

Chapter 3

Contractualising Social Policies: A Way Towards More Active Social Citizenship and Enhanced Capabilities?

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Introduction

The move towards activation, individualisation and territorialisation of social policies is by now well documented in academic literature. This threefold transformation coincides with an ideological convergence towards emphasising individual responsibility in the process of social integration policies and increasing benefit conditionality. Thus, a contractual approach to welfare is promoted that questions the conventional role of the welfare state as well as the very notions of social rights and social citizenship (e.g. Gilbert 2002; Handler 2004) and imposes a new distribution of rights and duties on welfare recipients. This has a deep-seated impact on the place granted to beneficiaries and welfare local agents in social policies: both are called to be more active but in a context where such a call can either enhance their individual agency and margin of manoeuvre or constrain them into a specific way of activating themselves or being activated by administrative authorities.

This raises wide-ranging questions about the issue of contractualism and its impact in terms of participation and active citizenship: what does it mean to be a citizen in such a context and what are the missions conveyed to so-called 'contractual' public policies when they are called upon to promote autonomy and active citizenship? What is the very meaning of the word 'contract' in this context: to what extent does it involve the ideas of 'equality between the parts to the contract', 'completeness' of the terms of the contract, etc.? Do such instruments consist in promoting autonomy or real freedom to choose one's way of living or do they rather imply compliance with administrative or official expectations? This contribution suggests some answers to these interrogations, based on an analysis of the Swiss case against Amartya Sen's capability approach.

Social Protection in Switzerland

In Switzerland, the patterns of activation, individualisation and territorialisation take place mainly in two major social insurances, that is, unemployment (AC) and disability (AI) insurance and in social assistance programmes (AS) implemented at local level. From the mid-1990s on, all three introduced activation strategies to counterbalance the negative incentives stemming from long and, so to say, unconditional benefit payments. To a large extent, this evolution was justified by an important growth in the caseload: the unemployment rate rose from 0.5 per cent in 1990 to 4.7 per cent in 1994 and the number of disability pensions doubled in almost 15 years, with a peak of 492,221 pensioners in 2006.¹ In this context, 'passive' expenses, as they were labelled, were sharply criticised owing to the dependency trap they were accused of inducing and their supposed failure in reintegrating the beneficiaries. This led to a progressive diminution of the amount and duration of cash benefits, together with a hardening of the eligibility conditions. At the same time, recommodification of recipients was increasingly seen as the best way to achieve social integration and active labour market programmes were resorted to more and more. AC, AI and AS legislation has undergone several reforms over the last 15–20 years in order to implement programmes oriented towards this threefold movement, paying an increasing attention to professional reinsertion through activation measures, as the level of expenditure devoted to active measures reveals.² In order to implement these active labour market policies (ALMPs), the focus was placed on local actors, as illustrated by the creation of regional placement offices (RPOs) in 1995, cantonal AI offices (OAI) in 1992 and regional medical services (SMRs) in 2004, the last having responsibility for achieving a more rigorous medical assessment of applicants. In the field of social assistance, such focus on local (or situated) action existed before and the evolution towards activation did not result in the creation of new local bodies but in an attempt to instil a new culture among local agents and social workers. In this case, the challenge was to convince social workers that it makes sense to participate in the implementation of activation strategies. New managerial techniques and tools were introduced in the three programmes in order to monitor the action of these local agencies,

1 The figures for social assistance are available only from 2004 at federal level. From that time on, no significant increase could be observed. However, the data available at cantonal level indicates an increase in the caseload throughout the 1990s.

2 Between 1990 and 2013, so-called active expenses increased from 129.0 to 593.5 million euros in the AI and from 16.1 to 544.7 million euros in the AC, with a peak of 649.8 million euros in 2005 (OFAS 2014). In social assistance programmes, the same evolution can be observed with the progressive introduction, in most Swiss cantons, of ALMPs from 1995 on.

thus putting an important focus on performance indicators, benchmarking, provision agreements, protocols and the like, with a view to influencing and, to some extent, shaping local actors' practices. All these moves progressively turned social policies into social integration policies, the ultimate objective of which is to make the welfare system more effective by activating all categories of recipients, exploiting more fully their capacity for work and limiting public expenses via the diminution of benefits paid.

Contractualism in the Swiss Context

In all three programmes, contractualism is at the core of these transformations: indeed, the three moves towards activation, individualisation and territorialisation take place through a twofold contract linking, on the one hand, central actors and local agents (mostly in the form of provision agreements) and on the other, institutional representatives and individual beneficiaries via so-called individual action plans. In the former case, the contract is used to define the mission and objectives pursued by local agents and the resources made available for that purpose, as well as the ways to monitor and supervise their action; in the latter case, the contract details the measures and programmes that the beneficiary has to follow and her rights and duties in this context, as well as the sanctions inflicted in cases of non-compliance. However, the three programmes did not use contractualism in a uniform way. Their actual use of contracts differed to some extent, which led to a different way to interpret the moves towards activation, individualisation and territorialisation. Thus, it is crucial to capture these differences in order to be able to assess the genuine effect of contracts on local agents and beneficiaries.

This is the objective pursued in this chapter that mobilises the capability approach in order to grasp the implications of these transformations on the place and status granted to beneficiaries and to identify the terms of the new welfare contract brought about by the emergence of ALMPs in the Swiss context. The next section briefly presents the challenges raised by contractualism and the focus on active citizenship within welfare policies; it underlines the potential of the capability approach as an analytical and normative tool in this respect. Thereafter we analyse comparatively the evolutions of the AC, AI and AS over the last 10–20 years, firstly focussing on the activation tools and their normative implications and outlining in what way individual responsibility is supported by the ALMPs developed in the three institutions under scrutiny; then we highlight the ambivalent effects of the move towards individualisation – does it promote the beneficiaries' agency or capacity for autonomy, or does it translate into increased pressures imposed on them?; finally, we identify the consequences of territorialisation on the way to envisage autonomy and active citizenship in the field of welfare before moving on to the chapter's conclusion.

This chapter draws on empirical material (five case studies, including documentary surveys of official texts and more than 70 semi-structured interviews conducted with cantonal authorities and local agents in charge of ALMPs) collected in the framework of four successive European projects (EUROCAP – FP5, CAPRIGHT – FP6, WorkAble – FP7 and the ongoing SocIEtY project – FP7) that mobilised the capability approach to investigate the transformation of welfare policies.

