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**AN HISTORICAL SECULAR RECONSTRUCTION  
OF THE CONCEPT OF POVERTY  
AND THE DEVELOPMENT OF THE  
MODERN WELFARE STATE**

by

**Robert Daly**

A dissertation submitted to the Graduate Faculty in Philosophy in partial fulfillment of the requirements for the degree of Doctor of Philosophy, the City University of New York

1998

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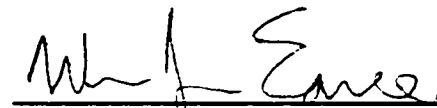
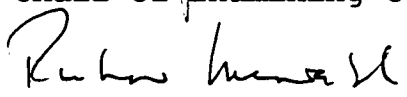
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Date	Chair of Examining Committee
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Date	Executive Officer

Professor Stefan Baunrim

Professor Charles Guzzeta

Professor Stephen Grover  
Supervisory Committee

THE CITY UNIVERSITY OF NEW YORK

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## CHAPTER ONE

### Introduction

#### I. Statement of the Problem

##### Historical Background

The purpose of this study will be to review arguments about obligations to the poor from the perspective the historical and social context in which they were first presented. For this reason I will focus more narrowly on historical material which demonstrates some of the background issues and discussions which have had a rather direct influence on philosophical debates about the nature and justification of welfare rights. My justification for including this material is that without this necessary and primarily historical excursus it will be impossible to understand the central arguments within our contemporary debate. In general, I will show how the practices of Christian charity and feudal duty were progressively transformed into a formal body of rights held by the poorest members of society, and

how aid to the poor has been gradually redefined from a private religious duty to a secular social obligation.

My first goal is to demonstrate the close connection between the historical arguments about welfare and their more contemporary counterparts. I want to do this in order to show that since the social and economic presuppositions which serve as background for most welfare rights arguments no longer apply, and because of this many of their conclusions are in error. My second goal, which is directly related to the first, is to argue that given our current social and economic conditions the strongest argument for any justification of welfare rights must be one based on one or another form of the social contract.

Social attitudes toward the poor have undergone a great transformation over the last four centuries, but no final answer to the problem of poverty has emerged. The cradle-to-grave welfare approach of the northern European countries contrasts sharply with the laissez-faire attitudes more prevalent in the Latin countries and the United States. In all of the advanced industrial nations, however, some kind of social "safety net" has been established, on the premise that the poor have a welfare right grounded in specific political or moral claims (and in "natural law" as proposed by theorists and philosophers such as Hume, Hobbes, and Grotius) against the state. The welfare state which honors these claims is a development of the last one hundred and

twenty-five years or so, but the moral, social, and political problem of poverty has been a persistent feature of almost every culture since ancient times.

This paper will explore the historical development of social attitudes toward the poor in Europe and America over the period from 1600 to the present. The focus of the study will be on the major social and economic trends, changes in legal codes, and philosophical conjectures which have shaped society's views of its least fortunate members, rather than on the justification of welfare or property rights as such.

In the philosophical debate over the poor, two broadly opposing positions have emerged over the years. On the one hand, liberals and humanists have argued that the poor have a positive right to receive welfare benefits from the state. Society, they suggest, must place limits on the claims of the landowning class, which should be compelled to aid poor members of the community in dire necessity. On the margin of the humanistic movement we find a large body of literature that explicates basic moral principles; among those principles is the obligation of the strong to care for the weak, and of the state to provide for its citizens regardless of their economic or political status. On the other hand, libertarians and free market economists have insisted that the right to freedom from government intervention overrides the poor's right to welfare. From this viewpoint, a free market with a minimum amount of government provides the only possi-

ble means whereby the poor can ever achieve a reasonable level of sustenance and human dignity. This position posits the capacity of the free market to provide the poor with adequate opportunities to advance beyond the inherent limits of poverty.

The dispute between those who uphold personal liberty and those who champion the welfare rights of the poor has its origins in basic issues of land and sustenance. Before the rise of industrialism, arable land constituted the principle source of productive wealth, but there has been a steady decline in agriculture's importance to the overall economy in the modern era. Hitherto, ownership of a large estate entailed many rights and responsibilities that today are assumed by the state. Under the feudal system, the lord received rents or crop shares, administered the affairs of the estate, and raised an army in times of war. Poverty was taken for granted as the natural state of the majority of humankind. The peasantry were the solid, stable underpinning of feudal society, and their well-being was necessary to the successful operation of the agricultural economy.

In this feudal world, with its hierarchies of religious and social roles, the poor suffered terribly in times of famine and war, but at least they were sure of their position in society. On the one hand, the Church gave them a sense of equality in the eyes of God and a connection to a higher order of things; on the other hand, the feudal agrar-

ian system gave them an identity and a secure place within an unequal socioeconomic order. Property and title were all-important, then as now, but as Barrington Moore, Jr., has observed, "Land was useful to the nobleman only insofar as the peasants on it produced an income for him."<sup>1</sup> Thus, it was not ownership of land qua land that distinguished the nobleman from the peasant, but rather the fact that the ownership of land was accompanied by the right to require its occupants to do service to its owner.

As the religious and social institutions of feudalism became weakened and corrupted in the late middle ages, however, some humanists began calling for a return to the communal ideals of early Christianity. The society portrayed in the humanist Thomas More's imaginative work Utopia featured equal division of land and labor, benevolent rule by an enlightened elite, and plentiful food and shelter for all. Poverty was a moral evil to be eradicated by hard work and sharing. The people's prosperity was to be assured by the fruitfulness of the earth and specialized production of any other goods and services needed; poverty and contention over private property were therefore unknown.<sup>2</sup>

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<sup>1</sup> Barrington Moore, Jr., Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World, (Boston: Beacon Press, 1966), p. 55.

<sup>2</sup> Thomas More, Utopia and Other Writings, (New York: New American Library, 1984).

Similarly, Aquinas, in Summa Theologiae, argued that "shut(ting) up alms in the heart of the poor; and it shall obtain help for thee against evil."<sup>3</sup> The Christian injunction to recognize the morality of providing, in some way and to some degree, for the poor was reinforced in this period by the work of Aquinas and others. The inherently "Christian" morality of almsgiving was a fundamental construct of the Church in both the middle ages and the Renaissance.

With the rise of global mercantilism and later of industrial capitalism, however, there came an increasing rejection of such attitudes toward sharing the earth and its bounty. Says Moore, "Men ceased to see the agrarian problem as a question of finding the best method of supporting people on the land and began to perceive it as the best way of investing capital in the land."<sup>4</sup> The new economy was based on capital investment: the purchase of property, goods or shares for the sake of profit upon resale. The poor entered into the new capitalist equation only as surplus labor, not as a communal or moral responsibility. In the new view, the role of government was to enforce those laws and sanctions which fostered and protected the free market.

In the most extreme formulation of economic liberalism, the defense of the free market is the highest priority of

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<sup>3</sup> Thomas Aquinas, Summa Theologiae (London: Black friars, 1963), p. 251.

<sup>4</sup> Moore, op. cit., p. 8.

government, transcending even the common defense of the state. Self-interest compels all parties to seek their own gain through the free exchange of goods and services, and the poor must fend for themselves in unfettered competition for the necessities of life. If the most desperate among the poor should misappropriate another's goods, however, the state is expected to use force to prevent this infringement of property rights. Beyond that, the poor have only the same rights to buy, sell and barter that are guaranteed to every member of the community.

These were the two main opposing schools of thought during the crucial period between 1600 and 1900, when traditional social and political values dating back to the middle ages and beyond ran headlong into the modern world of mercantilism and capitalism. The conflict between these two opposing sets of values, and the role of changing social attitudes toward the poor in determining the outcome of this conflict in the century that followed, is the problem to be examined in this study.

#### Definitions: Different Classes of the Poor

Neither the humanist/socialist utopia nor the perfect competitive marketplace have ever existed, and nearly every society establishes some kind of relief for those in urgent need. But while feudal society had offered the poor a secure place in society, capitalist society had no ready answer for

the plight of its former tenants. As the peasantry were uprooted and common lands enclosed for more profit-oriented modes of agriculture, new classes of urban poor were being created and a host of new social problems emerged.

This new sub-proletariat of beggars and vagrants was scorned by most members of society, but it was no longer possible to assign the responsibility for them to the landlord or the parish. Across Europe, the seventeenth and eighteenth centuries saw a large population of homeless indigents, constituting what Ferdinand Braudel calls an "anti-society," emerging on the fringes of the cities. The lowest class of the poor, these persons had been expelled from their rural homes and now were rootless, "tied to no work, dwelling or master."<sup>5</sup> In France, due to spreading famine and the concentration of the great landed estates, tens of thousands of peasants were forced onto the road during the late seventeenth century. Sometimes the more resourceful members of this underclass would find their way into domestic service, the army, or criminal bands, but most were doomed to a life of endless tramping, begging and warding off the blows of respectable society.

Within the different classes of the poor, however, the community's attitude differed greatly according to their status. A pauper was someone who "barely scraped a living from his work," but who had a position in the community

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<sup>5</sup> Ibid., p. 511-2.

which entitled him to appeal for help.<sup>6</sup> Paupers, "wretched but not despised," were distinguished from the separate categories of vagrants and beggars: "The good paupers were accepted, lined up and registered on the official list; they had a right to public charity and were sometimes allowed to solicit it outside churches in prosperous districts or in market places..."<sup>7</sup> Beggars or mendicants, on the other hand, were accepted in some places, barely tolerated in others and harshly punished in yet others. Vagrants were wandering beggars or petty thieves who were driven from one place to the next; sometimes they were put to hard labor or even sent to the galleys as punishment. Vagrants often moved along with populations of seasonal workers from one harvest to the next, or in roving bands that were feared and avoided by the general populace; their sudden appearance in the town or the city was never welcomed by the inhabitants.

Vagrants were thus the lowest and most feared category of the poor except for common criminals, and like criminals they were imprisoned and put to forced labor when caught: "Vagrants were put under lock and key everywhere, in the alberghi dei poveri in Italy, in the workhouses in England, in the Discipline in Geneva, in the Zuchthaus in German

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<sup>6</sup> Ferdinand Braudel, The Wheels of Commerce: Civilization and Capitalism, 15th-18th Centuries, Vol. II. Translated by Sian Reynolds. New York: Harper and Row, 1979.

<sup>7</sup> Ibid. p. 507.

and in the Parisian Maisons de force..."<sup>8</sup> These prisons for the poor had the effect of reducing the vagrant population, for disease was epidemic within their walls and mortality rates were extremely high.

The marginally employed and the seasonally unemployed were grouped with the paupers as the "worthy" poor, meaning that they were worthy of receiving charity or poor relief while vagrants, beggars and petty criminals were not. This concept of "worthy" and "unworthy" poor became, over time, a key element in the development of social policy regarding the obligation of the state. As for the "labouring poor," however, there was much dispute about whether a person who was gainfully employed should be included among those "eligible" for relief under the old law. As the debate over the Poor Law heated up toward the end of the eighteenth century, Edmund Burke was driven to object violently to William Pitt's Poor Bill proposal (1796) which would have increased relief for large families and established a minimum wage for all laborers:

Hitherto the name of the poor... has not been used for those who can, but for those who cannot, labour-- for the sick and infirm, the orphan infancy, for languishing and decrepit age; but when we affect to pity, as poor, those who must labour or the world cannot exist, we are trifling with the condition of mankind.<sup>9</sup>

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<sup>8</sup> Ibid. p. 509.

<sup>9</sup> In Mitchell Dean, The Constitution of Poverty: Toward a Genealogy of Liberal Governance, (London: Routledge, 1991),

Burke indignantly rejected the proposition that the working poor should be lamented for their condition, or that their wages should in any way be regulated and their poverty relieved. To do so, he believed, would upset the differential between the wages of men, women and children, and would end the mutual dependence of employer and employee.

Burke followed Adam Smith's economic liberalism in holding that the working classes should be at liberty to sell their labor; to interfere in their free exchange of labor would be to the detriment of all. But he differed from Smith in maintaining that only those incapable of work were deserving of public charity; the working classes were to be defined as willing participants in the free market. But these distinctions were arbitrary and unrealistic; by almost any standard the poor comprised a much larger share of the overall population than the names of these outcast groups would suggest. Poverty, as we have seen, was such a natural state that it was never seriously considered that private charity or public works could eliminate it entirely.

#### The Moral Problem of Poor Relief

Although poverty was a universally acknowledged reality, the moral obligation to protect the community's poor from suffering had been recognized since ancient times. Among the ancient Jews, a tithe or tenth portion of grain,

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p. 140.

wine and oil "or its monetary equivalent, was to be used in assistance to the poor."<sup>10</sup> Tithing for relief of the poor, along with a seven year remission of debts and regular almsgiving, was incumbent on all persons of means in the community. We read in Deuteronomy 15:7-11:

If there is among you a poor man... you shall open your hand to him... for the poor will never cease out of the land; therefore I command you, You shall open wide your hand to your brother, to the needy and the poor...<sup>11</sup>

The continuation of this tradition has been described by Walzer, who notes that during the middle ages, Jewish communities (even those themselves dependent upon the good will of the Christian mainstream) continued to accept the moral burden and necessity of providing for the physical well-being of the less fortunate or less able.<sup>12</sup> He also has stated that during the Hellenic era, there were some few organized, public efforts to recognize and respond to the needs of the disabled and the less fortunate. While there is historical evidence that the City-state of Athens provided some form of relief for widows, orphans, the physically disabled, and families of fallen soldiers, these practices were relatively limited.

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<sup>10</sup> Walter M. Abbot, S. J.; Rabbit Arthur Gilbert; Rolfe Lanier Hunt; and J. Carter Swaim, The Bible Reader, (New York: Bruce Publishing, 1969), p. 162.

<sup>11</sup> Ibid.

<sup>12</sup> Michael Walzer, op. cit., p. 23.

The attitude of the Greco-Roman cultures toward the poor was more pragmatic than that of early Jewish communities, as befits slave societies. The Roman emperors periodically opened the imperial granaries to feed the urban masses when facing the prospect of a food riot. This gesture was meant to keep order in the over-populated capital, and it had no real moral or humanitarian meaning; equally significant is the fact that the official Roman religion did not address any perceived "obligation" to care for the poor, though law and tradition did describe the obligations of slave owners to their chattel.<sup>13</sup> Rome asked only peaceful submission and payment of taxes from her colonial subjects, offering political security in return.

In post-Roman Europe, attitudes toward the poor were influenced by both the Judeo-Christian and the Greco-Roman traditions. Throughout the middle ages, the Christian duties of almsgiving and tithing existed alongside the much broader social obligations of the wealthy landowner to help sustain the poor on the land for the sake of social stability. The late Roman latifundia system of large estates was the model for the feudal system of land ownership and interlocking social obligations that evolved in the middle ages.

The middle ages also perpetuated the ancient idea of the "holy poor," including not only those priests and nuns

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<sup>13</sup> Vergillius Ferm, A History of Philosophical Systems (New York: The Philosophical Library, 1956), pp. 130-136.

who took a vow of poverty, but also any other persons who, says Gertrude Himmelfarb, "embraced poverty as a sacred vow, the better to do God's will..."<sup>14</sup> These included pilgrims and wandering mendicants, and the more pious paupers who availed themselves of the local parish relief. As Himmelfarb notes, in the high middle ages "Every aspect of poverty and charity was penetrated by religious meaning" so that "the church inevitably became the instrument both of social amelioration and of spiritual salvation."<sup>15</sup> This religious "seal of approval" on the responsibility owed to the "holy poor" did not, however, for the most part, carry over to a state-recognized obligation to other classes or groups of the poor as described above.

With the Protestant revolt of the sixteenth century, the central position of the church in Northern European society vanished, as did the church's role as the chief dispenser of aid to the poor. The transfer of this role to the state marks the real beginning of the modern era, as government gradually became the main instrument of social improvement. Traditional almsgiving, tithing and private charity were still associated with religious penance and the remission of sins, but by the late sixteenth century it was clear that charity alone could not sustain the poor.

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<sup>14</sup> Gertrude Himmelfarb, The Idea of Poverty: England in the Early Industrial Age, (New York: Alfred A. Knopf, 1984), p 3.

<sup>15</sup> Ibid., p. 4.

With the secularization of society's attitude toward the poor, it was inevitable that very different local and regional political solutions to the problem of the poor would be developed. The church gradually withdrew from the challenge; tithing eventually became little more than a tax to support the parish and its often unpopular officials. The poor naturally resented the appropriation of what little land they possessed for non-payment of tithes, and the wealthy also resented the taking of a sizeable share by the church.<sup>16</sup> It seemed that the poor and their needs were no longer primarily or essentially a moral issue, but a social and political problem for the community and for the larger community of the nation-state. Therefore, we may argue that the transformation of the question of how to provide for the poor from a basically moral issue to a more overtly social and political issue represents a significant turning point.

By the seventeenth century, then, a radical change was taking place in social attitudes toward the poor in England. Expansion into a global mercantile economy had set off the final breakdown of the paternalistic social order of the Tudor period. The mercantile system was a regulated economy in which upper limits were set on the wages that could be paid workers by their masters. The cottage peasant and day laborer both belonged to the category of the "worthy" poor,

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<sup>16</sup> See Eric J. Evans, "Some Reasons for the Growth of English Rural Anti-Clericalism, c. 1750-1830." Past and Present, No. 66, February 1975, p. 84.

but they were supposedly sheltered by the benevolence of the landlord and the master, and were not entitled to charitable relief unless their situation changed drastically.

These worthy folk were sometimes idealized as the honest, sober and industrious poor, persons who were both "capable and desirous of bettering themselves," and who would benefit from higher wages, progressive tax rates, and free public education.<sup>17</sup> Yet their actual situation became more precarious in the seventeenth century, as their numbers grew out of proportion to the demand for the services.

The transformation of attitudes, formal and informal, as to the obligation of both individual and state to the poor was a gradual one; mercantilism, followed by industrialization, was a process that was itself gradual and which spread across the nation-states of the West in steady but uneven bursts.

#### The Problem: Population and Poverty

The chief problem which exacerbated this issue lay in the rapid growth of the poor population. The class of cottagers (landless agricultural workers) and paupers was estimated by Gregory King in 1696 at nearly one quarter of the population, and common laborers and "out servants" made up another quarter of England's roughly five-and-a-half million people. As a result, spending on poor relief accelerated

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<sup>17</sup> Himmelfarb, p. 62.

more rapidly than anyone had anticipated, going from 900,000 pounds per annum in 1701 to more than 2,000,000 pounds per annum a decade later.<sup>18</sup> Even earlier, in the mid-Tudor period in England, there was a dawning recognition of the pressures of population upon the state and its ability to produce sufficient food to ensure relief from starvation among the poor. C.S.L. Davies, in Peace, Print & Protestantism: 1450 - 1558, has argued that the first clear statement of the over-population argument dates from the 1570s; he states that enclosure of land was a two-pronged issue which involved both the occupancy of land and the use to which it might be put, and that enclosure was largely responsible for the creation of a new class of poor throughout England.<sup>19</sup>

The expansion of the social support system for the poor was widely criticized, and observers like Daniel Defoe, author of Giving Alms Not Charity, and Employing the Poor a Grievance to the Nation, attacked the Poor Law as an expropriation of property, admittedly for good motives, which had failed to achieve its stated aim: to reward honest work, punish the idle, and feed the helpless.<sup>20</sup>

Against the view that charity only spoiled the poor for work, a few religious humanists like John Wesley called for

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<sup>18</sup> Himmelfarb, op. cit., pp. 26-7.

<sup>19</sup> C.S.L. Davies, Peace, Print & Protestantism: 1450-1558 (London: Grenada, 1983), pp. 247.

<sup>20</sup> Ibid.

the expansion of the traditional systems of local, voluntary charity. Wesley advanced an "idea of individual moral responsibility which held every human being, rich and poor, responsible to God, to his fellow human beings, and to himself."<sup>21</sup> The notion that everyone who possessed the means to do so should contribute directly to the maintenance of his or her neighbor was not an idle tenet, but a real social obligation for thinkers like Wesley. The tradition of almsgiving was still central to Protestant Christianity, which did not hesitate to draw upon otherwise-despised Roman Catholic tradition, doctrine, and theology to reinforce the necessity of almsgiving as an adjunct of the moral life.<sup>22</sup>

Wesley preached outdoors so as to attract the largest possible crowds of the poor, and he equated poverty with Christian simplicity and sincerity. In this regard, however, he was echoing a viewpoint that was fast disappearing. Long before the first almshouses had been built in England and America, points out Michael Katz, there had been a tradition that "local communities helped destitute people in their homes-- a form of assistance known as outdoor relief."<sup>23</sup>

With the building of the workhouses and poorhouses, society began to take the view that the poor were a problem

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<sup>21</sup> Himmelfarb, p. 32.

<sup>22</sup> L.H. Nelson, The Human Perspective (New York: Harcourt, 1987), pp. 148 -151.

<sup>23</sup> Michael B. Katz, In the Shadow of the Poorhouse, (New York: Basic Books, 1988), p. 3.

that could be hidden or locked away. It is equally significant that the aforementioned transformation of the "problem" of "what to do with the poor" was moving from a Church-and community-centered focus to one that involved the state and the creation of state-maintained and implemented policy.

By the end of the eighteenth century, the displacement of the rural poor was still increasing across Europe, and it was clear that a great transformation of the rural economy and ancient patterns of land ownership was taking place. In England alone, "Some 5,000 enclosures under private and general Enclosure Acts broke up some six million acres of common fields and common lands from 1760 onwards... The Poor Law of 1834 was designed to make life so intolerable for the rural paupers as to force them to migrate..."<sup>24</sup> Indeed, the exodus to the urban centers had begun two centuries earlier.

With the rise of the factory system, some of the displaced rural poor were eventually able to find their way back to regular employment, but many others became resigned to a life of vagrancy, begging or petty crime. An alarmed bourgeoisie added to the number of watchmen, and reinforced the constabulary to prevent the vagrants from settling permanently in their communities. Little real control could be exercised over the comings and goings of the urban poor, and new ways to control and contain this population came under

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<sup>24</sup> E. J. Hobsbawn, The Age of Revolution, 1789-1848, (New York: Mentor Books, 1962), p. 185.

consideration. Significantly, prior to the advent of the factor system, the "domestic system," the "outwork system," or the "cottage industry system" was recognized to have somewhat stabilized both the location of the working poor and their economic status in society. Lynn Nelson states that whereas these early forms of mass production dispersed employment into the homes of the workers, most of whom lived in the countryside, the emergent factory system tended to concentrate in urban enclaves masses of the working poor. Nelson further suggests that the increased visibility of these workers may have fostered increased concern as to how they were to be "managed."<sup>25</sup>

Many citizens felt that the real function of the poor was to provide them with cheap labor, as the existence of a greater number of unemployed should tend to depress the cost of labor. But large numbers of the poor were doubtless unfit for any kind of useful service, and these were widely regarded as a "burden on the people in taxes and communal works."<sup>26</sup> Whatever misfortune had caused their condition, the homeless poor were now seen as a nuisance and a threat to public safety; it is interesting that the disassociation of the poor from the land, and their transformation into factory workers, is at the heart of this attitudinal shift. Where it proved impossible to remove them to their native

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<sup>25</sup> L.H. Nelson, *op. cit.*, pp. 147 -149.

<sup>26</sup> Braudel, *op. cit.*, p. 512.

abodes, incarceration in the workhouse or goal seemed the fitting solution to the problem.

## II. Poverty's Impact

### The Poor as a Burden on the Modern Economy

The view that the poor represented an unnecessary social burden was often expressed in the debates over the Poor Law, which raged for more than two centuries in England and which stimulated a great deal of theorizing about the broader issues of political economy. Economists, politicians and social critics argued about whether the poor could ever be made into productive citizens in the economic sense. Gertrude Himmelfarb describes how, by the seventeenth century, the mercantile idea of productivity was being superimposed on the Puritan ethic to create the first model of a human unit of labor value. Any idle and useless poor were a drag on the mercantile economy, and schemes to put their labor to profitable use were advanced, but the new economy really had no place for the unemployed poor.

Even the honest laboring poor were felt to be a social burden because "their earnings were insufficient... for subsistence" and most of them had to depend at some time or another on private charity or public relief in order to survive.<sup>27</sup> They were a net cost to the community; the goods

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<sup>27</sup> Himmelfarb, pp. 28, 51.

and services they produced were regarded as insufficient to their upkeep. These cold equations marked a new view of the poor that would have been unthinkable a century earlier. Labor was redefined in terms of its surplus value for the employer and the state economy, rather than its human or social significance.

It is worth noting that yet another event taking place during the Tudor period in England was instrumental in reshaping the approach to dealing with the problems of the poor. Under Henry VIII, the dissolution of the monasteries in 1539 and the abolition of the regular clergy had eliminated the agencies that traditionally had given succor to the poor. These agencies, with their Christian and humanistic emphasis upon the moral necessity of almsgiving, had served as a source of support for the local poor; in times of famine and poor crop yield, it was to the monasteries that the rural (and the urban) poor naturally turned, sure of some form and level of assistance. When the monasteries were dissolved, and their lands and holdings used as rewards for those individuals supportive of the Tudor rule, the poor were summarily cut off from their primary source of sustenance in times of crisis.<sup>28</sup> The Tudor recognition of the consequences of this action, which was instrumental in helping to redistribute the economic wealth of England and in

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<sup>28</sup> S.B. Clough, Editor, Ancient Times to 1715 (Boston: D.C. Heath and company, 1964), p. 470.

creating a deeply entrenched gentry and nobility, was somewhat slow in coming. In 1531, 1536, 1552, 1563, and again in 1598 (at the end of Elizabeth I's reign) "poor acts" were passed to provide some relief to the individuals most dramatically and adversely affected by this shift; it was clear that the state was moving toward an assumption of responsibility for those individuals negatively affected by its actions.<sup>29</sup>

For the purposes of this study, then, the modern era in treatment of the poor may be said to have begun in 1601, with the new English Poor Law. This law marked the first systematic effort by the state to provide for the needs of the poor through direct taxation, and the first public acknowledgment that private charity alone could not contend with the problem of poverty in modern society. Elizabethan poor laws which had been collected and codified toward the end of the 16th century were reenacted by Parliament in 1601 in a single, unified law with the following features:

...the parish as the basic unit of administration, a compulsory poor rate levied on householders by overseers appointed by the local justices... and various types of relief for various kinds of needy-- alms and almshouses for the aged and infirm, apprenticeship for children, and work for the able-bodied (and punishment or confinement for the "sturdy beggar").<sup>30</sup>

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<sup>29</sup> Ibid., p. 471.

<sup>30</sup> Himmelfarb, op. cit., p. 25.

The next stage in redefining society's view of the poor was The Act of Settlement, passed in 1662, shortly after the restoration of Charles II. This Act allowed a local justice to forcibly return to his previous parish any newcomer renting a house with an annual assessment value of less than 10 pounds.<sup>31</sup> The Act of Settlement defined the poor as the responsibility of their home parish, and made it clear that the costs of supporting the poor were to be borne by their own community, and not shipped off to another parish and its ratepayers.

It was the Act of Settlement, as much as the Poor Law, which created the situation remarked upon by Alexis de Tocqueville in the early 1800s, when he observed that in England, the richest of European countries, "one part of the population is obliged to rely on the gifts of the other in order to live," and one-sixth of the population lived on public charity: "While the English poor appear almost rich to the French poor, and the latter are so regarded by the Spanish poor," yet it seemed that "the number of paupers in each of these countries was in inverse relationship the actual conditions of the poor."<sup>32</sup>

In England, such legal obstacles to labor mobility created an untenable situation, and the poor migrated in

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<sup>31</sup> Ibid.

<sup>32</sup> Alexis de Tocqueville, "Memoir on Pauperism," cited in Himmelfarb, pp. 147-8.

spite of the law to the more liberal counties -- above all to the metropolis of London, where it was far less likely that any constable or justice would be able to identify them as strangers and ship them back home.

Efforts to keep the poor at home were confounded by another set of Parliamentary Acts, special bills permitting the enclosure of common lands, usually introduced by members on behalf of constituents and passed with little or no debate. During a period of low food prices and rents (the 1720s), these acts were begun, increasing rapidly in number and size by the middle of the century: "Enclosure Bills totaled 25 in 1720-9, 39 in 1730-9, and 36 in 1740-9; in the four subsequent decades they attained 137, 283, 385, and 660..."<sup>33</sup> Landowners perceived that grains could be grown and livestock could be raised much more efficiently on large, unified estates using seasonal wage labor, instead of on a patchwork of fields sharecropped by a population that was dependent on landlord charity and parish relief whenever times were hard.

The objective of this trend of the latter 1700s was an increase in the overall profitability of agriculture, as evidenced by rising food prices, higher rents and growing prosperity in the countryside. The new profit-oriented mode of agriculture in England, typically centered around wool or

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<sup>33</sup> J.D. Chambers, Population, Economics and Society in Pre-Industrial England, (London: University of Oxford Press, 1972), p. 124.

grain production on a grand scale, attracted considerable investment capital to the more productive estates and led to something of a rural building boom in the second half of the eighteenth century:

Enclosure by Act of Parliament often implied the partial rebuilding of villages; new farmhouses, many of them on a massive scale-- labourer's cottages, roads, gates, fences and so on. Visible evidence of rebuilding from 1750 one can be seen on all sides in the brick and tile which is so characteristic of the Midlands...<sup>34</sup>

Ironically, as the poor were being forced off the land to allow for this new market-oriented agriculture, many more serious problems were being created by their appearance among the urban masses.

### Crime and the Urban Poor

The urban poor were no longer the responsibility of any landlord or householder and shared in no commons which might sustain them. Public attitudes toward the urban poor became far less sympathetic than they had been toward their rural counterparts. The major reason for this change was the real fear of the vagrant poor felt by bourgeois society. Foremost among their concerns were property crime and civil unrest, with social justice and full employment now falling way down the list. The medieval methods developed to counter ordinary crime and social disorder were inadequate to contend with

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<sup>34</sup> Ibid.

the large population of the poor in the modern metropolis, and respectable citizens viewed with alarm the rise of shanty towns and slums in their midst.

While a full discussion of crime and its role among the poor is clearly beyond the scope of this paper, the general problem of social disorder and the public response to it deserves some comment. The tension between property rights and personal rights was probably the strongest single factor shaping social attitudes toward the poor in this period. Those with property considered it inevitable that the poor should seek to take it from them; as the rootless poor grew in numbers, the propertied class took stringent measures to ensure that the poor should not be able to do so.

The great metropolises of Europe such as London and Paris were natural magnets for the rural poor, and their urban conditions were chaotic and crime-ridden. The problems of theft, public disorder and rioting by the poor and politically disenfranchised that had plagued European cities since the Middle Ages were exacerbated by the sudden growth in number of indigents in the seventeenth century. Long before the establishment of the first professional police forces, responsible citizens had banded together to contain and control the behavior of the disorderly poor. The medieval tradition of mutual responsibility for maintaining public security, begun in England as early as the reign of Alfred the Great, had evolved by the 10th century into a

system of frithgilds or associations of male adult citizens obliged to assist in "the suppression of thieves, the recovery of stolen property, and mutual insurance against losses by theft."<sup>35</sup> It was taken for granted that without some such system of "mutual insurance," the poor would try to appropriate the wealth of the rich by whatever means possible. The essence of the medieval concept of groups or "hundreds", collectively bonded against theft and other crime within the communities, was a system of tithing by which men pledged to help keep order on a rotating basis. The poor were not then a distinct urban class, however, and uprisings such as Wat Tyler's rebellion showed that it was in the countryside that the most violent insurgency among the poor took place before modern times.

By the seventeenth century, it was recognized that the state would have to somehow accommodate the swelling population of landless paupers or face the spread of peasant rebellions and food riots to the cities. The problem of the poor could only get worse with time, given the changes taking place in the structure of the agricultural and mercantile economies. The population of England had doubled in the eighteenth century alone, and alongside this rapid growth came a progressive breakdown of law and order. The pessimistic calculations which inspired Malthus' Essay on Population

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<sup>35</sup> Alwyn Soames, The English Policeman, 1871-1935, (London: George Allen & Unwin, 1935), p. 10.

(1798) were already in the back of many people's minds by the middle of the century, as the conviction grew that there were simply too many mouths for England to feed.

By the late 1700s, London was beset with widespread crime and poverty. The first reaction of the judiciary and the upper classes was to impose the death penalty for virtually all crimes against property. Douglas Hay points out that in this period, "In place of police... propertied Englishmen had a fat and swelling sheaf of laws which threatened thieves with death," capital statutes increasing from 50 to over 200 between 1688 and 1820.<sup>36</sup> Merchants, nobles and justices urging the death penalty for crimes against property "blamed the ever-increasing depravity of the people" for this sad state of affairs.<sup>37</sup> The death penalty appears to have had little effect on criminals, as the poor stole out of necessity.

