court cases involving the delivery system for income maintenance programs are concerned with the pattern of authority between the state and federal governments. A significant decision in 1923 helped set the pattern of state-federal cooperation that has been so prevalent. That decision also provided the transition from viewing welfare as a local concern to a national concern. In Massachusetts v. Mellon, 262 U.S. 447 (1923), the constitutionality of the 1921 Maternity and Infancy Act (Sheppard-Towner Act) was challenged. This act, aimed at reducing maternal and infant mortality and at protecting maternal and infant health, was one of the first attempts at federal and state cooperation in social welfare. Because the states were given the option of participating in the program, the Court held that the states' powers were not in question and that, indeed, the alleviation of poverty was permissible national objective (La France, 1979, p. 9). This decision opened the door for further federal government activity in the area of social welfare.

The following case illustrates the legal issue of the supremacy of federal law. In terms of the framework used here, the issue becomes which level of government has authority. King v. Smith, 292 U.S. 309 (1968), raised the issue of the use of a "substitute father" regulation in Alabama which denied AFDC payments to children of mothers who "cohabit" with a man, either inside or outside her home. The Court held that this was unacceptable as a condition of eligibility. It clearly indicated that states must conform to the eligibility criteria set forth by Congress and that this criteria was essentially financial for a federally

funded program. The states, however, retain a great amount of discretion in determining the level of financial benefits and the method of computation.

In Rosado v. Wyman, 397 U.S. 397 (1970), the method of determining the need standard for recipients was challenged. The question before the court was whether states were required to adjust AFDC benefits to meet the cost of living. The Court held that, although the state had to update the standard of need to the 1969 level, the state was still free to use benefit reductions and to pay inadequate benefits. In the Townsend case, 404 U.S. 282 (1971), an Illinois procedure of limiting AFDC funds to dependent children enrolled in vocational training was challenged. Congress had specifically provided that AFDC funds were to be available to dependent children until age 20 if enrolled in vocational training or college. In effect, the state policy was encouraging vocational education and attempting to conserve funds. The Court held that the Illinois policy was in clear conflict with congressional legislation.

The patterns of authority have also been at issue in cases based on equal protection challenges. For example, in Jefferson v. Hackney, 406 U.S. 535 (1971), the Texas system for computing financial need was challenged. At that time, Texas used a percentage reduction of the level of need before outside income was deducted and the percentage reduction varied for each category of aid (e.g., Aid to the Blind, Aid to the Aged, and AFDC). Both of these practices were challenged: the former on the basis of obscuring actual need; the latter on the basis of discrimination because a higher percentage of need was paid to the adult programs than to the program for dependent children. The Court rejected these challenges thus leaving states considerable latitude in the area of financial allocations.

In Dandridge v. Williams, 397 U.S. 471 (1970), a Maryland procedure which restricted the total amount of benefits any one family could receive under AFDC was challenged on the basis of conflicting with the Social Security Act as well as denial of equal protection. The Court did not uphold these challenges. But interestingly, in its opinion, the Court found it necessary to address the procedure:

We do not decide today that the Maryland regulation is wise, that it best fulfills the relevant social and economic objectives that Maryland might ideally espouse, or that a more just and humane system could not be devised. Conflicting claims of morality and intelligence are raised by opponents and proponents of almost every measure, certainly including the one before us. But the intractable economic, social and even philosophical problems presented by public welfare assistance programs are not the business of this Court...The Constitution does not empower this Court to second-guess state officials charged with the difficult responsibility of allocating limited public welfare funds among the myriad of potential recipients (397 U.S. at 487).

If access to the delivery system includes the procedures which must be adhered to in terminating benefits, the 1969 decision in Goldberg

v. Kelly, 397 U.S. 254, has significant implications for administrative discretion. The legal issue before the Court was one of due process. The specific question dealt with the right of AFDC recipients to an evidentiary hearing prior to the termination of benefits. The Court held that for the termination of welfare benefits, only a pre-termination evidentiary hearing assures the recipient of procedural due process. The Court made clear that it was concerned with depriving an eligible welfare recipient of those benefits which are essential to the recipient for his livelihood. The Court found it necessary to address the issue of cost effectiveness. However, in this instance, it was the Court's thinking that the interest of the recipient in the continuation of benefits and the state's interest in not erroneously terminating benefits outweighed concerns about increased financial and administrative costs in implementing these due process procedures.

Financing

The final dimension to be considered is the method of financing for social welfare programs. The source of funding for social welfare programs has been of particular concern. Building on the cooperative system established by the Maternity and Infancy of 1921 and the Court's ruling in Massachusetts v. Mellon, 262 U.S. 447 (1923), which implied that the alleviation of poverty was a permissible federal concern, the Social Security Act of 1935 broadened the scope and funding of social welfare programs. The taxing mechanisms set up to finance the programs were challenged as being unconstitutional; they were viewed as interfering with the taxing powers of the states.

In Steward Machine Company v. Davis, 301 U.S. 548 (1937), the Court held that the tax imposed on employers (for which they were given credit if the employers made contributions to a state unemployment fund) was not in violation of the constitution (the Tenth Amendment) because states were not compelled to participate in the program. A companion case, Helvering v. Davis, 301 U.S. 619 (1937), challenged the provision for retirement benefits through taxation of employers and employees. The Court held that this provision did not violate the constitution (the Tenth Amendment) either. These decisions clearly established the federal government's right to tax for the general welfare.