Assessing Social Citizenship, Participation and Contractualism Against the Capability Approach

As the literature shows, the active turn of welfare policies led to a deep-seated redefinition of welfare institutions and the way of organising and providing welfare benefits. In this context, the contractual trend brought about ambivalent impacts regarding the content and the very meaning of social citizenship. On the one hand, it opened the way for an enabling state providing tailor-made support and brought about new means and social rights in order to restore individuals' participation and social inclusion. On the other, ALMPs put benefit conditionality at centre stage (Clasen 2000) as the entitlement to social rights became dependent on individual capacity to meet institutional expectations, in particular regarding the conditions attached to accessing and maintaining welfare benefits (e.g. Sol and Westerveld 2005). This increased conditionality presaged the risk of new forms of social exclusion as a result of the behavioural requirements imposed by welfare institutions, thus prolonging welfare spells or contributing to the stigmatisation of non-compliant recipients.

Activation relies on and reflects a specific conception of social citizenship and a new balance between individual and social responsibilities. The aim is to make welfare policies more effective in a twofold sense – first reducing social expenditure (especially when it is devoted to so-called 'passive measures') and then improving the potential of welfare policies in promoting individuals' participation in society. These two objectives are at the centre of present welfare reforms and their call for a greater participation by cash recipients, especially regarding participation in the labour market which is conceived as the privileged way to take part in society as a full citizen. Following the human capital perspective, this primacy given to employment and employability also requires a strengthened participation in education and lifelong learning. Participation is thus at the very core of the present welfare policy reforms (Young 1990). However, participation is an ambivalent concept, as it may sometimes be reduced to an instrumental dimension (making welfare recipients comply with institutional objectives). When participation is envisaged as a means to reach institutional ends, it is indeed instrumental; a broader (more 'intrinsic') view

of participation would encompass also the ends of social policy, that is, the recipient would participate also in the definition of the objectives to be pursued via activation strategies. This emphasises that contractualism and participation do not necessarily coincide with the promotion of autonomy and calls into question the appropriateness of the contract for promoting fully-fledged participation. Indeed, while the contract sets the terms and expected forms of participation, participation in itself is always subject to negotiations and reformulations (Born and Jensen 2005). In the field of welfare, the ambivalence of these concepts can be observed in three main respects.

The Ambivalences of the Contract within Welfare Policies

First, the contract implies the exchange of something against something else. This pattern is sometimes interpreted as leading to a dichotomous conception of welfare support that opposes active and passive citizenship, that is, ALMPs on the one hand and passive benefits on the other hand. As a consequence, social citizenship is seen as preconditioned by the individuals' capacity and willingness to participate, distinguishing between competent and incompetent citizens (Born and Jensen 2005). In such a view, cash benefits induce dependency traps if they are too generous, hence they should be reduced in order to promote the beneficiaries' agency. The contract is then used as an incentive: if you activate yourself, you will be fully entitled to cash benefits. In other words, full citizenship rights are reserved to deserving and collaborative recipients while the others enjoy reduced rights. Here, social responsibility is traded against individual responsibility, which has to come first. However, another conception is possible: if we follow Marshall (1950), social rights and passive benefits are not incompatible with active citizenship. To the contrary, they are the very condition of participation and are thus complementary to ALMPs (Lister 2001). Here, the 'active-passive' dichotomy is suspected of hiding the democratic function of welfare policies and social rights (Bothfeld 2008) and the fact that 'social security is not simply a means; it is also an end' (Lister 2001:92). When endorsing this opposite view, taking the idea of active citizenship seriously requires the reassertion of the democratic value of cash benefits, which are the embodiment of the condition of full citizenship (Andersen 2005), conceived as the possibility of making autonomous choices and participating (Rothstein 1998). Another view of the contract is then suggested, in which social and individual responsibilities are not traded one against the other but combined in order to reach a joint objective – active citizenship and autonomy.

Second, the objective of contractual social policies goes beyond the distribution of cash benefits towards the development or restoration of the recipients' capacity to act autonomously. In other words, it is not only the material well-being of the beneficiaries that is at stake (decommodification in

Esping-Andersen's words) but also their agency. However, what it means to be an agent or to be active can vary significantly – if they are geared towards recommodification or integration into the labour market, then activation programmes will focus on putting people back to work or enhancing their employability; if they encompass larger objectives such as participation in society or the willingness to promote active citizenship, then activation requires more ambitious and multidimensional strategies. The issue is about the definition of human agency in welfare policies and about the means provided to implement this definition for every recipient. If agency coincides with professional integration, then activation should encompass all relevant dimensions, that is, those related to the labour force supply (employability, motivation, qualifications, etc.) but also those related to the labour demand, such as quantity and quality of available jobs. If agency is defined as autonomy at large, then activation measures should be very diverse in order to correspond to a holistic view of the beneficiaries, including the whole variety of possible relevant dimensions, like health, family, leisure, social capital, etc. Hence, the scope and content of actual activation programmes say a lot about the definition of agency supported by such strategies (i.e. what kind of agency is expected from the beneficiaries) and about the way individual and collective responsibilities are distributed in this respect. In analytical terms, it is thus necessary to question the content and meaning of agency within contractual social policies: what are the ends of the contract and what means are provided to reach them? Does everyone have the capacity to meet institutional expectations concerning agency? And if this is not the case, are welfare policies adequately designed to answer individual needs and promote participation for all? The issue is therefore whether or not active policies and their contractualised tools increase integration opportunities and real participation in the labour market and also in society more broadly, or whether they lead to new forms of selectivity and, as a consequence, social exclusion.

Third, the contract implies that both parties are equally involved and therefore that they are partners in the implementation of social policies. That is the reason why the contract is often considered as the most appropriate tool to reorganise welfare procedures on an individualised mode, transforming the relationship between individuals and welfare institutions towards a partnership logic. However, the adoption of a contractual approach in the area of welfare is controversial. This relates especially to the genuine character of participation within welfare policies: are beneficiaries real actors of their activation or do they have to abide by conditions and requirements imposed on them? Many authors underline the fact that welfare contracts are not ordinary contracts (e.g. Handler 2004). Some refer to *para-* or *quasi-*contracts (Eichenhofer and Westerveld 2005), others even express strong reservations about the appropriateness of such a tool in the field of welfare policies.