In practice, the total number of executions decreased in number between 1600 and 1750 because of the corruption of the judiciary; anyone with money could almost always gain a reprieve from the hangman, whereas a poor person could not. The pens of Newgate Prison were soon filled to capacity, however. Another cause for the state's inability to control

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<sup>36</sup> Douglas Hay, "Property, Authority and the Criminal Law," in Albion's Fatal Tree: Crime and Society in Eighteenth Century England, Hay, Winebaught, Rule, Thompson and Winslow, (New York: Pantheon Books, 1975), p. 18.

<sup>37</sup> Ibid., p. 20.

crime among the poor was the resistance of the upper classes to the idea of a standing army, civil guard or permanent police force. Contemporary Tory ideology upheld the rule of law, the sanctity of property, and the principle of individual liberty against any efforts to reform the old system of constables, watchmen and justices.

Some feared the outbreak of a class war, or of a level of social conflict that was intolerable. As late as 1819, a House of Commons Select Committee on reform said of a proposed "system of police,"

...in a free country...such a system would of necessity be odious and repulsive...It would be a plan which would make every servant of every house a spy on the actions of his master, and all classes of society spies on each other.<sup>38</sup>

The poor were still recognized as having civil rights like any other citizens, so long as they did not violate the law. An 1822 Select Committee of Parliament praised the "perfect freedom of action and exemption from interference"<sup>39</sup> found in English society, and concluded that the tyranny of a professional police force was too great a price to pay for the suppression of crime among the poor.

The 1834 debate over reform of the Poor Law was thus a debate over civil disorder and crime among the poor, as much

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<sup>38</sup> J.J. Tobias, "Police and Public in the United Kingdom," Police Forces in History, George Mosse, ed., (London: Sage Publications, 1975). p. 99. Tobias, op. cit., p. 98.

<sup>39</sup> Ibid.

as it was a debate over who would pay for their relief and whether the able-bodied would work for their keep. A revived and strengthened workhouse system might be one way to remove the most immediate incentive to crime among the poor.

#### American Approaches to the Problem of the Poor

In America, a variety of methods had been developed for dealing with the problem of the poor, including the English system of poor relief taxed and administered at the parish level. In addition to the poorhouses, paupers were sometimes bid out to their own families (who would be paid modest amounts for keeping them), contracted out as a group to care providers, or given "outdoor relief" at home if they had families or friends able to put a roof over their heads.<sup>40</sup>

Among those sympathetic to the plight of the poor, any program to extend the workhouse or poorhouse to a universal system was fiercely resisted, says Michael Katz. The working class recognized that the poorhouses "were designed to enforce discipline and help regulate labor markets and wages," even though putting the poor to make-work might have had the opposite effect in a truly free labor market, removing a portion of the population from the competition for menial jobs.<sup>41</sup> Hostility to the poorhouse system was by no means limited to the poor and to social reformers. Merchants,

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<sup>40</sup> Katz, op. cit., p. 14.

<sup>41</sup> Katz, p. 20.

justices of the peace, employers of casual labor, anyone opposed to the household tax -- all the groups that might derive "a profit from supporting the paupers, or expect to derive it, will also indulge in feelings hostile to the system" of state-run poorhouses, argued New York's Secretary of State Yates.<sup>42</sup> American attitudes generally reflected the Yankee ethic of self-reliance and limited government, but the influence of the English Poor Law system was quite strong in some areas, particularly the South.

By the middle of the nineteenth century, according to Katz, the failures of the poorhouse were as evident in America as in England. In some, inmates were treated as prisoners, while in others they came and went freely: "The open door policy, as characteristic of Charleston as of Philadelphia, spawned a class of almshouse recidivists."<sup>43</sup> Because of their poor administration and incompetent bureaucracy, the poorhouses threw together all kinds and classes of indigents. Economist Amos Warner, the author of American Charities (1894), urged classification, including the "separation of the sexes," "isolation of defectives," "special provision for the sick," and "classification by age... and character," so that respectable old folk and children might not be forced together with drunkards, tramps, and prosti-

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<sup>42</sup> Katz, p. 21.

<sup>43</sup> Katz, p. 29.

tutes.<sup>44</sup> But few communities could afford separate facilities for the different classes of indigents, and most wound up warehousing them at the least possible expense in multi-purpose facilities that served all of their inmates poorly.

The recognition that putting the poor to work cost more than their work was worth meant that no meaningful economic justification of the poorhouse system was possible. Wherever the purpose of work was punitive (to discourage idleness), there was rarely any gain to be had from it. Only a minority of the inmates were capable of hard labor anyway. By most calculations the poor could have been more easily supported by outdoor relief or by direct handouts. By 1900, deterrence of vagrancy had triumphed over compassion as the rationale for the American poorhouse.<sup>45</sup>

Alternative utopian socialist schemes for eradication of poverty did not survive very long under their original programs, but social reformers never ceased hoping that the "surplus population" of the poor could somehow be put to a constructive use, or at least be made to support itself. As the early nineteenth century utopian schemes died out, America followed England's lead and built more poorhouses. Typically, reform-minded Americans tried to develop a better class of poorhouse for a better class of the poor. These were persons displaced by economic upheavals and forced down

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<sup>44</sup> Katz, pp. 29-30.

<sup>45</sup> Ibid.

into the lower ranks of society through no fault of their own. The crowded conditions of America's big cities also violated the Victorian sensibility regarded the sanctity of women, and private solutions to the upkeep of poor but genteel folk and single women began to appear.

In Chicago, Jane Addams's celebrated Hull House for women was one of a number of "settlement houses" established as alternatives to the poorhouse. The settlement houses totaled nearly 400 by 1910, most of them located in the northeast or Midwest, with many of them teaching socialist politics together with reading, writing, and occupational or domestic skills. Along with Progressivism, unfortunately, this social movement died out during World War I, and reformers had to await the Great Depression to receive another hearing. Settlement houses had encouraged the belief that poor relief should be institutional and universal, rather than arbitrary and occasional, but without government support all of these institutions ultimately had to rely upon private charity for their funding.

This reliance on the private sector meant that their funding was sporadic and inadequate at best. Historically, social attitudes toward the poor in America have swung back and forth depending upon economic conditions. The depression of 1893 "exposed the bankruptcy of private charity," and like the Great Depression it inspired social reforms and new

proposals for public poor relief.<sup>46</sup> Of course, during hard times charitable donations are understandably more difficult to obtain than ever. During the boom times of the 1920s, conversely, wealthy Americans showed a marked indifference to the problems of the poor.

As in England, however, the direction of social change was consistent over the long haul. The turning point in America was undoubtedly the heyday of social reform at the turn of the century, when issues of immigration, child welfare, workplace safety, and food and drug standards were suddenly being addressed. "By the early twentieth century the public's role in the care and protection of dependent and neglected children had increased dramatically," notes Katz.<sup>47</sup> The state's ultimate responsibility for regulating the various aspects of social welfare was accepted in principle by this time, it seemed, and it only remained to be worked out how extensive the system would be and how it would be paid for and administered.

#### Utopian Schemes and "Scientific" Theories

Numerous proposals for the improvement of conditions among the poor had been made between Thomas More's time and the 19th century. The ancient ideal of the agrarian commune, so eloquently described by Thomas More, has lingered in the

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<sup>46</sup> Katz, p. 82.

<sup>47</sup> Katz, p. 121.

collective imagination and been revived periodically by social reformers. Robert Owen's model factory town in New Lanark, Scotland (1800) attempted to combine cooperative and communal living with industrial operations. In 1825, his son Robert Dale Owen built a self-sufficient cooperative at New Harmony, Indiana, combining agriculture and industry in a similar manner. St. Simon and other continental philosophers also imagined various types of utopian socialist societies, St. Simon's led by industrialists and scientists and worked by laborers drawn from among the ranks of the poor. The utopian reformers differed from revolutionaries in seeking local solutions, working from the bottom up.

The reformers' agenda for the improvement of living and working conditions of the poor was diametrically opposed to the conservatives' call for more police and less charity. By general agreement, any system designed to sustain the poor, public or private, would require close regulation. There would have to be some self-supporting industry to bear part of the cost of its ongoing operations. In short, the poor would be expected to earn their own keep if possible, or to submit to the discipline of the poorhouse if not.

Radically changing social attitudes toward the poor have been largely responsible for government's assumption of the welfare obligation in the modern era. As the general public grew accustomed to the idea of publicly-financed poor relief, the welfare obligation went from being an act of

private conscience and religion, to being a ratepayer-supported function of the parish, to being a collective and public obligation of the state. Without social reformer and social movements pushing public attitudes toward a more compassionate view of the poor, this transformation could not have occurred.

At first, progress was very slow. From the end of the eighteenth to the first third of the nineteenth century, the English Parliament and English people had argued endlessly about whether the Poor Law should be strengthened, modified, or abolished altogether. The arguments offered by those who championed its abolition were primarily economic; such distinguished political economists as Ricardo and Malthus insisted that the Poor Law would only increase the hardship of the deserving poor. Malthus reckoned that "misery and vice" were necessary to reduce the population to the level of the food supply, which according to him only increased arithmetically as population increased geometrically.<sup>48</sup>

Malthus's population theory has long since been debunked thoroughly because of his main assumption, which has never been demonstrated, that the birth rate will not go down as living conditions improve. However wrong his argument has subsequently been shown to be, its impact on the social reformers of the early 19th century can hardly be exaggerated. In the second edition of his work on popula-

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<sup>48</sup> Himmelfarb, *op. cit.*, p. 127.

tion, Malthus revised his earlier grim estimate and raised the hope that rationalism and technological progress would somehow elevate the whole of society to a new level, encouraging the poor to voluntarily stem their breeding. The poor must be made to understand that "they are themselves the cause of their poverty; that the means of redress are in their own hands and in the hands of no other persons whatever," and that self-improvement and self-restraint were their only hope for a better life-- not poor relief.<sup>49</sup>

Malthus pictured human society as a great lottery in which the total number of prizes and blanks was determined first by environmental factors such as population and food production, and then by individual willpower and desire for improvement. Like the utilitarians, he conceived of the best society as the one in which the greatest "sum of social happiness" was achieved. Direct relief, he believed, only reduced happiness in the long run; it discouraged the classes just above those in the workhouse by taking work away from them and eliminating any incentive for "moral restraint" in the creation of new poor children for the state to support. Malthus felt sure he was presenting a true assessment of the struggle for "nature's feast," but not surprisingly, the effect of his unfeeling calculations was to shift the sympathies of the majority of his readers toward more relief for the poor, not less.

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<sup>49</sup> Ibid. p.118-9.

Along with this argument, the need to prevent the poor from becoming a public nuisance was set. The Commissioners of the Poor Law who called for the able-bodied to work for their keep did not really believe that "the work so performed would be economically useful" or beneficial. Rather, they regarded the work requirement as a test: "If a man was really in danger of starving, it was argued, he would accept the workhouse; if he refused it, his condition could not be too bad."<sup>50</sup> This test remained in place for three quarters of a century, until the Social Insurance Law of 1911 was passed, but it was never popular with liberal critics or social reformers. To compel the poor to perform useless work in exchange for food and shelter seemed to them both futile and demeaning.

The Poor Law debates argued the distinction between the "able bodied pauper unable to support himself," and the working poor who now seemed to "think themselves entitled to a share of the poor funds."<sup>51</sup> Within the broad class of paupers, there were to be new distinctions between the aged and infirm, young children, and able-bodied men and women. Critics like Edward Bulwer-Lytton charged that the old Poor Law deliberately aided able-bodied and indolent young men at the expense of those who most needed assistance, "because the

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<sup>50</sup> Henry Hazlitt, The Conquest of Poverty, (New Rochelle, New York: Arlington House, 1971), p. 11.

<sup>51</sup> Himmelfarb, *op. cit.*, pp. 59-61.

former were more violent and threatening" to a frightened public than the more helpless among the poor.<sup>52</sup>

In response to these problems, a wide range of more specific reform acts emerged in the decades that followed, these included a plan for a Ministry of Public Instruction, calls for universal public education, limits on the working hours of women and children, and an expanded government role in the regulation of private enterprise. Although "it is no accident that the major reforms-- the Factory Act of 1833, the Mines Act of 1842, the Ten Hours Act of 1847-- dealt exclusively with women and children," these acts also laid the groundwork for the progressive reform of the working conditions for all classes of the poor over the next seventy-five years or so.<sup>53</sup>

In this brief survey of the main elements shaping social attitudes toward the poor from the seventeenth century onward, we see at bottom a fundamental economic conflict between supply (the population of laboring poor) and demand (jobs). Once it came to be recognized that the bulk of the poor were economically displaced or disabled rather than unemployed by choice, the influence of social reformers gained ascendancy over the forces opposed to state-funded relief for the poor. Social critics attacked the wretched conditions of the workhouses and the demeaning attitudes of

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<sup>52</sup> Himmelfarb, *op. cit.*, p. 173.

<sup>53</sup> Himmelfarb, *loc. cit.*

those who operated them; better to give relief freely than to condemn the poor to institutional misery. Political economists argued that the workhouse system decreased social stability and reduced the incomes of the poor, by removing their incentive to seek work and become productive. The common theme of all these arguments was that institutionalized relief for the poor was counter-productive and actually harmful to those it is intended to benefit.

Against these various arguments and counter-arguments, my thesis will show how the principles of the liberal and humanist tradition, calling for a more compassionate and charitable attitude toward the poor, and for state assumption of the welfare obligation, is grounded within a philosophical rational which assumes the priority rights of the poor against the state. Social attitudes toward the poor have oscillated between extreme positions, hindering the development of effective programs. The poor have been seen either as a moral responsibility burdening all of society, or as a population of misfits who in the not-too-distant past would have been relegated to the workhouses or mental institutions. The unemployed and underemployed have been viewed either as victims of inherent imbalances of labor supply and demand in a free market, or as victims of state interference in that free market.

These false dichotomies have distorted the true nature of the state's welfare obligation to the poor. What is today

called "workfare" continues to be a defining issue in determining social attitudes toward the poor. The very first Poor Law of 1601 had called for the able-bodied to be put to work, but this provision was rarely implemented. By the time of the reform of 1834, renewed demands that the able-bodied poor to be put to work were being heard, but no practical means for invigorating the debilitated and disenfranchised poor could be devised. Nearly one hundred years later, novelist George Orwell was still suggesting that English workhouses be "developed into self-supporting institutions" so that "the tramps... would cease to be tramps"<sup>54</sup> and settle down to decent lives growing food for themselves. Orwell's personal experience of the degraded life of the English vagrant convinced him that this wandering population could be salvaged, but only if the futile practice of daily eviction from the workhouses were dropped, and some kind of sustained, self-supporting small farm system introduced.

### The Argument for Social Justice

As subsequent chapters of this discussion will demonstrate, numerous philosophers, jurists, and theologians had long dedicated their efforts to determining the moral basis upon which social justice should proceed. Hugo Grotius, for example, in his construction of the relationship between

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<sup>54</sup> George Orwell, Down and Out in Paris and London, (New York: Harcourt Brace Jovanovich, 1961), p. 207.

natural and international law, argued in favor of a recognition of the necessity of efforts designed to eliminate some of the "natural" and "inevitable" distinctions that create classes and class systems.<sup>55</sup> His ideal was the early Christian community, a community in which equality and egalitarianism was tempered by a strong sense of moral obligation between and among men. His views are relevant in that they establish a moral rather than a social basis upon which the obligation of the state (in the West a supposedly extended, enlarged form of the Christian community) to its poor can be structured.

Most arguments in defense of the Poor Law favor the assumption that state-sponsored welfare programs ought not to be founded on principles of charity but on principles of equity and justice. This implies that welfare provisions ought not to be the result of utilitarian calculations or political compromises, but should reflect the abiding principles of justice as society conceives them. Under this set of assumptions the Poor Law, for example, should distinguish between the working poor and the pauper, even if this tended to push the unemployed laborer over into the pauper category. Fairness required that those who could work should do so, and that only the infirm and the aged should be supported without restrictions.

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<sup>55</sup> V. Ferm, *op. cit.*, p. 236.

As Lockean liberal democratic theory helped remove the distinctions between kinds and classes of men, however, a new conception of justice and fairness emerged in which necessity became the sole test of the deserving poor. Any sound democracy, it was clear, required a system of justice in which universally held rights were the underlying basis of the judicial and political order. True democracy required that the poor should be accorded full equality and complete independence; and, to borrow the Kantian term, that even the poorest individual should be treated as an end rather than merely as a means towards the ends of social justice.

In establishing the contractual basis of all social justice, Immanuel Kant showed that in the commonwealth or collective democracy, the power of legislation required that there be "freedom, equality and unity of the will" of the whole society. In other words, the law is an agreement reached by a general vote where each person has the freedom to agree or disagree with the outcome, and each voter is independent of the will of others in making his decision (although perhaps not with respect to obeying the will of the majority). If the poor enjoy the same political rights as the rich, a mandate for a more just redistribution of wealth will inevitably follow.

Any adult male who is his own master should be allowed to vote, regardless of his economic status, under the modern democratic theory of political justice. The poor would grad-

ually be incorporated into the mainstream of society, it was hoped, and their radical impulses would be subordinated to their natural self-interest in improving their standard of living. The American dream of unlimited opportunities for the ambitious individual was built upon the belief that only temporary, easily surmounted inequalities held back the honest, hardworking poor. The poor were encouraged to believe that their greatest material happiness lay on the lawful path of social reform rather than on the road to open revolt. In England, where class differences were even more pronounced, the extension of the franchise to the poor would eventually be a rising tide lifting all boats; the poor would benefit from the growing economy just like the rich. As the backbone of capitalism and the driving force of the industrial economy, the "working classes were now seen as respectable, deserving, worthy, endowed with the puritan virtues which had served the middle class so well,"<sup>56</sup> and perhaps even deserving of the right to vote. The franchise Reform Acts of 1832 and 1867 had moved England by degree toward this objective, but as the Chartists and other radical reformers were eager to point out, at mid-century only one in seven Englishmen had the vote, perhaps 800,000 out of a total of 6,000,000 adult males in the country.<sup>57</sup> Only with the entry of the new Labour Party into English electoral

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<sup>56</sup> Himmelfarb, *op. cit.*, p. 529.

<sup>57</sup> Himmelfarb, *op. cit.*, p. 265.

politics in the twentieth century did the phrase "universal manhood suffrage" take on a real meaning, and the majority (women) were still excluded from the franchise until after World War I.

### The Literature of Poverty

Another decisive influence in altering the attitudes of society toward the poor in the mid-nineteenth century was the publication of Henry Mayhew's London Labour and the London Poor, begun as a magazine and pamphlet series in 1849-51, and finally published in four volumes in 1861-2. Mayhew adopted a new, more pragmatic classification of the poor into the "honest" and "dishonest" poor, with the "honest poor" comprising both those who would work and those who would not or could not, relying instead on charity. Within these groups, Mayhew distinguished dozens of sub-groups by their principal activities, paying particular attention to the street folk of London in their myriad occupations. The dishonest poor represented a separate society unto themselves.

Following upon the Poor Law Report, the reports for the Mines Act of 1842, and the Report on the Sanitary Condition of the Labouring Population of Great Britain of the same year, Mayhew's work had the effect of exposing a vast "culture of poverty" which had been viewed tangentially by the respectable classes and known intimately only by those liv-

ing in it. The English people, and other nationalities after them, became much more aware of the existence of a great social injustice in their midst, and became much more determined to right that wrong through the establishment of social welfare systems in the private and public sector.

Conservatives recognized that the threat of democratic socialism or radical communist revolution was being greatly increased by the continuing conflict between the class interests of the rich and the poor populations. The belief that social justice required some sort of adjustment of the inequalities between rich and poor spread beyond the radicals into the Liberal and Conservative camps, as the social problem of the poor came under increasing scrutiny from writers and reformers.

In the final analysis, however, the ideal of the social contract is always weakened by the coexistence of two people, one rich and one poor, within the body politic precisely because the poor are never fully equal nor are they ever fully free (at least economically) to barter their services for the best price. Recognizing that this conflict could not be resolved by any half-hearted reform measures, society's attitudes toward the poor again underwent a radical change in the mid-nineteenth century.. The "deserving poor" now constituted perhaps one-third or more of the population, and their full numbers might actually make up a majority in some areas. The expansion of the franchise to

the "poor" would eventually put them in the driver's seat of industrial democracy.

The truth was that nineteenth century English society, like most of Europe, was still made up of these two deeply divided populations, between which there was little political or social commerce in the nineteenth century. This explains why the literature of reform came as such a revelation to the upper classes. A new genre of social novels dealing with the more sensational aspects of the underworld of poverty had appeared, including works by such forgotten fiction writers as William Ainsworth, G.W.M. Reynolds, Frederick Marryat, not to mention the authors of the Chartist literature and the vastly more popular Charles Dickens. The literature of poverty drew many of its well-heeled readers into the social reform movement and transformed the class distinctions of late Victorian society.

In the contemporary mind, these works have coalesced into a popular image of the Dickensian Poor, the collection of motley characters from Oliver Twist, Hard Times, and Great Expectations. But the impact of these works was far greater in the second half of the nineteenth century, when their moral concerns were still pressing. An overtly sympathetic view of the poor (even the petty criminal, the "fallen woman" and the transported convict) was conveyed in these and other works. Readers came to share the reformers' belief that a large fraction of the poor would never be able

to support itself in any kind of decent living condition under the existing systems of poor relief.

In England as in America, this mid-century literature of poverty enjoyed a revival around the turn of the century, when an outpouring of reports, investigations and studies appeared in conjunction with the reform movements. Their subject was the depth of economic inequality and its impact on the conditions of the poor. Barbara Tuchman notes that in England these major works appeared in a short space:

In B. S. Rowntree's Poverty: A Study of Town Life, 1901, in the last volume of Charles Booth's Life and Labour of the People of London, 1903, in L. Chiozza Money's Riches and Poverty, 1905, in reports of the Royal Commission on Labour and in the Fabian Society's studies of the destitute, diseased and insane, evidence accumulated that the richest country in the world rested on a foundation of one-third of its population living "chronic poverty, unable to satisfy the primal needs of animal life."<sup>58</sup>

Economic inequality was perhaps greater in England than in France or the United States, but the disparities in incomes and living conditions were enormous in all of the industrial nations, and the total numbers of the poor were everywhere increasing, not declining.

### Social Legislation

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<sup>58</sup> Barbara Tuchman, The Proud Tower, (New York: Macmillan, 1966, p. 356.

In turn of the century England, the Liberal Party's package of social legislation aimed at addressing these problems was being pushed through by such unlikely allies as Lloyd George and Winston Churchill. Among the major bills passed by the new Liberal-Labour coalition after 1906 were "A Coal Mines Act establishing the eight-hour day for miners, a Trade Boards Act establishing minimum wages for piecework in the sweated trades, [and] a Workman's Compensation Act."<sup>59</sup> The active role of government in social welfare legislation was now established beyond a doubt, with the greatest political force behind the new activism in government being the vast numbers of the newly-enfranchised poor.

Enlightened self-interest truly did direct the political action of the lower classes, and the ranks of government's beneficiaries were greatly expanded by political means. The broad new class of poor included those who were poor but not "pauperized": the deserving poor who were not entirely wretched but who required some sort of assistance "precisely because they were deserving... This was the class that was the chief beneficiary of the major measures of social legislation of the early twentieth century, the Old Age Pensions Act of 1908 and the National Insurance Act of 1911."<sup>60</sup> The class of the deserving poor eventually came to include the entire lower end of the working class and all

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<sup>59</sup> Ibid., p. 378.

<sup>60</sup> Himmelfarb, p. 531.

those below it on the social ladder, with the only exceptions being the criminal classes and the indolent and rebellious among the able-bodied poor.

Attitudes toward the poor, we have seen, had remained consistent over the years in some important respects. There has always been widespread support for charity for the "worthy" or deserving poor, including the poorest laborers, honest paupers, the aged and the infirm. The handicapped poor have also been the objects of widespread sympathy and support, both private and public. On the other hand, respectable society has consistently viewed the able-bodied unemployed as being of dubious worth, in spite of evidence that structural unemployment and not refusal to work is largely responsible for their situation.

The marginal classes of the poor-- the homeless, the paupers and the beggars-- continued to fall somewhere in the middle, since positive solutions for their condition were the most difficult to find. And social attitudes toward the criminal classes of the poor have remained stern and disapproving, even if the level of punishment accorded economic crimes diminished greatly after the eighteenth century. The poor were expected to have pride enough not to steal no matter what their condition.

The most important changes that took place in social attitudes toward the poor from the seventeenth through the nineteenth centuries were of a different nature. The issues

of how poor relief would be financed and administered were gradually resolved, and separate issues of child welfare, workplace safety and moral accountability for society's poor came to the fore. Social reformers, over many decades, expanded the more compelling problems of women and of "the appropriateness of institutions for children" into a broader welfare issue concerning "the role of government in our lives" as a safety net for the poor.<sup>61</sup>

To summarize, the changes in social attitudes toward the poor which we associate with the rise of the twentieth century welfare state in fact occurred earlier: "The transition of public policy from one of relatively pure laissez faire to one of collectivism began in the first half of the nineteenth century," observes George J. Stigler. "The shift in public opinion and in effective electoral power which lies behind the shift of policy" preceded the Fabian socialist and Marxist socialist movements.<sup>62</sup> The locus of that shift in public opinion was the Poor Law debates and the liberal social criticism which those debates stimulated among writers and intellectuals.

The attitude that the government ought to assume the responsibility for the condition of the poor, and even for the existence of poverty, finally became common in the mid-

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<sup>61</sup> Katz, *op. cit.*, xiii.

<sup>62</sup> George J. Stigler, Essays in the History of Economics, (Chicago: University of Chicago Press, 1965), p. 268.

twentieth century. The immediate architects of this change were not political economists or philosophers, but countless writers and social reformers who stung the public conscience with exposes of the terrible conditions endured by the poor. At the same time, these reformers and popular writers were themselves steeped in the philosophical, political and economic literature of the preceding centuries, and one cannot have a proper appreciation of their ideas without exploring that literature in greater depth.

### III. Scope and Limits of the Study

#### The Philosophical and Economic Arguments

This study will examine the arguments of the primary political and philosophical theorists of the 17th to the 19th centuries, from Hugo Grotius and Thomas Hobbes to John Locke, Montesquieu and John Stuart Mill, as well as their somewhat less well known critics, such as William Paley and Thomas Rutherford. Rather than engage the less fruitful and more heavily trodden ground of issues related to property right and natural law directly, the study will concentrate on the evolution of society's attitudes toward the poor, following their course through the philosophical and legal arguments concerning the welfare obligation and the place of the poor in society.

I will argue that society's attitudes and actions toward the poor have not always been mediated by the opposing demands of individual liberties and personal necessity, at least in any primary sense, but have been largely based on a moral economy of popular sentiments for equality, justice and social morality. These demands have been legitimated by the works of the great philosophers and political economists, whose writings were familiar to the social reformers and popular writers in the nineteenth century.

This is not to say that the social welfare reforms did not require a new philosophical framework; the greater part of this study will involve showing how much philosophical theory influenced popular attitudes toward the poor. But in order to justify the existence of a positive welfare right, we must have a broad theory of social justice incorporating psychological and moral components of our attitudes toward the poor. Such a theory would, of course, encompass the separate issues of the right to hold property as well as the right of necessity, but would focus on the moral attitudes found in a society divided into "have" and "have-nots," and on the meaning of justice and equality in the midst of widespread continuing poverty. These attitudes must ultimately be judged by ethical standards, although it is probably true that "equality is not a basic ethical value in any important

western philosophy,"<sup>63</sup> since society has chosen to view poverty as a moral problem.

There are two distinct, closely-related theories in the historical development and philosophical justification of a social welfare right in the modern era. The first centers on the justification of the right of private property and its relation to a welfare obligation to the poor; the second concerns the right of necessity. The immediate stimulus for the controversy was the enclosure of rural agricultural lands by private landlords, and the first attempts to modify the English Poor Law to limit the obligation of property owners towards the poor. But the debate about household taxation for poor relief ultimately drew upon the theories of a natural law right to private property expounded in writers such as Hobbes, Grotius and Locke. Eventually, the debates came to include social reform issues of all kinds.

As the rural commons disappeared through the enclosure of the great estates, the conflict between property rights and the right of necessity became more apparent. The poor peasants had long lived and worked on the fringes of the great estates, gardened in the commons, and ran livestock freely across open lands. Then they were driven off the land and forced find a place in an alien socioeconomic order.

This historical development showed clearly that the two concepts of private property and the right of necessity must

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<sup>63</sup> Stigler, p. 281.

be considered as interrelated. The right to private property implied that no man should be required to give up what is his by natural law and legal right. The right of necessity required that the common inheritance of the earth should be available for the everyone. But more immediate moral and social concerns, such as whether the poor should be kept by the state at the expense of the taxpayers, soon overshadowed these broader philosophical problems.

Most of the protest literature, public debate and social legislation which served as the stimulus for the rise of the social welfare state took place first in England during the period between the Poor Law of 1601 and World War I. While this study will not be confined to England or the Anglo-American experience, it must be acknowledged that English policies, ideas and attitudes preceded comparable developments in Germany, France, the United States and other industrial countries by at least a few decades.

This study will therefore concentrate on social and philosophical attitudes toward the poor in England and the United States, and the reasons that those societies have viewed the poor in a changing light over the years. It will demonstrate that over time, the notion that some persons have a right to welfare or assistance has emerged and assumed the force of socially sanctioned moral law. It will also trace the process by means of which this notion, founded initially in the moral codes of the Jewish and

Christian religions, was transformed into an obligation of the modern state. This introductory chapter has served to describe the background of the principal arguments, political and legal concepts, and social movements that led to the great change in attitudes toward the poor during the nineteenth century.

In the remainder of this paper, we will look at how social philosophers' treat issues affecting popular attitudes toward the poor, tracing their development from the seventeenth century down to the present day. The organization of the study will follow the order of the most important thinkers on the subject, from Grotius and Hobbes in the seventeenth century, to Locke, Mill and Montesquieu in the eighteenth century, through the debates on the modern systems of social welfare and social security that arose in England and Germany in the nineteenth century. A final chapter on the modern welfare state and its characteristic attitudes toward the poor will conclude the study.

## CHAPTER TWO

**Property, Charity, and Necessity in the Body Politic:  
The Philosophical Underpinnings of  
Social Attitudes Toward Poverty**

## Displacing the Rural Peasantry

The Enclosure in England

Historical tradition has viewed enclosure, or the conversion of agricultural land from open fields and commons to enclosed farmland, as a uniquely English experience which coincided with the depopulation of the countryside and the rise of urban industrialism in the 17<sup>th</sup> and 18<sup>th</sup> centuries.<sup>64</sup> In fact, as we will see, the process of enclosure associated with the English countryside had direct parallels in the experience of the poor on the land in France, Italy and other European nations, although it was not directed through

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<sup>64</sup>Although the above statement is somewhat ambiguous as to strict historical time, in that the process of enclosure certainly began prior to the 17<sup>th</sup> Century and lasted beyond the 18<sup>th</sup>, still because this discussion will focus on a time slice which incorporates that period I will reduce the scope of the discussion to that time frame alone. It is my hope that by so doing I will generate a more narrowly defined analysis of the impact of this process as it impacted on the development of welfare from a decentralized, essentially local and religious institution, to one that we recognize today as a centralized, and bureaucratic, government managed set of programs.

the same sort of legal procedures or economic directives as the English acts.

Not all historians of agricultural economics viewed enclosure as a purely negative social development for the poor. J. M. Neeson points out that many "optimistic historians" have seen enclosure as a fair and necessary step toward improving the efficiency and productivity of rural agriculture in a period of high population growth: "Thus resistance occurred only in exceptional circumstances, where unusually large commons were lost or where small absentee owners let their lands or where large pasture owners profited from local shortages of grazing or where enclosure was forced through without due process." (Neeson, 1984: 115) Even the majority of historians viewing enclosure as a disruptive social force have associated it with the rise of "agrarian capitalism," a kind of "proto-industrialization" in the form of cottage industries, and the final triumph of commercial agriculture and landlords in the English countryside. For example, J. D. Chambers has written in an article on enclosure and labor supply that...

