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Just Welfare Policy Guideline #5 for Government and Citizenship

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The Center's *Guideline* on welfare policy (www.cpjustice.org/guidelines) has many parallels to the one on education policy (introduced in the last issue of the *Public Justice Report*, 4th quarter, 2006). The welfare-policy *Guideline* is predicated on the same two basic elements of principled pluralism that undergird many of the Center's policy arguments. First, there is what we call *structural pluralism*, emphasizing the different organizational and institutional responsibilities humans have. There is more to human society than the individual and the state. As a matter of principle, government must do justice to the real diversity of human social responsibilities.

Second, there is what we call *confessional pluralism*, which is government's obligation, as a matter of principle, to give equal public-legal treatment to people of all faiths. It is not government's responsibility to establish the true faith for everyone in the political community, which is a community of citizens, not a community of faith.

With principled pluralism at the foundation, the first paragraph of the *Guideline* on welfare says this: (1) "The call to be a 'neighbor'—to help those who are in need—is addressed to all people and all institutions. Receiving assistance should enable those in need to reach or return to self-sufficiency and be in a position to help others." The implication here is that government does bear responsibility to help those in need, but government is not the only institution or organization to bear such responsibility. That leads to the second paragraph.

(2) "Whether, and to what extent, government should render assistance to those in need depends on the nature of the need and the responsibilities of other institutions." Government's responsibility, in other words, has a public-legal nature in keeping with the kind of institution the political community is. And that responsibility exists in close connection with institutions and organizations such as families, churches, schools, social services organizations, and businesses that have different purposes and identities. Each in

its own way bears responsibility for neighbors in need.

We can't know what government should do to assist those in need without knowing the needs people have and whether addressing those needs calls for public-legal action. Therefore, the Center states, (3) "As part of its calling to promote public justice, government bears responsibility to guard against the emergence of intractable poverty in society and to ensure that appropriate and effective steps are taken to address such poverty." Intractable poverty is the kind that would keep a whole society, or a significant part of it, from developing. It would probably mean that some people simply cannot get access to jobs, or that they lack basic education or access to health care, or that for racial or other reasons they are systematically discriminated against. Historically speaking, intractable poverty is usually associated with failed states, or fundamentally unjust governments that discriminate in favor of a ruling elite or in favor of one racial or religious group, or governments that deny basic social goods such as education to one or more classes or groups. All of these are examples of fundamental injustice, and that is the kind of injustice that government must address. Yet fundamental injustices of these kinds cannot be dealt with merely by welfare assistance for those who suffer the negative consequences. We'll return to this matter with the discussion of the *Guideline's* sixth paragraph below.

The first way that government should act to address poverty, says this *Guideline* in paragraph #4, is by prevention, that is, "by upholding a just society that includes the protection of civil rights and responsibilities; by ensuring access to effective education, good health care, and decent housing; and by fostering conditions for a healthy economy." In other words, if government upholds justice for all and if others fulfill their responsibilities as parents, teachers, employers, and so forth, most kinds of poverty will be prevented. Furthermore, if this wider task of government to uphold a just society is not fulfilled, then no amount of remedial care will be able to overcome the resulting poverty.

But closely related to its preventive responsibility is government's cooperation with other institutions and organizations that are essential to human well-being because they are the primary preventers of poverty and the primary responders to people in need. Thus, the *Guideline* next states: (5) "As part of its responsibility to uphold a just society, government must protect and promote a thriving social sector to help meet diverse welfare needs. Government should fulfill its welfare responsibility in part by underwriting the work of non-government organizations (NGOs), which are close to the needs and devoted to alleviating them." At the preventive level, government's cooperation with families may come in the form of an income-tax deduction for dependents, or in other ways that support families in doing what only families can do to raise children to mature independence.

At the level of primary responders, think for example of people who can help people who must recover from a lost job, bankruptcy, drug addiction, or a broken family. These are the kind of burdens and hindrances that only a personal relationship with a trusted friend or with capable counselors can help lift or overcome. Government cannot take the place of family, friends, counselors, or job-training specialists, but the work of these individuals and organizations can be supported by government in a variety of ways. So

that's where the partnership comes in.