According to Handler, for example, the contract is inconsistent with welfare relationships; moreover the trend towards contractualism tends to erode the content and meaning of social citizenship, letting it move 'from status to contract' (2004:2). His position relies on two main arguments. First, the parties to the welfare contract have unequal bargaining and coercive power, especially with regard to the capacity to use sanctions. This vertical asymmetry is reinforced by the absence of a real exit option for the beneficiaries (i.e. an exit option that would not induce unbearable costs, like the suspension of welfare benefits), which makes parties' real freedom to contract essentially rhetorical in the case of welfare claimants. Second, the results of the welfare contract are unpredictable, as the return to the labour market at the end of ALMPs, as well as the availability of suitable jobs, cannot be guaranteed by any part of the contract. Opportunities remain essentially hypothetical and this calls into question the legitimacy of sanctions used against welfare recipients, which is an important issue in a context where their right to appeal remains largely ineffective (Handler 1986). It is thus necessary to investigate the capacity, but also the willingness, of street-level bureaucrats and local agents to implement participation within welfare policies in the framework of such imperfect contracts. This very much depends on the accountability tools designed at the central level to supervise and monitor local practices. The more restrictive these tools, the less margin there is for manoeuvre and interpretation and, consequently, the less space for participation.

Contractualism and the Capability Approach

Contractualism can lead to very diverse results according to a) what is exchanged and how, especially how cash benefits relate to ALMPs, b) the means and ends of the contract and c) the ability of the parties to the contract, especially local agents and beneficiaries, to participate effectively. We therefore need an analytical and normative tool to grasp these ambivalences and assess their impact on beneficiaries. We contend that Amartya Sen's capability approach offers useful insights in this direction (e.g. Sen 1999). By insisting that beneficiaries' real freedom to choose a life they have reason to value and to participate in society should be the core objective of all public action, the capability approach lays the foundations for an emancipatory reading of social policies and for a critical assessment of the welfare contractual turn. The question is then: to what extent do these policies contribute to developing the capabilities of their beneficiaries, allowing them to lead a life they have reason to value and to participate effectively in society? Two dimensions are of crucial importance in this respect: on the one hand, what is done to enhance the recipients' 'capacity to act'? On the other, what degree of 'freedom to choose' do they enjoy in the enactment of contractual social policies?

In the capability approach, the 'capacity to act' relies on the interaction of three main elements. First, an adequate amount of resources or commodities should be made available to all. Such commodities encompass not only the income or the goods and services that one owns or can acquire but also all transfer incomes or cash benefits provided by social insurance or social assistance programmes. The conditionalities imposed on access to such cash benefits are crucial dimensions to be taken into account when assessing their recipients' capacity to act. Indeed, if people have no access to adequate resources, then their capacity to act and to lead a life they have reason to value will be reduced. Second, all individual characteristics that allow or impede the conversion of these resources into capabilities or real freedoms to lead a valuable life, ought to be investigated. Some of these features are ascribed, such as age or gender; others are achieved, such as competencies, qualifications, experience, etc. In the case of labour market policies, being too old or too young, being a female or being low-skilled may act as insurmountable obstacles when looking for a job. Finally, the socio-economic context matters in a variety of ways. Social stratification indicates what groups are valued or despised and belonging to a poorly regarded group may impede professional and social integration and encourage discriminatory practices among employers. Also, social norms exert a strong pressure as to the roles that may be assigned to certain categories of people, which might significantly obstruct their search for a job; most importantly, the existence of job opportunities is a prerequisite to professional integration: in contexts of economic difficulty or crisis, the scarcity of jobs pushes many people into long-term unemployment; not only the quantity but also the quality of jobs matters in a capability perspective that insists on the possibility of all people leading a life they have reason to value. Thus, with regard to the 'capacity to act', a capability approach to contractual social policies requires investigation of their impact on all these three dimensions: access to resources, individual characteristics and the socio-economic context. If one dimension is tackled in an unsatisfactory way, then the development of capabilities will be reduced: for instance, developing employability in a discriminatory and recessive labour market will probably not be enough to enhance the capabilities of the beneficiaries.

With regard to 'freedom of choice', Sen's capability approach sets a high standard of requirement. Indeed, real freedom of choice depends on the availability of the three options identified by Hirschman (1970) – loyalty, exit and voice. From such a perspective, local actors, that is, welfare agents and beneficiaries alike, should not be forced to *loyalty* but should be allowed not to comply with the official view of activation without incurring unbearable penalties as a consequence (i.e. *exit*). They should also be able to negotiate and somewhat influence the content of ALMPs (i.e. *voice*). Hence, the extent to which local actors are allowed to reinterpret the centrally designed conception of activation and adjust it to local circumstances is a prerequisite of capability-friendly contractual

social policies. This emphasises the importance of incompleteness in public policies: the more precise and exhaustive are the designed policies, the smaller is the margin for interpretation and adjustment to individual and local circumstances. In other words, if the central institution imposes precise modes of operation and clear objectives, then local actors – welfare agents and recipients alike – will have to abide by these requirements; if general objectives are stated, which leave some space where these objectives can be tailored according to individual and local parameters and where the most appropriate tools for implementing them can be decided at local level, then local actors may enjoy more freedom to choose and be considered as genuine partners within contractual social policies. Managerial and monitoring tools are key instruments in this respect and their content makes a huge difference in terms of local actors' real freedom to choose.

In this chapter, the capability approach will be implemented via the two following concepts (Bonvin 2008):

1. Welfare recipients' *capability for voice*, i.e. their ability to negotiate with welfare professionals, to express their opinions and thoughts and to make them count, especially with regard to the definition, the content and the way of implementing the ALMPs they are involved in. This implies taking account of the normative and managerial framework in which ALMPs take place (Bonvin 2012). This specifically relates to the third ambivalence of contractualism identified in the previous section.
2. Welfare recipients' *capability for work*, which is their real freedom to choose a job they have reason to value. This requires paying attention to three complementary aspects – a) the level, duration and conditionality of cash benefits, b) the variety and temporality of activation programmes and c) the number and quality of available employment opportunities (Bonvin and Farvaque 2006). This relates to the first and second ambivalences of contractualism.

The next sections analyse the implementation of contractualism in the Swiss context and assess whether it relies on an extensive approach of social citizenship, inspired by the capability approach, or on a narrowed understanding of activation where citizenship boils down to the development of individual employability and productivity. More precisely, we will compare the use of contractualism in the cases of the Swiss unemployment insurance (AC), the disability insurance (AI) and social assistance programmes (AS) and assess to what extent these enhance or impede welfare recipients' capability for voice and for work and, more widely, their capability to live autonomously and participate in society as full citizens. These objectives will be successively implemented along each of the three main transformations of social policies: activation, individualisation and territorialisation.