The question which is raised here is not the institutional origin of a proletariat, but whether enclosure is the relevant institution; not whether the growth of the proletariat can be treated in isolation from capital accumulation, but what form the relationship took. (Chambers, 1952: 320)

Enclosure, in other words, is widely regarded as a function of a nascent rural agrarian capitalism, the rise of a surplus labor supply and the creation of a need for industry, and ultimately of the creation of an urban proletariat suitable for the purposes of the industrial revolution in England.

Enclosure may be understood as a natural consequence of numerous changes in landlord-peasant relationships taking place over generations and centuries. Once the new forms of this relationship were established, partaking as they did of a contractual nature, they were not easily changed.<sup>65</sup> The "price-rise" movement (also known as the "price revolution") marked a clear point of departure from traditional use of common ground and property. In the sixteenth-century, many property owners of the nobility had succeeded in imposing upon their tenants and peasants a money-rent which, as prices of basic commodities doubled and tripled, became an inconsequential source of income from land use. Those injured most significantly by this situation sought enclosure of the common land upon which peasants and tenants depended for pasture for their livestock. Undoubtedly, the price-rise and the resulting defensive actions of numerous landlords, in England and elsewhere throughout Europe, helped to contribute to one of the most-significant problems of the sixteenth century: pauperism.

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<sup>65</sup> Clough, *op. cit.*, p. 469.

The debate over the nature and significance of the enclosures is not entirely a recent one, and it is worth noting that the popular image of a vast depopulation of the countryside was one that stirred debate even at the time enclosure was being formalized by Parliament. Chambers cites the 1783 remarks of a statistician, one Dr. Price, who claimed a decline of 1.5 million in population had occurred because enclosures had "thrown down the cottages in the country with the result that the inhabitants fled to London ..[where] they soon perished";<sup>66</sup> Chambers regards this as a "strange delusion" which gave rise to a new, systematic population study, including the famous work of Thomas Malthus and the first national census-taking organized by John Rickman in 1801. While Malthusian theory of population limits has largely been abandoned in modern times, it was tremendously influential in England during its day, and Rickman's research remains a valuable source of data on rural labor force and population. Rickman's work proved that the English countryside enjoyed moderate population growth in the 17th and 18th centuries, but it also supports the general contention that agriculture in England was transformed by enclosure under "commercially-minded landlords" into a new, market-oriented rural economic system.<sup>67</sup>

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<sup>66</sup> J.D. Chambers, Population, Economics and Society in Pre-Industrial England, (London: University of Oxford Press, 1972). p. 108.

<sup>67</sup> Hobsbawn, op. cit., p. 49.

While it is evident that enclosure had negative effects upon the ability of the peasant to sustain life and family, it is also true that one of the benefits of enclosure was the fact that it effectively placed large tracts of land under efficient management. Whereas the typical small farmer tended to cling to inefficient and outmoded methods of farming, the more ambitious landlords were willing to experiment with improved methods of basic crop production and scientific breeding of livestock. The result was a sharp increase in output, which could (to some degree) offset the negative effects of enclosure by creating food surpluses that could be used to provide aid to the needy.<sup>68</sup>

The beginning of enclosure took place long before the rise of rural cottage industries or agrarian capitalism, however. There were two major stages in the history of enclosure--before and after the formal acts of Parliament began to be required around 1720. J.D. Chambers, E.P. Thompson and others have shown that long before the industrial revolution, a "grid of inheritance"<sup>69</sup> created a pattern of enclosure of common fields and villages and conglomeration of larger estates out of smaller ones:

In the area of open-field or "Champion" England, where...holdings usually descended

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<sup>68</sup> Thomas Greer, op. cit., p. 400.

<sup>69</sup> E. P. Thompson, "The Grid of Inheritance," in Goody, Thirsk and Thompson, Family and Inheritance: Rural Society in Western Europe, 1200-1800, (Cambridge University Press, 1976).

undivided to one son, the rise of a free labour force from younger sons and daughters would have taken place more rapidly but for customary restraints upon their marriage.<sup>70</sup>

Chambers speaks of a pattern of "enclosure and eviction" resulting from the fact that while marriage could join property together, inheritance could not divide it. He points to "sixty villages 'wiped out,' fifty of them by enclosure, between 1450-1600 in Leicestershire alone," and theorizes that while a population of the homeless was being created, this process did little to alleviate labor shortages in harvest or cause population growth.

In any case, the result was that the free labor peasantry was steadily dispossessed in the sixteenth and seventeenth centuries, resulting in continuous food riots and protests. In southwestern Northamptonshire, for example, the early stage of enclosure "sometimes by agreement, more often by unity of possession when one owner held all the land... led to depopulation and consequently met with resistance, most notably in 1607."<sup>71</sup> By 1720, one third of the shire parishes were enclosed, and the remainder were "open villages and towns destined to be enclosed eventually by act of

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<sup>70</sup> J. D. Chambers "Enclosure and Labor Supply in the Industrial Revolution," The Economic History Review, Vol. 5, 1952, p. 320.

<sup>71</sup> J. M. Neeson, "The Opponents of Enclosure in Eighteenth Century Northamptonshire." Past and Present, No. 105, (November 1984), p. 117.

parliament."<sup>72</sup> Taken together, these measure had the desired effect; by the 1840s, "several counties were on the verge of an absolute loss of population, and from 1850 land-flight became general."<sup>73</sup>

Opposition to the enclosures was limited and ineffective, by all accounts, principally because the disenfranchised were up against so many formidable institutions, including wealthy landlords, the clergy, and of course Parliament itself. According to Eric J. Evans, one of the main reasons for enclosure was for settlement of tithes, the traditional ten percent owed by parishioners for support of the local clergy. When farmers could not pay, their only alternative was often to surrender land or crops as compensation; the lands were enclosed and the tithe obligation removed:

The private Act of Parliament necessary for enclosure could include provision for the exoneration of tithe, either by allotments of land or money payments, usually in the form of corn rents, fluctuating with the price of grain. Clergyman or proprietor was compensated, and the menace of tithe removed for ever.<sup>74</sup>

During this period (c. 1750-1830s), says Evans, "The enclosure movement made many clerics into prosperous farmers or

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<sup>72</sup> Ibid.

<sup>73</sup> Hobsbawn, op. cit., p. 185.

<sup>74</sup> Eric J. Evans, "Some Reasons for the Growth of English Rural Anti-Clericalism, c. 1750-1830," Past and Present, No. 66, (February 1975) p. 84.

absentee landlords to the certain detriment of their ministry..."<sup>75</sup> Evans cites records showing that tithe commutation enclosures accounted for 2,220 of 3,128 Enclosure Acts between 1757 and 1835, and amounted to 118 or 125 open field (as opposed to the commons and wastes) enclosures in Warwickshire in that same period.<sup>76</sup> Farmers were so eager to be rid of the tithes that they accepted a high price to have them removed, although the anti-clerical sentiment that accompanied the transaction became a bitter characteristic of rural society in this period.

Protests against enclosure were part of a larger pattern of riots and protests directed against unfair competition from the more developed or diversified farmlands of the south. Jones comments on how Midlands farmers in the 1680s sought legislation "to suppress the Improvements in the Southern Parts," and how "the men of the Vale of Aylesbury, on the Buckinghamshire clays, had at that time striven with great might to suppress the sowing of the clover grass in the Chilterns or hilly country."<sup>77</sup> The movement away from subsistence farming of food crops, and toward pasturage for wool, grain and fatstock markets, led to the "division of the country into cereal surplus areas and areas of pastoral-

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<sup>75</sup> Ibid.

<sup>76</sup> Ibid., p. 95.

<sup>77</sup> E.L. Jones "Agricultural Origins of Industry," Past and Present, No. 40, (July 1968), p. 60.

ism with rural domestic industry,"<sup>78</sup> since small holding farmers and sharecroppers now needed to supplement their income through cottage industry.

Opponents of enclosure had a number of avenues of protest, with the two extremes--unlawful rioting and petition to Parliament--probably being the least effective among them. As Neeson remarks,

Opposing parliamentary enclosure here was a matter of time and opportunity, and of patience and staying power. It began long before a bill was taken to the House of Commons, and lasted long after bills became acts...enclosure was a slow process, but enclosure opposition was longer...<sup>79</sup>

Once an enclosure bill had reached parliament, however, the only means by which it could be defeated was through the introduction of counter-petitions and refusing consent to the bill at the report stage, says Neeson, and by the later 1700s "Parliament increasingly supported the larger landowners and...was no longer hostile to enclosure."<sup>80</sup>

The final effects of enclosure on the social fabric were highly visible and destructive, but many economists have argued that the advances made in productivity through mechanization, "proto industrialism" and secondary industry, and other economies of scale would not have been possible without enclosure. These arguments revolve around the re-

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<sup>78</sup> Ibid., p. 40.

<sup>79</sup> Neeson, loc. cit.

<sup>80</sup> Neeson, op. cit., p. 138.

lated factors of labor supply, per acre yield, good and bad harvests, and the role of growing populations and urban markets on supply and demand. For example, J. P. Cooper cites O'Brien's evidence that "English agriculture did not have such an outstanding record of growth as has been generally assumed" and that "for the crucial period 1650-1745, comparison of the long-term trend of prices shows that English prices did not fall as much as Continental ones."<sup>81</sup> If so, this would support the contention that "rationalization," mechanization and enclosure were not functioning to increase productivity and lower food prices for a burgeoning, increasingly urban population whose surplus served to supply low-cost labor to new industry.

Against this argument, Chambers, Mingay and others have maintained that "bad harvests may have had the more beneficial effect, for the incomes of landowners and farmers were higher in lean years, and their prosperity or distress was of greater consequence than the dearth or cheapness of provisions."<sup>82</sup> In other words, the lean years of the period 1650-1730 may have been the factor which enabled food producers to stay in business without a need for formal Parliamentary Acts of Enclosure. In any case, it seems doubtful

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<sup>81</sup> J.P. Cooper, "In Search of Agrarian Capitalism," Past and Present, No. 80, (August 1978), p. 23.

<sup>82</sup> J. D. Gould, "Agricultural Fluctuations and the English Economy in the Eighteenth Century." The Journal of Economic History, Vol. XXII, No. 3, September 1962, p. 313.

that enclosure was a definitive step toward mechanization of agricultural technology, or that the change in population and labor supply was a direct consequence of the introduction of modern methods in the large-scale farming operations created by enclosure. According to E. J. T. Collins, "... as late as 1870 much of the greater part of the British corn harvest was still cut by hand tools..." and there is little evidence that in the period 1790-1870, the final stage of enclosure, there was anything more than an intermediate technology preceding steam machinery, made up of improved hand tools used "in response to a deteriorating harvest labour market..."<sup>83</sup> Even in the preceding period, there is agreement among most historians that it was "the fortunate series of good harvests between 1730 and 1750 that substantially contributed to the economic take-off of Great Britain," and not the introduction of new methods or technology: "As a rule, agricultural production was an area where little changed."<sup>84</sup>

Against this opinion, the argument has been raised that enclosures were part of a process of "proto-industrialization" in which rural agriculture and the laboring poor were being transformed as a precursor or an early stage of the industrial revolution. This concept was first introduced by

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<sup>83</sup> E. J. T. Collins, "Harvest Technology and Labour Supply in Britain, 1790-1870." The Economic History Review, Vol 22, 1969, p. 453.

<sup>84</sup> Braudel, op. cit., p. 180.

Franklin F. Mendels in a 1972 article on "Proto-Industrialization: The First Phase of the Industrialization Process." Mendels claims that the rise in rural productivity was a direct result of redistribution of labor, not new technology. Just as farming implements did not change much until late in the steam age, said Mendels, "From the invention of the spinning wheel in the twelfth century to the adoption of the fly shuttle--that is, not before the 1760s in England--labor productivity did not change much in textile production."<sup>85</sup> According to this view, the increase in rural productivity in the 17th and 18th centuries was not the result of enclosure and large-scale farming methods, but of a more continuous basis of employment in the rural population, which had been reduced to holding two jobs due to the reduction in free holdings that took place under enclosure.

The concept of "proto-industrialization" gained a certain popularity in the 1970s, particularly among Marxists who were anxious to prove that the restriction of common property rights through enclosure was a preliminary stage of industrial capitalism. The main features of the economics of proto-industrialization were that it was regional, involved "peasant participation in handicraft production for the market," produced for a market outside the region, linked commercial agriculture to cottage industry, and used the

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<sup>85</sup> Franklin E. Mendel, "Proto-Industrialization: The First Phase of the Industrialization Process." Journal of Economic History, Vol. 32, (1972), p. 241.

emerging towns in the rural regions (e.g., Birmingham) as marketing facilities.<sup>86</sup> The argument of the proto-industrialization theory supposes that with the appearance of cottage industry, there will soon follow population growth, mechanization of production, mercantile capitalism, new industrial technology and increasing dependency of rural agriculture on large urban markets: in short, all of the evils which led to the creation of a landless peasant class ready to move to the cities and become the urban proletariat.<sup>87</sup>

Enclosure was only one of the ways in which the English rural economy differed from that of more feudal, less commercially-developed countries. It seems clear from this survey of the subject that "relics of the ancient collective economy of the villages," such as open fields and commons, began to disappear in England long before the Parliamentary acts of enclosure began, so that by the end of the 17th century, "we can hardly speak of a British peasantry in the same sense as we speak of a French, German or Russian peasantry. Farming was already predominantly for the market."<sup>88</sup> When systematic enclosure and eviction did begin, the peasant and cottage economy was already no longer viable. In

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<sup>86</sup> D. C. Coleman, "Proto-Industrialization: A Concept Too Many," The Economic History Review, Vol. 36, (1983), p. 436.

<sup>87</sup> Ibid., p. 445.

<sup>88</sup> Hobsbawn, op. cit., p. 49.

spite of all its obvious inhumanity and social disruption, then, enclosure was probably an inevitable stage in the reorganization of British agriculture from a village-based, self-sufficient economy to a market-oriented, commercial one.

#### France and Italy: The Dispossessed of the Countryside

In contrast, the process of "enclosure" in rural France and Italy was not a matter of the formal or legal fencing off of a former commons, but of a massive shift in the economic efficiency of rural agriculture and a relative disproportion in the number of peasants on the land, compared to the labor force which the farming system could support. As in England, many rural poor resisted the notion of forced migration, and in Europe more of them were able to remain at home:

Apparently hundreds of thousands of rural artisans lingered on in small towns through the first half of the nineteenth century, living on half wages, seasonal work in the fields, and dwindling hope for a return of the "good old days." They and their descendants began to leave in growing numbers around 1850 as jobs in the new industrial centers became more plentiful, the railroads made travel to them easier, rural industry expired, and traditional rights to glean, cut and hunt in common forests disappeared before the advance of calculating, capital-intensive architecture.<sup>89</sup>

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<sup>89</sup> Charles Tilly, Louise Tilly and Richard Tilly, The Rebellious Century 1830-1930, (Cambridge, Massachusetts: Harvard University Press, 1975), p. 35.

In this sense, the "rural exodus" of the poor in France was a continuous process, caused first by peasant overpopulation and concentration of estates, and only later by the advent of industrialization. There was not specific impetus in the form of a drive to enclose estates for the purpose of efficiently grazing large herds of sheep, for example, as there had been in England. As a consequence, the rural countryside of France has even today a less walled-off, fenced-in appearance than its counterpart in England.

In Italy, the decline of the ancient modes of the rural agrarian economy followed a north-south pattern, in keeping with the distinction between the modes of land ownership in the northern and southern parts of the country:

...sharecropping and small-holding on medium-sized farms prevailed toward the North; in the South, there was much greater frequency of latifundia farmed by virtually landless laborers, surrounded by tiny holdings, and devoted mainly to wheat or stock-raising.<sup>90</sup>

These are distinctions which prevail even today, and their continuity is one mark of the more durable character of rural agriculture on the continent than in England. It was the collapse of the large latifundia in the south of Italy in the latter part of the nineteenth century which accounted for the mass migration of southerners, and which explains the disproportionate representation of southerners in immigrant populations in America.

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<sup>90</sup> Ibid., p. 108.

Although there were demonstrations and protests over food prices even in Sicily, in general the rural poor of the south were too poorly organized and economically distressed to mount an effective resistance to the sweeping socio-economic changes taking place. In fact, across Italy in general, "The apparent responses to misery, such as land occupations and food riots, not only failed to match the distribution of poverty but also rested on a subtle and coherent relation between the action of the authorities in each region and the conceptions of justice of the bulk of the population."<sup>91</sup>

In short, where the majority viewed the inequalities of the social order as just and natural, the authorities could temper their reactions to the complaints of the poor with the knowledge that the citizenry as a whole were behind them. There was therefore no parallel reform movement to relieve the poor and dispossessed of the countryside to the one in England, where public sentiment was much more volatile.

## II. Grotius

### The Moral Obligations of Nations to Their Peoples

In the seventeenth century, a new conception of "natural law" came to be applied to the age-old belief in an

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<sup>91</sup> Tilly, Tilly and Tilly, op. cit., p. 143.

absolute and inviolable property right and in the natural condition of poverty among the masses of humanity. In this natural law, it was not necessary for the distribution of property to be the product of a prior claim or a popular consensus. Rather, one needed only to establish a right to exclusive access to property, which does not require general agreement, only the consent of others. This more positive argument for private ownership of property was offered by the seventeenth century jurist Hugo Grotius.<sup>92</sup> Grotius argued that private ownership must be thought of as coming into existence through an agreement that is either expressly stated by contract, or implied by the occupation of the actual property. Grotius further argued that when community ownership (the commons) was abandoned before anyone had specifically conceded a piece of private property, a general agreement must be assumed to have existed allowing for ownership by whomever had already taken possession of a given piece of property. The poor were thus implicitly divested of any share of the commons once they had lost or abandoned it.

In De Jure Belli Ac Pacis, Book II, Chapter II, "The General Rights of things," Grotius traces the evolution of private property and private ownership as a "natural" process linked, in large measure, to the effects of population growth, the creation of specific pursuits and the development of trade between one person or group and another, and

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<sup>92</sup> In De Jure Belli Ac Pacis Libri Tres (1625).

the general dispersal of men on the face of the earth.<sup>93</sup> In the primaeval state, men held property in common, mutually enjoying the fruits of the land and of their individual and concerted activities; as the conditions described above developed, men began to differentiate with respect to their tasks involving production. As production differentiated, things passed from being held in common to a state of property in which ownership became a matter of significance. In essence, in his primaeval state, man in the individual did not need to "own" property; property did not, in the sense we are speaking of, have any existence. As Grotius notes, "as soon as it was found inconvenient to hold things in common, before any division of lands had been established, it is natural to suppose it must have been generally agreed, that whatever one occupied should be accounted his own."<sup>94</sup> Grotius cites Cicero, in the third book of his Offices, who stated that it is admitted as a universal maxim, not repugnant to the principles of natural law, that every one should "rather wish himself to enjoy the necessaries of life, than leave them for the acquisition of another."<sup>95</sup>

One important result of Grotius's argument, however, is that the concept of all private property ownership now be-

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<sup>93</sup> Hugo Grotius, The Law of War and Peace (London: Dunne, 1901), p. 88.

<sup>94</sup> Ibid., p. 89.

<sup>95</sup> Ibid., p.89.

comes grounded in the concept of the common, which predates private, individual acquisition and has its roots in man's earliest presence on the earth. Even though the right to private property has greater standing in law than does common use, the influence of a common use existing prior to private ownership bears quite directly on the right of private property ownership. Property owners are said to have an implicit obligation toward those who do not own property, whenever these individuals and families are unable to provide sustenance for themselves. In other words, according to Grotius, because common use is the foundation of all private property ownership, there must be a right of necessity which obligates those who own property and who have surpluses to allow the destitute to take from them. He states clearly and unequivocally that there is a "right, which men have to the common use of things, already appropriated; terms, in which at first sight there appears to be some inconsistency, as it appears that the establishment of property has absorbed every right that sprung from things held in common."<sup>96</sup>

Grotius goes on to state that the intentions of those who introduced private property must be taken into account; in his view, "it was but reasonable to suppose, that in making this introduction of property, they would depart as little as possible from the original principles of natural eq-

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<sup>96</sup> Ibid., p. 91.

uity."<sup>97</sup> This may be "reasonable," but the reality of how property was used and regarded during Grotius' lifetime did not reflect this understanding. The idea that in "cases of extreme necessity," among which we must include poverty and destitution, "the original right of using things" formerly held in common would be revived is implicit in Grotius' formulation of natural and property law.

In Grotius's formulation, the right of necessity marks a return to the original common ownership, at least from the point of view of the indigent individual. This justification of private property assumes that the earth and its fruits must be used to maintain everyone's life if possible. The right of all individuals, rich or poor, to use the earth in common can never be relinquished, either voluntarily or by force. No one can be said to have consented to the introduction of private property without attaching to their consent the proviso that, when in need, they could rightfully take what their self-preservation required. The poor could therefore rely upon this doctrine as a guarantee of their subsistence on the land. At the same time, "licentiousness" in the use of the property (and its fruits) of others must be avoided; Grotius concurs with Seneca when he asserts, "Necessity...the great protectress of human infirmity breaks

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<sup>97</sup> Ibid., p. 91.

through all human laws, and all those made in the spirit of human regulations."<sup>98</sup>

In Grotius' doctrine, the basic subsistence right is conceptualized as integral to and inseparable from property rights; the two are not separate nor can they be considered as requiring distinct justification. Another outcome of Grotius's argument for an essential connection between private property rights and the concept of necessity is the claim that public agreements must take precedence over private ones, at least in the sphere of civil society. Some civil agency, such as the English parish relief board, is responsible for the well-being of those who find themselves without property and who are in need; otherwise, one could not justify the concept of necessity, because relief in necessity cannot depend solely on private charity.<sup>99</sup>If the

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<sup>98</sup> Ibid., p. 93.

<sup>99</sup> At the same time, however, Grotius makes it clear that "necessity" is by virtue of definition not a **permanent** condition, but a temporary and situational crisis that the individual in a state of necessity has a responsibility for resolving through trying "every mode of obtaining relief, by an appeal to a magistrate, or by trying the effect of entreaty to prevail upon the owner to grant whatever is necessary for his pressing occasions (Grotius, op. cit., p. 92)." Nor does the property owner himself in a state of necessity have obligations to relieve the needs of others before he takes care of his own needs, "for under equal circumstances the owner has a better right to the use of his possessions (Grotius, op. cit., p. 93)." Finally, when a party in necessity takes from the property of another, Grotius offers the statement that he is "bound to make restitution, or give an equivalent to the owner, whenever that is possible (Grotius, op. cit., p. 93)." He points out as well that while there are those who deny this obligation because no one is bound to give an indemnity for having

concept of necessity fails, it follows that private property rights must themselves be unjust. This means that public obligations must take precedence over any private liberties, and that the state has an obligation to provide for individuals who would otherwise starve, even when this means taxing and, in some extreme cases, appropriating private property to help. The importance of the role of the state is reinforced, as noted above, by Grotius' injunction that the first avenue of relief in times of necessity is "appeal to a magistrate," and not appeal to the owner of the property.

Apart from being founded in a religious conception of God's will, Grotius' argument rests on a broad understanding of the status of the original common. Legally, the common can be defined as "land unencumbered by any property rights other than those of the group," which is presumed to hold it equally and jointly.<sup>100</sup> For Grotius, this common is offered to all by God, but the legal question remains whether the common is owned by no one (because it is God's gift) or owned by all (because He gave it to everyone). If Grotius saw the common as being owned by no one, it follows that its

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exercised his own right, the reality is that strictly speaking, this was not a full and perfect right...but a kind of permission, arising out of a case of necessity, and existing no longer than the necessity continues. Thus, necessity was not regarded by Grotius as a condition that had no ending.

<sup>100</sup> Marc Bloch, "A Source of Peasant Strength: The Village Community," in Isser Woloch, ed., The Peasantry in the Old Regime, (Huntington, New York: Krieger, 1977), p. 28.

ownership need not depend upon prior agreement. Rather, those who already own the land claim exclusive title based on their ability to manage the land most efficiently. Alternatively, one might argue that because this original common was held by all, no one may claim a property right without prior social consent.

Proponents of enclosure might also reject Grotius's argument for the essential connection between private property and the principle of necessity, claiming that while a starving person may have some claim to be kept from possible death this claim does not entitle the demand for a yielding of any surplus to the common. In other words, while there may very well be some obligation to provide for those in need, this does not in itself involve any challenge to the concept of private property as a right, nor does it entitle individuals to do whatever is necessary to achieve the goal of survival. To take this position, however, would be to reject the fundamental elements contained in Grotius' formulation of the common and necessity.

Under these fundamental re-definitions of property and necessity, seventeenth century legal thought was finally able to separate the notion of property obligation from private property rights, but only if the civil state assumed the administrative burden of tending to the necessities of life for the poor. Once this occurred, the enclosure of common lands was rendered legally and morally justifiable.

### III. Hobbes

#### On Equality and Poverty

In the early seventeenth century, the view of charity as a benevolent act toward persons of inferior fortune and status came into conflict with the demand for equality in political democracy. Hobbes, following Machiavelli, was one of the first political economists to make a cold calculation of "the value or Worth of a man" as his price, "that is to say, so much as would be given for his power" to obtain future goods. Said Hobbes bluntly, "To value a man at a high rate is to honor him, at a low rate to dishonor him."<sup>101</sup> All men desire power and wealth, but few are able to attain them, and in seeking to justify their condition and accommodate themselves to the rest of society, the rich sometimes give charity to the poor.

If charity is a voluntary and private act, however, it cannot be a formal legal obligation of those with property, even when natural law admits of inequality. Because overall equality is the natural condition of mankind, Hobbes asserted, and men naturally strive against each other to seek a greater share of the world's goods, material inequalities naturally develop. To avoid contention, however, men

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<sup>101</sup> Thomas Hobbes, Leviathan, Parts I and II, Translated by Herbert W. Schneider, (Indianapolis: Bobbs-Merrill, 1958), p. 79.

enter into a social contract, covenant or pact, agreeing to transfer rights to the civil state or commonwealth. The "natural" freedom to appropriate property by force, for example, is given up in exchange for state protections and sanctions against those who do so.

Although holding that "no man is free" except in a democracy, Hobbes' egalitarian theory by no means supposes an even apportionment of the world's goods. From their equality of ability and hope, said Hobbes, men are naturally enemies to each other, and "if one plant, sow, build or possess a convenient seat, others may probably be expected to come prepared with forces united to dispossess and deprive him" of these benefits.<sup>102</sup> Among his "laws of nature," Hobbes included the common use of that which cannot be divided, the first possession of goods determined by lot, and primogeniture defined as right by "first seizure" of a property.<sup>103</sup> But such laws of nature are supervened by the mutual covenant of the commonwealth, in which a common power is united in a single person, the sovereign, and a small number of persons are given "the major part of the right to present the person of them all" in the public forum of a Senate or Parliament.<sup>104</sup>

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<sup>102</sup> Thomas Hobbes, p. 105.

<sup>103</sup> Hobbes, p. 128.

<sup>104</sup> Hobbes, op. cit, p. 143.

At the same time, however, Hobbes wrote in Leviathan that each man has the right "to use his own power...for the preservation of his own nature; that is to say, of his own life." He goes on to state that "naturally every man has a right to everything," wherein lies the difficulty of social interaction in the absence of a social contract or covenant.<sup>105</sup>

The property right which constitutes the basis of all accumulated wealth devolves from the sovereign alone, as do the laws and economic conduits whereby money, like blood, flows through the commonwealth. The principle of equality demands that taxes, wages and common debts should be reckoned equally, and that those who can should support themselves through their labor. There are, of course, many who "by accident inevitable, become unable to maintain themselves by their labor...they ought not to be left to the charity of private persons but to be provided for, as far forth as the necessities of nature require, by the laws of the commonwealth."<sup>106</sup> These were the "infirm" of the Poor Law, presumably handicapped by age, illness or incompetence and unable to perform even the simple tasks of the workhouse routine.

On the other hand, Hobbes suggested that the able-bodied poor, if unemployed and refusing work, might be "trans-

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<sup>105</sup> Hobbes, op. cit., p. 103.

<sup>106</sup> Hobbes, p. 271.,

planted into countries not sufficiently inhabited," there to work the soil, maintain themselves, and improve the property of their sovereign.<sup>107</sup> The above supports the idea that would not be inconsistent with Hobbes's position that the able-bodied poor ought not to be supported by the state, however, this does leave open the possibility that those who are infirm or handicapped should be protected against the mandate of enforced labor. The state in this sense is still an employer of last resort, but no effort would be made to gain a profit from the labor of the poor beyond minimum subsistence and some public works which might benefit the state and the sovereign.

According to Hobbes, all private ownership of land extended from the "arbitrary distribution of the sovereign," a formula in which the state personified takes the place of Grotius' God as the arbiter of property rights. But Hobbes was primarily concerned that the sovereign's distribution of property between rich and poor should be rigorously subjected to civil law. Hobbes cites Cicero approvingly, who warned his fellow legislators, "take away the civil law and no man knows what is his own and what another man's."<sup>108</sup> To avoid this confusion, Hobbes felt, it was necessary that the state should administer the distribution of such benefits as

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<sup>107</sup> Hobbes, p. 271.

<sup>108</sup> Hobbes, p. 198.

poor law relief, as was the case for the Poor Law as it was conceived in his time.

We must recognize that at the heart of Hobbes' arguments for a strong sovereign and monarch are his beliefs in the essential nature of man as "solitary, poor, nasty, brutish, and short." Left to his own devices, man would seek only his own preservation at the detriment of others; all men possess, he claimed, a central desire for and inclination toward the acquisition of power that will cease only after death. They are incapable of creating a cooperative society of equals with all property held in common. To ensure the survival of the less able, it therefore becomes the direct and unavoidable responsibility of the state itself to provide for relief in what Grotius would describe as times of necessity. It is from this assertion that the Poor Laws emerge as a legitimate response to conditions of necessity.

#### IV. Locke

##### On Freedom and Poverty

Like Thomas Hobbes, John Locke drew his rules and ideals of civil government from the so-called state of nature, from the primordial condition of Edenic man, and from what they called "Natural Law." But while Hobbes saw the state of nature as a condition in which all men were at war

with each other for the means of subsistence, Locke saw nature as being first and foremost a condition of "perfect freedom," and so he placed greater emphasis on preserving personal liberty and freedom than did Hobbes.

In his second treatise Locke begins by establishing that even Adam had no natural absolute authority over his children; political power is derived from the natural state of "equality...without subordination or subjection."<sup>109</sup> This is a state of perfect liberty, "not licence": the individual is not at liberty to destroy the liberty of others or detract from "his life, health, liberty or possessions."<sup>110</sup> Interestingly, Locke departs from Grotius in his assertion that primaeval man had "possessions" uniquely his own rather than use of all things held in common.

Unlike Hobbes, whose solution to the problem of warring interests, poverty and wealth, and individual freedom versus social harmony lies in the expanded power of a great universal sovereign, Locke retains a substantial amount of authority for the sovereignty of the individual. If a monarch or a government exceeds the authority given it under natural law, then "upon this ground, every man hath a right to punish the offender, and be executioner of the law of Nature."<sup>111</sup> Locke

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<sup>109</sup> John Locke, Concerning Civil Government: Second Essay. (Chicago: Great Books, 1962), p.25.

<sup>110</sup> Ibid., p. 26.

<sup>111</sup> Ibid., p. 27.

conceded that this argument was radical and might seem "very strange to some men," but he applied it mainly to those seeking power over subjects of other countries--as an American Indian might regard Europeans as men without authority in his own country. It was an argument that would serve the American colonists well in their own rebellion against the perceived tyranny of the British monarchy.

Locke's argument on the nature of social obligation to the poor employs a different model of the original, natural community of human society than that of Hobbes; for Locke social obligation arises out of the nuclear family. Using the metaphor of a husband and wife forming a voluntary compact in conjugal society (marriage), Locke argues that the end of marriage (procreation) must recognize the existence of different wills in the man and the woman. There can be no master-slave relationship in a true marriage, even where there seems to be a natural species of "subordinate relations of wife, children, servants and slaves, united under the domestic rule of a family," which resembles the natural hierarchy of a common-wealth, although it is very different:" The master of the family has a very distinct and limited power both as to time and extend over those several persons that are in it...he has no legislative power of life and death over any of them."<sup>112</sup>

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<sup>112</sup> Ibid., p. 44.

