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Daniel A. Farber

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POVERTY, EARNINGS, AND DISCRIMINATION

Our last issue carried a column on race and earnings. While we were in press, a study was released with major new findings on some related issues. As so often happens, the facts are both more interesting and more difficult to understand than conventional theories would have us believe. This study contains much that confounds the expectations of both conservatives and liberals (not to mention radicals).

The study was conducted by the Survey Research Center of the University of Michigan. Its results are reported in a book called *Years of Poverty/Years of Plenty*.¹ The researchers interviewed a sample of 5,000 American families over a ten-year period. Many of the results have been published in technical reports, but this is the first report for the general public. No doubt specialists will address the methodological issues, as indeed they should. But it would be futile as well as presumptuous for us to try.

One key methodological point does deserve mention. The most significant feature of the Michigan study is that it is longitudinal—that is, it follows the same people over a period of time, rather than studying a cross-section of the population at a single time. Virtually all previous research on poverty and related issues has been cross-sectional. Such studies can be misleading. From a cross-sectional study showing that fifteen-year-olds like Boy George and fifty-year-olds like Frank Sinatra, one might infer that in thirty-five years today's adolescents will love Sinatra. Perhaps so, but perhaps they will play Boy George for nostalgic memories of the far-off '80's, when life was simple and children respected their parents. Cross-sectional studies are an inherently poor way of studying social dynamics, even if one employs a series of such analyses. Such a series might show, for example, that the number of millionaires is increasing. But the meaning of this trend is unclear. The increase may reflect greater opportunities to

1. G. DUNCAN, *YEARS OF POVERTY/YEARS OF PLenty: THE CHANGING ECONOMIC FORTUNES OF AMERICAN WORKERS AND FAMILIES* (1984). Page cites in the text are to this book. The book is available for \$14.00 from the Institute for Social Research, Box 1248, Ann Arbor, Michigan 48106.

gain wealth. Or maybe it is no easier to get rich, but people are hanging onto money longer, thus causing the total number of the rich to increase.

The Michigan longitudinal study produced rather surprising results. In general, the authors found far more social mobility—in both directions—than anyone anticipated. Moreover, they found much less predictability to peoples' lives than expected.

The results may significantly affect legal analysis of issues relating to poverty and discrimination. For example, the Warren Court showed signs of treating the poor as a suspect class in equal protection analysis. The Burger Court has declined to expand on those holdings, but it has not overruled them. Highly respected scholars have argued for greater judicial scrutiny of laws affecting the poor.² Thus, the nature of the poor as a group directly relates to at least one issue of constitutional law.

More generally, however, views about poverty affect responses to many social institutions. The currently fashionable Marxist school of legal analysis views society as having a highly rigid class structure. In contrast, some conservatives think that the poor are often to blame for their poverty. These beliefs are part of general world views that, as we have known since the days of Holmes and Cardozo, can do more than mere logic to shape the law.

From almost anybody's point of view, the Michigan findings on poverty are startling. First, the surprises for the Left. The conventional view among those left of center is that the poor constitute a hereditary "underclass," locked into the welfare system and into lives of deprivation and hopelessness. This view seemed confirmed by cross-sectional studies showing that the number (around 12%) and characteristics of "the poor" stayed pretty constant in the 1970's. The Michigan longitudinal study shows, however, that although the numbers persisted, the people changed. Almost 25% of the population slipped below the poverty line at some point, but most escaped again after a year or two. The constant 12% of "the poor" really consisted of two groups: a large group of the temporarily impoverished and a much smaller group of the persistently poor (about 3% of the population) (pp. 38-43). Similar results were found concerning those on welfare: many people used the welfare system for short periods, but few were

2. See, e.g., Michelman, *The Supreme Court, 1968 Term—Foreword: On Protecting the Poor Through the Fourteenth Amendment*, 83 HARV. L. REV. 7 (1969); Bennett, *The Burger Court and the Poor*, in *THE BURGER COURT: THE COUNTER-REVOLUTION THAT WASN'T* 46, 56-57 (V. Blasi ed. 1983).

permanent recipients (pp. 72-82). So those below the poverty line do not form an "underclass."

Now for the Right: While it is true that many people escape from poverty, individual merit does not seem to be the usual explanation. For example, having "good" attitudes such as being motivated to achieve, was virtually unrelated to success in escaping from poverty (pp. 25, 59, 65). Indeed, the attitudes of the poor seemed virtually indistinguishable from those of the rest of us.

The most common ways of becoming poor were to lose one's spouse or one's job; the commonest ways of escaping poverty were to get a good job or marry someone who had one (p. 62). Among the persistently poor, at least two-thirds either: (a) were too old to work, or (b) were women who could not get jobs paying enough to cover childcare costs (pp. 62-63). Very few nonelderly white men were persistently poor (p. 64). And, to undermine one more conservative myth, welfare payments did not increase family size; states with higher AFDC payments did not have larger welfare families, as one would expect if the payments function as an incentive to have children (p. 83).