The Means and Ends of Activation in Swiss Contractual Social Policies

Making Work Pay or Reducing the Attractiveness of Cash Benefits

As mentioned in the introduction to this chapter, we can observe a form of ideological and pragmatic convergence of the investigated welfare institutions towards activation from the mid-1990s on. Within the AC, AI and AS, there was an increasing focus on making benefits less attractive and on the necessity to recommodify recipients. With regard to so-called 'passive' measures, eligibility conditions have been strengthened and more rigorous tools and assessment phases introduced in order to avoid delivering benefits to people who do not completely fulfil the duties and obligations imposed on them. Indeed, both eligibility conditions to access measures and conditions to maintain entitlement have been hardened. In the AI, we observe the extension from one to three years of the minimal contribution period for entitlement to a pension, the development of more rigorous instruction phases of medical assessment and a significant investment in the fight against fraud. The AC follows the same trajectory, with a prolongation of the requested payment period from six months to one year and a shortening of the entitlement duration from 520 to 400 days. Although the AC still provides generous benefits along international standards, the compensation of income loss is no longer mentioned as a priority objective in official documents. A similar trend can be observed in the AS, where the means-tested conditions imposed on beneficiaries have been severely tightened. This implies that people have to spend a much greater part of their savings before being eligible to social assistance, thus postponing financial support from public bodies. All three programmes tend to endorse the 'dependency trap' and 'moral hazard' rhetoric in justifying these moves towards reducing benefits and limiting their access. 'Making work pay' is their common motto in this respect and the reduction of benefits is interpreted as a way of reducing public expenditure, balancing budgets and creating incentives for work and financial autonomy.

Implementing Activation Programmes: A Shared Objective but a Variety of Tools

Equally, all three programmes have been turned into activation tools. ALMPs and recommodification measures were first introduced and developed in the AC, mainly for budgetary reasons. From 1997 on, benefit entitlement has been made dependent on participation in such programmes. The AI always focused on the beneficiaries' rehabilitation rather than on delivering pensions but, from 2008, this principle has been reinforced in line with the motto: 'rehabilitation rather than pension'. The aim is to improve the financial viability of the system

through activating disability pension recipients, thus reducing the caseload. This also led to implementing a thorough reassessment of the entitlement to disability pensions of a number of persons, especially those suffering from mental illnesses that are considered difficult to verify, with a view to identifying possible residual working capacity. At regional and communal level, AS programmes followed the same trend towards activation: in most cantons, programmes were developed with the ambition of promoting the claimants' return to the labour market. National guidelines were designed in 2004, emphasising the role of financial incentives in order to promote labour market reintegration. The advocated model follows a *'bonus-malus'* incentive logic, according to which participation in social and professional integration programmes should be financially rewarded. Such a move is justified on the ground that it increases the beneficiaries' chances of finding a job and thus contributes to reducing the caseload. In all three programmes, ALMPs' beneficiaries are increasingly compelled to be active, that is, to participate actively in their reinsertion and to deploy 'reasonable' efforts in this direction. According to this logic, welfare state responsibility comes second and the main responsibility in the reinsertion process lies with the individuals.

The overall consensus on the objective of activation, stated in official documents and shared by most of our interviewees, should however not obscure the fact that the content of activation programmes significantly differs between these institutions. The AC, which is the institution most clearly geared towards activation in the first labour market, focuses on the beneficiaries' quick return to work according to the principle that a bad job is better than no job at all. This has an impact on the content of the activation programmes proposed in the AC. To a large extent, these boil down to quick-fix remedies such as short-term courses aiming at developing basic skills (languages, computer, etc.) or, in most cases, training the self-presentation skills of potential applicants (how to write an attractive CV, a persuasive motivation letter, how to present oneself efficiently in front of an employer, etc.).

Within the AI, activation insists on the beneficiaries' rehabilitation, to help them return to employment and become as independent and autonomous as possible. In this context, rehabilitation measures aim at improving, durably and significantly, the recipients' earning capacity, which can imply long-term and qualification enhancing training programmes. Moreover, since 2008, preventive measures³ have been made available, with the aim of avoiding lay-offs or facilitating quick return to employment. The introduction of all these measures

³ These mainly consist in workplace adaptation, training courses, vocational guidance, socio-professional rehabilitation and occupational measures. They insist on close collaboration with employers. They can be quickly implemented, even before benefit entitlement has been decided upon.

implies a significant extension of the social responsibility tools in the AI and reflects a will to develop a preventive approach to disability.

Activation in the AS does not necessarily have to lead to employment. However, in the last 10–15 years, most cantons have emphasised professional integration as one of the main objectives of social assistance. The situation in the canton of Vaud⁴ aptly illustrates this trend. In 2006, two types of integration measures were introduced – on the one hand, professional integration measures, targeted at beneficiaries evaluated as ‘able to work’ and on the other, social integration measures, intended for all other beneficiaries, whose aim is to avoid social exclusion and favour social reintegration. Even if AS resources are quite limited when compared to the available budget in the AC or the AI, most social assistance measures include a long-term follow-up, adjusted to the situation and capacities of each beneficiary.

Hence, activation has become a key feature within the AC, the AI and the AS. All three developed ALMPs and introduced more restrictive conditions in terms of benefit eligibility. These new orientations are legitimated in the name of recipients’ autonomy and individual responsibility. However, there is a significant difference between the three programmes: while short-term and quick reintegration features as the AC’s main objective, the AI and AS programmes at regional level tend to propose longer-term programmes with a stronger focus on durable reintegration. This implies a different view of the beneficiaries’ individual responsibility, especially with regard to the combination of what Goodin calls the *backward-looking* and *forward-looking* dimensions of responsibility (1998). These respectively designate a) responsibility as accountability, that is, the aptitude to account for one’s actions which is oriented towards the past (backward-looking) and b) responsibility as a capacity to project oneself and to undertake something, which is geared towards the future (forward-looking). According to the type of responsibility privileged, welfare interventions follow different paths: while backward-looking responsibility commands careful attention to the beneficiary’s previous acts or behaviours, forward-looking responsibility is more concerned with the beneficiary’s needs in order to revive future autonomy. As is illustrated by the augmented conditionality of benefits, all three programmes under scrutiny emphasise responsibility for one’s past and present actions and envisage responsibility mostly as a matter of ‘imputation’ but their situation differs with regard to forward-looking responsibility. In the AC, this issue is framed mainly in terms of quickly enhancing marketability and attractiveness in the eyes of employers with limited means devoted to this purpose, while in the other two programmes more resources and time are

4 Social assistance is organised at the local level. This contribution mainly refers to the situation in the canton of Vaud, which is the biggest French-speaking canton with over 725,000 inhabitants.

provided for the implementation of programmes that enhance the beneficiaries' forward-looking responsibility. This leads to contrasted outcomes with regard to welfare recipients' capability for work and freedom to participate in the definition of the modalities and ends of their activation.