Locke, like Grotius, regards all property to have been given by God to mankind in common.<sup>113</sup> In citing the evidence of the Scriptures, Locke makes a case for communism and communal ownership of property; at the same time, however, he recognizes that through the consent of mankind, private ownership of property has become established in law and in tradition. It is through man's labor that he "owns" or acquires possession of property; this possession is modified, strengthened, protected and otherwise influenced by the state, which forms because of man's consent. In the case of both the ownership of property and the creation of a state, it is man's consent that is essential. The problem inherent in the notion that it is through labor (primarily, if not solely) that man takes possession of property is that it largely ignores the condition of servitude, in which one man expends his labor on the property of another. It is here that Locke has introduced the idea that while God gave the world to men to be used in "Common," for the benefit and "the greatest Conveniences of life they were capable to draw from it," it nevertheless "cannot be supposed he meant it should always remain common and uncultivated."<sup>114</sup> Industrious and the rational men, by virtue of their industry and reason, enjoy a higher claim to property than others.

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<sup>113</sup> Locke, *op. cit.*, p. 327.

<sup>114</sup> *Ibid.*, p. 333.

In this same vein, Locke justifies enclosure by noting that it is only through the mutual consent of his "fellow-commoners" that man can inclose or appropriate any part of the common property. He states: "And though it be common, in respect of **some** men, it is not so to **all** Mankind."<sup>115</sup> Thus, we move to a justification of enclosure that will be of significance later in this discussion.

Using the same metaphor of marriage and the family, Locke goes on to show that since humankind is born with "a title of perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the law of Nature," individuals have the sovereign authority and right to protect themselves, their families and their property (the unspoken assumption is that they are protecting them against a tyrannical monarchy). Society has to have the power to punish those who violate others' property and persons, and all those who are united in civil society "in one body" have the right to summon the authority of the civil state to decide controversies and punish offenders. Those who are in a state of wild nature have no such appeal-- thus the need for civil government to settle property disputes, prevent tyranny, and provide for the welfare of the least advantaged members of society.

It was Locke's spirited defense of individual liberty and the property rights of the people which endeared him to

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<sup>115</sup> Ibid., p. 334.

the American revolutionists, and not any program of social reform or amelioration of the condition of the poor. Yet there were powerful moral arguments running through the political philosophy of Locke and other liberal democrats, concerning the nature of the human inheritance. According to the earliest theistic version of this theory, God created the earth to be held in common by all men, in order to provide for everyone's sustenance. This initial phase of development and exploitation of the common good allowed for access by all and privation of none. Because of the success of this system ("be fruitful and multiply"), the earth's population began to increase, causing scarcity and discord. Private property arose within this context of first scarcity, offering higher productivity and fewer disputes over access to goods; property conflicts were thus moderated, and by providing surplus goods lives were actually saved. This argument is advanced, as noted earlier, in Grotius as well in explanation of the reason things held in common became things privately possessed.

However flawed the right of necessity may be as a grounds for limiting private property rights that are detrimental to the poor, it was nonetheless recognized, in several modified forms, by most of the major participants in the English Poor Law debate. Both Hobbes and Locke recognized that the right to hold private property could not be used to allow the poor to die from sheer lack of

subsistence. Hobbes, for example, argued that the right to self preservation incorporated the right to subsistence. He recommended that those unable to maintain themselves "ought not to be left to the charity of private persons: but to be provided for...by the laws of the commonwealth."<sup>116</sup> Hobbes appears to have been arguing from a pragmatic rather than a purely ethical position; by providing against destitution, the commonwealth might avoid putting citizens in a situation where they would have to use force to secure their claims against others.

Like Hobbes, Locke relies on a right of necessity to help justify property rights. Locke's emphasis on productive labor, in his argument for property rights from the common, was an attempt to show that occupancy creates rights akin to those of the Hobbesian primogeniture. However, Locke still allows for a basic right to Preservation of the self.<sup>117</sup> Locke's moral justification for both a property right and a subsistence right ultimately rests on God's supposed intention that the product of His workmanship should not starve. Locke argues for the connection between property rights to the original common and the right of necessity in the following way:

But we know God hath not left one Man so to  
the mercy of another, that he may starve him

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<sup>116</sup> Hobbes, 1968, p. 387

<sup>117</sup> Locke, 1960, p. 327

if he please: God the Lord and Father of all, has given no one of his children such a Property, in his peculiar Portion of the things of this world, but that he has given his needy Brother a Right to the Surplusage of his Goods.<sup>118</sup>

One outcome of Locke's justification of property rights is that both the right to property and the right of necessity are derived, indirectly, from the social contract which arose from the manner of God's bequeathment of the original common. This means that all three of these thinkers-- Grotius, Hobbes, and Locke--established two distinct, but related, foundations for a subsistence right, one based on man's intentions expressed in a contract, and the other based on God's intentions as expressed in His gift to humankind. It is necessary, however, to follow the various later modifications of this argument in order to show why the concept of private property maintains its connection to that of necessity as a right which I will do in the following chapter.

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<sup>118</sup> Locke, 1960, p. 205

## CHAPTER THREE

MONTESQUIEU, ROUSSEAU, AND ADAM SMITH:  
SOCIAL EQUALITY AND SOCIAL WELFARE IN THE REPUBLICAN ERA  
OF THE 18TH CENTURY

The Enlightenment may be viewed as something less and something more than a philosophical movement. There was, in the thought of the Enlightenment, a certain unity of essential and central objectives, as well as a tension of opposition towards the 'old order' which supported the interlocking relationship of economic interests between church and state. Its best efforts focused on a collective, even a co-operative, attempt to reappraise European life without either sectarian prejudice or ulterior purpose.<sup>119</sup> This period is perhaps responsible in large measure for the contemporary ideal of an objective, co-operative social science and for shaping the main features of a "liberal" outlook to which this ideal is integral. The point of departure for philosophy, political or otherwise, was the Newtonian vision of an Order of Nature in which everything contributed to a higher harmony, and with few exceptions the Enlightenment and its greatest thinkers were convinced that there was a basis--a "public

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<sup>119</sup> V. Ferm, *op. cit.*, p. 266.

interest," "natural law," or "general will"--on which all men might understand each other and live in peace.<sup>120</sup>

### The Case of France

While an adequate review of the impact of the enlightenment on cultural issues and traditions, even as these might impact on the question of social welfare, would amount to another full study, however, for our purposes a useful starting point is the marked difference between the perceived numbers of the poor in western Europe in the 18th century and later, and those in England and America. It has been a common observation, for example, that a precipitating factor in the French Revolution was the rapid growth of the propertyless proletariat in the 18th century. The Revolution is seen as a conflict between the rising bourgeoisie on the one hand, and the traditional polar extremes of the landed nobility and the dispossessed poor. Braudel notes of the urban poor in Paris, for example, that their conditions and numbers were long a pressing problem for the city:

When their numbers increased--inordinately as it seemed to seventeenth and eighteenth century Parisians--the poor continued to be housed even more abominably than they are today, which is saying a great deal.<sup>121</sup>

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<sup>120</sup> Ibid., p. 267.

<sup>121</sup> Ferdinand Braudel, Capitalism and Material Life, 1400-1800, Translated by Miriam Kochan., (New York: Harper and Row, 1973, p. 200.

All of the European poor were virtually without furniture and real shelter until the eighteenth century, says Braudel; shanty towns on the edges of villages and forests had to be torn down periodically in seventeenth century France.<sup>122</sup> The condition of their clothing was just as meager, and "clothing was not a significant item in the [peasant] budget" in most parts of Europe.<sup>123</sup> From these and other descriptions from the early mercantile/industrial period, the picture of a truly destitute class of peasants, far worse off than in England, finally emerges. As Piven and Cloward have so capably demonstrated, the massive influx of the truly destitute in urban France during this period was largely a consequence of a shift in the market forces that created economic dislocation and which created a mass of individuals who were vagrants in the truest sense of the term, often unruly and demanding, and even at times forced to criminal behavior to survive.<sup>124</sup>

Among the urban poor of Paris, the social status of the "sans-culottes" could quite literally be enumerated by the floor on which he or she dwelt, a rule of thumb which persists to this day: "Normally the social condition of the lodger deteriorated the higher he climbed. Poverty was the

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<sup>122</sup> Braudel, vol. I., p. 205.

<sup>123</sup> Braudel, Vol. I, p. 230.

<sup>124</sup> Frances Fox Piven and Richard A. Cloward, op. cit., p. 8.

rule on the sixth or seventh floor, in attics or garrets."<sup>125</sup> On the other hand, in other cities such as Amsterdam, the poor "were lodged in low houses or in the lower rooms of houses."<sup>126</sup> The point was not that the poor were automatically relegated to one part of town, as was generally the case in London, but that their social status as city dwellers was visibly defined by their level in their tenements.

Generally speaking, in the continental European cities and towns of the Renaissance and afterward, "poverty was everywhere"<sup>127</sup> and all but the wealthiest citizens were accustomed to coming in daily contact with the most desperately poor members of society. When cereal or root crops failed in the countryside, the starving agricultural labor force was literally turned out from the farms and manors and marched into the urban centers: "The peasants lived in a state of dependence on merchants, towns and nobles... They had no solution in case of famine except to turn to the town... where they crowded together, begging in the streets and often dying in public squares, as in Venice and Amiens in the sixteenth century."<sup>128</sup> In Troyes in 1573, an army of beggars was met at the gates with a piece of bread and silver for each, after which they were driven away; the cities

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<sup>125</sup> Braudel, Vol. I, p. 200.

<sup>126</sup> Ibid.

<sup>127</sup> Braudel, Vol. I., p. 205.

<sup>128</sup> Braudel, Vol. I., p. 40.

and towns employed different methods of fending off the roaming armies of beggars and thieves. In France and Germany in particular, an organized and militant peasantry came to be seen as a social and political threat to the safety and security of the urban nobility and bourgeoisie.

Of course, it was not they who were supposed to spark the socialist revolution of the nineteenth century, but in reality it was overwhelmingly the starving peasantry which organized and marched on the seats of government in Europe, until well into the nineteenth century and proceeded the first rise of organized labor and socialist politics. The urban proletariat and their factory workers from England to Germany to Russia never really constituted a major political power within the radical socialist movement until the chief theoreticians and leaders declared them, somewhat belatedly, to be the heart and soul of the movement.

The origins of upper class fears of the poor in Europe are not hard to trace. As a result of a growing perception of the poor as a class threat to their betters, "the attitude of the bourgeois [toward the poor] hardened considerably towards the end of the sixteenth century, and even more in the seventeenth," observes Braudel.<sup>129</sup> The more extreme concentrations of royalist wealth in Bourbon France and Hapsburg Austria and Spain further enhanced the polarization of society between rich and poor. This polarization has

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<sup>129</sup> Braudel, Vol. I., pl. 40.

repeatedly been linked to rising revolutionary fervor, itself coupled with the spread of the natural law philosophy of the Enlightenment.

In many ways, the later appearance of state-centered solutions to the problem of poverty in continental Europe can be traced back to the same origins as the French revolution and the proletarian uprisings of 1832 and 1848. In addition, new beliefs about the worthiness of the poor were emerging as a direct consequence of the growing tension between the urban poor and working classes and their bourgeois masters, which translated into a broader conflict between the middle classes, who possessed economic but not political power, and the nobility, who increasingly possessed an old, declining agrarian land base (with the political powers therefrom) with commensurate economic power. Added to these was a sharp decline in the actual living conditions of the poor in the eighteenth century, as evidenced by the growing discrepancy between the life expectancy of rich and poor.

Life expectancy was always quite different for rich and poor in Europe, of course, although "none of the royal families escaped the terrifying rates of infant mortality of the period" and it was only with great expense and difficulty that plague, smallpox and cholera could be avoided.<sup>130</sup> Even in times of relative abundance, the poor subsisted on a

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<sup>130</sup> Braudel, vol. I., p. 52.

marginal diet that verged on near-starvation for many: "Not surprisingly the tables of the rich were more varied than those of the poor, the difference being marked by quality rather than quantity."<sup>131</sup> Until well into the modern era, the diet of the peasant contained virtually no fruits or meats.

Well into the eighteenth century, notes Braudel, for the poor "eating consists of a lifetime of consuming bread, more bread, and still more bread and gruels," a diet little changed since the middle ages.<sup>132</sup> Only the very rich were able to indulge themselves in the conspicuous consumption of meats and other rich foods. Yet these factors alone were not enough to account for the rise of a disaffected urban proletariat. It was far more significant that, unlike in the interconnected feudal domain where occasional largesse from a bumper crop was shared with the peasants, the new growing class of urban poor and working class proletarians had no prospect of relief from their misery.

The poor were always seen as the castoffs of other parts, says Braudel, coming to town because "first the countryside" and then other towns and villages reject them, so that they finally wind up in the metropolis.<sup>133</sup> The numbers of newly arrived, newly dead and abandoned newborns were staggering in a town the size of Paris, which even in 1780

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<sup>131</sup> Braudel, Vol. I., p. 89.

<sup>132</sup> Braudel, Vol. I., p. 89.

<sup>133</sup> Braudel, vol. I. p. 380.

had 4,000 deaths per year at the poorhouse, whether the famous Hotel-Dieu or the Bicetre, the great house of correction where prisoners were employed to draw water in the place of horses.<sup>134</sup>

It was not uncommon for the children born in these institutions to die there, for as the rich Physiocrat Quesnay remarked, "A man can only acquire wealth by means of the wealth he already possesses." Social mobility was so much more restricted in France than in England, and more restricted in England than in America, that direct comparisons are almost impossible.<sup>135</sup> But the physical mobility of the poor was a constant factor in even the most autocratic states, and it was inevitable that large numbers of the poor from off the land should wind up at the doorsteps of the bourgeoisie, hoping to receive some crumbs from the table of the growing middle class. More and more people were drawn from or forced out of the traditional agricultural production centers and into wage labor, out of the villages and into the cities. They became, as a consequence of this market shift, totally dependent on market employment for their subsistence and were thus totally exposed to the often terrible vicissitudes of the market. Cut off from the support of the landlords and property owners who provided some re-

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<sup>134</sup> Braudel, vol. I., p. 249.

<sup>135</sup> C. B. A. Behrens, "The Peasant Problem in the Eighteenth Century," in The Peasantry and the Old Regime, Isser Woloch, ed., (Huntington, New York: Robert E. Krieger, 1977), p. 80.

lief during periods of extreme difficulty, this new class of poor were all too vulnerable to the shifts of the market and production forces.<sup>136</sup> This state of affairs was as troublesome in Europe as it was in England, though the reactions on the continent varied significantly from those in England.

Nevertheless, it is also true that on the eve of the Revolution there was an acute agrarian crisis in France, due as much to the increase in population (estimated at 2 million between 1770 and 1790 alone) as to the system of primogeniture inheritance which steadily increased the numbers of the landless proletariat over time.<sup>137</sup> Continental Europe approached and passed through the crisis of the Napoleonic Wars without any significant reform of the overpopulation of agricultural lands, and without the redeeming growth of an industrial urban economy such as appeared in early 18th century England and America. In America, of course, the relative under population of the countryside had led to an almost ideal distribution of land among small shareholders in the northern states, the phenomenon which caused DeTocqueville to remark upon the blissful condition of self-sufficiency and social autonomy among the more than 90% of the population who worked the land. It should also be noted that in England, and, to a lesser degree, in America, even

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<sup>136</sup> Frances Fox Piven and Richard A. Cloward, op. cit., p. 8.

<sup>137</sup> Robert E. Palmer, "Lefebvre's Interpretation of the Peasant Revolution," in The Peasantry of the Old Regime, p. 98.

after capitalist markets were well established, the poor were strengthened in their demands for social protection by the pre capitalist idea of a social compact between rich and poor, a compact that obligated the rich to provide for the poor in times of great need in exchange for their services and deference. The pressure from below often forced the expansion of relief, and in England it was sufficiently threatening to sustain what Piven and Cloward have characterized as relatively liberal relief-giving for long periods.<sup>138</sup>

The doctrine of natural rights postulated in this era was, like that offered earlier by Grotius, Hobbes, and Locke, based on the assumption that over and above the particular customs of any given society, there were certain universal principles whose protection is the purpose and the touchstone of every society. Every individual, regardless of station, is possessed of certain inviolable claims--to life, liberty, security from arbitrary government action, property, etc.--which inhere in him quite apart from his social status or the function he performs in society; these rights cannot justly be taken away from the individual unless it can be shown that, as an individual, he has violated the rights of others.<sup>139</sup> These rights, therefore, define the moral responsibility of society, and not the reverse. Theo-

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<sup>138</sup> Frances Fox Piven and Richard A. Cloward, op. cit., p. 9.

<sup>139</sup> Ibid., p. 268.

rists such as Adam Smith and David Hume, for example, appealed to the idea of a "moral sentiment" which ought to shape and inform social actions and individual behavior; these concepts, as well as those of Montesquieu and Mill, will be discussed below.

#### Montesquieu: The Spirit of the Laws and the Poor

With the growth of doctrines of social equality, similar to those first proposed by Locke, it was inevitable that the same doctrine of natural law was used to justify the forced leveling of economic fortunes. The arguments from natural law which seek to ground property rights in the context of a right of necessity have been naturally used in an attempt to justify the state's redistribution of private property. Many classical liberals, such as Montesquieu, have taken such a position, arguing for state infringement on the property of the rich to satisfy subsistence needs of the poor. In The Spirit of the Laws, Montesquieu described the different estates in which the poor might find themselves under different systems of government. In a monarchical government, he claimed, there was "very little concern about any such thing as a division of estates," but in a republic different measures might be necessary to prevent gross inequality of fortunes. In Chalcedon, for example, it was decreed by Phaleas that "the rich should give fortunes with their daughters to the poor, but receive none themselves;

and that the poor should receive money for their daughters instead of giving them fortunes." <sup>140</sup> Something akin to this redistribution of inherited wealth is to be found in the system of dowries and heiresses that had evolved in modern Europe and in England in particular, where it became the target of Restoration satire such as Tom Jones and Pamela.

Democracy, on the other hand, requires **prima facie** equality, and may therefore threaten the balanced order of the state, and hence must be checked in its excesses. Montesquieu also rejected the notion that employment by the state could solve the problem of poverty:

...people who are obliged to live by their labour would be too much impoverished by a public employment, or neglect the duties attending it...artisans would grow insolent, and...to great a number of freemen would overpower the ancient citizens.<sup>141</sup>

In the case of democracy, then, "equality of fortunes supports frugality" and yet private citizens" may acquire vast riches without the corruption of morals."<sup>142</sup> In sum, Montesquieu seeks to resolve the problem of unequal distribution of wealth and other social goods through legal inheritance rather than state subsidy.

On the other hand, the well-being of poor individuals, said Montesquieu, is threatened not only by tyrannical rul-

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<sup>140</sup> Montesquieu, The Spirit of Laws, (Chicago: Encyclopedia Britannica, 1962), p. 20.

<sup>141</sup> Ibid., p. 21.

<sup>142</sup> Ibid.

ers and by religious and secular wars, but also by the often unpredictable conditions of the harvest, the markets, and the economy in general.<sup>143</sup> The state has a duty to impose levies on the rich in order to avoid catastrophic conditions for the poor. The nobility themselves should not levy the taxes, however, nor should they be permitted to engaged in commerce. The two most pernicious conditions in an aristocracy, he notes, are excess of poverty among the people and excess of wealth among the nobility. Above all, "the laws ought to abolish the right of primogeniture among the nobles, to the end that by a continual division of their inheritances their fortunes may always be upon a level."<sup>144</sup>

This defense of state infringement on the rich can easily be used to justify radical land reform movements. If the original common was given by God to be shared by all, and if no one is entitled to more than he or she can profitably use, it follows that all excess property must be used to protect against privation. This may be Locke's justification for preserving the status quo in the context of the

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<sup>143</sup> Montesquieu argued in The Spirit of the Laws that "The riches of the state suppose great industry. Amidst the numerous branches of trade it is impossible but that some must suffer, and consequently the mechanics must be in a momentary necessity. When this happens, the state is obliged to lend them a ready assistance, whether it be to prevent the sufferings of the people, or to avoid a rebellion. In this case hospitals, or some equivalent regulations, are necessary to prevent this misery (Montesquieu, 1949, vol.2, p.26)

<sup>144</sup> Montesquieu, 1962, p. 24.

natural law argument: to forestall these more radical interpretations from taking hold. For example, one might argue that this tight interconnection between private property and the right of necessity means that while the poor may have a "right" to survive, there is no requirement that anyone else offer them the means necessary to stay alive.

Moreover, necessity does not require the rich give the poor either employment or land. As it was commonly and universally understood, necessity required the poor to first ask private citizens for assistance ("outdoor relief"), and only after refusal here could this obligation be discharged by magistrates. Although Grotius, as was stated earlier, placed appeal to the magistrates before appeal to neighbors and private citizens, thus establishing the responsibility for "poor relief" upon the shoulders of the state *qua* state and not the "community" of affluent individuals. The obligation to pay compensation for what was taken in necessity, again as stated by Grotius, kept the exercise of this right under control. It was Hobbes' concern for public order, and Locke's desire to inculcate virtue in the idea of private ownership, that explained their interest in formulating a new Poor Law rather than the simple requirement of justice for those in need. In contrast, Montesquieu was very much

concerned with the problem of rationalizing the system of justice for the existing order.<sup>145</sup>

Montesquieu concludes his analysis of the common obligation by referring back to the land, declaring that the quality of the land "naturally establishes subjection and dependence" among those who live on it. The fundamental distinction between the civil law and the law of nations in Montesquieu requires that, just as canon law and civil law cannot regulate the same things, neither can the law of nations regulate the domestic treatment of the poor and their masters. This begs the question somewhat: if the laws established and maintained by any particular society fail to regulate the treatment of the poor or the behaviors of their masters, what redress exists when it becomes apparent that the poor are in need and nothing is being done? The moralistic "policy" established in the work of Montesquieu suggests strongly that a civil law and policy responding to conditions of necessity is an integral application of the basic "universal principles" that ought to govern human behavior, whether individual or social.<sup>146</sup>

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<sup>145</sup> Locke does not offer any clear position in regard to this issue. However, what does seem clear is that one ought not to interpret his position in too radical a manner. For example, at one point Locke offers changes to the Poor Law that would fine any parish which allowed "any person to die for want of due relief," while at another he would jail some vagrants, seize others and place them in the navy, cut off an ear to punish some, and transport others to the colonies.

<sup>146</sup> V. Ferm, *op. cit.*, pp. 272 -273.

The Ideas of the Enlightenment and Utilitarianism

The French model, the "philosophie" of social welfare, was almost exclusively based upon "moral" precepts and the philosophical orientation of the Enlightenment and, to a lesser extent, upon the concepts espoused by Montesquieu. His ideas of the existence of a few, simple, "universal" laws which governed the question of individual versus state rights and obligations were seminal in the development of this movement in France. The humanitarian orientation of these universal truths, as he envisioned such an orientation to exist, was such that man in the aggregate was mandated to ensure the survival and security of individual man.<sup>147</sup> Like Shaftesbury and Hutcheson before him, and like his contemporary Hume, Montesquieu argued that a "moral sentiment" existed in the world and was of such compelling power and authority to mandate the development of activities that would improve the lot of the poor. Again, like Hume, this philosopher argued in favor of the motive of "sympathy" as the source of virtuous behavior; whether performed or provided by the individual or the state, social welfare programs reflected the existence and the implementation of this motive. Adam Smith, for example, stated that it was the very existence of a "moral sense" that impelled the individual (or the state, acting for man in the aggregate) to sympa-

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<sup>147</sup> V. Ferm, p. 271.

thize with the plight of others, especially the less fortunate, and to evaluate one's own actions accordingly.<sup>148</sup>

Rousseau, at least in part, also worked from the perspective of a "moral sentiment" that should govern the actions of individual and collective mankind. The scheme of values for which the Enlightenment stood--tolerance, cosmopolitanism, reasonableness--inevitably included a recognition of man's obligation to other men, an obligation that persists in spite of the class system created and maintained by a capitalist, industrialized market system.<sup>149</sup>

In another area Rousseau also differed from many of his fellow thinkers and writers. Though he had contributed to The Encyclopedia, writing in one article of the ways that injustices emerging from social inequality can be minimized, he would break with the Philosophers over the question of religion and with the notion that a religion mandated charity to the less fortunate. Brought up in Geneva as a Calvinist, he would convert to Roman Catholicism upon his early arrival in France, only to return to Calvinism later in life. The Encyclopedists, including a very vocal Voltaire, continually attacked the Church and its leaders, and regarded this institution as one of the most negative of the era. To a degree, of course, this attitude was based upon the belief of the Church and its leaders that many of the

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<sup>148</sup> *ibid.*, p. 271.

<sup>149</sup> *ibid.*, p. 271.

new ideas emerging in the era were antithetical to doctrine and dogma. In rejecting these ideas and the men who were responsible for them, the Church sought to protect itself against changes that it feared. Rousseau, unlike Voltaire and other Encyclopedists, felt that there was a place for religion in the new and more rational world that was being built. Though he did not make a second conversion to Catholicism, he believed in the necessity of religious tolerance, an attitude that was not shared by other thinkers of the era, and of the moral foundation of alms-giving as well.

Rousseau also argued that his concerns focused around the improving of life for the peasant and the poor, while the Encyclopedists were part of the bourgeoisie and the rising class of technicians and scientists. They were, therefore, working toward the increase in productivity that a "scientific revolution" would probably bring about; such a revolution would not improve the life of the poor, but would further foster the domination of the wealthy and the middle class. This, he believed, was not "enlightened" and was not truly representative of the spirit of the age. Atheism, he argued, was only possible for the extremely wealthy, who did not need the emotional and spiritual solace and comfort that religion provided to the poor and the miserable. In these areas, then, Rousseau did not agree with the other thinkers and writers of his time, who were vehemently anti-clerical in their orientation.

At the same time, however, Rousseau did find fault with the Church for its insistence on an "other-worldly" morality that he and other writers of the period found inimical to good citizenship. In The Social Contract, for example, he described this type of religion as inhibiting to the development of the social contract and as not suited to inspire people to accept the rule of law as a means of securing their own protection.

According to Rousseau no moral code was stable--much less satisfactory--which did not incorporate a recognition of the obligation of the fortunate and of the state to provide for the poor. Rousseau's rejection of the individualistic formulation of what constituted "natural rights" (and of the potentially egoistic tendency of this doctrine) was an affirmation of rights as inherently rooted in the "social," or the "social contract." If all rights are inherently social, and that which is most natural is most completely social, then an argument for welfare rights and attendant social obligations is validated. Under the direction at least in part, of Montesquieu, the French Constitutional movement, within the general framework of the Enlightenment, stressed the social and socio-economic issues that affected government; among those issues was a recognition that the individual was more acted upon by economic pressures and trends than active in establishing those

trends.<sup>150</sup> If that was the case, government acquired, by virtue of moral sentiment, sympathy, and the very nature of its existence, an obligation to provide for the less capable and the less secure.

Again from the perspective of Rousseau, government's legitimacy was based solely upon the existence of an agreed-upon social contract between the people on the one hand and their agent (i.e., the government) upon the other.<sup>151</sup> Civilized values, among them charity, good works, and other aspects of social welfare, were transferred from the community to its legitimate agent, the government. Rousseau did not rely upon the Christian tradition of alms-giving as the justification for this moral obligation, but rather upon what he styled the "general will of the community" toward good and moral action. Helvetius, in his Treatise on Man, set forth the case very plainly, calling for social responsibility as a fundamental obligation of government, government being an agency created, maintained and even legitimated by man.<sup>152</sup>

Thus, we can conclude that while he did not always agree with his fellow philosophers and writers, Rousseau's work is firmly positioned within the central intellectual currents of the era and reflects many of the major themes of

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<sup>150</sup> *ibid.*, p. 274.

<sup>151</sup> *ibid.*, p. 275.

<sup>152</sup> *ibid.*, p. 278.

that period. Further, it demands that we recognize welfare as a right and not as an example of either religious or political benevolence.

#### Adam Smith on Poverty

The Scottish economist-philosopher's treatment of the problem of the poor was defined by the role of the "invisible hand" of competition improving their material conditions through the encouragement of profitable labor. Yet Smith recognized that the state bore a different moral relation to the poor than to the rich, and toward the end of Wealth of Nations he commented on how "the necessaries of life occasion the greatest expense of the poor. They find it difficult to get food, and the greater part of their little revenue is spent in getting it," whereas the principal expenses of the rich are luxuries rather than necessaries.<sup>153</sup> Smith was not above suggesting that a tax on house-rents, progressively falling more heavily on the rich, would be a reasonable if unequal solution. But Smith's chief concern was demand theory, not the utility of incomes of the poor, and while Smith approved tacitly of the Poor Law he simultaneously rejected any additional state role in redistribution of incomes.

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<sup>153</sup> Adam Smith, The Wealth of Nations, (New York: Modern Library, 1937), p. 793.

In point of fact, in his Theory of Moral Sentiments, Smith traced moral behavior to the capacity of the individual to sympathize with the feelings (and the needs) of others, and so to evaluate his own actions impartially. Smith further argued that (based upon his interpretation of Hobbes' atomistic view of man and the widely held idea of a natural law) there exists a "natural" economy geared to human selfishness. Each man, if left free to follow his own interests and nature--laissez faire--will be held by an "invisible hand" to promote the economic welfare of all.<sup>154</sup>

Smith's solution to the problems of poor relief was never fully fleshed out in his writings, but his willingness to see a progressive tax used to minimize the suffering of the poor and hence render them fit for productive labor suggests something other than a pure laissez-faire attitude toward the disadvantaged. Smith's essential position is one that is frequently heard today: that if we elevate the unemployed and the underemployed to a productive position in the labor force, their increased demand for basic consumer goods (food, clothing, shelter) will more than justify the expense of so doing. To sustain the poor in a position of unemployment or in the workhouse was however to perpetuate their condition and its negative impact on the labor supply for a market economy.

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<sup>154</sup> Thomas Greer, op. cit., p. 404.

Smith's writing had reflected the general optimism of the Enlightenment in its supposition that it was possible to "elevate" the unemployed and the underemployed to a position of permanent productivity. Thomas Greer has noted that as capitalism took shape from the fundamental elements of mercantilism during this period, the idea that the new industries emerging across Europe were capable of endlessly absorbing displaced rural workers while simultaneously producing profits for their owners was in the process of being debunked.<sup>155</sup> The mechanization of industry (itself a gradual process of development) initially offered new work opportunities for the unemployed and the underemployed; abuses of these workers, however, became commonplace, and while work was often available, it was often inadequate in its benefits to support or sustain life of any quality at all.

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<sup>155</sup> Thomas Greer, *op. cit.*, p. 404.

## CHAPTER FOUR

**EARLY 19TH CENTURY ARGUMENTS AGAINST THE WELFARE STATE:  
MALTHUS, BENTHAM, MILL, MARX, AND SPENCER**

The dispossessed agrarian proletariat in continental Europe were an even more rootless and restless force than in Great Britain, and the development of socialism, on the continent, was much more directly tied to the urban phenomenon of poverty. The socialist movement running from Rousseau to St. Simon to Marx assumed the form of an organized political opposition to the status quo, with radical socialists and communists being forced underground except during brief, abortive uprisings such as the Paris Commune of 1870, and the larger body of the left-liberal opposition entering into the political parties which came to bear the name of the Social Democrats.

In all of the European states, then, the urban poor had become a pressing social and political issue, and any politician who expected to remain in power, liberal or conservative, had to come up with a formula for the resolution of this problem. In Spain or Austria, the solution may have been an expanded secret police and increased militarism in

the provinces, but in Protestant countries, less used to authoritarian solutions to social problems, this solution was less plausible, due to strong traditions of political and social liberalism.

### 19th Century Arguments on Natural Law and Poverty

Much of the discussion concerning the natural law argument, especially in the late eighteenth century, focused on the meaning of the original common and its status within a positive community. The main thrust of these arguments was to justify a conservative interpretation of private property ownership, connected to the idea of an original common. The constitution of the original common, we see, necessitates private property ownership, but it creates no direct obligation on the part of those private property owners to provide for those in need. One example of this type of argument is given by Thomas Rutherford, whose lectures on Grotius were published in the mid 1800's.<sup>156</sup> He maintained that everyone shared a right to the common and that each person could take what was needed for subsistence in times of want. But since no one owned the common in its entirety, no one might take more than is needed to meet immediate needs. To allow more than this would result in injury to others by depriving them of what they have a right to. Rutherford also argued that exercising this right in a

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<sup>156</sup> Thomas Rutherford 1832.

situation of common ownership does not require prior approval of others, and that the use rights to the common were connected with the justification of private ownership of property. Private property had to come into existence with the prior consent of persons who observed someone appropriating the property and chose to accept that situation.