An interesting lower court case held that welfare could be treated as a matter of local concern by the state. In Lindsay v. Wyman, 372 F. Supp. 1360 (1974), the Mayor of New York City challenged a New York State plan which would distribute the costs of welfare among the localities in proportion to the number of recipients. It was argued that this was an unfair burden on the City of New York because it has a disproportionate share of the poor population. However, the Court held that, even though poverty was a national problem, it was also a local one and reasonable for the locality to be responsible for the funding of social welfare programs.

DISCUSSION

As can be seen from the summary of court cases in Table 2, legal challenges to social welfare legislation and procedures arise from a limited number of issues. Although legislation and procedures have been challenged on various grounds, most challenges arise from three concerns: due process, equal protection, and supremacy of either

federal legislation or the constitution. Thus, the impact of court decisions is fairly well limited to questions of eligibility, federal-state conflicts, and program procedures.

In analyzing court decisions within the Gilbert and Specht framework, it becomes obvious that the Court has played a strong role in defining and clarifying the patterns of authority within the programs and methods of financing social welfare programs. (See Table 3.) The Court, however, has had limited impact on such issues as inadequate benefits and inequities among the states. Given the restrictions on legal challenges, changes in these areas may be beyond the scope of the courtroom. It would appear that legislative action on the federal and state level as well as administrative regulations must be relied upon to address these concerns. Application of the Gilbert and Specht framework points up the limitations of case law and litigation as vehicles for changing social welfare programs and policies. The framework is limited, however, in its inattention to the methods by which policies and programs are implemented, particularly in light of due process and equal protection concerns.

The framework's utility in the analysis of court cases rests on its ability to place court decisions within the perspective of the plausible alternatives to social welfare policies and programs. Applying the framework to court decisions readily identifies the areas in which those decisions have influence as well as the boundaries of those decisions. In addition, application of the framework clarifies the possible implications of those decisions for current programs and policies. The framework may also be used

to identify current concerns which may be amenable to change through litigation. In a complementary fashion, the framework delineates those areas in which social action or advocacy may be a more appropriate strategy in attempting to bring about change in social welfare programs and policies.

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TABLE 1

| Dimensions of Social Welfare Policies and Programs and Their Components | |
|--|---|
| <u>Dimensions</u> | <u>Components</u> |
| Basis of Social Allocation | Universal v. Selective Social Effectiveness v. Cost Effectiveness Incentives to work Incentives to procreate Stigmatization Social integration Institutional v. Residual Allocative Principles Attributed need Compensation Diagnostic differentiation Means tested |
| Nature of Social Provisions | Cash In-kind Opportunities Services Credits Power Values: Social control v. Consumer sovereignty Variable of Poverty Theories Resource deficiency Individual deficiency Institutional deficiency |
| Structure of Delivery System | Patterns of authority Roles and status Substantive composition |
| Mode of Financing | Source of funds System of transfer |

Based on Neil Gilbert and Harry Specht, Dimensions of Social Welfare Policy (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1974).

TABLE 2

| Constitutional Issues and Associated Court Cases Related to Income Maintenance | |
|---|---|
| <u>Constitutional Issue</u> | <u>Court Cases</u> |
| Doctrine of Preemption | <u>New York Department of Social Services v. Dublino</u> (1973) |
| Due Process | <u>Goldberg v. Kelly</u> (1970) <u>Mathews v. Eldridge</u> (1976) <u>Roberts v. Harder</u> (1970) <u>Wyman v. James</u> (1971) |
| Equal Protection | <u>Dandridge v. Williams</u> (1970) <u>Jefferson v. Hackney</u> (1971) <u>Lindsay v. Wyman</u> (1974) <u>Shapiro v. Thomson</u> (1969) |
| Interstate Commerce | <u>The People of California v. Edwards</u> (1941) |
| States' Powers | <u>Engleman v. Amos</u> (1971) <u>Helvering v. Davis</u> (1937) <u>Massachusetts v. Mellon</u> (1923) <u>Steward Machine v. Davis</u> (1937) |
| Supremacy | <u>King v. Smith</u> (1968) <u>Rosado v. Wyman</u> (1970) <u>Shapiro v. Thompson</u> (1969) <u>Townsend v. Swank</u> (1971) |
| Unlawful Search | <u>Parrish v. Civil Service Commission</u> (1967) |

TABLE 3

| Dimensions of Choice and Associated Court Cases Related to Income Maintenance | |
|--|--|
| <u>Dimension</u> | <u>Court Cases</u> |
| Basis of Social Allocation | <u>King v. Smith</u> (1968) <u>Mathews v. Eldridge</u> (1976) <u>New York Department of Social Services v. Dulbino</u> (1973) <u>The People of California v. Edwards</u> (1941) <u>Shapiro v. Thompson</u> (1969) |
| Nature of Social Provisions | <u>Engleman v. Amos</u> (1971) <u>Roberts v. Harder</u> (1970) |
| Structure of Delivery System | <u>Dandridge v. Williams</u> (1970) <u>Goldberg v. Kelly</u> (1970) <u>Jefferson v. Hackney</u> (1971) <u>King v. Smith</u> (1968) <u>Massachusetts v. Mellon</u> (1923) <u>New York Department of Social Services v. Dulbino</u> (1973) <u>Parrish v. Civil Service Commission</u> (1967) <u>The People of California v. Edwards</u> (1941) <u>Rosado v. Wyman</u> (1970) <u>Shapiro v. Thompson</u> (1969) <u>Townsend v. Swank</u> (1971) |
| Mode of Financing | <u>Helvering v. Davis</u> (1937) <u>Lindsay v. Wyman</u> (1974) <u>Massachusetts v. Mellon</u> (1923) <u>Steward Machine Co. v. Davis</u> (1937) |