Yet you might ask, why should government do anything at all? Isn't it the responsibility of individuals and families to look after themselves and of churches to provide assistance to those in need? That's not government's job, is it? In response to these questions, the Center makes its next statement on welfare policy: (6) "The nation's welfare obligations do not rest with NGOs alone, because people in dire poverty need help even when their neighbors are not generous or when economic conditions restrict private charity. Moreover, need and wealth are often found in different places. For these reasons, government will at times have to act in ways that go beyond preventive measures and the support of NGOs, for it must address critical conditions that endanger the welfare of society as a whole."

This brings us back to the discussion above about fundamental injustices that welfare assistance alone cannot address. What the Center has in mind here can be compared to, and contrasted with, government's emergency response to a sudden natural catastrophe. Few of us have any objection to the idea that it is government's responsibility to act quickly in response to a disaster by flying in food, water, and medical assistance to people who have endured a flood or an earthquake or a tornado. The National Guard may suddenly take over security for a whole town. State and even federal governments may fly in nurses and doctors from far away to help. This is because the emergency has so disrupted the ordinary patterns of life that people cannot cope. But as soon as the emergency conditions have been dealt with, government's special measures can be pulled back and people can return to their normal responsibilities.

The situation is different, however, where people have suffered under unjust conditions that have developed over time, particularly if those conditions have been upheld by the law. Think of slavery, or of a tax code that gives advantages to one group in society, or of low-quality schools for those who do not have the resources to move to a better location or purchase private education. The consequences of these injustices may not show up suddenly like those resulting from a tornado, but human lives and communities may have become severely twisted and degraded over several generations. These are conditions to which government must respond by doing more than merely helping NGOs minister to people in special need. Laws—perhaps even the Constitution—may have to be changed and the institutional framework of society or the economy that has helped to produce the degradation will have to be transformed.

In a new book titled *God and the Welfare State* (MIT Press, 2006), author Lew Daly introduces the work of the Center for Public Justice and various other organizations and individuals who have made a major contribution to the initiatives of the Bill Clinton and George W. Bush administrations to transform welfare policy in the United States. Daly correctly identifies the Center's indebtedness to the Dutch-reformed Kuyper tradition with its social philosophy of "sphere sovereignty" (which I have called "structural pluralism"). Daly sees this as one of the distinctive things that the Center contributed to the Charitable Choice provision of the 1996 welfare-reform law and to the faith-based initiative of the

Bush administration. Yet Daly believes that unlike Kuyper, who was concerned with the fundamental structural injustices underlying poverty, the contemporary American faith-based initiative ignores economic and market injustices. All the faith-based initiative aims to do, he says, is to put more of the federal government's shrinking welfare allotments in the hands of religious groups.

There is some truth in Daly's criticism of the Bush administration and Congress with regard to the lack of fundamental economic, taxation, and labor reforms, but he is mistaken to associate the Center for Public Justice with a conservative, market-minded bias. We are Kuyperian and not libertarian in this regard. At the same time, however, Daly underestimates the significance of the welfare reforms that have been implemented if they are considered within their limits as a mode of government assistance to people in need. Insofar as a shift has taken place in the law and in public practice to have government do a better job of partnering with nongovernment organizations, then a very important structural change has begun to unfold. And if that change leads to the kind of reorientation whereby government no longer discriminates against faith-based organizations when it partners with NGOs serving those in need, there is no reason why another administration and Congress cannot increase federal welfare funding where it is needed and where it can be more effective within the new partnership framework. Moreover, if the philosophy of principled pluralism begins to get through to liberal/conservative Americans who do not typically think in social-pluralist terms, then the stage has also been set for a more responsible handling of the larger structural injustices to which Daly refers that are not matters of welfare policy in the narrower sense.

The final word that this *Guideline* offers on welfare policy has to do with what I have termed "confessional pluralism," and this is something that Daly also misunderstands. Whether government acts to achieve major social, economic, and legal reforms, or acts merely to assist other organizations in their own ministries of mercy, government must act in ways that do justice to people of all faiths.