The findings about the poor were similar to more general findings about social mobility. At all levels of society, mobility was much higher than expected (p. 10). Again, the most powerful factors affecting economic welfare were marriage or loss of a spouse (p. 10). Changes in number of hours worked were also important, as were many "undesirable life events" like major illness or being laid off (p. 27).³ Attitudes were relatively unimportant in determining economic success or failure (pp. 24-25). Furthermore, even among white males only about 25% of the variance in earnings was explicable by variations in education, intelligence, work experience, and attitudes.⁴ These are factors that an economist, especially a conservative economist, would expect to be highly important in determining productivity and hence wages.

3. One fascinating result: The only factor that correlated with the frequency of these events was education. On the average, college graduates had one fewer disaster than eighth grade graduates. The correlation persisted even after controlling for IQ and personality differences (pp. 26-28).

4. It should be noted, however, that the "explained variance" measure has a tendency to make causal relationships appear weak. To use an example from Jencks, both of the following were true in 1972:

- (a) 87% of high school seniors whose parents made over \$15,000/year entered college as opposed to only 20% of those whose parents made under \$3,000/year.
- (b) Parental income explained about 9% of the variance in years of schooling (independent of IQ).

C. JENCKS, *INEQUALITY: A REASSESSMENT OF THE EFFECT OF FAMILY AND SCHOOLING IN AMERICA* 358 (1972).

In short, social mobility seemed much higher than liberals might have expected, while individual characteristics seemed less related to success than conservatives might have predicted. Of course, there was *some* stability in class structure and *some* relationship between personal characteristics and success. If the Michigan results hold up under further study, we need new models to sort out the rather confusing mixture of stability and fluctuation in our society. If such new models prove successful in accounting for the facts, they are bound to affect scholars' attitudes, and perhaps eventually constitutional law.

Some of the Michigan results bear more directly on issues of discrimination law. In the interest of brevity, we will mention only the findings bearing on the currently hot issue of comparable worth statutes.⁵ The theory behind these statutes is that women are systematically restricted to "female jobs," which receive lower pay than comparable "male jobs."⁶ The Michigan study gives some support to this hypothesis of systematic discrimination. Women's wages are dramatically lower than men's. Differences in skills, training, attitudes, and work experience (such as longer interruptions in employment) accounted for only about a third of this wage gap (pp. 154-61). Of course, factors other than discrimination may explain part of the rest: don't forget that only about a quarter of the variance in incomes among white men is understood.⁷

Advocates of comparable worth statutes may be less happy with some of the other findings. First, women in "female" jobs do not appear to be paid less than comparable women in "male" jobs. Second, there is substantial movement by women between the two job categories (p. 164). Third, although there is an "old boys' network," workers with access to "informal information or influence channels" did not appear to have higher-paying jobs (pp. 165-66). The "pink-collar ghetto," like the underclass, seems to be somewhat mythologized.

5. There is also an interesting chapter on the earnings of black men, which we do not discuss here because the policy implications are quite unclear. See pp. 129-52.

6. See e.g., A. BLAUSTEIN, *THE AMERICAN PROMISE: EQUAL JUSTICE AND ECONOMIC OPPORTUNITY* 22 (1981) ("occupational segregation confines women to job 'ghettoes' where the pay is low and the mobility is little or nonexistent"); see also, Beller, *The Effects of Title VII of the Civil Rights Act of 1964 on Women's Entry into Nontraditional Occupations: An Economic Analysis*, 1 J.L. & INEQUALITY 73 (1983); Blumrosen, *Wage Discrimination, Job Segregation, and Title VII of the Civil Rights Act of 1964*, 12 U. MICH. J.L. REFORM 397 (1979).

7. At least part of the gap is probably due to the crudity of the measurement methods—for example, years of school are counted but field of study is not. Also, physical aspects of jobs are ignored.

We have only sampled a few of the Michigan findings here. The report is full of fascinating information on American society.⁸

When our last foray into the social science literature appeared, friends offered two criticisms, which we found regrettable for quite different reasons. One critique accused us of having fallen victim to what was called the "pervasive racism of our society." We do not agree that the statistics we presented carry any negative implications about any group; still less do we agree that information should be suppressed for political reasons. The other criticism was that our report was simplistic. Here, we regret only that our critic thought he was telling us something new. Obviously, both our previous report and the present one drastically oversimplify complex theoretical and methodological issues. But our aim is not to present a definitive view of reality. Instead, we wish only to provoke readers into questioning their preconceptions—and perhaps also to spread the heresy that mere facts are not beneath the attention of even the most cerebral legal theorist.

D.A.F.

8. Some examples:

- (a) After 10 years, over half the families in the study were headed by a different person (p. 12).
- (b) The average work year for white men was considerably over the 2000 hours constituting full-time work (p. 97). Second jobs and overtime were prevalent.
- (c) Recent improvements in the average earnings of black men are largely attributable to better pay for young men just entering the labor market (pp. 146-47).