The advantage of grounding property rights in consent is that it helps to explain why there is a moral obligation to respect private property rights, but it has its problems as well. The main problem is whether one can justify, on rational grounds, people consenting to a distribution of common land in which they or their descendants could find themselves alienated from the very basis of wealth. The "agreement" to divest oneself of participation in the ownership or use of the commons becomes, in this configuration, a multi-generational agreement in which those most directly and adversely affected by the loss of rights have had nothing to say about the process. Rutherford also depends heavily on the stipulation in the English Poor Law that a starving person must first ask individuals and the magistrate for assistance, and only exercise the right of necessity if help is not forthcoming. Rutherford used this proviso to justify his argument that it could never be legitimate to invoke the right of necessity in England: "Indeed in our own country, where the civil laws have provided for the

poor, there can be no necessity which the civil law will allow to be sufficient ground for taking."<sup>157</sup>

We can see from the above that Rutherford's position is a good example of a traditional conservative interpretation of welfare rights. In this interpretation, the right to welfare is limited to bare subsistence needs and creates no obligation on the part of any property owner to provide help to those in need. Rutherford's argument uses the related concepts of private property and the right of necessity to legitimate a system of private ownership of great inequality. In the final analysis, Rutherford's arguments impose greater restrictions on the use of necessity as justification for aid to the poor.

There were, however, other voices to be heard in this debate. Some held that natural law theory must account for those made destitute by circumstances over which they have no direct control. William Paley argued that it made no sense to suppose that the original agreement which allowed for private ownership could have ignored the possibility of need.<sup>158</sup> While Paley thought it important to offer private charity to the poor, he denied that this act exhausted moral and civil responsibilities. No radical reformer, Paley upheld the institution of private property, but he argued that

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<sup>157</sup> Thomas Rutherford 1832, pp. 42-43.

<sup>158</sup> In Principles of Moral and Political Philosophy, 1785.

if anyone became poor enough to require help they would have a valid claim on the community for subsistence.

An obvious criticism of Paley's liberal reading of natural law is that it attempts to overturn property rights. By creating a civil obligation with a concomitant governmental structure for taxation, the criticism goes, one justifies the excess of governmental intervention within the most secure realm of private ownership: property. Because God gave the common to mankind, and because it is not contrary to His wishes that individuals take possession of land, it follows that individuals must have their right to private ownership preserved. But even if one rejects the argument from divine right, from the perspective of the original agreement in which some people accepted private ownership by others, the conclusion is the same: there can be no invasion of this private property right. If a particular property is legitimately held, how can it be moral to seize that property in order to finance aid to the needy? Necessity, in this approach, becomes utterly insignificant and imposes no obligations upon those owning property and its productive fruits.

Paley dismisses the argument that particular property rights can be the result of mankind's tacit or overt acceptance of a prior and general property right in the land to those who possessed it. It is impossible to imagine that the poor would ever agree to an unequal distribution of property

rights that left them at risk of death, without some alternative protection guaranteed by the government.<sup>159</sup> Since the moral right of ownership extends only to the amount of property necessary to provide one a comfortable life, it cannot justify ownership of large tracts of land. It follows that there can be no absolute natural right to property, especially arable land. Paley argues quite specifically that "the real foundation of our right is the law of the land."<sup>160</sup> This means that the government has a legitimate obligation to levy and to regulate taxes on land and the income derived from it. There can be no violation of property rights by the state when the state is the sole agency which has created these rights.

Paley argued against the two basic criticisms of a conservative interpretation of natural law theory as it applies to private ownership. The first is that aid to the poor involved the violation of property rights, and the second is that governmental regulation of property violates the natural right to liberty. In the first instance, Paley replied that because government created property it had an obligation to regulate it. On the issue of liberty, Paley argued that civil liberty, which entails recognizing the

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<sup>159</sup> Paley, 1803, Vol I, p. 123.

<sup>160</sup> Paley, 1803, Vol I, p. 124.

common interests of the community, superseded individual liberty.<sup>161</sup>

The general background of the natural law discussion of property in the seventeenth and eighteenth centuries should now be somewhat clearer. The universal right of private property ownership is derived (either through a contract or by divine acceptance) from an original common property to which all had access. The original contract, it was held, was actually agreed to or, if not, was at least consistent with reason (and God's intentions) because it served to sustain life, especially under conditions of conflict and scarcity. But when anyone's survival was threatened through dire straits and extreme poverty, the right to private property was overridden by the right of necessity.

A simple theory of property could stop at this point, having accomplished its basic task of legitimating private property. In keeping with the liberal spirit of democratic politics and egalitarianism in the line from Locke through Smith to the 19th century reformers, however, a prudent state would supply public relief so that such necessity would never be invoked. More importantly for the shaping of attitudes toward the poor, however, the social contract that established property rights was now being interpreted in such a way that the necessity caused by poverty created a claim on the state. Public relief was thereafter not organ-

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<sup>161</sup> Paley, 1803, Vol II, p. 167.

ized charity, but was required by the social obligation of property and title: noblesse oblige.

John Stuart Mill argued convincingly that the "legitimate" sphere of government activities and functions includes a recognition that "the direct meddling of the public authorities has no necessary limits but those of human existence and the influence of government on the well-being of society can be considered or estimated in reference to nothing less than the whole of the interests of humanity."<sup>162</sup> Both "order" and "progress" fall under this broad scope of legitimate activities; similarly, he argued that government has the burden and the responsibility of assisting those in need to subsistence and ensuring that the participation of these individuals in the activities (and the benefits) of the state is beneficial. To a degree, this may be understood as validating the necessity of ensuring for the welfare of the poor.

#### Popular Attitudes Toward Poverty in the 19th Century

The English Poor Law came under attack from economists who operated from the basic principles of Bentham, Mill and the other English utilitarians. Because it failed to provide the ideal maximum distribution of social benefits, poor relief was held to be incompatible both with Smith's market

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<sup>162</sup> J.S. Mill, Considerations on Representative Government (New York: The Library of the Liberal Arts, 1958), p. 16.

economics and utilitarian theory. Some critics simply wanted to weaken an existing system of public relief felt to be a burden on bourgeois land owners. Against these attacks, defenders of aid to the poor used arguments based on humanitarianism and political stability. By invoking a natural law argument, these defenders of the Poor Law created a powerful new defense of welfare as a right. The original common to which all had access, the right of necessity, the derivation of property from a social contract, and the limitation of property rights to only those material possessions which could actually be worked--all these were enough to justify a basic welfare right.

Indeed, the significant question is not whether it is possible to derive a right to welfare from the above arguments, but rather how powerful this right ought to be. The right to subsistence must be more compelling than that of free speech and free assembly. We cannot suppose that when property was being divided into private parcels, the people who were being dispossessed freely agreed, either tacitly or manifestly, to allow the right of subsistence to be weaker than other human rights. It follows that if the rights of free speech and assembly demand the protection of the state through its police and legislative powers, then the right to self-preservation can hardly be denied the same status.

We have seen that the principal justification of the early arguments in defense of property rights and necessity

was natural law theory, which took up the issue of individual preservation and the need for physical subsistence. Later arguments, however, began from a different premise altogether. One school argued for a guaranteed subsistence on the basis of political and economic equality. This shift in emphasis, while subtle, has deep implications for not only how the welfare state will be defined, but also for the very nature and standing of any claim to a welfare right.

The influence of the democratic forms of government had increased greatly after the American and French revolutions. From that time forward, Europe and North America saw the rise of democratic forms of government, in which citizens were expected to participate in the election of public officials and the administration of civic affairs. Closely associated with this rise of democratic forms of government was the recognition of individual liberties and the rights of the private person, which came to approximate the ideology of capitalism. The democratic states moved inexorably toward market economies as a direct result of industrialization and the demand for goods on an international scale. However, limits have been placed on the unrestrained development of capitalism by most industrial democracies. These limits stem from the humanist tradition of rational government, which upholds the values of the family and the individual's place within the structure of the state. Some conception of social welfare is essential to any working democracy, since democ-

racy requires standards of equality and reciprocity in the basic measures of human well-being.

### The English Response to Natural Rights

The idea of a right which is grounded in the nature of what it means to a man, what is often referred to as a 'natural' right, which emerged as the conceptual basis for much of the rights discussions about the American and French revolutions, was subjected to a rather devastating attack by the English empiricists. Utilitarianism, as espoused by Jeremy Bentham and others, replaced the appeal to "universal rights" with an appeal to universal physiological demands, in particular the desire or pleasure and the aversion to pain. The twin notions of pleasure and pain are accepted into the theory precisely because the terms refer to acts which at least in theory are substantives and therefore measurable. The idea of a natural right or law, in itself, can have no such standing and is considered a fiction by Bentham.

He rejected the idea of natural law, especially when this 'fiction' is used to justify the concept of a natural right. An example of this type of mistake would be to cite natural rights as the ultimate justification to support actions which disturb the otherwise normal intercourse of men in their pursuit of trade and governance. In one of his more famous quotes Bentham asserts the French Declaration of

The Rights of Man "...is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts."<sup>163</sup>

In contradistinction to the fictions of natural law and natural rights, according to Bentham, the analysis (paraphrases) of acts and law is able to demonstrate their existence. Because the law or act is real, and because there exists an inherent and explicit command or restraint of action, a duty or obligation flows from the law or act where it cannot from a natural right. While Bentham admits that claims to both so-called natural law and acts are fictions, he maintains the more primary fiction, and by implication the fiction closer to reality, must arise from an assignable and specific duty which can only follow from acts and laws.

Bentham argues that "Natural rights and wrongs do not exist."<sup>164</sup> but legal rights do exist and, as a result, are referred to as 'real' rights. However, he makes accommodation for the distinction between good fictions and bad or fabulous fictions, in relation to rights. Bentham appears to hold, at times, that while both legal and natural rights are fictions that the former has the standing of relating to some real entity, as a substantive, while the latter does not. This means that while legal rights are fictions they

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<sup>163</sup> Ross Harrison, Bentham (London: Routledge & Keegan Paul, 1985), p.78.

<sup>164</sup> *ibid* p. 86.

still refer, even if only in language, to some entity and so are what might be called real fictions. Natural rights, on the other hand, have nothing to which they may refer in the form of specific duties or obligations.

The central idea here is to show that the problem is not with fictions, rather the problem rests with those fictions for which no analysis or explanation and support may be given for the relationship between rights and duties which Bentham held to be fundamental. Rights are to be understood in terms of duties, without a specific and recognized duty, even if it is to oneself, it makes no sense to talk about rights. As Bentham puts it: "to know then how to expound a right, carry your eye to that act which, in the circumstances in question, would be a violation of that right: the law creates the right by prohibiting that act."<sup>165</sup> To the extent that Bentham has taken up the challenge of providing an adequate critique of so-called natural rights he adequately demonstrates the impossibility of showing logically how the idea of a specifiable duty might be linked to a natural right. However, the idea that one has an executable duty must be limited by some concept of good, because actions are or should be governed by moral constraints, and in order to show how laws or acts are good Bentham introduces the notion of utility.

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<sup>165</sup> Harrison p. 91.

Benthamite utilitarian theory holds, in brief, that the maximization of pleasure, or benefit, when generalized for all, should be pursued. Happiness or pleasure are equal to the good and are, therefore, worthy of active pursuit as ends. Bentham, like Hume, believed justice should be understood as a **social construct** derived "...from the selfishness and confined generosity of man, along with the scanty provision nature has made for his wants,..."<sup>166</sup> Because Bentham, not unlike other utilitarians, incorporated the idea of selfishness into the theory, at least to the extent that the popular notion of happiness falls prey to selfish intent, it is often misinterpreted as essentially egoistic in focus. This, however, is not actually the case, because utilitarianism can be extended beyond the limitations of individual desire and interest to include that which is best and most "good" for an entire society.<sup>167</sup> In any society, the goals of the community should be focused on developing systems which will enable individuals to achieve the "greatest good," and which will simultaneously ensure that the society as a whole will have this opportunity. Subsequent utilitarians also held that public utility is and ought to always be a consideration when we express our moral approbation of any act or trait of benevolence; however, this might not be the sole or

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<sup>166</sup> D.D. Raphael, British Moralists 1650-1800 (London: Oxford University Press, 1969) Vol II p.38.

<sup>167</sup> Mortimer Adler, The Conditions of Philosophy (New York: Dell, 1965), p. 163.

even the primary consideration for the act.<sup>168</sup> From this position, Mill later developed a theory of maximum utility which took into account the necessity of establishing society-wide laws, rules and regulations governing human conduct and action that focused on achieving the greatest good for the greatest number of people, (each one to count as one and nobody as more than one). It is from this Utilitarian perspective that any defense of the welfare state must be approached.

Later utilitarians, like Mill, argued that the theory ought to incorporate the belief that actions, attitudes, and behaviors that are intrinsically right (rule utilitarianism) will lead to individual as well as group happiness. It stresses the importance of establishing a society that is directed toward and dedicated to this "right" and whose institutions and laws reflect that dedication. For example, while the enjoyment of private property and wealth are undeniably linked to the maximization of pleasure, man by his nature will generally seek to control these benefits to the detriment of others; thus, society must establish rules which permit the free exchange of the benefits of work and social participation and which make it difficult for one

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<sup>168</sup> David Hume, An Enquiry Concerning the Principles of Morals (Cambridge: Harvard University Press, 1957), p.xxix.

individual to maximize his "good" (or goods) at the direct expense of others.<sup>169</sup>

Bentham believed that most, if not all, human actions are motivated by pleasure and pain; he further argued that since happiness is the sole end of human action, the promotion of that happiness is the test by means of which all human conduct should be judged. Henry Sidgwick, after Mill, rejected this focus on motivation and Bentham's theory of the meaning of moral terms and sought to demonstrate that Utilitarianism made sense because it reflected "common sense" notions of rationality. If men agree that certain actions or institutions are conducive to the maximization of happiness and pleasure (and pleasure need not be interpreted in its most hedonistic manifestation), then the Utilitarian approach to social order and to government naturally follows.<sup>170</sup>

A society structured according to Bentham's theories of utility would, by some accounts, turn out to place entirely too much emphasis on the pleasure of certain privileged individuals or groups, to the possible exclusion of society at large. In other words Bentham's position and by implication, the theory in general, suffers from an overemphasis upon pleasure and its merits or value which in turn might encourage the pursuit of pleasure, which is tantamount to

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<sup>169</sup> Morris Weitz, *op. cit.*, p. 82.

<sup>170</sup> *ibid.*, p. 89.

allowing or encouraging man to avoid the exercise of the reverse side of the "rights coin:" the duties and responsibilities that are owed to his fellows and to his society.<sup>171</sup> This criticism faults utilitarian's for their strict adherence to the concept of utility as the primary value in actions or institutions. The fault in this thinking is that it would eliminate much that has value apart from utility, or its ability to facilitate happiness. It is also possible that the claim that general happiness is the greatest end is a dramatic oversimplification.<sup>172</sup> Other things, such as duty, responsibility, obligation, service to others are also of moral value and may, at times, take precedence over personal gratification especially when this value is inconsistent with personal utility. Rigorous attention to a strictly hedonistic definition of utility would, in most cases, make acting on the above values impossible.

Various contemporary non-utilitarians and utilitarians alike have argued that the value of life is more than a balance of pleasure over pain. It may be necessary to ensure social order and stability by ranking some forms of pleasure as "high" and others as "low;" in this manner, Bentham countered this particular criticism by admitting that even pleasures should be assessed with respect to moral and other

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<sup>171</sup> Morris Weitz, *op. cit.*, p. 83.

<sup>172</sup> Morris Weitz, *op. cit.*, p. 82.

values and not merely with respect to utility.<sup>173</sup> The quality of pleasures, could become a worthy consideration in and of itself and could provide a structure upon which social interactions could be formed. Pleasures could be measured and compared with respect to both quality and quantity. However, some critics of Bentham have at times suggested that individual diversity in the pursuit of happiness would further add to the inability of a mass society to govern itself and to ensure that its members would be safe. Mill argued instead that it is only through the cultivation of individual diversity that a society becomes noble and enriched.<sup>174</sup>

J.S. Mill, regarded personal freedom under a legitimate government concerned with the greatest good as both necessary and possible. From Mill's perspective the purpose of man's life, as perceived by his reason, was the development of his highest faculties. This end requires two conditions: freedom, and a variety of situations. Each individual should have the utmost freedom to pursue his personal happiness in relation to society and the state. Bentham and his followers distinguish between freedom and license, noting that the latter means interference with someone else's freedom. Thus, in answer to the contention that a society in which Utilitarian theory was dominant would be an unlicensed, self-

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<sup>173</sup> J.S. Mill, Considerations on Representative Government (New York: Library of Liberal Arts, 1958), pp.xxxvi-xxxvii.

<sup>174</sup> *Ibid.*, p. 394.

centered, unruly society, it can be argued that a lawfully constituted state would serve to check this human tendency and to create rules and laws that maximize personal freedoms and still ensure the security of others.<sup>175</sup> The Utilitarian position reinforces the idea that as each individual becomes more valuable to himself, more "happy" with his life, he simultaneously becomes more valuable to others and more capable of working towards the maximization of happiness for all.

Mill held that individual freedom is and must be regarded as a sacrosanct quality. He claimed that the only purpose for which power can be exercised over any member of a civilized community against his will is to prevent harm to others. This is true utility: the rights of the individual are to be protected. But the individual, in pursuit of happiness, must not infringe upon the rights of others. He justified this position on the utilitarian ground that freedom is essential to the happiness of both the individual and the species and therefore has a measurable utility.<sup>176</sup>

Thus, while many objections were presented with respect to the viability of Utilitarianism responses have been offered that attempt to take account of these criticisms while showing the richness of utilitarianism to account for the development of a healthy society that contains both values

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<sup>175</sup> Thomas Greer, *op. cit.*, p. 394.

<sup>176</sup> *Ibid.*, p. 394.

of freedom and happiness. Ultimately, then, Utilitarianism offers much to contemporary societies as they attempt to respond to the needs of individuals, especially for those in need of support in times of crisis. The idea that individuals should be encouraged to pursue self-interest, but not at the expense of others, is fundamental to the Western democratic tradition. It is based upon the Utilitarian viewpoint.

### Implications and Themes

The argument between natural rights proponents and Benthamite utilitarians has been presented above using rather broad strokes. Although both sides to this debate had an interest in what today we would term the welfare state, neither side offered any in depth analysis relative to their theoretical positions specific to this issue. Still that fact alone should not dissuade from attempting to understand how this debate would play itself out within a more contemporary discussion.

A most obvious position offered by each side deals quite directly with the standing of any rights claim. Either a right is something inherent in our understanding of, and definition for, mankind, or rights depend on some other possibly more empirically grounded thinking. Rights must be natural, according to the first side of this opposition, precisely because without them we, both as individuals and

as societies, would be somehow diminished; have less than fully human standing in social intercourse. Rights may not therefore be given or granted; rather they are a fundamental part of each human being, and by implication each social order.

Natural rights must include such things as freedom from fear of unwarranted harm and deprivation, including death; i.e., the right to life. While other natural rights may exist this one right must be central to any natural rights based argument. One can readily see that if a right to life is natural, then it must also be natural to act in whatever way is necessary in order to both establish its moral, if not legal, legitimacy and to preserve its standing as a social obligation. This thesis would, in extreme cases of privation, justify taking another's property in order to meet one's extreme material needs. Natural rights theorists, especially the historical figures we have discussed so far, argue for the establishment of the ground for this right of necessity, to use Grotius's term, to be located within the obligations of governments as proper agents for individuals in extreme need. It is certainly not inconsistent with their stated positions that an appropriate role for "good" government is and must be to preserve an inalienable right to life because to do so is both a natural and a moral good. The implication here is that generating and preserving the

functions of the welfare state is a proper role for, and definition of, good government.

Bentham's argument ought not be construed solely as in opposition to the existence of rights, nor is he, I believe, necessarily against some form or social relief from unwarranted privation. Rather, Bentham, and by implication all utilitarians alike, were governmental reformers in the liberal tradition. His opposition to the natural rights focuses on the philosophical standing of the arguments offered in support for the idea of a "natural" right. A central tenet of Bentham's utilitarian position is that rights must be connected, either directly or by implication, to some governmental act or law. This means that one can create and maintain a welfare state only to the extent that government agrees to its existence through legislation. Further, according to the principle of utility, a right need only be recognized as such when it provides maximal benefit spread across the total populace within the state.

The problem with this position is, of course, that since those who find themselves at extreme risk for social and economic deprivation will usually comprise a numerical minority the welfare state will in fact carry a disutility, and in at least some cases extreme disutility, rather than benefit for the majority. What follows from the above is that if welfare is to be seriously considered a right at all we cannot ground it in a utilitarian framework. Because of

this welfare can be at most a conditional right, because it may produce disutility, and no one put at risk of deprivation may count on government relief. The ultimate justification for a welfare state then must come from some non-utilitarian source.

### The Science of Sociology: Spencer's Influence in America

According to one American contemporary of Spencer the twin conditions of a love of science and a desire to be futuristic in one's thinking "has made your writings far more fruitful and quickening here than in Europe"<sup>177</sup> Americans, it seems fell under the sway of 'Spencer's theory primarily because it represented a progressive scientific world view; that is it provided a reassuring theory of progress based on the twin sciences of biology and physics. Spencer was assured of his position in both scientific and popular circles, and he felt confident that his theory would determine much of social thinking for a long time to come. He demonstrated this confidence to a colleague when he wrote, "I laid out the broad highway over which American thought traveled in the later years of the century."<sup>178</sup> While the theory was more a fad than even Spencer wanted to admit, its

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<sup>177</sup> David Duncan, The Life and Letters of Herbert Spencer London, 1908, p.128.

<sup>178</sup> M. De Wolfe Howe, ed., Holmes-Pollock Letters Cambridge, 1941, p. 57-58.

influence, as one basis of criticism against the modern welfare state, has been significant.

Spencer's supposition that a general law of evolution could be formulated led him to apply the model of evolution to society. According to his position the principles of social structure and change must be the same as those of the universe at large. The postulate of "the survival of the fittest," it was held, was a biological generalization which could be applied to the processes which many observers, including Charles Darwin, saw at work in early nineteenth-century society.

The conservation of energy--which Spencer preferred to call "the persistence of force"--was the starting point of his system. According to him the persistence of force, manifested in the forms of matter and motion, is the logical beginning point of all philosophic inquiry. The observation that matter and motion is distributed everywhere within the universe demonstrates the idea that the twin processes of evolution and dissolution are pervasive. Evolution is the progressive integration of matter, accompanied by dissipation of motion; dissolution is the disorganization of matter accompanied by the absorption of motion. The life process is essentially evolutionary in that it embodies this same con-

tinuum of change of state, and Spencer held this to be as true for the lowest life forms through man.<sup>179</sup>

Using the concept of persistence of forced he inferred that anything which is homogeneous is inherently unstable, since the different effects of persistent force upon its various parts must cause differences to arise in their future development thus homogeneity will eventuate, ultimately, in heterogeneity.<sup>180</sup> The process of persistent force, as applied to both the universe and human societies, is present therefore as a guiding principle in everything man may know.<sup>181</sup>

the goal towards which this process moves is a state of equilibrium which he identified as "equilibration." This is a final state, because it is both inevitable, and because the evolutionary process cannot go on forever in the direction of increasing heterogeneity. "Evolution has an impassable limit."<sup>182</sup> In an organism this state is represented by death and decay, but in society by the establishment of a stable, harmonious, completely adapted state, in which

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<sup>179</sup> Herbert Spencer First Principles New York, D. Appleton & Co., 1900, p.407.

<sup>180</sup> Ibid., Part II, chap. xix.

<sup>181</sup> Ibid., pp. 340-71.

<sup>182</sup> Ibid., p. 496.

"evolution can end only in the establishment of the greatest perfection and the most complete happiness."<sup>183</sup>

Spencer's theory of social selection, was written under the influence of Malthus and arose out of his concern with population problems; by placing a premium on skill, intelligence, and self-control, he postulated a social order which depended upon "survival of the fittest."<sup>184</sup> He was, however, not unaware of the ethical implications of his position and in his preface to Data of Ethics, he wrote:

My ultimate purpose, lying behind all proximate purposes, has been that of finding for the principles of right and wrong in conduct at large, a scientific basis.<sup>185</sup>

Spencer was an advocate of laissez faire and he attempted to strengthen this position with the imperatives of biology. He intended this to be an attack on Benthamites who stressed a positive role of legislation in social reform. Although Spencer was not an anti-utilitarian, in that he accepted the principle of utility, he did nonetheless advocate for a return to the concept of natural rights; by which he meant, a positive right to freedom and non-infringement of action by the State.

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<sup>183</sup> Ibid., p. 530.

<sup>184</sup> Herbert Spencer "A theory of Population, Deduced from the General Law of Animal Fertility," Essays New York, 1907, I, pp. 1-7.

<sup>185</sup> H. Spencer The Principles of Ethics New York: D. Appleton & Co., 1904, pp. 34-8.

Spencer believed that the adaptation of human character to the conditions of life is the fundamental key to understanding all ethical progress. Accordingly, the root social evil is the "non-adaptation of constitution to conditions," and while the moral constitution of the human race is still ridden with vestiges of the original pre-datory instinct, adaptation assures the ultimate development of a new moral constitution fitted to the needs of civilized life.<sup>186</sup>

At heart Spencer's argument is conservative and anti-welfarest in intent. His categorical repudiation of state interference with the 'natural', unimpeded growth of society led him to oppose all state aid to the poor. They were unfit and should be eliminated. "The whole effort of nature is to get rid of such, to clear the world of them, and make room for better." Accordingly Spencer advocated for the abolition of the poor laws, state supported education, sanitary supervision other than the suppression of nuisances, regulation of housing conditions, and even state protection of the ignorant from medical quacks. He likewise opposed tariffs, state banking laws, and a government sponsored postal system.<sup>187</sup>

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<sup>186</sup> H. Spencer Social Statistics New York: D. Appleton & Co., 1864, pp. 79-84.

<sup>187</sup> *Ibid.*, pp. 414-15.

Spencer conceptualized the social organism as existing in metaphorical relationship to the animal body. He created this metaphor in order to show the correspondences between the two, in relation to growth and development, on the one side, and decay and stasis, on the other.<sup>188</sup> By focusing on what he termed their "laws of organization" he wanted to articulate the parallel development of social organisms and animal bodies in nature. In it's militant phase, society is organized chiefly for survival, and accordingly imposes a vast amount of compulsory cooperation from individuals. Those societies best suited to this phase, those which contain individuals best adapted for battle, will dominate.<sup>189</sup>

As the militant social organism succeeds ever larger social units are created due to the conquests. As strife is quelled and peace is imposed the state is able to evolve towards the development an industrial base. At this stage a regime that is organized according to contractual relationships emerges which is more peace loving, respectful of the individual, more heterogenous, and more willing to accept economic cooperation with attendant recognition of the rights to life, liberty, and personal property.<sup>190</sup> With this alteration of the social organism one would expect a corre-

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<sup>188</sup> H. Spencer The Principles of Sociology New York, 1925, D. Appleton & Co. Part II, chap. ii.

<sup>189</sup> Ibid., Part V, chap. xvii.

<sup>190</sup> Ibid., pp. 620-28.

sponding adaptation of the individual for success within this state. Spencer does just this by insisting that the successful character type here must be peaceful, independent, kindly, and honest. The emergence of a new human nature will, according to this position, hasten the trend from egoism to altruism which will naturally solve all ethical problems.<sup>191</sup> Spencer emphasizes the cooperative nature of individuals, properly adapted to the new social order, allowing for voluntary and contractually established relationships of mutual dependence and obligation. This position, however, should not be interpreted as proto-socialist, in fact Spencer argued that state regulation of production and distribution would penalize superior citizens and their offspring in favor of the inferior, and any society adopting such practices would be outstripped by others better adapted to this role.<sup>192</sup>

At the core of Spencer's argument is the assumption that will later be made explicit with Darwin: That the principles of nature which govern in any particular domain must likewise apply throughout nature. Spencer's position is that because society exists in nature it too must be governed by the same laws of evolution. It does not take too much imagination, or too great a leap of logic, to see modern right

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<sup>191</sup> H. Spencer Principles of Ethics New York: D. Appleton & Co. 1898, Vol. II, chap. xii.

<sup>192</sup> Ibid., I, p. 189.

wing economic conservatism mirrored within Spencer. The idea that evolution occurs incrementally, and that any attempt to alter the "natural" order, however, meritorious this attempt may be, will eventuate in imminent loss of competitive superiority, and the eventual destruction of society as such. According to this position the eventual destruction must occur simply because the social organism is subject to the same laws of nature which determine the invariant law of "survival of the fittest."

#### The Response to Spencer and Social Darwinianism:

Because Spencer insisted on a necessary and logical connection between the existence of a natural, social law selecting for the fittest and the free market, which acts as the means toward this end, his opponents chose this as their point of departure from which to oppose his influence and his position. In general, the dissenters objected to the idea that the free market has a positive social value, and therefore any actions which flowed from this economic system must themselves be of equal value to the extent that they supported the continuation of that system. The dissenters formed into two groups, one organized along more pragmatic lines, involving the improvement of working class life, while the other identified the individualist strain in Spencer's writing as its primary target. However different these groups were what holds them together is a consistent

rejection of the presumed value of a pure free market economy wherein the poor are systematically selected out, that is die off, because they are socially and economically unfit.

The first group of dissenters arose out of the various economic upheavals that plagued both America and Europe during the last decades of the 19th Century. During the 1870's and again in the 1890's America faced major and long lasting economic depressions. Even during the 1880's, which was by no means a prosperous time, labor uprisings took place. The growth of various labor initiatives like the Knights of Labor, and the so-called eight-hour movement arose out of a general labor dissatisfaction with the merits of the free competitive order. The goal of unionism was, and for that matter still is, the development of systematic governmental interventions within the economy for the purpose of providing more humane working conditions with a decent living wage.

The second group of dissenters were motivated by what has come to be known as the social gospel movement.<sup>193</sup> While the various voices for this movement may have had differing agendas for American economic life what held them all to-

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<sup>193</sup> The history and ideology of the social gospel movement may be traced in Charles Howard Hopkins, The Rise of the Social Gospel in American Protestantism, New Haven: Yale University Press, 1940, and James Dombrowski, The Early Days of Christian Socialism in America New York: Columbia University Press, 1936.

gether was a general agreement of the need to modify the unrestrained workings of competition, to abandon the economics and social fatalism of the Spencerians.<sup>194</sup>

Two of the more prominent spokesmen of urban discontent, Henry George and Edward Bellamy, felt the necessity of refuting the conservative arguments of evolutionary sociology. Henry George differed from other dissenting ideologists in his acceptance of competition as the necessary way of economic life.<sup>195</sup> Like most other dissenters, however, he found himself compelled to grapple with the fatalism of evolutionary economics. He argued for a single tax on land values by attempting to refute both Malthus's explanation of misery and Spencer's argument against rapid progress. In the second book of Progress and Poverty he attacked Malthus's pressure of population upon subsistence had not begun to operate in America. He concluded:

I assert that the injustice of society, not the niggardliness of nature, is the cause of the want and misery which the current theory attributes to overpopulation. I assert that the new mouths which an increasing population calls into existence require no more food than the old ones, while the hands they bring

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<sup>194</sup> See, for example, A.J.F. Behrends, Socialism and Christianity. New York: Baker and Taylor 1886 p.6, or Josiah Strong The Next Great Awakening. New York: The American Home Missionary Society, 1902 p.2.

<sup>195</sup> Henry George A Perplexed Philosopher. New York: C.L. Webster & Co. 1892 p. 87.

with them can in the natural order of things  
produce more.<sup>196</sup>

Other American writers tried to show that evolutionary biology does not provide a justification for competitive individualism. Laurence Gronlund, who was at one time close to the Nationalist movement and later an officer of the Socialist Labor Party, took great pains to distinguish between the healthy "emulation" that would go on in a cooperative commonwealth and the unhealthy competition of capitalism. In his work, The Cooperative Commonwealth, he used Spencer's idea of the social organism to refute Spencer's individualism. The organic character of social life, he argued, demands increasing centralization and management. Gronlund insisted that conscious evolution would be a far different thing from unmodified natural evolution, and that human intervention must play an increasingly important role in its development.<sup>197</sup> While Gronlund had always criticized the "fatalistic" aspect of Spencer's social theory, he argued that combination was the inevitable next step in social evolution, leaving the only possible choice between monopolized capitalism and a collectivized social order.<sup>198</sup> While Gronlund and other early American socialists argued against

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<sup>196</sup> Henry George Progress and Poverty. New York: C.L. Webster & Co. 1879 p. 104.

<sup>197</sup> Laurence Gronlund The Cooperative Commonwealth. Boston: Lee and Shepard, 1884 pp 73-84.