Thus, the seventh paragraph in this *Guideline* reads as follows: (7) "When government does partner with NGOs, it must protect their autonomy and diversity. Many of the NGOs that provide welfare assistance are forthrightly faith-based. In keeping with the First Amendment, government must not discriminate against such groups. Instead, it should grant faith-based organizations the same opportunities offered to all other service groups and protect their distinctive religious character if they become its partners. Government can best honor the religious liberty of persons and families that need public welfare assistance by ensuring that a variety of providers with different philosophies of assistance are available."

This paragraph is absolutely critical for the debates now going on in Congress and before the Supreme Court. Many people and organizations still operate with the assumption that faith-based organizations should operate entirely in private and never receive any public funding. If governments do fund nongovernment organizations, they

should insist that all such organizations act in non-religious ways. But this is to misunderstand the requirements of the First Amendment to the Constitution.

The First Amendment does not say that religion is private, nor does it say that government may never cooperate with religious or faith-based organizations. If that were true, we could not have a military chaplaincy program or federal assistance for childcare that allows parents to use vouchers to put their children into religious day-care centers. What the First Amendment says is that government may not hinder the free exercise of religion and that government must not establish a religion. In the case of welfare services, this means that if government chooses to cooperate with nongovernment organizations (NGOs) in providing assistance to people in need, it must not discriminate against faith-based organizations that provide such assistance. Just as it would be wrong if government funded only Catholic or Presbyterian social service organizations, so it is wrong for government to fund only so-called secular organizations. What the First Amendment permits and demands is pluralistic nondiscrimination, which means equal treatment of a variety of cooperating NGOs whether explicitly faith-based or not.

Because Daly reads the argument about equal treatment for faith-based groups through the lens of the Dutch experience, he mistakenly concludes that the aim behind allowing faith-based groups to partner with government is to beef up religious subcultures in the United States to the detriment of the universal common good. But public welfare funds that go without discrimination to NGOs that help people in need can no more beef up religious subcultures than beef up secular subcultures. The United States is not composed of tight subcultures that conduct all of their business, family affairs, education, civic practice, and education in closed compounds. The United States makes room for the Amish, but its citizens are not all moving in the direction taken by the Amish. Catholics, Protestants, Jews, and even Muslims do not huddle together in exclusive communities, such that public funds for welfare services or education would tend to harden the exclusiveness of such communities. The key question of justice is simply one of government's equal treatment of its citizens—who are diverse in need and in faith—when government decides to channel its universal, public funding through nongovernment organizations (or directly to citizens in need through vouchers). If government discriminates against faith-based service providers, it does not thereby aid the universal body politic. To the contrary, it privileges one sector of the body politic—those who make no faith claim or a secular faith claim—to the disadvantage of those who make various faith claims. Such action fractures the body politic rather than strengthen its cohesiveness.

The Center argues as a matter of universal, public-justice principle that if government partners with independent organizations, it must not discriminate against one group or another, whether they are explicitly faith-based or explicitly secular. Nor may government place demands on the organizations it partners with that would undermine their unique identity. That is why it is essential that the law uphold the right of nongovernment organizations to hire staff members who comply with their purpose and philosophy. To deny NGOs this right and to insist that they, like government agencies, must hire people without regard to their faith or philosophy is to try to force such organizations to be extensions of government rather than respecting them as partners with

government. That is why the seventh paragraph of the Center's *Guideline* on welfare insists that government should protect the distinctive religious (or non-religious) character of any NGO with which it cooperates.

For further reading on this subject, see the Center's *A New Vision for Welfare Reform* (1994), which is also an appendix in the book *Welfare in America: Christian Perspectives on a Policy in Crisis* (Eerdmans, 1996), edited by Stanley W. Carlson-Thies and James W. Skillen, and the book by Dave Donaldson and Carlson-Thies, *A Revolution of Compassion: Faith-Based Groups as Full Partners in Fighting America's Social Problems* (Baker Books, 2003). On the matter of faith-based hiring rights, see the Center's book, *The Freedom of Faith-Based Organizations to Staff on a Religious Basis* (2004), written by Carl Esbeck, Stanley Carlson-Thies, and Ronald Sider.