Individualisation and the Contractual Approach in the Swiss Context

A General Trend Towards More Personalised Measures

In all three programmes the focus on individualisation brought about new policy instruments aiming at more tailor-made interventions. The AC introduced the assessment of the employability of all beneficiaries with the aim of determining the most adequate ALMP for each. The unemployed are assigned to one of five categories, from the most to the least employable; they are then allotted an ALMP according to this classification and their individual characteristics. However, our interviewees emphasised that, due to limited budgetary means and pressures to display high performance, most resources and time are devoted to the unemployed who are more likely to find a job, thus leading to creaming practices. Besides, individuals have very little say in the choice of the ALMP and are even subjected to financial penalties in case of refusal. In the AC, the beneficiaries' capability for voice is very limited and the contract features as a rhetorical device rather than a tool inspired by a genuine partnership logic: local agents make decisions and unemployed people are expected to abide by them. The AI recently introduced case management principles and contractual tools with a view to enhancing the appropriateness of activation programmes via individualised follow-ups focused on their situation, thereby bringing back the individuals and their needs to the centre stage. However, the recipient's capacity to refuse or negotiate a rehabilitation measure is rather limited and compliance expectations and the duty to collaborate have been reinforced. In the AS, encompassing assessment procedures are achieved for every beneficiary. On this basis, individual action plans are elaborated and translated into contracts stating the rights and duties of both the institution and the beneficiary. This case is clearly the one that goes farthest in the direction of tailor-made measures. Beneficiaries cannot refuse altogether the proposals made by local agents but the local agents interviewed insisted that they usually have the choice between two or three ALMPs, thus leaving some space for their capability for voice.⁵

⁵ In the AS case, there has been no move towards individualisation as this has always been part of such programmes. Rather, one can observe an increasing influence of contractualism and a higher concern for efficiency within already individualised programmes, which translates into an increased focus on work and employability.

An Increased Use of Constraint

In all three programmes, these contractual tools coincided with an increasing use of constraint with the beneficiaries. In the AC, the controlling devices tend to be quite intrusive and the motives and duration of sanctions imposed on people not fulfilling requirements in terms of job search or 'insertion effort' have been extended (up to 60 days of suspension of daily allowances). These sanctions are thoroughly implemented as the AC inspection system is very efficient in unveiling evidence that could justify sanctions.⁶ In this case, individualisation is clearly framed in terms of individual compliance with administrative expectations concerning activation. Rights or entitlements are strictly conditional upon the fulfilment of duties and behavioural requirements.

Concerning the AI, one of the major prerequisites to open and maintain entitlement to benefits is the fulfilment of the so-called 'duty to collaborate and reduce the damage'. The claimant is compelled to provide information about the evolution of his health status and to cooperate actively in his rehabilitation. Emphasis is thus put on individual responsibility, as reinforced by the Federal office in charge of supervising AI implementation, 'Via an active collaboration with the AI and compliance with his/her obligation to cooperate, the claimant shows him/herself to be aiming at his/her reinsertion into active life, with the support of competent people. This also shows that he takes his/her responsibility' (OFAS 2005:4281). Thus, the recipient must do everything he can in order to improve his earning capacity. In cases of non-compliance, cash benefits and activation programmes can be suspended.⁷ Nevertheless, our interviews showed that the culture of sanction is not firmly established within AI methods. In this case, the gap between stricter legislative provisions and their actual enforcement is greater than in the AC.

In AS programmes, we also observe an increasing constraint on beneficiaries and the development of tougher sanctions (up to 25 per cent benefit reduction for a maximum two year period in the canton of Vaud). However, AS being the last safety net, its benefits cannot be altogether suppressed, contrary to practices in AC and AI. Nevertheless, the culture of sanction is poorly developed in AS, and interviewed actors emphasise their strong reluctance in this respect. The enforcement of subsidiarity provisions aimed at verifying that beneficiaries cannot rely on other sources of revenue (a characteristic of

6 In 2004, one AC daily allowance out of 31 was suspended as a consequence of sanctions; in 2007 this figure increased to 1 out of 25 (our own calculation, based on SECO 2008).

7 The payment of daily allowances can be suspended for up to 90 days, amounting to a maximum of €25,000. Pension benefits can be reduced by half, for a maximum duration of six months. In the most serious cases, the pension can even be refused.

means-tested programmes) has also been significantly strengthened. Thus, both access to cash benefits and preservation of benefit entitlement have been made increasingly conditional in the last few years.

To sum up, the follow-up of AC and AI recipients has certainly become more individualised, especially in AI, with its case management methods, but it is also more constraining as the introduction of tougher sanctions and longer benefit suspensions illustrates. In AS, a different move can be observed towards a renewed form of individualisation focused on activation. Furthermore, the budgetary restrictions facing the Swiss welfare state at both federal and cantonal levels have had a strong impact on the way in which individualisation is framed and implemented within activation programmes. In such a context, contractualism has been used to increase selectivity and targeting within social policies and impose more extensive requirements in terms of individual responsibility. Hence, individualisation has contributed to making Swiss welfare policies more selective and reinforcing their conditionality. This move is legitimated by the emphasis on individuals' duties to the welfare system. It is a shift in the direction of reinforcing their subordination to the injunctions of welfare bodies at the expense of their autonomy and freedom to choose and demonstrates the ambivalence, in some cases even the illusive character, of the notion of contract in this context. Indeed, two of its constitutive dimensions – that is, freedom to contract and equality between the parties – are absent: as a matter of fact, a refusal to contract leads to a heavy sanction for the beneficiary; besides, a strong vertical asymmetry can be observed in all three programmes. Beneficiaries have more possibilities to participate in the definition of their follow-up, provided, however, that they endorse the activation logic, which is seen as the only legitimate path. Their capability for voice is thus conditioned by their adhesion to the activation framework, which reveals a biased understanding of welfare recipients' right to participate. There are certainly differences of degree between the three programmes in this respect, the AS and the AI leaving more space for participation, but these do not call into question the overall trend.