<sup>198</sup> *ibid* pp 171-2.

the Spencerian idea of the lone individual moving society forward by his initiative and genius, which was the direct product of natural selection working to produce the survival of the fittest, the American economic situation began to change in a way that removed the capitalist entrepreneur from his position as leader and social hero. In fact the old problem of defending competition from critics on the left now paled as people were forced to face a more imminent threat to competition from the offspring of competition itself. According to one such protest:

Our industry is a fight of every man for himself. The prize we give the fittest is monopoly of the necessaries of life, and we leave these winner of the powers of life and death to wield them over us by the same "self interest" with which they took them from us... "There is no hope for any of us, but the weakest must go first," is the golden rule of business. There is no other field of human associations in which any such rule of action is allowed. The man who should apply

in his family or in his citizenship this "survival of the fittest" theory as it is practically professed and operated in business would be a monster, and would be speedily made extinct.<sup>199</sup>

My intent in reviewing the arguments offered first by Spencer and his followers, and then by those American writers who rejected natural selection and the survival of the fittest doctrine, is to focus these earlier pro and anti-welfare within their original context. The point is that

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<sup>199</sup> Henry Demarest Lloyd Wealth Against Commonwealth. New York: Harper & Bros., 1894 pp 494-5.

those who followed Spencer's social Darwinianism, while they never directly addressed welfare, were clearly unsympathetic to the plight of those workers who might find themselves without money or resources sufficient to keep away starvation and eventual death. In fact, Spencer's position explicitly predicts that it is nature's goal that these people should be "culled" from the genetic pool because of their failure to secure the necessities of life sufficient to protect them from destitution.

The Social Gospel, and, later, Socialist movements argued against the primary assumption of natural selection: that individual initiative produces a better social order. The early foundations of American collectivism and our increasing dependency on governmental interventions within commerce and our very social order were forged during this debate. While other movements supplanted the participants to this debate it nonetheless stands as a paradigm case of early attempts to deal with the construction of a model social order, one that would not only provide economic incentive to those who had the ability to succeed, but one that would have the willingness to provide for those who could not provide for themselves.

## **NOTE TO USERS**

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**UMI**

## CHAPTER FIVE

**LATE 19th CENTURY RISE OF THE MODERN WELFARE STATE:  
DEVELOPMENTS IN BRITAIN, GERMANY, SWEDEN, AND THE U.S.**The New Poor of the 19th Century and Industrialization

While the modern welfare state is a product of the last ninety years, it has an important early history. Gaston Rimlinger<sup>200</sup> has convincingly demonstrated the need to distinguish between two phases of this pre-history: the Poor Law period from the 16th to the 18th and 19th centuries, and the 'Liberal Break' of the 19th century. Poor relief became a matter of national concern in the 16th century with the emergence of national states and economies (see previous two chapters). It was a "relief of the poor within a framework of repression."<sup>201</sup> However, the poor laws contained an element of reciprocal social responsibilities, but they were

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<sup>200</sup> Gaston V. Rimlinger, Welfare Policy and Industrialization in Europe, America, and Russia New York: John Wiley & Sons. 1971 p. 59.

<sup>201</sup> *ibid* p. 62.

much more reliant on punishments than on relief. The reciprocal social responsibilities mainly referred to the relationship between individuals and their local communities, since the execution of the national poor laws was left to local authorities. Whereas the old European welfare states developed very similarly during the poor law period, the liberal break produced many divergences. The core ideas of liberalism--individualistic freedom, equality, and self-help--were antithetical to the former concepts of dependence and protection. The importance of the 'Liberal Break' phase lies primarily in the coincidence of new social problems created by industrialization and urbanization with an emerging philosophy that facilitated the destruction of old protective institutions.

No discussion of liberal Western social and political attitudes toward poverty would be complete without at least a passing nod to Karl Marx, whose beliefs dominated radical theory and political policy through the greater part of the twentieth century. Marx viewed poverty and class conflict as the inevitable corollaries of the late industrial capitalist economy, and he denounced the Dickensian face of the English class system and industrial economy--without however providing a solution to the actual means of formation of the classless society and anti-authoritarian state.

The 19th century Victorian society in which Marx lived was perhaps the most liberal <sup>202</sup> and democratic in all of Europe, yet Marx viewed the more advanced liberal capitalist states as the most sinister, since they precluded radical alternatives and coopted the working classes with intermediate reforms of a largely meaningless nature. The disenfranchised poor as such were never the driving force of the Marxist revolution, much less the bourgeoisie of the English and French revolutions. Disdainful of "bourgeois democracy," Karl Marx predicted a violent proletarian revolution of the laboring class against the advanced capitalist state, establishing a new "dictatorship of the proletariat" under which the state as a political apparatus would eventually wither away to be replaced by an egalitarian and open society of collective cooperation.

Yet as David McLellan has pointed out, "Marx left no coherent theory of the state...thus, anyone--from a Leninist proposing a highly centralized vanguard party to lead workers...to a libertarian socialist who believed that political power should be vested in workers' assemblies--could claim, without fear of refutation, that they were in the true Marx-

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<sup>202</sup> By 'liberal' here is meant: (1) that labor should find its price on the market; (2) that the creation of money should be subject to an automatic mechanism, and; (3) that goods should be free to flow from country to country without hindrance or preference. See, for example, Polanyi, Karl The Great Transformation Boston, Beacon Press, 1957 p.135.

ist tradition." <sup>203</sup> The Marxist tradition, ironically, came initially under the influence Engels, who was not in the least a member of the proletariat working class, but, rather, the son of a German industrialist transplanted to England, and an active critic of Prussian and Bismarckian policies and politics.

Marx's contempt for liberal democracy was based on its role as the chief political form of bourgeois democracy, but he also recognized that democracy took the principle of the egalitarian social organization to its highest level. The Marxist views the full extension of the franchise to the poor and landless as the final stage of industrial democracy, and "...since he regards democracy as the highest possible form of political organization, he must relegate his solution to levels beyond the separate political structure." <sup>204</sup>

This meant, in effect, the abolition of the state in the achievement of the socialist millennium, where every individual and the whole public would vote directly in the determination of political matters: "...Marx viewed universal suffrage not as the mere realization of a radical democratic political vision but as the true aufhebung [aboli-

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<sup>203</sup> David McLellan, Marxism after Marx. Boston: Houghton Mifflin, 1976), p. 34.

<sup>204</sup> Shlomo Aveniri, The Social & Political Thought of Karl Marx, (Cambridge at the University Press, 1969), p. 47.

tion] of the state and civil society." <sup>205</sup> Marx's dictatorship of the proletariat was thus a convenient formula for expressing the much more reasonable premise of universal participation in an egalitarian society in which the proletariat was the largest social class (and hence the democratic majority). He never really expected or envisioned a society in which an illiterate working class dictatorship would seize the reins of a vast and complex advanced industrial society and exercise power in the manner of the Tory House of Lords Parliamentarians of England. Nor, in the perfectly egalitarian, utopian socialist state of tomorrow, would there be poverty or the poor: the proletariat would remain useful tools of the ideological and political leaders of the masses until such time as their existence as a class could be eliminated.

Meanwhile, on the continent the more moderate branch of the socialist movement deriving from St. Simon, and others, had given rise to a group of liberal political parties calling themselves, for example, the German Social Democratic Party, or in the case of those in exile from imperial Russia, "The Union of Social Democrats Abroad." More radical elements from trade unions and radical study groups adhered to such parties as the Russian Social Democratic Labor Party, or the American Socialist Labour Party led by Daniel DeLeon. When the radical hardliner De Leon insisted there

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<sup>205</sup> Ibid., p. 204.

could be no "non-political trade unionism," a new Socialist Party seeking to accommodate the trade unions was formed. DeLeon predictably "was somewhat disillusioned by what he saw as the reformist tendencies of the German Social Democratic Party, but he saw even less excuse for compromise in America,"<sup>206</sup> and eventually took the SLP in the direction of a hopelessly radical, anti-capitalist position. One interesting outcome was that the Socialist Labor Party in America forsook the labor movement, even in its most radical forms such as the IWW ("Wobblies"), and comprised mainly the disaffected poor and the radical intelligentsia of the American immigrant population.

It was, however, the more centrist position of the later German Social Democratic Party which has served as the model for liberal democratic socialism in modern Europe. The radical elements in the SDP were pushed aside by the trade unionists, and "the general conservative trend was reinforced by the organization of the Party...the final victory of the revisionists was marked by the 1912 election campaign, which was designed to achieve maximum cooperation with bourgeois parties."<sup>207</sup> The years 1911-12 thus marked a turning point in English, German and American politics for the radical left.

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<sup>206</sup> David McLellan, Marxism after Marx, (Boston: Houghton Mifflin, 1979), p. 314.

<sup>207</sup> McLellan, op. cit., p. 53.

In Germany, however, the assassination of Rosa Luxemburg and the departure of the radical left Separatists from the party after 1917 left the nucleus of a liberal, trade-union oriented SDP to develop anew during the period of the Weimar Republic. Fascism, of course, later decimated the remaining ranks of the socialist/communist left in Germany, Austria and Italy, many of whom died as partisans, in concentration camps, or fighting on the Russian side on the Eastern front.

#### The New Poor: Democracy and Poverty in Great Britain

The voice of the poor in Great Britain grew in strength in direct proportion as the voting franchise was extended to the English masses, and the franchise was extended, it could be said, directly as the trade union movement grew in strength from 1860 to 1900. The rise of the trade unions occurred in a British political environment where Parliament was sole means of access to real political power. It was not long after the formation of the Trades Union Congress (TUC) in 1868 that organized labor moved to make its voice heard in that body. In 1871 "it elected the Parliamentary Committee... The membership being relatively small, they could choose their leaders from personal knowledge of their characters; and usually they chose well."<sup>208</sup> But at the same

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<sup>208</sup> R. C. K. Ensor, England, 1870-1914, (Oxford at the Clarendon Press: 1936), p. 133.

time, a period of economic depression encouraged the rise of labor radicalism and socialism, and socialism became a serious alternative to the Liberal party affiliation of the "New Unionism" that emerged in the period between 1860 and 1880.

The failure of the Parliamentary Committee, which was limited to overseeing the passage of Gladstone's progressive trade union legislation, meant that socialism and syndicalism gained a new appeal, particularly after the serious economic slump of 1879, which saw thousands of laborers put out of work and evicted from their homes: "After 1880," notes Wood, "the parliamentary committee had less to show for its efforts, and by now a sterner note of Socialist propaganda was beginning to challenge this earlier moderation."<sup>209</sup> Taking the position that capitalism and the entire democratic political process were doomed to extinction, parties as the Socialist Democratic Federation (SDF), the Fabians and the Miner's Federation seemed destined to operate entirely outside of the electoral system.

Then, in 1893, the Independent Labour Party was formed, dedicated to social and economic reform but not explicitly calling for Socialist appropriation of the means of production, much less the establishment of a "dictatorship of the proletariat" along the Marxist line. After a series of strikes in the 1890s were broken by employer use of non-

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<sup>209</sup> Anthony Wood, Nineteenth Century Britain, 1815-1914. (Burnt Mill, Harlow, Essex: 1982), p. 343.

union labor, it became apparent that the large numbers of union members would have to be used to create pro-union legislation in Parliament: "At the Trades Union Congress of 1899, a proposal was put forward... whereby the parliamentary committee should be instructed to summon a meeting of 'all the cooperative, socialistic, trade union and other working organizations' for the election of a special congress to find ways of increasing the number of working-class M.P.s in the next Parliament"<sup>210</sup> and in February 1900 the new Labour party was born out of this alliance of working class interests. Only two Labour candidates were returned in the October 1900 general election, but after the House of Lords upheld a court decision making unions liable for losses of companies struck by their workers, membership in the Labour party shot up from 375,000 to 861,000 in the space of just two years (1901-03): "The opponents of the trade unions had at last broken down the innate conservatism that had stood so long in the way of the creation of a Labour party, and the working class now turned to organizing their discordant and confused elements into a political striking force that could act on their behalf at Westminster."<sup>211</sup>

### Political Versus Social Democracy in the Britain

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<sup>210</sup> Ibid., p. 378.

<sup>211</sup> Ibid., p. 373.

If the process of political democratization and the extension of the franchise for Parliamentary representation was slow in the 19th century, the process of social democratization was even slower. Although the Labour Party finally emerged in 1900 as the political wing of organized labor, even the labor unions themselves were unrepresentative of the working classes as a whole. For a quarter century after 1850, general wages had risen steadily and surely, and Gladstone's trade union representation laid the groundwork for the unions to enter into electoral politics by 1900. But the unions represented a fairly small class of mostly-skilled craftsmen (with the addition of the miners) and most common laborers, farm workers and of course all women were excluded both from the vote and from participation in party politics. The period after 1875 saw little improvement in the general lot of these elements of the working class: "Agricultural wages in England and Wales rose very little until 1912, when they were just 4.9 percent higher than in 1900... Farming had ceased to be of any real consequence in the life of the nation" by the eve of World War I.<sup>212</sup>

In the towns as well, large numbers of unskilled manual workers had been completely ignored by the trade unions and were still excluded from the political process. Now that the Labour party had opened its doors to them, these desperately poor working class citizens could at last vote (at least the

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<sup>212</sup> Ensor, *op. cit.*, p. 343.

men) their interests, but they existed in a world apart from skilled artisans, the merchant and professional classes, and of course the wealthy landowners and lords.

Political democracy had developed much more rapidly than social equality or democracy throughout the 19th century in England, surprisingly, and it was only after education acts of 1902 and 1903 and social reforms that the poor finally gained a political voice. The Poor Law of 1834 had been on the books for 70 years, and the First and Second Reform acts had failed to fully democratize the franchise in terms of the poorer classes:

After the Second Reform Act of 1867 first gave votes to householders in the boroughs, two-thirds of the members were still landowners, and middle-class or working-class members were only gradually represented by their own kind.<sup>213</sup>

The death of Queen Victoria in 1901 marked the end of an era in more ways than one. Although class divisions continued (and exist to this day), Labour now had a direct voice in the business of Parliament. The Liberal Party sank under the weight of labor's numbers. The franchised electorate grew from under 6 million in 1886 to nearly 12 million by 1914, and education, health and welfare programs came to

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<sup>213</sup> Anthony Sampson, The Changing Anatomy of Britain., (New York: Random House, 1982), p. 18.

be treated as political rights of all the poor. As the great figures of the Victorian era passed away, so did the social and political mind set which had prevailed at the helm of the British Empire. In 1903, Lord Salisbury, the Last Prime Minister to sit in the House of Lords, died in his sleep, and "with him a certain aloofness of spirit, now considered old-fashioned, passed from British politics."<sup>214</sup> As Parliament became the new forum for the elected representatives of the working classes, the democratic influence made itself felt more through society, and social and economic stratification by classes was increasingly condemned.

#### New Arguments: Germany from Bismarck to the Weimar Republic

One of the greatest ironies of modern European social history is the seminal role of that model of autocratic conservatism, the Prussian state, in the creation of the European system of social insurance. The key to understanding this seeming paradox lies in understanding the real objectives of Otto Bismarck, the master politician and power broker who virtually ruled Prussia for three decades in the critical period of the formation of the German imperial state. Bismarck has been described as...

...the man who by ruthless cleverness and strength of will had solved... the thousand year old "German Problem," had won over Rus-

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<sup>214</sup> Winston Churchill, A History of the English Speaking Peoples: Volume Four, The Great Democracies, (New York: Dodd Mead, 1958), p. 384.

sia with kindness, had defeated the two empires of Austria and France in brief and glorious wars, and had succeeded, by this policy of "blood and iron," in organizing the traditional chaos of Central Europe...<sup>215</sup>

But long before Bismarck had begun his program to organize a new German reich, he had already conceived the idea that a new form of social insurance for the working class might forestall the political upheaval and leftward trends so ominously evident in Prussia, France and other parts of Europe.

Bismarck's background as a child of the Metternich era and the post-1848 repression would hardly seem to suit him for the role of social reformer, but already in his early years as the Minister President of Prussia (1862-3), "he had begun to think of the possibility of state supported insurance plans for the benefit of the working class, and his plans for accident, sickness and old age insurance in the 1880s were rooted in the same concern that had motivated the abortive plans of the earlier period."<sup>216</sup>

The plan was not, however, conceived purely for the benefit of the working poor. It had a dual purpose, one of which was primarily a political agenda. The government was concerned about the perceived threat of social change and wanted to undermine the rising tide of social democracy,

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<sup>215</sup> J. Alden Nichols, German After Bismarck, (Cambridge: Harvard University Press, 1958), p. 3.

<sup>216</sup> Gordon A. Craig, Germany: 1866-1945, (New York: Oxford University Press, 1978), p. 150.

which under the party of that name was continuing to make progress, even within the ranks of the Reichstag, during the most conservative, anti-socialist days of the new empire's formation. Bismarck's political agenda involved offering government sponsored welfare goods in order, in part, to coopt the working classes by giving them benefits they might not otherwise obtain. If successful this tactic would tend to isolate the left opposition of the Social Democrats, by claiming they had nothing to do with social welfare reform, and it would leave them with a more or less permanent minority status primarily because their central political agenda had been taken from them.

An alternative explanation of Bismarck's social welfare policy is provided by Ralf Dahrendorf, who argues that from the earliest beginning of industrialization in Germany a kind of state socialism corresponded to the prevailing system of state capitalism.<sup>217</sup> In contrast to the allied Social Darwinism of publicly tolerated misery of industrial workers, their wives and children, in England, which Marx took as the emotional point of departure for his demand for state action, public agencies in Germany consistently felt responsible for the welfare of workers. There was, says Dahrendorf, poverty, misery, and illness in industrializing Germany as was elsewhere; but the official attitude toward the

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<sup>217</sup> Ralf Dahrendorf, Society and Democracy in Germany (New York: Doubleday, 1969), p. 37.

social question "strikingly documents the pre-industrial combination of severe and benevolent paternal authority."<sup>218</sup> In his view, the three great institutions of sickness, accident and old age and invalid insurance are as much a part of the Bismark era as the foreign-policy decisions about war and peace. The social welfare policy implemented by Bismark, was, according to this analysis, to far outlast other decisions taken under his leadership. State intervention on behalf of the weak--expressed as limitation imposed upon working time, protective laws for the work of women and children, and other similar interventions--established a climate in which the state became responsible or assumed some of the responsibility for ensuring that workers and the poor (often one and the same) would not be totally excluded from the material benefits of industrialization.<sup>219</sup>

The realization of Bismarck's plans had to await the final unification of German following the Franco-Prussian War, a period which also saw the renewal of Socialist influence among the growing ranks of factory workers in the new industrial state. The Prussian Junker aristocracy, based on a social hierarchy with large numbers of landless peasant laborers at the bottom, was giving way to a modern bureaucratic state and society in which the rising threat of orga-

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<sup>218</sup> Ibid., p. 37.

<sup>219</sup> Ibid., pp. 38-39.

nized socialist labor had to be countered with liberal concessions.

By 1881, Bismarck was ready to offer a "zuckerbrot" or sweetbread sop to German workers for resisting the siren call of the socialists: "If they rejected what bourgeois society seemed to be offering, they could be accused of sacrificing the needs of their followers to tactical considerations," notes Craig, but "if they accepted it, they would be suspected of abandoning socialist principle for material advantage."<sup>220</sup> The sweetbread tossed to the working classes took the form of a proposed Imperial Insurance Office, initially designed to cover only mine and factory workers with earnings under 2,000 marks per year. In his 1881 speech for the draft bill, Bismarck expressed an idea which ran directly counter to the fundamental premise of laissez-faire economic liberalism and autocratic conservatism--a rejection of the idea that "everybody takes care of himself" and an acceptance of the idea that the state must "take care of the poor and weakly" through some positive form of cash assistance. The new program was to combine state aid with contributions from the industrialists, of course, but in essence it undertook to remove the "invalid workman" from starvation.<sup>221</sup> Bismarck himself deemed this new approach a "practical Christianity," but the real aim was to "ensure

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<sup>220</sup> Ibid., p. 151.

<sup>221</sup> Louis H. Snyder, Documents of German History, (New Brunswick, New Jersey: Rutgers University Press, 1958), p.246.

kindlier treatment of the poor" while eviscerating the social democratic movement.

Unlike the English system which had evolved for centuries through the many changes in the Poor Laws and the Reform Bills, the German social insurance system emerged within a very short period of time. In 1883, with the cooperation of the Socialist leader Bebel, Bismarck managed to pass the first Sickness Insurance Law; the next year, an Accident Insurance Law accompanied this act, and in 1887, a comprehensive Old Age and Disability Insurance package became law. Taken together, these acts constituted the first significant program of social insurance for the poor and working class in European history--even the Socialist leader Liebknecht was inclined to praise Bismarck's moving toward "our goals," and Engels himself was being warned of the threat to the party's militancy should Bismarck's program succeed.

The program was so successful, in fact, that by the time of Bismarck's fall in 1890, he had successfully stifled liberalism for generations to come<sup>222</sup>. However, he paid a personal and political price for this success. While the new laws did help significantly reduce the impact of the Social Democratic political agenda they nonetheless served to undermine the strength of the conservative regime and of the Chancellor himself. The argument that socialism was the

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<sup>222</sup> Ibid., p. 1798.

greatest danger facing a united Germany was perhaps justified in Bismarck's mind, and although Caprivi and the other successors recognized that "no one could fill the gap left by his great personality," it had nonetheless been deemed necessary to remove him for the sake of the Kaiser's leadership role.<sup>223</sup>

The institution of a new social insurance code was perhaps the single greatest step towards creation of the modern welfare state in continental Europe, and it came about, at least in part, to co-opt socialism and organized labor. By 1911, when the earlier laws were put together into a single unified code which "set the standard for the amelioration of the lot of the workingman," Germany was already well under way in the planned buildup of military armaments and fortifications for the coming war. In the beginning, of course, limited social insurance plans were considered by even the most progressive countries to define the limits of welfarist interventions. Under these initial schemes benefits may very well have been seen as an offset against stronger demands, but within a short time there developed government-sponsored programs and policies which bore a marked resemblance to the modern welfare state.<sup>224</sup>

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<sup>223</sup> Nichols, *op. cit.*, p. 41.

<sup>224</sup> England, for example, instituted the National Insurance Act in 1911.

The effects of Bismark's innovations continued into the 20th century. For example, in 1919, the Germans first anchored social rights in the written constitution of the new Weimar Republic. These rights subsequently became the foundation for much of Germany's progressive social legislation, until the catastrophic inflation and unemployment of the 1930's precipitated the collapse of the social democratic experiment. In 1932 Chancellor von Papen openly accused his social democratic predecessors of inducing "moral exhaustion" in the German people by "creating a kind of welfare state" which pushed the government beyond its proper function and capabilities. This moral exhaustion and the subsequent reaction to the demands for even more social legislation may have been a factor which led the German people to embrace fascism.

Fascism, too, played a role in the development of the modern welfare state, but in a far more negative way. At the beginning of the Second World War, when England briefly stood alone in defiance of the German onslaught, the British sought to differentiate themselves from the Nazi warmongers as much as possible. To this end, a propaganda campaign was launched highlighting the government's concern for protection of "citizens' needs and rights."<sup>225</sup> For all of Englan-

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<sup>225</sup> While Archbishop Temple is reported to have first coined the phrase, it moved into widespread public usage after the publication of the Beveridge Report of 1942. (Bruce, 1961, ix).

d's desire to lead the nations of Europe into a new post-war era of modern democratic socialism, however, that era more likely began during the ill-fated Weimar Republic.

In many important ways, of course, the British and German welfare states were utterly different. Because Britain's government was then and still is today a true parliamentary democracy embracing the principles of civil rights, it had always linked social welfare with individual rights. Poor Law reformers, for example, had been concerned whether requiring labor of poorhouse inmates violated their rights. In 1942 Lord Beveridge sponsored a parliamentary report which, in part, demanded that poor individuals should be brought into a closer partnership with the state, and condemned "the scandal of physical want."<sup>226</sup> While Lord Beveridge would later disavow much of the radical tone of this report, the collective responsibility to meet poor citizens' needs remains the justification of the contemporary welfare state.<sup>227</sup>

Neither the early German model of social insurance, nor the post-war British welfare state, constituted any kind of real program to eliminate poverty, and being poor was no

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<sup>226</sup> In Flora and Heidenheimer, 1987, p.19.

<sup>227</sup> Social scientists and economists like T.H. Marshall and Richard Titmuss have argued for this connection. Marshall, for example, argued that political development in Britain came into existence through the following steps: universalization of civil rights in the eighteenth century, political rights in the nineteenth, and, finally, social rights in the twentieth.

more a scandal at the end of World War II than it had ever been. One could speculate as to the motives for Lord Beveridge's rejection of the implication of his report, which was that the welfare state must incorporate, or at least take account of, the citizens which it serves. But the fact remains that the original finding of his report reached deep into the wellspring of welfare rights, and strongly influenced the evolution of the post-war welfare state in Britain and the rest of the industrial west. And as we have seen, the real origins of the modern welfare state lie in Bismarck's Germany, long before the Weimar Republic or the triumph of Labor Party socialism in England.

#### Sweden: The Modern Welfare State Model

Unlike Germany or England, the Swedes have developed their system of liberal social democracy peacefully, in response to their own impulses and needs, but with a constant regard for the condition of the poor and the injustice of all economic inequality. The underlying attitude toward the poor that led to the modern Swedish welfare state was the belief that assistance to the less fortunate was a duty, and welfare a right; as one Swede of the modern period has put it, "none of the support and assistance that the nation gives its citizens is offered as charity."<sup>228</sup> Yet the dispar-

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<sup>228</sup> Karl J. Hojer, Social Welfare in Sweden, (Stockholm: The Swedish Institute, 1949), p. 7.

ities between rich and poor, and the attitudes toward poverty which preceded the rise of the modern welfare state, were just as harsh in the fifteenth to nineteenth centuries in Scandinavia. Indeed, one of the pressing political issues in the Swedish-Norwegian union that dissolved around the turn of the century was the extent of social liability for the relatively poorer peasantry of Norway.

Sweden, the paradigm of the Scandinavian welfare state, was (and indeed still is) a monarchy, but the monarchy's power has been balanced since the fourteenth century by a Riksdag or parliament of representatives of the nobles, priests, burghers and peasants. The head of state remained a hereditary monarch, however, and the military genius of Sweden's great soldier-kings from Gustavus Adolphus (1594-1632) to Charles XII (1682-1718) reinforced the autocratic power of the crown. During this period, of course, there was no conception of official relief to the poor. The all-consuming Swedish army constituted a safety net for any able-bodied males, and the limited pensions of the army veterans were expected to sustain them in their old age and poverty.

After 1837, the first real Liberal Opposition was formed in the Riksdag, urging freedom of the press, weakening of the aristocratic state bureaucracy, and greater influence of the ministers over the king; among their ambitions, of course, was a general improvement of the lot of the working classes and poor, but as yet there existed no economic or

political means to achieve these ends. The only way that the poor could gain relief was through an expanded political franchise, but as in England the franchise grew only by fits and starts, and in conjunction with school, labor and poor laws.

As in England and most other countries of the West, including America, there was still a property requirement for the franchise, and the very poor were never even considered eligible for the vote. Yet more than in most other European countries (with the obvious exception of England) the existence and condition of a growing urban proletariat of marginalized poor became the subject of intense public and social debate, as evidenced in the plays of Ibsen and Strindberg and in the reform movements of the Parliament, which followed a roughly parallel pattern to those in England.

The political heir of this rising tide of democracy was the Social Democrat party, which had come into its own under the leadership of Hjalmar Branting (1860-1925). In 1896, Branting became the first Social Democrat to be elected to the Riksdag; there he personally "pushed through a number of social measures," such as child labor laws, poor relief, and workman's compensation, in a drive that later transformed Sweden into what some people have called the modern social welfare state.

From this point onward, the strength of the people (and of the poor) in the government representation grew rapidly; the number of citizens qualified to vote increased from 402,000 in 1904 to 3.222 million in 1921, two years after the constitutional reform at the end of the Great War made the franchise universal. Branting actually served three terms as Prime Minister, and under his leadership the Social Democrats took full control of the government at the end of World War I. Branting's rise to power corresponds closely to the rise of Liberal Prime Minister Lloyd George, signaling the triumph of the Labor Party and Liberal causes over years of obstruction of social reform by conservative forces.

As did their English counterparts, the SDLP enacted a large body of progressive social law in the 1920s, including the present-day system of cooperative labor negotiation between unions, management, and government. Since the 1930s and 1940s, the SDLP's new Swedish model of government by three-way consensus between labor, business, and Parliament has resulted in an unusually stable political system; between 1932 and 1976, in fact, the country had just three Prime Ministers and the SDLP has been the dominant force in Sweden's national political life even when functioning as a minority in coalition governments. At the core of this social policy is a determination that poverty is in itself an injustice which is not to be tolerated. It can truly be said that in Sweden, as in few other countries outside Northern

Europe, poverty has truly been eliminated as a social and economic issue.

Some major changes in the parliamentary system have occurred, however. In 1971, a constitutional reform changed the Riksdag (Parliament) from a bicameral to a unicameral body. Gustaf V (1907 to 1950), who had presided over the transformation of Sweden into a constitutional monarchy, was succeeded by Gustaf VI (1950-1973), who was succeeded in turn by the current King Carl Gustaf VI. Under a 1975 modification of the constitution, the King no longer has the power to appoint the Prime Minister or dissolve the Riksdag for new elections; the monarch is today a figurehead for a true liberal democracy. The parallels with the English case, and with the continuing monarchies in Denmark, Norway, and the Netherlands, suggests an association between progressive social welfare policies and a paternalist-monarchist approach to central government. There is no other social or political theory to account for this trend. However, over the last century, Sweden's liberal government has increasingly combined social and political freedom and representative democracy with extensive social benefits (a full-employment policy, a comprehensive welfare system, and an economy in which nearly two-thirds of the Swedish Gross Domestic Product is consumed by public sector spending). These benefits are paid for by a progressive tax system in

which full-time workers have paid more than 50 percent of their wages in income tax.

When we are reminded that nearly 80% of Sweden's long-established organized labor force belong to the Swedish Confederation of Trade Unions (LO), and nine out of ten of LO's members belong to the Social Democratic Party, it is not difficult to understand why, even with the emergence of a more powerful Moderate Party and the development of real contests between left and right in elections for Prime Minister and Parliament, the old coalition of the SDLP, labor and big business remains dominant in Swedish democracy. The basic distinction between the kind of German alliance of business and government, offering old age insurance and health care payments for workers, and the Swedish systems, lies in the way in which Swedish workers have been aggressively incorporated into the system--outside of any system of strikes, work stoppages or labor-management disputes, which have been surprisingly rare.

The Social Democratic Labor Party, which can be seen as the counterpart of the dozen or more other social democrat parties in Europe, thus enjoys broad support from the trade union movement and the moderate socialist left. This alliance has dominated Swedish politics so completely since 1932 that there was concern that Sweden was be turning into a one-party socialist state. The SD platform has been left-

wing, to be sure, but not truly socialist in terms of government ownership of industry. The party supports

...a well-publicized implementation of social welfare programs and effective controls over the economy while recognizing the productive efficiency of a market economy. The primary goal of the Social Democrats is to maintain full employment [and] improve the living standard for Sweden's workers.<sup>229</sup>

The Social Democrat party has truly been the architect of the Swedish welfare state, an historical role which began nearly a century ago when Sweden and Norway were still in a political union and liberal politics were in their nascence. More recently, Swedish politicians and diplomats have carried the banner of democratic socialism out into the world community, speaking out against the less attractive aspects of capitalism and imperialism and maintaining the long-standing policy of strict neutrality which kept Sweden out of the EEC and NATO (although tacitly cooperating with them). The recent reversal of the leftward trend in taxation and welfare politics by no means represents a rebuttal of the underlying principles of the welfare state--the elimination of all poverty.

Political economist R. Kent Weaver characterizes the political/economic foundation of Swedish liberal democracy as being "a small, open economy and a powerful trade union movement. Sweden's dependence on international trade fos-

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<sup>229</sup> "Sweden," Europa World Yearbook, (London: Europa, 1990), p. 1116.

tered an awareness among both business and labor leaders of the importance of international competitiveness."<sup>230</sup> The welfare state arose not simply as a concession to the demands of labor, but as an accretion of social policy and public conscience; unlike the German social welfare program, Swedish social welfare progressed at a calm, even slow, pace during the first two decades of this century, but the thirties stepped up the tempo to a faster and faster rate.<sup>231</sup> The years just after World War II, as in England, represented the threshold of the greatest expansion in the history of Swedish social legislation. Today, when the changing economy and a new conservative influence has redirected the national consensus away from the social welfare state, the basic principles are still so firmly ensconced that there is no rolling them back--the new direction is only a matter of curtailing the level of benefits somewhat, not of reversing the policy of eliminating all poverty.

#### European Democratic Socialism and the Poor

The elimination of poverty and the rise of the welfare state, as we have seen, are largely the result of the liberal and moderate socialist parties' efforts over the last

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<sup>230</sup> R. Kent Weaver, "Political Foundations of Swedish Economic Policy," in The Swedish Economy, Barry Bosworth and Alice Rivlin, eds. (Washington, D. C.: Brookings Institution, 1987), p. 243.

century. Today, most of the liberal industrial democracies of Europe have a left-wing party known as either the Social Democrats, the Socialist Democrats, or the Social Democratic Party. In France and Italy, both the Socialist and Communist Parties have donned the mantle of democratic socialism in all but name, especially since the collapse of the Soviet empire and the shattering of communist illusions and ideals around the world. In the United States, where democratic socialism has perhaps advanced the very least among the liberal industrial democracies, the "Democratic Socialists of America" have distinguished themselves from the Socialist Labor Party, the Socialist Workers Party, and of course the even more hard-line Communist Party of America. Far more than communist, labor or workers' parties, the democratic socialists have concerned themselves foremost with social welfare and the moral problem of poverty amid affluence, as it has been described in Michael Harrington's book Poverty in America and other works.

All of these political parties and programs toward the poor are the direct ideological and philosophical heirs of the Social Democrats of the 19th century, who were themselves at first a liberal wing of the larger socialist movement that began with Saint Simon and Proudhon and culminated in the revolutionary communist doctrines of Karl Marx and Friedrich Engels. The "revisionist" and "reformist" tendencies among the German social democrats were bitterly at-

tacked by Marx and other radicals as playing right into the hands of the liberal regimes of capitalism (e.g., Bismarck and the SDP). Many liberal socialists in the modern era have struggled to clarify their position as being merely a democratic form of socialism, by which is meant a true (moderate) socialist order in which democratic processes and democratic results have been implemented.

Unfortunately, it is clear that no two of the many interpretations of democratic socialism would carry the same implications. either in terms of the fundamental mechanisms of socialism (government ownership of the means of production, the social welfare state, restriction of the accumulation of private property), or of democracy (direct, representative, or participatory). One democratic socialist, Michael Harrington, has interpreted democratic socialism to mean a "democratic planning process" that "has determined the basic priorities of society,"<sup>232</sup> and which serves to realize those goals through social methods (state planning, collective ownership of industry, land, capital and so on). In this view, democratic socialism implies an ordered, egalitarian determination of the moral basis of a society's allocation of resources.

But Harrington himself concedes that none of the modern democratic socialist parties which "are a major political

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<sup>232</sup> Irving Howe, Essential Works of Socialism, Third Edition. (New Haven: Yale University Press, 1986), p. 489.

force, either in government or in opposition...has a precise sense of what socialism means, even if they have often proved to be more humane and efficient trustees of capitalism than the capitalists themselves."<sup>233</sup> In spite of the collapse of the East Bloc socialist order and the apparent triumph of free market economics in much of Latin America and Southeast Asia, says Harrington, it remains an historical fact that "the democratic socialist movement of that last hundred years or so has done more for humanity, spiritually as well as materially, than any other social or political movement."<sup>234</sup>

Other socialist critics, such as Norberto Bobbio, have argued conversely that democratic socialism is really nothing more than "the extension of the democratic process from the political to the economic sphere of life"; i.e., the extension of the principle of one-man, one-vote extended to something like "one-man, one share of the wealth." Bobbio's argument goes back to the old natural law theory of Hobbes, Grotius and others, in which a social compact to share the abundance of the earth is based on a belief in the innate goodness of the people and the inherent justice of an equal division of the earth's bounty:

Socialism then becomes a method based on the assumption that if people are given the op-

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<sup>233</sup> Michael Harrington, Socialism, Past and Future, (New York: Arcade, 1989), p. 2.

<sup>234</sup> *Ibid.*, p. 19.

portunity to make economic decisions, they can be trusted to make them, most of the time, so as to provide as much equality, justice and freedom as are possible in an imperfect world.<sup>235</sup>

The overtly idealistic element in "Christian Socialism" and in much of liberal Democratic Socialism can thus be seen as part of an optimistic, liberal model of human nature as essentially good, as opposed to the essentially selfish, materialistic and overly-individualistic human nature implied by the classical economics of Adam Smith, and by the capitalist political economy as a whole.

In reply to this economic view of democratic socialism, Joseph A. Schumpeter has argued that "No responsible person can view with equanimity the consequences of extending the democratic method, that is to say the sphere of politics, to all economic affairs."<sup>236</sup> By this, Schumpeter apparently means the prospect of making society's economic transactions subject to direct vote, so that a majority could simply elect to confiscate property at will. By the same token, Schumpeter argues that the "Central Board" of planning envisaged in the socialist state cannot conceivably be allowed to become a political office, and "must be sufficiently removed from the atmosphere of political strife as to dis-

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<sup>235</sup> Norberto Bobbio, Which Socialism? Marxism, Socialism and Democracy. Translated by Roger Griffin, Edited by Richard Bellamy, (Minneapolis:University of Minnesota Press, 1987), p4.

<sup>236</sup> Joseph Schumpeter, Capitalism, Socialism and Democracy, (Third Edition. New York: Harper and Row, 1950), p. 299.

play no inefficiencies other than those associated with the term Bureaucracy."<sup>237</sup> Yet the politicization of central planning activities is precisely what has taken place in almost all of the social democracies of the modern era, not to mention the hard-line communist states.

For many western socialists, then, there is nothing inherently contradictory about the democratization of socialism, or the development of a socialist political order in which there exist universal suffrage, one-man one-vote, and freedom to "vote in the light of their own opinion... in a free competition between organized political groups who view with each other to aggregate demands and transform them into social decisions."<sup>238</sup> True democracy, of course, implies the right of the majority to modify the very political structure of the state at will, so long as the underlying democratic principle is retained. Thus, the modern social welfare state originates with a majority of its citizens voting for the implementation of quasi-socialist measures, up to and including state ownership of industry, confiscatory tax rates, and social welfare programs--but retaining the democratic principle of majority rule, and therefore precluding any "dictatorship of the proletariat" or one-party state. These socialist policies can easily be reversed when more conservative regimes return to power over a period

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<sup>237</sup> Ibid p34.

<sup>238</sup> Bobbio, op. cit., p. 67.

of time, but have a tendency to become semi-permanent institutions in the modern bureaucratic state, so that social welfare programs unthinkable sixty years ago are taken for granted by all of the conservative regimes in America and Western Europe.

The fact that anti-poverty programs have become an established part of modern government services and functions shows that public attitudes toward the poor have indeed changed substantially over the last two or three centuries. Today, the spectacle of dire poverty is no longer liable to provoke speculations about the natural division of mankind into rich and poor classes, or other such pre-destinarian theories.

On the other hand, if poverty has become a political and social enemy, the poor themselves have by no means been taken into the bosom of the modern state and society responsible for advanced social welfare programs. The notion that "It is no crime to be poor" is now universally accepted, but the social and economic consequences of poverty, homelessness, crime, and begging, are increasingly the target of concerted political attacks, especially by conservative forces seeking to overturn at least the superficial trappings of the federal social welfare state built up over the last one hundred years or so.

#### Summary of the Debate

The foregoing discussion of the various European approaches to the issue of social welfare in the 19th and earlier 20th centuries serves to demonstrate that several distinct philosophical or ideological approaches to this question emerged in the years during which industrialization and capitalism came into ascendancy. The German model, as expounded by Bismarck and others, rested upon an assumption that a state-centered social welfare program represented a viable and even necessary political response to emergent socialism (and later, Marxism) that was necessary to secure the stability of the state and its market functions. The Scandinavian model, conversely, may well represent a "purer" form of rights-centered social welfare responding to the dislocations caused by market forces.

Nichols, in his discussion of Bismarck's impact upon the German polity, states that Bismarck did not create a social welfare program in response to a belief that man had an inalienable "right" to the support of the state in times of need; rather, Bismarck's actions were based in large measure upon his conviction that a German social welfare program would do much to alleviate agitation for change that was inherently threatening to the continuation of the German social, governmental and economic system.<sup>239</sup> The difficulty of the social democratic position against which Bismarck was forced to move was that it argues against a free market

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<sup>239</sup> J. Alden Nichols, *op. cit.*, pp. 7-13.

economic system--a fact of which Bismarck was certainly well aware when he created his own response to the market dislocations caused or engendered by this system.

Moreover, Bismarck did not at any time connect the rights of the individual to state-supported social welfare to the issue of the value of the individual as raised by Rousseau, Montesquieu, and Hume (to name a few). His theories and programs appeared to recognize that inherent value, but represented more cogently an astute political rather than moral response to the socioeconomic issue of his era. In Sweden, on the other hand, the Social Democrats were in the forefront of the efforts to create a "welfare state" in which the value of the individual was the "cause" or source of his "right" to social welfare.<sup>240</sup>

What emerges from this analysis of the varying trends in the political and philosophical debate regarding the existence, establishment, and maintenance of state-supported social welfare policy is a recognition that there are, ultimately, two major views on the issue. The first view takes the position that government should, or even must, provide social welfare programming to meet some, if not all, of the needs of the less fortunate and economically dislocated members of its constituency as a political response to the potential of the unfortunate to disrupt government itself. This was, in essence, the position adopted by Bismarck in

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<sup>240</sup> R. Kent Weaver, *op. cit.*, pp. 243-245.

the creation of the fundamental elements of the German social welfare program which remains in place today. As an alternative to Marxism, or to "communism," and as a means of permitting a capitalist economic system to operate without much regard for the human and economic dislocations it causes, social welfare policy and programs become little more than a bulwark against potential or actual political and economic revolutions. This approach to social welfare is, therefore, distinctly unconcerned with such issues as the "good," ethics, morality, or the "rights of man" and the implicit "social contract" between men and their agent, government.

The second view, proposed by several of the philosophers discussed above and throughout this dissertation, is that social welfare must be understood as a right of the individual. From this perspective, the individual participates fully in the social contract of men with government and with one another; this participation mandates a recognition of the right of the individual to receive assistance when he or she requires such assistance as a direct consequence of the actions of government or, alternatively, the government sanctioned economic system which has "caused" the need for assistance to develop in the first place. The following chapters will trace the contemporary argument on this issue, focusing on both the proponents of an inherent right to social welfare and those who argue against the existence

of such a right or the necessity of its corresponding obligation.

## CHAPTER SIX

## THE 20TH CENTURY I

The New Poor: An Economically Disadvantaged Minority in a Middle Class World

At the beginning of the 20th century, the "new poor" included members of the working classes who sold their labor--and not the product of their labor--for a fee; often, the fees paid for labor were well below what was required by a family to survive with dignity or, more significantly, with prospects for future success. In the United States, for example, in 1910 37.4 percent of all workers were classified as "Manual Laborers," divided into groups of unskilled or semi-skilled workers and more highly trained craftsmen and industrial foremen; some 13.4 percent of all workers were classified as farm laborers, a second group of largely poor men, women and children.<sup>241</sup> By 1950, however, while the number of workers employed in unskilled or laboring positions in the agricultural sector had dropped and the number em-

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<sup>241</sup> Ibid., p.92.

ployed in mechanized work settings had increased, the total number of semi-skilled workers had increased to 20 percent.<sup>242</sup> Both specialization and stratification in all segments of the productive economy have taken place as the century continued to unfold. A by-product of both stratification and specialization has been the widening of the gaps between upper- and middle- or lower-classes, and between the middle- and lower-classes as well.

In the United States, prior to World War II, as in England, several distinct groups of the poor began to be identified. The first (in the U.S. for the most part) was composed, in the main, of European immigrants and their families who swarmed to urban areas of the country in search of work in factories, mines, and cities and were, consequently, given the lowest and least remunerative jobs.<sup>243</sup> A second group of rural subsistence farmers (including tenant farmers in England and sharecroppers in the United States). A third consisted of individuals living in islands of poverty in areas of the country untouched or unaffected by the new prosperity beginning to emerge as a consequence of industrialization; this was the same in both the United States and England, and throughout much of the industrialized West

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<sup>242</sup> Ibid., p.93.

<sup>243</sup> Dennis Gilbert and Joseph Kahl, The American Class Structure (Homewood IL: Richard D. Irwin, 1982), p.305.

in general.<sup>244</sup> Prior to the Great Depression, which impacted upon European as well as American factory workers, farmers, and the lower socio-economic classes, the individuals who comprised the "old poverty" suffered deprivation but, nevertheless, retained a sense of hope and possibility. In America, for example, the European immigrants believed that as they acquired language fluency, as their children graduated from public schools as full-fledged Americans, entry to the social and economic mainstream was assumed. The new poverty created in the first half of this century by the Great Depression and modified in the second half by various social and political factors that will be discussed below, differed from the old poverty with respect to its membership and its apparent permanence and inter-generationality.<sup>245</sup>

Michael Harrington has written that as of 1962, over 40 million Americans were poor and that the new industrial prosperity was not helping them in any substantive manner, but was in actuality making their situation worse. Harrington wrote that the members of the new, 20th century poor were afflicted by some type of distinctive personal handicap --bad health, inadequate education, low intelligence, truncated economic opportunity, and unable to marshal the personal or familial resources needed to break out of the cycle of poverty. He states:

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<sup>244</sup> Ibid., p.305.

<sup>245</sup> Ibid., p.306.

One might summarize the newness of contemporary poverty by saying: These are the people who are immune to progress. But then the facts are even more cruel. The other Americans are the victims of the very inventions and machines that have provided a higher standard of living for the rest of the society. They are upside-down in the economy, and for them greater productivity often means worse jobs; agricultural advance becomes hunger.<sup>246</sup>

In the first three decades of this century, virtually until the advent of the Great Depression, it was believed that in America, at least, poverty was soon to be extinguished. In November of 1928, for example, then President Herbert Hoover stated that America was anticipating the "final triumph over poverty" and that the "poorhouse is vanishing from among us."<sup>247</sup> Those who persisted in remaining poor, according to the current wisdom, were either disabled in some substantial manner, unable to take proper advantage of the new prosperity, unwilling to work or to adapt to new working conditions and imperatives, or otherwise ill equipped to deal with the demands of the new economic order.

The idea that poverty was on the decline in America and elsewhere in the industrial world was facilitated by an examination of the major economic indicators of the period. For example, while population in the U.S. had grown from 76 million in 1900 to over 121 million by 1928, an additional

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<sup>246</sup> Michael Harrington, The Other America: Poverty in the United States (New York: Macmillan, 1962), p.25.

<sup>247</sup> Robert L. Heilbroner, The Making of Economic Society (Englewood Cliffs, NJ: Prentice-Hall, 1968), p.132.

ten years had been added to the average worker's life span. Similarly, \$75 billion worth of new homes, \$9 billion worth of farm structures, and \$30 billion in industrial equipment had been created in this time period. There were, in the U.S., jobs for 48 million people, all except some 3.2 percent of the total available labor force in 1929. Average hours of work per week had dropped, even for the semi- and unskilled, from 60 hours in 1900 to 44 in 1929; wages had also increased from 20 cents per hour in 1909 (for unskilled and semi-skilled workers) to 56 percent in 1929, with consumer prices rises creating a real wage gain of 10 to 20 percent.<sup>245</sup> It was at this juncture that a stereotyped image of the "new poor" as set forth above began to emerge, suggesting that a new "unworthy" poor could be identified with respect to the apparent willingness of this group to pursue meaningful, gainful employment. It was around this issue that much of the debate regarding the political and philosophical validity of social welfare programming, in the United States and abroad, was centered.

While the origins of social welfare as government policy can be traced to the Industrial Revolution, when the mechanization of production resulted in a shift from home manufacturing to large-scale factory production, sociologists tend to date the true blossoming of government policy and programs in this area to the Great Depression, the New

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<sup>248</sup> Ibid., p.133.

Deal, and the pledge of Franklin D. Roosevelt to provide assistance to the millions of Americans negatively affected by the economic disaster of the Great Depression.<sup>249</sup> While the U.S. has experienced alternating good and hard times during its history, the Great Depression was far and away the longest and deepest setback the American economy and the American people have ever experienced.<sup>250</sup> It began with the stock market crash of October 29, 1929, and did not end until the start of World War II. By 1932, one of every four American workers was unemployed, millions more were underemployed, thousands of small farmers and business owners were unable to continue operating their businesses, and production was in excess of the consumer's ability to purchase even the most basic necessities such as shelter, food, medical care, and clothing.<sup>251</sup> Tens of thousands of uprooted people sought work in the American West, while the nation's great cities became centers of poverty, crime, and hopelessness. Under the Administration of Herbert Hoover, victims of the Depression were forced to rely upon state and local governments and private charities for assistance, as Hoover did not believe that the U.S. Constitution empowered the federal government to supply relief for the unemployed.<sup>252</sup>

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<sup>249</sup> Ibid., p.152.

<sup>250</sup> Ibid., p.576.

<sup>251</sup> Ibid., p.576.

<sup>252</sup> Ibid., p.578.

The partial solution to these problems offered by FDR was the creation of a government assistance program that encompassed several distinct phases. Phase I sought to boost prices and to lower unemployment; under the Works Progress Administration, the government created thousands of subsidized public works projects that offered employment and also stimulated the economy by increasing the demand for specific products. Phase II was aimed at providing direct relief to the people most affected by the continuing economic problems. The Federal Emergency Relief Administration was the forerunner of the AFDC program; it provided direct cash payments to the poor and the newly unemployed, and was designed as a temporary measure that would disappear once the Depression had ended.<sup>253</sup> Roosevelt added other programs as well: the Social Security Act of 1935 marked the beginning of federal assistance to those who, through no fault of their own, are unemployable because of age or disability.

From this beginning, federal assistance programs to the poor, the unemployed, the disabled, the aged and the very young continued to proliferate. Presidents Kennedy ("The New Frontier") and Johnson ("The Great Society") significantly expanded these assistance programs, including not only cash payments but also medical assistance for the poor and the uninsured, food stamps to improve the nutrition of the poor, job training and placement services, and a wide variety of

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<sup>253</sup> Ibid., pp.580-581.

ancillary "support" services all designed to provide the entire range of services and benefits deemed necessary to assist the poor in becoming self-sufficient. Richard M. Coughlin has pointed out that the intentions of Roosevelt, Kennedy, Johnson, and their successors were to create, through federally subsidized assistance programs implemented at the state or local level, a national action initiative that would directly attack the root causes of poverty (i.e., joblessness, lack of education or job skills, and medical problems that prevent or inhibit meaningful employment).<sup>254</sup> What has happened, however, is that a vast and virtually unmanageable bureaucracy has developed which may succeed in routing funds in the form of direct payment or no-cost services such as Medicaid to needy Americans, but which fails miserably in achieving its goal of assisting people in moving out of the poverty cycle.<sup>255</sup>

Efforts to reform or restructure these programs, particularly AFDC, have largely been frustrated. A recent article in The Wall Street Journal stated that between 1980 and April of 1993, the number of families receiving AFDC increased from about 3.75 million to more than 5.0 mil-

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<sup>254</sup> Richard M. Coughlin, Reforming Welfare: Lessons, Limits and Choices (Albuquerque, NM: University of New Mexico Press, 1989), p.245.

<sup>255</sup> Ibid., p.14.

lion.<sup>256</sup> The cost to the various levels of government is staggering: in 1983, AFDC cost \$13.8 billion while the food stamp component cost an additional \$11.8 billion.<sup>257</sup> Additionally, though food stamp program benefits have offset the decline in cash benefits since 1968 when the food stamp program was inaugurated, the dramatic growth in the number of AFDC recipients has driven the cost of the program higher and higher. Currently, in the United States, AFDC is the most controversial of the income support programs. It is targeted to provide assistance in the form of income, food stamps and medical insurance to about 15 million Americans in families where the principal wage earner is missing. Benefit levels for AFDC are set by the individual states through a process that begins with the calculation of the amount necessary for a family to buy a reasonable amount of food, clothing, and shelter. Any family whose income is below this standard and is otherwise eligible, can receive assistance. Joe and Rogers have noted that the eligibility process involves an identification of family composition, an assets test to determine if the family is actually in need, a determination of the level of that need, and the calculation of the AFDC benefit which is based upon the individual state's determination of maximum benefit levels. A major

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<sup>256</sup> P. Thomas, "Getting families off welfare and into jobs isn't as easy as AFDC," The Wall Street Journal, October 25, 1993, p.A1.

<sup>257</sup> K. Janda, K. Berry and J. Goldman, op. cit., p. 587.

problem that has plagued the AFDC effort is that the individual states vary significantly in their assessment of what a family needs to meet a reasonable standard of living and in the percentage of that standard that they are willing to pay.<sup>258</sup> While the mean AFDC payment for a three person family was \$315 in 1990, the variation among the states can be as much as 37 percent.

While it is true that there are significant differences in the cost of living across the states, these variations are insufficient to explain the attendant variations in benefit levels. Many reform efforts under presidents Nixon, Reagan, and possibly Clinton have centered upon the creation of a national standard for AFDC benefits. In the case of Social Security, a national standard has been in place for many years and has worked well to equalize the program across state boundaries. It is interesting however, that the National Welfare Rights Organization (NWRO) worked to defeat Nixon's 1970 efforts to create a national standard. They feared, perhaps rightly, that a national standard lower than the standards of some states would allow those states to reduce their benefits. They failed to recognize that left to the devices of the state, the AFDC program would be vulnerable to a wider range of activities designed to reduce benefits as states experienced financial difficulties.

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<sup>258</sup> T. Joe and C. Rogers, By the Few, for the Few (Lexington, MA: Lexington Books, 1985), p.25.

Another problem associated with AFDC is centered upon a perception by many lawmakers, sociologists, and members of the general public that the program has become accepted as an "entitlement program" that, in effect, fosters the dependency of poor families and does little if anything to facilitate an end to such dependency.<sup>259</sup> Sociologists have intensively studied the question of whether or not AFDC works to effectively reduce poverty or merely facilitates its continuance. Critics of the program have suggested that AFDC does not effectively reduce poverty among its recipients or the communities in which those recipients live, but tends to provide a standard of living that fosters continued reliance on this and other assistance vehicles.<sup>260</sup> Some sociologists have argued that poverty is a social disease that the welfare system may unwittingly promote by eradicating motivations in an individual. In his view, the needy will benefit more if AFDC programs focus strongly on education and job training in conjunction with financial and other types of assistance than if education and training components are ignored. It has been noted that the AFDC program has become in many cases an inter-generational source of income; many children themselves supported by AFDC become

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<sup>259</sup> R. Perrucci and D. Knudsen, Sociology (St. Paul, MN: West, 1983), pp.222-223.

<sup>260</sup> Ibid., p.566.

single parents who also rely upon this source of economic maintenance.<sup>261</sup>

Efforts by President Reagan and others to link AFDC to such activities as "workfare" have been rejected by both recipients and Congressional leaders. As early as 1964, reforms in this area attempted to foster reduced dependency on AFDC by allowing recipients work related expense deductions, job training and placement, day care cost subsidies, and other related services and benefits designed to facilitate entry into the work force. The Work Incentive Program (WIN) created a jointly administered program between the Department of Labor and state employment agencies and the various welfare administrations. AFDC recipients were required to participate in WIN, with certain exceptions. Unfortunately, WIN funding was inadequate to its reform oriented goal.<sup>262</sup>

Other AFDC reform efforts have included attempts to limit the number of children that a family could claim for benefit calculation purposes, the creation of mandatory participation programs focused on training or education, reduction of benefits for the non-working able bodied parents of older children, and an increase in workfare programs. It is anticipated that the Clinton administration

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<sup>261</sup> J.L. Katz, "The progress of reform," Congressional Quarterly Weekly Report, June 5, 1993, pp.2265-2267.

<sup>262</sup> Rita M. Coughlin, op. cit., pp.67-68.

will also offer its own reform package in the coming months. His plan is expected to include expanded earned income tax credits, a two year benefit limit after the birth of a new child, education and job training, and better child support collection procedures. Though Clinton's plan has not been fully articulated as of yet, it is regarded as representing a response to a growing concern on the part of the middle class with respect to ever increasing AFDC and other welfare programs in an economic climate characterized by a decline in the ability of the middle class to provide for its own needs. Even the most vehement critics of the AFDC program would not deny the necessity of providing financial and other types of assistance to the more than 25 million Americans, many of whom are young children who live at or below the poverty level.<sup>263</sup> There is an increased level of agreement among both critics and supporters of AFDC, however, that the time for significant and fundamental programmatic reform is long overdue. Paulette Thomas has pointed out that the pressure to say that time is up to the able bodied who receive public assistance will increase as President Clinton follows through on a campaign pledge that helped define him as a new kind of Democrat. Clinton promised "to end welfare as we know it," a plan that senior White House advisers claim he is still committed to.

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<sup>263</sup> R. Perrucci and D. Knudsen, *op. cit.*, p.222.

Central to his plan is the creation of a two-year eligibility limit which will force able bodied parents to work for their checks in either the private or the public sector.<sup>264</sup> Several policy changes that offer varying degrees of responsiveness to the problems inherent in the AFDC system have been offered by American legislators, largely in response to new debate over the proper role of the state in providing for the welfare of its weaker and less self-sufficient members. For example, it has been recommended that a national welfare standard be developed which addresses the questions of both eligibility and benefit levels. Admitting that uniform welfare benefits cannot be achieved overnight, they contend that a national welfare standard can capitalize on the decline in defense costs over the next few years, i.e., the peace dividend, as well as the creation of a national health insurance network which would hopefully reduce some AFDC related costs. A national standard would stabilize program costs across state boundaries and intrastate jurisdictions; it would, like the SSI and Social Security programs, foster a more rational and cost effective bureaucratic approach to benefit administration.

A second reform in current policy regarding AFDC has been described by Thomas in a recent article in The Wall Street Journal in which the efforts of Ohio to facilitate the movement of single AFDC parents from reliance on welfare

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<sup>264</sup> P. Thomas, op cit., p.1.

to meaningful employment are described. Ohio and Wisconsin have highly ambitious JOBS training programs, in which participating parents are provided with child care and transportation in conjunction with job training /education and/or placement. AFDC benefits continue as long as participants attend classes or work. Though only a relatively small number of the individuals eligible for these programs participate, Thomas reports a high level of success.<sup>265</sup>

While many liberals and members of the NWRO may well regard these programs and the proposals expected from the Clinton administration with respect to linking continued eligibility for AFDC benefits as little more than a return to Reagan's workfare suggestions, more and more observers of Congress itself are contending that the time for AFDC reform has clearly arrived. Coughlin has pointed out that the 1988 Family Support Act was the first indication that leaders from all political parties are achieving consensus with respect to the burgeoning welfare system. The idea implicit in all reform efforts is that reciprocal obligations between individuals and society exist in which a national value for self-sufficiency is reinforced. Disparate groups such as the National Governors Association and the American Public Welfare Association are now approaching agreement with respect to the necessity of directly linking AFDC to some type of gainful work. In addition, child support enforcement is a

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<sup>265</sup> Ibid., p.1.

policy recommendation that cuts across all ideological lines.<sup>266</sup>

Spending government money on the enhancement of existing programs to secure strict enforcement of child support orders including paternity determination in certain cases, offers very real savings to government. The Network program, approved by the House of Representatives in December 1987 required states to create comprehensive welfare-to-work programs for AFDC recipients with children aged three and over. This program encompassed education, training, and work along with the provision of both full and part-time job opportunities and child care. It takes the old WIN program to a new and potentially productive level. While this program has essentially been tabled, many aspects of its policies will likely appear in the anticipated Clinton proposal. Each of these policy alternatives addresses the key problem at the heart of the controversy over AFDC. After almost 60 years, it has become apparent that this assistance program fails in meeting its primary goal: the enhancement of family strengths which can foster autonomy and independence and an end to reliance on public assistance in order to achieve a minimal standard of living. Though it has been pointed out that most welfare parents now leave assistance within a year and 72% within two years that this statistic conceals the large number of recipients who bounce between subsistence

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<sup>266</sup> R.M. Coughlin, op. cit., p.144.

jobs and welfare over many years, never quite leaving the grasp of assistance programs entirely. We are unfortunately forced to conclude that as long as AFDC remains nothing more than a pass-through benefit dispersal effort, poverty and poor families will not receive the kinds of services they need to become truly self-sufficient.

The foregoing discussion has been incorporated into this chapter to illustrate some of the concerns which have, over time, confronted social policy planners in the United States in response to the apparent failure of social welfare programs to meet their stated goals of both reducing poverty and fostering self-sufficiency. The "new poor" of the 20th century, therefore, are variously stereotyped as either inter-generational victims of an economic system which has literally as well as figuratively displaced them or as willing participants in the cycle of poverty who cannot be "reached" through traditional governmental assistance programs.

Block, Cloward, Ehrenreich, and Piven have attempted to characterize the various theories as to why, in a world in which relative prosperity exists (i.e., the West), there appear to be groups of individuals who remain dependent upon public assistance. In their view, the contemporary debate over relief for the poor centers upon one's understanding of the root causes of poverty. They cite the following explanations of inter-generational poverty: the increase in the

number of female-headed households and out-of-wedlock births; the deterioration of the urban economic system and the migration of jobs (particularly unskilled and semi-skilled jobs) to the Sun Belt and to Third World countries (where labor unions do not, in the main, exist); a declining public education system that fails to prepare inner-city and some rural youth for work; urban un- and sub-employment.<sup>267</sup> Thus, the new poor may be understood as a byproduct of the capitalist system of free enterprise, as well as of the social ills of the democratic system.

#### New Arguments for the Right to Welfare

Gunnar Myrdal argued in several contexts that a fundamental component of social systems in which inter-generational poverty could be found was the existence of a system of social stratification in which castes were created. Myrdal suggested that affluent societies, particularly those which are capitalist in orientation, invariably create class distinctions based upon income and property ownership. Those who lack property or are merely workers for a wage are less powerful and influential. The poor, those who fall outside of the economic and social mainstream, are often placed in this position by the very forces at work in the marketplace.

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<sup>267</sup> F. Block, R. Cloward, B. Ehrenreich, and F. Piven, op. cit., p.93.

The displaced and the dislocated become, in his view, entitled to assistance from the system which created the displacement.<sup>268</sup>

Myrdal's view, like that of John Kenneth Galbraith, is institutionalist in orientation. It posits a system of circular causation in which classes of poor people are created by shifts in the forces of production. Those able to move ahead with scientific and technological progress move out of poverty and into relative affluence, while those unable to make this market shift are reduced to poverty. Poverty itself, according to Myrdal, maintains the forces that lead to its perpetuation. Stagnation at low income levels is endemic in this systematic approach to understanding poverty's apparent permanency.<sup>269</sup> From a recognition of this problem, Myrdal moved to an affirmation of the necessity of providing assistance in the form of state-supported welfare; he based his approach to the question upon two central factors. First, he argued that when the market (or the market in its growth and disequilibrium cycle) is causative in maintaining poverty, it, of necessity, assumes a moral obligation to provide for the needs of those it has dislocated or damaged. Secondly, Myrdal believed that all men, in all societies, have an inherent right (a moral right as well as a social

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<sup>268</sup> Gunnar Myrdal, Challenge to Affluence (New York: Pantheon Books, 1963), pp.87-92.

<sup>269</sup> Ibid., p.90.

and political right) to expect that they will be participants in the economic life of society. They have a right to anticipate assistance in times of need, just as the state and its more affluent members have an obligation to assume responsibility for the less affluent. Class systems and stratification are institutional aspects of social organization which contribute to the maintenance of poverty; if this is to continue, then it becomes necessary to provide for the lower socio-economic classes.