Territorialisation: The Contractualisation of Local Action and its Pitfalls

Activation and individualisation require the territorialisation of practices and interventions within welfare policies. As the AC, AI and AS programmes and benefits aim at activating beneficiaries with a view to reintegrating them in a local labour market, welfare policies must increasingly be framed in terms of situated public action. Indeed, the necessity to adjust public action to the beneficiaries' needs and to the local labour market situation has led to a renewed emphasis on the autonomy and margin of manoeuvre of regional and local agencies, replacing traditional bureaucratic principles that impose standardised

solutions on the whole nation. However, this move towards more independence at territorial level does not coincide with the disappearance of central actors. Rather, in the new pattern of public action, the latter are increasingly focused on piloting and monitoring tasks. They define objectives, monitor the efficient allocation of resources and their fair distribution among all beneficiaries and check the quality of the services offered. The first task is usually achieved via performance indicators, benchmarking and other new public management (NPM) tools; the second often implies the use of computer systems registering data on local practices so as to ensure that all beneficiaries are treated on an equal footing; the third insists on the professionalisation of the local agents and calls for quality management and certifications, such as ISO certificates and the like. Thus, the territorialisation process needs to accommodate issues of efficiency, quality and fairness and this may result in conflicts between these various concerns, as well as between the central and local involved actors. In the context of territorialised public action, the selection of performance indicators and quality criteria is a key issue, insofar as these indicate the expectations of the central level towards local agents. Indeed, territorialisation coincides, not with the full autonomy of local actors, but with the implementation of new monitoring tools within contractual relationships between central and local levels.

In Switzerland, in line with this overall tendency towards territorialisation and managerialism, there has been a delegation of responsibility from the federal authorities towards the local level in the two federal programmes scrutinised in this chapter. This trend coincides with the emergence of NPM tools within Swiss public policies in the mid-90s. In order to increase the efficiency of welfare programmes and to limit social expenditure, the responsibility for implementation was delegated to cantonal agencies that were newly set up for this purpose. Local agents' knowledge of the individual beneficiaries and the territorial context was interpreted as a decisive asset for promoting the recipients' professional reinsertion. Therefore, they were given greater room for manoeuvre in the implementation process, notably concerning the selection of the most appropriate means necessary to reach the goals of activation defined by federal authorities. Thus, both institutions tend to converge towards more situated forms of public action, thereby getting closer to the localism characteristic of AS systems.

Such an evolution also aimed at developing partnerships with enterprises on the labour market. To this purpose, emphasis has been put on the AC and AI placement activities, hiring staff with new competencies in terms of recruitment and networking. These employees are especially asked to develop contacts with local firms and improve the image of the AC and AI *vis-à-vis*

these firms.⁸ This reorientation has wide-ranging consequences particularly in the case of AI, as placement was not considered one of its major missions. However, since 2002, the number of placement staff has gradually increased, giving to the placement service an increasing importance, compared with the more conventional professional orientation services.' (Guggisberg, Egger and Künzi 2008:39). Despite the allocation of these new resources, professional reintegration is not an easy task for the AI and AC agents. Unemployed or disabled people are still very often subjected to stigmatisation by employers.

The Impact of Managerialism and Contractual Practices between Central and Local Welfare Bodies

Territorialisation profoundly changed the relationship between central and local actors through the introduction of a managerial logic. This aimed to turn federal authorities into surveillance bodies in charge of defining objectives and strategic priorities, monitoring their implementation at cantonal level and supervising the uniform application of directives and procedures through general guidelines, performance indicators and statistical surveys. In the case of AC, the State Secretariat for Economic Affairs (SECO), that is, the federal body responsible for the implementation of the AC, uses four indicators to assess the efficiency of the regional placement offices, three of them focusing on quick professional insertion (weighting 90 per cent) and one on long-term and durable insertion (10 per cent). Cantons are then benchmarked along these indicators, which convey a specific view of 'quality' within the AC administration. The objective is to identify best practices – that is, the procedures achieving the best results in the four selected indicators – and to suggest that all cantons adopt these procedures (or impose the procedures on them) and abide more strictly by the federal directives with regard to the number of advice or control interviews, the rate of sanctions, etc. All local agents in Switzerland are required to compile data on their practices on a computer system called PLASTA and SECO has access to all available data on this system. If practices do not comply with the directives, SECO inspectors are mandated to investigate the situation thoroughly and, if relevant, inflict penalties on 'guilty' RPOs. This can be interpreted as a rather authoritarian way to implement NPM principles with a view to imposing on local agents a specific and quite restrictive view of activation and individualisation. In this case, the provision agreement acts as a constraining device and the practice of contract boils down to rhetoric. It comes as no surprise, then, that most of

8. In Switzerland, placement is traditionally envisaged as the prerogative of private agencies such as Manpower or Adecco. Hence, public agencies have a serious deficit in this regard and their beneficiaries are often perceived as less attractive than the customers of private agencies.

the AC local agents we interviewed focused on those unemployed who allowed them to reach the prescribed performance targets and, consequently, devoted less time to all the others. In that way, they gave priority to making a good showing on the indicators (Bonvin and Moachon 2007).

Managerialism is more recent in the AI. Management by objectives has been in place for only a few years. From that time on, local agencies (OAI) have been evaluated according to the 'cost vs. efficiency of professional integration measures' ratio (i.e. active programmes are considered as successful if they lead to a reduction in caseload), the rate of new pensions and the speed of the intervention. The OAI are benchmarked along each of these criteria. In order to improve efficiency, these criteria are translated into internal directives focussing, for example, on the expected placement rate on the first labour market, or the anticipated speed of file-processing, etc. Thus, the AI is also adopting managerialist techniques but this is a rather recent trend and it is not implemented as strictly as in the AC. Indeed, local actors enjoy a higher margin of manoeuvre when implementing AI provisions and they also have the possibility to discuss the content of directives. This may be due to the fact that the AI is still at an experimental stage with respect to managerialist techniques.

AS systems also introduce managerial tools geared towards increasing efficiency but to a lesser extent. For instance, in the canton of Vaud, a computer system has been set up to monitor local agents' activities and guarantee that all beneficiaries are equitably treated. Besides, administrative directives state precise objectives that insist on the active pursuit of activation targets by local agents. For instance, 30 per cent of all social assistance beneficiaries are to be sent to the AC regional placement offices and submitted to the requirements of this system, thus imposing on them the AC restrictive view of activation. In this case, however, managerialism takes a much softer form and it meets with a strong reluctance of the field actors. Hence, it proves quite difficult to change practices and cultures in the short run. This certainly accounts for the limited introduction of such tools in some social assistance programmes, especially in the French-speaking cantons, at least for the time being.

Managerialism and its Pitfalls at Local Level

Empirical evidence shows that such an extensive use of managerial tools in Swiss welfare policies has three main pitfalls (see for example, Bonvin and Moachon 2007). First, too close a specification of quantitative targets and indicators excludes both tailor-made interventions and innovative solutions. Indeed, if objectives are specified in a very detailed way, the margin for manoeuvre and interpretation of central rules and directives is very limited, which tends to result in either standardised programmes or conventional measures. Budgetary restrictions push in the same direction as they make still more difficult the

design and implementation of tailor-made, that is, time-consuming and expensive, programmes. Rather, they often encourage local agents to privilege standardised solutions, which are less costly and allow economies of scale. The Swiss programmes analysed here provide evidence for this: in the most managerial programme, the AC, the space for innovative solutions, adjusted to the recipients' needs, is limited whereas the AI and the AS offer more opportunities, though still modest, in this respect.

Second, managerial tools interfere with the development of democratic and participative ways to manage public administrations. As a consequence, local agents tend to develop ritualistic strategies, that is, a strict application of the rules without taking into account the consequences on the quality of the work performed. This occurs when employees choose to comply with administrative directives and performance indicators at the possible expense of programme aims (Newman 2001), thereby focusing on administrative outputs rather than on outcomes. Oppositional behaviours can also be observed, whereby staff adopt strategies of resistance, such as cheating with the indicators – introducing wrong information into the computerised system, postponing the reporting of the data in the system, etc. In both cases (ritualistic or oppositional), the objective of situated public action is missed and the use of managerial contractual tools results in a refinement of the conventional top-down modes of government. As a matter of fact, the autonomy left to local agents at the implementation stage is too limited to allow a genuinely situated, that is, democratic and participative, public action to flourish. In the Swiss context, this particularly applies to the AC, where ritualism and resistance are most common among local agents of the regional placement offices. By contrast, AI and AS agents still enjoy a greater freedom of manoeuvre and interpretation as well as having a higher capability of expressing their viewpoints and making them count in the public policy process. However, the recent transformations in these two institutions show a tendency to converge towards the AC mode of governance and its extensive resort to managerialist tools.

Third, the separate introduction of managerialism in these three welfare programmes facilitates the emergence of so-called carousel effects (OECD 2003). Indeed, and quite paradoxically at first sight, despite the existing ideological convergence towards a restrictive view of activation and individualisation, the three institutions investigated in this chapter remain highly segmented. In our view, the resort to managerialist tools that insist on the efficiency of one's own institution accounts to a large extent for this. Since the '90s, the economic pressures leading to the reappraisal of social security devices and the insistence on performance indicators and efficiency, in line with the injunction to reduce social expenditure, have further strengthened the divides between the three institutions through the development of a corporatist logic. Indeed, management by objectives and its focus on outcomes and performance push

local agents towards greater selectivity of beneficiaries and the exclusion of the most disadvantaged recipients, that is, those who are liable to have the lowest scores on the indicators. As a consequence, corporatist behaviours develop in all three institutions, resulting in a poor coordination of their activation strategies and a discrimination against those who are assessed as the least employable recipients. In this context, the integration of social policies is envisaged as a possible way out. In Switzerland, for more than a decade, efforts have been deployed towards inter-institutional collaboration (CII) plans in order to reduce roundabout effects between the AC, the AI and social assistance services. However, these efforts are faced with important obstacles due to the persistence of different cultures of activation and individualisation (despite the convergences on the objectives of activation and individualisation observed above) and especially, the existence of separate managerialist tools favouring corporatist behaviours in all three institutions.

In the Swiss context, the way these three pitfalls of managerialism are tackled is consistent with the objective of imposing a restrictive view of activation and individualisation. Indeed, the first two problems are not envisaged as such. To the contrary, they are interpreted as assets in the pursuit of efficiency in the field of ALMPs: following the official view, the more specified are the central directives, the more targeted are the efforts at local level and the higher is the efficiency of public policies. From this perspective, leaving more voice or margin for interpretation to local agents would be counter-productive in terms of public policy performance. The objective, then, is to discourage oppositional behaviours at local level via the setting up of new and ever more precise directives, thus replicating, somewhat paradoxically, the logic of the bureaucratic vicious circles evidenced in Michel Crozier's works. The emphasis on the outcomes of public action coincides then with a reinforced accent on rules and directives to be followed. This is what David Giauque calls liberal bureaucracies, which have to face the pitfalls of both managerialism and bureaucracy (Giauque 2003). As a consequence, the democratic and participative potential of territorialisation is limited, which obviously impacts on the capacity of local actors to implement welfare recipients' real participation. By contrast, the third pitfall, that is, fragmentation, is viewed as a real problem, which needs to be solved in order to enhance the efficiency of activation strategies, even if recent pilot projects have shown modest results with regard to the setting up of inter-institutional collaboration (Galster, Rosenstein and Bonvin 2009).

All these developments show that Swiss activation strategies mobilise a restrictive approach of contractualism insofar as their regulative framework imposes a strong asymmetry between the persons involved. The organisational and managerial options that have been chosen are primarily guided by institutional and financial concerns, rather than dedicated to the renewal of welfare recipients' status in the sense of active participation and citizenship.

Conclusion

The analysis presented in this chapter reveals that contractualism within all three investigated programmes results in a converging movement towards a) a restrictive view of activation putting emphasis on the backward-looking dimension of individual responsibility, b) a mixed conception of individualisation combining tailor-made interventions with tougher sanctions and pressures imposed on the recipients and c) an increasing mobilisation of managerialist tools with a view to enhancing the organisational efficiency of these institutions. However, the programmes do not interpret these moves in the same way and it would be excessive to identify all of them as unambiguous illustrations of the pitfalls of contractualism. The following table summarises the main teachings of the chapter with regard to each of the three institutions investigated.

The AC clearly has a narrow and restrictive approach to active citizenship and participation. The adoption of contractual practices and managerial tools is governed by a will to reduce the caseload via tougher eligibility conditions and more extensive behavioural requirements, imposed as conditionalities for the preservation of benefit entitlement. Recipients are not envisaged as genuine partners in the public policy process and participation is conceived as a duty, leaving only few spaces for the negotiation of the means and ends of activation, both for the AC professionals at local level and for recipients. This limited attention paid to local actors' voices translates in quite weak results in terms of capability for work as autonomy to choose a job one has reason to value and active citizenship tend to boil down to issues of financial autonomy, that is, not depending on the AC any more, and employment.

The AI and the AS approaches to activation, especially the way they use contractual tools and managerialism, leave some more margin for manoeuvre and interpretation to their local agents. This results in rather more opportunities for participation offered to welfare recipients, in the direction of a more open-ended public policy process. Here, the approach of autonomy and active citizenship is broader and more attention is paid to the forward-looking dimension of individual responsibility, including the support that is needed for a long-term reinsertion. However, even if the articulation between ALMPs and passive benefits entitlement is not as strict as in the AC, there is a general trend towards making the payment of cash benefits conditional on the full endorsement of the activation logic. Thus, the recipients' capability for voice and for work is limited, insofar as their viewpoints are taken into account only if they are in line with administrative expectations towards activation.

The Swiss case study shows that contractualising welfare policies may have a differentiated impact on social citizenship and social rights. This relates to the three ambivalences of contractualism identified above, which derive from the variety of answers that can be given to the following questions: 1. How does

Table 3.1 Swiss activation programmes against the capability approach: summary findings

	Unemployment Insurance	Disability Insurance	Social Assistance
Activation	Short-term, restricted to employability; strong conditionality of passive benefits upon participation in ALMPs	Preventive or long-term rehabilitation, with a view to reduce passive benefits	Long-term, both social and professional objectives, with increasing incentives towards ALMPs
Individualisation	Limited with regard to ALMPs' content and local agents' room of manoeuvre	Significant, but conceived as a counterpart of recipients' compliance	Very significant, but in a context of limited budgetary resources
Territorialisation and managerialism	Precise and binding performance indicators with important repercussions at local level	Recent adoption of precise performance indicators but with limited repercussion at the local level (for the time being)	Still limited managerialism, but growing use of NPM tools
Contractualism	Strictly unilateral and rhetorical; used to reinforce benefit conditionality, along with strict enforcement of sanctions tools	Mainly used to enforce recipients' compliance, along with stricter sanctions tools, but with some space for negotiation	Increasingly used along a <i>bonus-malus</i> logic but in accordance with the minimal level of benefits that cannot be shortened
Responsibility	Backward-looking, with a strong focus on individual responsibility	Backward and forward looking, with a growing complementarity between social and individual responsibility	Backward and forward looking, with growing focus on individual responsibility, motivation, etc.
Autonomy	Strictly linked to employment	Large definition of autonomy, even if financial autonomy and employment are central concerns	Large and multidimensional definition but with growing focus on employment

the welfare contract articulate active programmes and passive benefits? 2. What are the means and ends of activation? 3. How does the contract conceive and organise the participation of the parties, especially the local agents and the beneficiaries? Assessing these ambivalences against the capability approach gives us some markers for envisaging contractualism in a more emancipatory way.

Firstly, contractualism within welfare policies is often used as a means to set, and give legitimacy to, a conditional relationship between passive benefits and ALMPs, where the latter are clearly seen as a necessary path to accessing the former. This approach exacerbates the opposition between active and passive citizenship. In our view, the understanding of social citizenship should be much broader, including both passive and active dimensions. This is consistent with the notions of capabilities, 'capacity to act' and human agency developed by Amartya Sen. Indeed, according to him, fostering individuals' capacity to act responsibly and autonomously requires both empowering them with adequate active measures and opportunities and reinforcing their freedom to choose. Promoting this kind of active participation also implies providing welfare recipients with sufficient resources and material conditions and ensuring the fundamental rights that are necessary to making autonomous choices and commitments. Hence, access to so-called passive benefits features as a prerequisite of active citizenship. In other words, *passive empowerment* (Pettit 2001), where the citizen is a passive recipient, is necessary to allow him to develop his human agency and become an active doer. This complementarity between the passive and active dimensions of citizenship is at the core of the capability approach.

Secondly, the terms of the contract defining the content of activation should be incomplete or open enough to leave some margin of manoeuvre and interpretation at local level. Such incompleteness is necessary to allow the adjustment of programmes to local circumstances and individual needs. Indeed, the Swiss example unambiguously shows that when the definition of activation is too precise (e.g. with regard to managerial objectives in the AC), it significantly reduces local agents' and beneficiaries' possibilities for real participation; it then tends to frame their practices and call for the adaptation of their preferences and aspirations to institutional requirements. Under such circumstances, human agency risks boiling down to institutional definitions of activation, which leave limited space for the flourishing of human diversity. By contrast, Sen insists on openness and incompleteness as conditions for the deployment of a situated public action and for the promotion of real participation at local level. In his view, the ambivalences of contractualism should be tackled at local level, with the equal involvement of all stakeholders. Incompleteness is then the prerequisite of the appropriateness of contractual social policies that truly promote active citizenship among their beneficiaries. The role of the central actors, here the federal and cantonal authorities, should be to guarantee as much capability for voice as possible to all involved parties and not to try to impose their specific views on them.

The Swiss example highlights that contractualism within welfare policies may be, in certain cases, guided by a truncated view of human agency and participation. It also reveals a significant erosion of the entitlement to social

rights in their 'passive' form. Under such circumstances, the voice offered to recipients via the use of contractual tools is at risk of being boiled down to an instrumental conception of participation, constrained by the duty to meet institutional expectations and by the fact that the framework of activation is non-negotiable. Such versions of contractualism do not pass the capability test. In our view, a capability approach to contractualism, insisting on the complementarity between active and passive benefits, on an incomplete and open definition of agency and on the genuine participation of all stakeholders, would enable avoidance of these pitfalls to a large extent and pave the way for using contractualism as a tool for promoting the active citizenship and autonomy of welfare recipients.

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