While the group of social reforms, which came to be known as Fabians, came into existence in England during the final third of the 19th century, it has continued to exert a long-lasting influence on issues of social class and poverty. Thomas Davidson, George Bernard Shaw and Sidney Webb, three of the most prominent and prolific writers, speakers and activists among the Fabians, espoused a form of socialism in which alternatives to Marx, Owen and Chartism were provided. The Fabian formula, unlike that of the Utilitarians and Bentham, was "the greatest efficiency of the greatest number."<sup>270</sup> Webb and the Fabians argued that throughout the entire record of human progress one main economic characteristic appeared to underlay every form of society. As soon as production was sufficiently advanced to furnish more than maintenance, there arose a struggle for the sur-

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<sup>270</sup> M. Beer, A History of British Socialism (London: George Allen and Unwin, 1953), p.276.

plus product. The individuals or classes who possessed social power have, at all times, both intentionally and unintentionally, made use of that power for the purpose of appropriating the surplus product and leaving to the great majority of their fellows practically nothing beyond the means of subsistence according to the current local standard.<sup>271</sup> Called by the Fabians the "law of rent," this differential advantageousness formed the economic foment of each and every consciously and unconsciously succeeding generation. The Fabians believed that under unrestricted private ownership and free competition, the "have-nots" would perpetually be placed at and maintained in a state of disadvantage; while the advantages enjoyed by the successful capitalists were poorly distributed, those advantages did exist as a consequence of the effects of collective social effort. Thus, said the Fabians, all who were contributing to or rendering services to society--no matter how much or how little, or what variety of service was at hand--should be guaranteed a minimum of civilized existence.<sup>272</sup>

Neither the original Fabians nor their contemporary followers argue for absolute equality in the distribution of social goods. Rather, in their view, a just social policy ...affords each worker a minimum of bodily and mental existence, corresponding to the existing level of civilization,

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<sup>271</sup> Ibid., p.281.

<sup>272</sup> Ibid., p.282.

in order to keep him in efficiency and to render him capable of rising in the scale of social life and earning a rent of ability.<sup>273</sup> This view of the necessity of welfare--and the right of all to welfare--stresses both unequal distribution of "rents" or affluence as a consequence of a specific market system and affirms the rightness of providing for the maintenance of all members of a society. The Fabian viewpoint would later serve as the basis for British Labor ideology and policies, which will be discussed below.

A somewhat similar view was offered by R.H. Tawney, who also characterized all industrial and capitalist societies as acquisitive societies in which the few tend to acquire the most at the expense of the majority. Tawney argued forcefully that an industry "as a whole has rights and duties toward the community, the abrogation of which involves privilege."<sup>274</sup> Workers, and those dislocated by market forces, have a right to expect maintenance from the very institution (either industry or the state) responsible for their condition. The problem of right, says Tawney, is most acute among those members of the working classes whose material misery is least. In other words, the more affluent and the state which provides for their affluence are obligated to alleviate the misery of those who are less well-situated.

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<sup>273</sup> Ibid., p.283.

<sup>274</sup> R.H. Tawney, The Acquisitive Society (New York: Harcourt, Brace and Company, 1920), p.6.

Tawney's argument in favor of welfare for the poor rests upon the assumption that poverty is seldom a choice and more often than not an artifact of industrial growth as well as of the acquisitive tendencies of those who control production. For industry to continue, and for progress to occur, attention must be given to those who fall outside the economic and social mainstream, whose rights to maintenance are not superseded by the rights of industry and its owners to acquire more and more power and wealth.<sup>275</sup>

Thus, some of the dominant voices in the later years of the 19th and early years of the 20th century which spoke out on the question of how, in an increasingly industrialized and capitalistic society, the rights of the poor should be protected and how their welfare should be provided for asserted an obligation on the part of the state and the market to these individual members of society.

#### Arguments Against Welfare: The Nay-Sayers

While the socialist Fabians and others, as noted above, spoke in favor of welfare assistance to the poor in the early years of this century, others took a somewhat different view. Frederick Hayek, for example, was alarmed at the implications of the New Deal and the increased role of the Western capitalist governments in shaping the market. He believed, as did others of a conservative orientation, that

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<sup>275</sup> Ibid., pp.123-145.

the "interference" of government in the open, *laissez-faire* economy would result in a slowing of free market growth. For example, by creating programs designed to employ the poor the government could easily take away from the market its own impetus for growth. He argued that governmental economic planning of this ilk--and that which had taken place in England, France, and Sweden--tended to fail in achieving its objectives and goals, thereby allowing the worst to emerge in positions of power.<sup>276</sup> In The Road to Serfdom, Hayek took the position that governmental economic planning (including socialist efforts to plan for more equitable distribution of the benefits of production) was almost invariably detrimental to society in the collective sense and to its individual members. Hayek's support for the free market system included a recognition that while it would usually have a negative impact upon some segments of society, the market still allowed ample opportunity for those groups to improve their status.<sup>277</sup>

Other nay-sayers, such as Murray Rothbard, have argued that welfare assistance may well be the cruelest myth fostered by socialists and liberals. According to Rothbard and others of the new marketeers, the greatest victims of a

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<sup>276</sup> Richard Romano and Melvin Leiman, Views on Capitalism (New York: Glencoe Press, 1970), p.45.

<sup>277</sup> Frederick Hayek, The Road to Serfdom (Chicago: University of Chicago Press, 1944), pp.100-105.

welfare state are the poor; the ones conscripted to fight and die at literal slave wages in any so-called "war on poverty." Rothbard, a confirmed individualist and the antithesis of an institutionalist like Myrdal, believes that in the welfare state what is created is nothing less than a mechanism for ensuring that a readily available class of low-level menial workers will always exist. He believes, as did Hayek, that inflationary government spending programs in the area of social welfare are one of the causes of inter-generational poverty; further, through programs like urban renewal and income taxation, as well as taxation of corporations which forces them to seek cheaper and more competitive locations, the needs of the poor for gainful employment are denied.<sup>278</sup> Like Hayek and deJouvenal, Rothbard believes that when a market is allowed to operate freely it will find equilibrium and will provide for employment of most, if not all, potential workers. When government intervenes and creates entitlement programs that are used in lieu of income from work as subsistence, it creates a class of permanently poor with little or no motivation to overcome the inhibiting effects of dependency. Thus, while the right of each member of a society to assistance in times of crisis is not necessarily denied (or the obligation of the state in such instances to provide assistance), these theorists argue

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<sup>278</sup> Murray Rothbard, The Great Society: A Libertarian Critique (New York: Random House, 1967), pp.81-99.

against the perpetuation of a welfare state because they believe it inevitably damages the capability of the market to adjust to new demands and mandates, as well as the ability of workers to move in accordance with new trends in labor.

The British response to social problems has, to a large degree, been shaped by the theories of the Fabians and the Labor Party. The British concern with social issues in this century, particularly in light of its apparently dysfunctional national economic system, has resulted in the creation of a quasi-welfare state that has elements of the Swedish model but is not necessarily based upon a perception of the rights of individuals to such cradle-to-grave assistance.<sup>279</sup> The rise and endurance of the British welfare state, in which old age pensions and assistance to the un- and underemployed, coupled with national health insurance, are the key elements, can be attributed in part to the persistence of Labor Party leaders.

By 1943 it was clear that the War had brought about a period of social change or even social leveling. The Beveridge Report of 1943 outlined a program of national social insurance that embraced, at least in theory, all citizens. In actuality, it was to be useful for those in genuine need, with application according to needs-based criteria by which

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<sup>279</sup> David Butler and Donald Stokes, Political Change in Britain (London: Penguin, 1969), p.413.

a national minimum income was guaranteed to all. Since 1945, the program described by Beveridge and merely "welcomed" at the time has significantly expanded, to include a variety of entitlements based solely upon citizenship and residency, irrespective of market participation.

## CHAPTER SEVEN

## The Twentieth Century II

The Poor in 1995

While there seems to be a wide spread perception that welfare needs to be reformed, there appears to be much less agreement about exactly how this ought to be done. Most recently Congress reacted to the growing pressure from the country, in general, and a group of conservative Republicans, in particular, by taking action to address this issue more directly. They have done this in part by enacting the Family Support Act which seeks to move people into jobs by providing increased funding for education and training in the hope that this will effect the desired change. The program designated to accomplish this task is called Job Opportunities and Basic Skills (JOBS) in which most welfare recipients would be required to participate. Many states are only now beginning to implement fully these work-oriented programs, in fact about 23 percent of able-bodied welfare recipients without a child under age 3 are now participating in JOBS.<sup>280</sup>

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<sup>280</sup> Isabel V. Sawhill "Welfare Reform: An Analysis of the Issues" The Urban Institute Published on the Internet 1996

One of the cornerstones of President Clinton's campaign platform was to "end welfare as we know it," and to this end legislation embodying the details of his program was introduced in 1994 with the Work Responsibility Act. This act sought to more fully implement the idea that with better education and training people who had formally been welfare recipients would now be able to compete within the free market for jobs. The act set a time limit of two years for the welfare recipients to make the conversion from government support to work. In order to deal with the problem of finding adequate numbers of available private sector jobs the plan was to phase the two-year limit in gradually, starting with those born after 1971. This phase-in would have had three advantages: it would send the message of personal responsibility to the younger welfare recipients; it would give states time to expand their ability to provide the necessary training and work opportunities; and it would make budgetary costs more manageable.

The reasons this plan was not implemented are twofold: first, the shift of national focus from welfare to health care reform, and second, the Republican takeover of the welfare issue which usurped the Clinton administration's initiative. They accomplished this by introducing their own welfare reform bill in the 1994 Congress. This bill came to be known as the Personal Responsibility Act (PRA) which differed sharply from almost all earlier attempts at reform.

The PRA was enacted by the House in March 1995, and goes far beyond simple reform. This Act attempts to restructure the very nature of the welfare system. It does this by resorting to a series of block grants which will provide Moines to the states for cash assistance, child nutrition, child protection, and child care. It also contains fundamental reforms of the Food Stamp program, Supplemental Security Income (SSI) for low income disabled, and the major means tested programs serving legal immigrants. Its more narrowly defined "welfare" component not only turns the current Aid to Families with Dependent Children (AFDC) and JOBS programs into a block grant with flat funding for the next five years, the bill also contains several specific prohibitions which prevent federal funding for benefits to unwed minor mothers, to children born to mothers on welfare, and to those receiving welfare for more than five years. The goal is to save the Federal government about \$70 billion over the next five years.

The background assumptions of this conservative sponsored legislation are fourfold: First and foremost that states require greater levels of flexibility in order to develop more individually tailored programs which more closely fit the needs of local government and its people. Second, to encourage work. Third, to reduce out-of-wedlock births and the resulting destruction of the traditional family. Fourth, that, in fact, current welfare schemes have

done little or nothing to aid recipients in getting off and staying off welfare. One final and unstated agenda item aims at reducing any incentives for emigration to America.

The question to be answered then, it seems clear, is whether in fact this legislation can possibly fulfill its stated goals. If the predictions of at least some forecasters is correct this legislation will not only not achieve its goals, but will most likely prove a disaster for the states who must now bear the burden of financing these programs.<sup>281</sup>

It is not my primary task here to examine the myriad issues arising from this new legislation, primarily because my argument rises or falls on a justification of needs which seeks a wholly other ground than that covered by the following arguments. I do, however, want to at least provide a gloss of these arguments in order to bring the reader more fully up to date.

First, whether or not this legislation proves to be the motive force behind welfare recipients moving into the work force, the question is what will the cost be to the people trapped in the welfare system? Because the new legislation offers states so-called "block grants," which means that the states will have to provide all funding from fixed federal Moines, the two primary disincentives to work, lack of low

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<sup>281</sup> Paul Peterson "State Response to Welfare Reform: A Race to the Bottom? Washington, D.C. 1996 Published on the Internet

cost child care, and adequate insurance coverage, will be harder for the states to overcome. If the objective of block grants and capping programs is to reduce the budget deficit it does so by concentrating the burden of deficit reduction on those least able to pay.

If the Federal government is truly interested in providing for maximum flexibility to allow the states to experiment with various programs of welfare reform they did not need new legislation to accomplish this. Under previous legislation the states had the ability to request exemption from pre-existing legislative mandates in order to develop their own welfare programs, and in fact several states have done just that.<sup>282</sup> The problem with the block granting program is that because it utilizes a capping function for the Moines given to the states experimentation is unlikely because of fear of potentially costly mistakes, and there exists no mechanism by which states can share information as

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<sup>282</sup> Lawrence M. Mead, "The New Paternalism in Action: Welfare Reform in Wisconsin," Wisconsin Policy Research Institute, Jan. 95, pp. 7-11 (for example, the state of Wisconsin has been able to cut its total caseload over 23 percent since 1987. While some of this reduction was no doubt due to an overall 6 percent benefit cut in 1987 combined with a more favorable economy than the nation, the state was able to cut its caseload by 3 percent even during 1989-93 when the rest of the country was experiencing an average 29 percent increase. Wisconsin did this even though it pays the twelfth-highest welfare benefits in the nation. The single most important component of this program is its insistence that all able bodied working aged welfare recipients are enrolled in JOBS. The most effective Wisconsin county programs insist that clients participate and take available jobs, and they invoke these requirements as soon as recipients enter the welfare system.)

regards what works and what does not. Of even greater concern is that by providing states with a fixed amount of money from which all specific costs must be covered, the most likely effect will be for those states who currently offer more generous welfare payments to begin to drive down these payments. They will be forced to do this because people living under other, less liberal systems, will most naturally seek more generous programs. The possibly resulting phenomenon known as the "race to the bottom" would generate a tightening of eligibility standards, and a general reduction of necessary benefits across the board.

The issue of out-of-wedlock births is more directly connected to social reform than it is to any welfare reform. The actual reduction of teenage childbearing is likely to require more than manipulating welfare program participation rules. The key behaviors underlying current trends in teenage childbearing are sexual activity, contraceptive use, and pregnancy resolution (marriage, adoption, abortion, or out-of-wedlock birth.) According to one welfare reform brief offered in 1995 there appears little evidence that welfare benefits affect out-of-wedlock childbearing.<sup>283</sup> However, to the extent they do, it is more likely that they affect pregnancy resolution than sexual activity or the use of contraception. Thus, denial of benefits may have the perverse

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<sup>283</sup> Gregory Acs, "Does Welfare Increase Out-of-Wedlock Childbearing?" Welfare Reform Brief Number 10, Urban Institute, May 1995

consequence of increasing abortions and unintended marriages. If legislators really want to deal with the problem of teenage childbearing it would seem more efficacious to develop policies and programs that are targeted directly to the behaviors that lead to teenage pregnancies—sexual activity and contraceptive use.

In brief, it seems clear that the new Federal legislation which seeks to curtail costs has, in fact, added a crushing additional burden on the poorest part of the population. Under existing legislation the poorest 20 percent of the population receives about 4 percent of all of the income in the United States. Any deficit reduction package that asks them to pay more than 4 percent of the total burden is unfair. Yet chances are, under the new legislation, they will end up paying far more than this. Deficit reduction is a worthy goal, but numerous other benefit programs (e.g., tax subsidies and entitlement programs) could be reduced or eliminated before low-income programs were cut. As it is, safety-net programs are being restructured in ways that not only yield federal savings but also promise less state effort as well.

### The Conservative Revolt

What has brought on the above described movement away from the previously established position of liberal welfare benefit levels, for the most part, has been the developing

repositioning and general ascendancy of conservative thinking within the United States. In fact, the latter half of the Twentieth Century has witnessed the evolution of loosely knit group of conservative and radical thinkers who identify themselves as new right libertarian ideologists<sup>284</sup>. They have been very successful in launching a rather a sustained and intellectually compelling challenge to the very idea of a welfare state.

This group is defined by the position they hold regarding the proper role of government and personal autonomy. They attack what they perceive as the excesses of "big" government and, by implication, big government's defining feature: the welfare state. The attack is two pronged: in the first instance they want to reduce individuals' dependence upon government to assume responsibility for supplying missing material needs, this prong I identify as pragmatic; the second prong deals with a more theoretical justification for the first in that it attempts to ground ideas of personal

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<sup>284</sup> While I recognize I am not doing full justice to the complexity of shading and diversity of thinking represented by the group I identify as new right libertarians, and that some new right thinkers do not even consider themselves libertarians at all, still I think in fairness I am correct in grouping them in this way for two reasons. First, my only point in placing them all in a single heading is to highlight what appears central to their position and therefore allows me to escape a rather more protracted discussion related to varying degree of difference which has no direct bearing on my arguments. Second, the thrust of my argument is focused broadly enough to allow for later elaboration of and, argument about, the practical policy implications of my position.

freedom and autonomy within a metaphysical system of social philosophy.

We see the effects of the first, pragmatic, prong of the attack in the reports of new laws emerging from the US Congress and the radical changes occurring in First World European countries regarding their continued willingness to assume the financial burden for a "cradle-to-grave" welfare policy.

The second prong is more theoretical and, while related to the first, is nonetheless independent in nature. This incursion against the defenders of the welfare state is grounded in a fully elaborated set of metaphysical assumptions about the nature of man and his place in the natural world. The metaphysical vision of mankind constructed by new right libertarians places him in the context of an individual and spontaneous social reality wherein any aggregate of voluntary transactions always or usually works to the benefit of the social group. They reject the ideal of a rational and principled system of exchange where order is created and maintained by the power of the state for the good of society.

#### The Libertarian Position:

What holds all or most libertarians together is the ontological premise which grounds their basic assumption of the construction of social reality; namely the priority of

the individual and spontaneous self. That is, all theoretical formulations that deal with the distribution of resources must take account of real individuals in unique, social, economic, and ethical interactions. Libertarian's argue that freely chosen individual activity accidentally maximizes the quality of civil society. They further contend that market liberals, who hold that deliberate and rationalistic state interventions within free markets will tend to increase social well being, are mistaken. Individual rights, which include privacy and autonomy, preserve the uniqueness of persons within society, and any statist intervention creates a system whereby individuals get used as means to another's (usually some state agency's, or collective association's) end.

#### First Prong of the Attack: The Pragmatics of the New Right

In describing and characterizing the "new poor" in the final years of the current century, efforts have been made to identify both economic and social causes linked to or responsible for poverty, particularly the phenomenon of inter-generational poverty. Barbara Ehrenreich has pointed out that efforts, particularly by those on the political "New Right," have been undertaken to ascribe poverty to individual, familial, ethnic, or racial "failings" or "inadequacies" and to attribute dependency to a lack of motivation rather than a lack of opportunity, education, or

proper preparation for meaningful participation in the work force.<sup>285</sup> Critics of the "Great Society," the "New Frontier," and, of course, the continuation and expansion of the "New Deal" social service assistance and funding initiatives that have come, over time, to be regarded not as crisis intervention but rather as "entitlements," have argued forcefully for dramatic changes in the modern American welfare state approach to poverty. The populist New Right contends that social welfare of the type and extent now made available in the United States is a direct consequence of a society-wide "moral breakdown" in which the fundamental values of the Republic are being ignored.<sup>286</sup>

Right-wing essayist R. Emmett Tyrrell, Jr., described the current American social welfare state as spreading a "chloroform of egalitarianism" that was "corrupting" traditional American values of "self-reliance, personal liberty, and competence."<sup>287</sup> In his view, which may be understood as typical of members of the New Right who are critical of current social welfare policy and programming, the very existence of extensive social welfare programs has been responsible for turning formerly "toiling" Americans into little more than "parasites" who become, over time, the

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<sup>285</sup> Ibid., pp. 164 -165.

<sup>286</sup> Ibid., p. 165.

<sup>287</sup> R. Emmett Tyrrell, Jr., The Liberal Crack-Up (New York: Simon and Schuster, 1984), p. 36.

nucleus of a new class of the perpetually and endemically poor.<sup>288</sup>

This view tends to posit the existence (and the maintenance through social welfare programs) of a large class of citizens who are willfully dependent upon the largesse of the electorate. Ehrenreich summarizes the social welfare positions of both the liberal left and the new right trenchantly: according to the ideology of the left, the poor are "innocents awaiting opportunities for citizenry involvement" who only need the programs and supportive services of the social welfare state to move out of poverty and into independence; conversely, the new right argues that the poor are not in any sense conscious participants in history who have merely been "conditioned" by social welfare to permanent, immovable dependence.<sup>289</sup>

#### Beliefs About Chiselers

Daniel Bell has argued that the end result of the American social welfare system in all its manifestations, including both Aid to Families with Dependent Children, Medicaid, and even Social Security, was to create a cultural ambiance in which American capitalism lost its traditional

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<sup>288</sup> Ibid., pp. 87 -88.

<sup>289</sup> Fred Block, et al, op. cit., p. 177.

legitimacy.<sup>290</sup> That legitimacy, he contends, was based upon a moral system of reward rooted in the Protestant sanctification of work; in place of this traditional ethic, modern capitalism has substituted a hedonism which promises every citizen material ease and even luxury, regardless of their ability or willingness to participate in a work ethic. Thus, Bell argues that the very existence of a social welfare system in all but the most dire cases or situations is in and of itself a threat to the fundamental morality of the country. By allowing such a system to develop and to become entrenched, government must share in the blame for its perpetuation. Bell and others would argue that 'it is the social welfare system itself that creates both the incentive and the opportunity for "cheating" or "chiseling," or participating in a deliberate decision to abandon one's own moral, ethical, and social responsibility to be self-sufficient in favor of prolonged dependency upon the public dole.<sup>291</sup>

Piven and Cloward have attempted to debunk the mythical portrait of the "typical" assistance recipient as the "welfare queen" ensconced in a Cadillac, willfully and illegally drawing several monthly stipends from various subsidy programs and spending the bulk of the funds on alcohol, drugs, and fancy clothing. This stereotypical image, so dear to the

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<sup>290</sup> Daniel Bell, The Cultural Contradictions of Capitalism (New York: Dell, 1976), p. 84.

<sup>291</sup> Ibid., pp. 98 -100.

pundits of the New Right, hardly begins to describe the population of welfare recipients in this country, who are as likely to be families with two parents, working-class men and women, disabled individuals, and dependent children. Further, most welfare recipients spend less than two years "on the dole," thus further defeating the notion that a core and "permanent" group of individuals exists and is given stability by public assistance.<sup>292</sup>

From this point of view, the specter of the welfare chiseler falls into more appropriate perspective. As Cloward and Piven agree, if the availability of welfare benefits reduces work efforts among recipients who have no legitimate reason for failing to work, produces marital dissolution, encourages permissiveness, fosters life-long dependency, facilitates the spread of illegitimacy, or otherwise subverts the primary purpose of assistance programs, then ipso facto the programs are to be condemned.<sup>293</sup> Programs that achieve nothing more than these negative outcomes only worsen and perpetuate the condition of the poor. What is missing from the New Right's construction of social welfare programs is a recognition that many welfare recipients simply do not choose to be poor, or to remain in dependency, but are forced to dependency by the market itself.

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<sup>292</sup> Richard A. Cloward and Frances Fox Piven, "The Contemporary Relief Debate," in Fred Block, et. al., op. cit., pp.90-92.

<sup>293</sup> Ibid., p. 92.

If we allow the notion that it is the market that creates economic dislocations, causing in turn certain groups to be employed or to fail to be employed, and we admit that the market is as much the creation of the state (and dependent upon the state for its security and stability) as it is the dominant force stabilizing and securing the state itself, then it is to the market, as much as the state, that we must look for an explanation of where the rights of the citizen to protection and assistance are centered. Welfare state programs, quite simply, protect the people from the vagaries of the free market and the power of particular employers by providing for an income that is not dependent or conditional on market performance.<sup>294</sup> There is, therefore, a natural tension between the welfare state and the market. Both the left and the right have failed to examine the effects of this tension or to develop strategies that reduce it. Thus, the image of the "welfare chiseler" or welfare queen" remain firmly in place.

#### The Second Prong: The Theoretical Foundation

Interestingly, both of the above stated views about the poor are essentially paternalistic and rest upon the assumption that the poor constitute a constant, self-reproducing sub-population or "underclass" that may be largely unamenable to change. Most who either oppose or support

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<sup>294</sup> Ibid., p. 97.

social welfare programs do so on moral grounds, arguing for or against extension of assistance to some group based on an ideological understanding of what constitutes appropriate morality with respect to care for the less fortunate.<sup>295</sup> Earlier in this dissertation the Christian impetus toward charity and almsgiving was discussed in light of a religious and ethical orientation requiring this behavior as part of a larger religious commitment; further, discussion of natural rights theory also provided another rationale for social welfare grounded in the inherent "right" of the individual to receive assistance from the more fortunate in times of crisis or need as a simple and direct consequence of shared humanity. Currently the debate draws upon rationales which either support or oppose curtailment of "entitlements" to the poor, but it fails to cut to the true heart of the matter. The debate between the so-called 'new right' and the traditional market liberals has its underpinnings within philosophical arguments which deal with individual freedom and the right of property ownership, and no critique of the welfare state would be complete without specific reference to these principles. For example, Norman P. Barry argues that while libertarianism in fact offers a complete theory of economic exchange within free markets, he wants to offer a more comprehensive social philosophy grounded in moral theory. He points out that "The admission that a complete

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<sup>295</sup> Ibid., p. 182.

social and political philosophy demands a special account of man and an appropriate ethical framework highlights one of the difficulties of libertarianism.<sup>296</sup> Barry grounds his project in two primary assumptions: (a) at most one has a negative right to freedom (that is, to be left alone in one's pursuit of happiness), and (b) the only legitimate role of government is to preserve free and open access to the market place wherein individuals are able to negotiate contracts based on purchasers needs and sellers willingness to trade. This concept of freedom is constructed so as to highlight and support the development of and justification for individual property rights.

This idea of property rights is grounded in Locke's argument regarding the relationship between the individual and property. Barry incorporates this idea as the capstone of his free market ethics. Individual freedom, under this analysis, is taken to mean, amongst other things, the freedom to own and transfer all property, especially oneself. Beyond this, most libertarian capitalists would argue, government oversteps its legitimate function and intrudes within the process of the free market, to the detriment of all society. The implication here, of course, is that all arguments which support a positive right to protection from economic harm through welfare are, by definition, unethical.

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<sup>296</sup> Norman P. Barry, On Classical Liberalism and Libertarianism (New York, St. Martin's Press) 1987 p.2

A consequence of this doctrine of individualism is the view of man as a self-sufficient individual who voluntarily enters into relationships with others in an attempt to further his own ends exclusively. This means any ethical system which contains egalitarian principles for the distribution of goods is contrary to the intent of libertarian doctrine. The preferred system of exchange would allow for spontaneous and ever changing modes of interaction without the 'artificial' constraints of a rigid and 'preferred' system which determines human interactions in advance of actual experience. In this libertarian system individual maximizers apply different and changeable modes of relatedness which become social norms according to the laws of natural selection. Libertarians assert this process will develop the best and most efficient modes of social interaction within the temporal flow of the marketplace.

Libertarians appear to accept, as a general feature of their position, that the twin concepts of production and distribution are not separate entities as traditional liberals (collectivists) appear to hold. Whether libertarians are economic consequentialists or property rights theorists they hold that economic output is not a given which can be distributed according to different principles from those which explain its production. Wage labor, for the libertarian, is merely a payment to secure participation in the productive process. Accordingly, any argument which seeks to justify

the redistribution of incomes away from those who create production is proof of the immoral seizure of legitimately acquired property. The core of the libertarian critique of centralist policies is that they all suppose social goods to be un-owned and therefore available for use by society. The libertarian argument is that there are only individual and existing people who use one another for their own benefit; as individuals benefit so does the aggregate.

Libertarians hold that the marketplace, far from being a battleground, is a harmonious and peaceful system of interactions governed by the laws of nature. Because state interventions are centrally planned and rational in intent they tend to eliminate the expectation of individual preferences ever being fulfilled. This elimination obstructs the natural spontaneity of mutual exchanges as a result of which values are advanced.

In general, libertarians accept man's essential shortsightedness and his preference for maximizing self-interest over the interests of others, and that this requires some limit setting. The rules which are created by society to structure appropriate conduct are constructed to regulate and protect rights and methods of exchange, but, they argue, in no case is the state to be thought of as the sole or even best source of the law.

Because most strands of Western morality are egalitarian and oblige self-restraint in both public and private

conduct libertarians have been thought to be defenders of an irrational and immoral system. Because of this assumption Barry argues that libertarians must establish a logical link between commerce and virtue. He points out that libertarians recognize the rule of law as a limit to autonomy, however, both law and morality must be themselves limited to the enforcement of, and guarantee for, equal access to the opportunities offered by free markets, consistent with individual interests. It follows that libertarians reject any commitment to egalitarianism, especially when imposed as a socially mandated obligation. Egalitarianism is a problem because it imposes compulsory market patterns, viewed as destructive to spontaneous exchanges among individual maximizers.

Despite their rejection of egalitarianism, libertarians acknowledge that their are rights. They view the foundation of rights in various ways. Nozick offers one such version when he tries to construct a moral libertarianism out of a Kantian deontology in which "moral philosophy sets the background for, and boundaries of political philosophy."<sup>297</sup> According to Nozick nature does not always offer an unambiguous individualistic credo, rather he suggests that rights operate as side-constraints on action which limit what one

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<sup>297</sup> Robert Nozick, Anarchy, State, Utopia Boston, MA., Cambridge University Press, 1971, p.6

person may do to another irrespective of one's theory of human nature.

There are differences in how libertarians view the role of "nature" and "reason" in human and social affairs; these opposing schools of thought fall into several groups: rationalist and anti-rationalist, consequentialist libertarians, and a group which retains the full blooded idea of natural rights. Rationalistic libertarians assert that reason can be used as an instrument for the construction of large scale social theories by deriving their social doctrine from abstract conceptions of natural law and natural rights. On the other hand, anti-rationalists hold that experience is a better guide to political practice than a priori speculation.

In opposition to the above position, consequentialist libertarians argue that there are regularities in the social world which can have the label of 'natural' attached because they are not the product of a deliberate design or intention. Although there remains some disagreement as to how these may be known and understood, there is agreement that any 'libertarian' science of society must accept the existence of certain kinds of natural laws of causality in the social order under scrutiny. The natural order of, for example, economic interactions is not analogous to the natural order of the physical world, because it is the outcome of intentions, purposes and actions of individuals whose behav-

ior cannot be predicted in a mechanical fashion, but it does display some kind of natural order and can therefore claim the name natural.

One problem with this approach is that since the concept of natural order is so sparse it cannot do much moral work. That is to say, at best, libertarians of this school can argue only that the outcomes of such 'natural' interactions are likely to be benign. In this tradition the instrumental value of liberty, as it relates to efficiency, supersede the defense of the correctness of the principle in social policy.

Barry's attempt at constructing a moral philosophy of libertarianism begins with Hume and the writers of this tradition who have sought to subordinate the place of reason in social policy to its merely calculative capacity. Reason is properly used here to match means to subjectively arrived at ends and to aiding the understanding of corrective mechanisms offered by nature. There can be no absolute human values in this world view.

Natural law libertarians, (side constraint theorists), differ greatly from the subjectivists in that the former presuppose an objective essence of man that can be determined by reason. Reason then offers moral knowledge which justifies and grounds those institutions and policies that define a free society. The central issue for natural law libertarians is that reason does not simply tell us which

naturally occurring mechanism to choose, it also tells us something about what we ought to be looking for within the alternative mechanisms that show it to be best.

An example of this problem was first raised by Manderville in his Fable of the Bees wherein he proposed the dichotomy between commerce and virtue. Manderville maintained that the traditional axioms of morality were incompatible with those natural impulses of egoism and vice which promoted commercial well-being. Hence traditional vices, such as the desire for profit were entirely beneficial in a consequentialist sense because they have the tendency to maximize social benefit. One attempted solution to this problem is offered by Ayn Rand, she makes egoism a virtue. In this conception the gap between virtue and commerce is bridged by a naturalistic ethics which rejects in its entirety the dominant tradition of western morality; that is, the tradition that defines moral conduct in terms of the suppression of natural selfish impulses in the interest of abstractions like society and humanity.

While natural law libertarians are few they offer a legitimate alternative to the problem of any consequentialist system for generating social policy; namely the general failure of utilitarianism to offer a comprehensive liberal social policy which accepts the ontological priority of the individual.

One problem with jettisoning utilitarian libertarianism is that natural law theory has equally great difficulty in developing a moral system consistent with a libertarian doctrine. In fact most historical natural law theories have been collectivist rather than libertarian in nature. Finally, there is serious concern that natural law libertarianism, because it claims to be reading the facts of nature, may be participating in an is ought confusion.

Barry identifies Bentham with traditional liberals but not as a libertarian. Barry insists rather that Bentham should be seen as demanding a constructed or rationalist system of marketplace interactions:

Thus Bentham is often credited with the libertarian label because of his eloquently stated belief that an untrammelled economic market would spontaneously generate social utility, even though his general view of man and society indicated that social order was the product of design and artifice rather than a benign nature.

Barry connects his concern for the correct understanding of Bentham to the more general question of how one ought to properly understand the entire project of utilitarian justification of traditional liberalism. According to Barry, Benthamite utilitarianism presupposes an objective social good derived from the preferences of individuals, which can be directly known and promoted via statute. Bentham's position can be understood as monolithic to the extent that other values, like those of justice, liberty, and individual

rights, are seen as means to the end of happiness. There is some acceptance of needs within this system, however, that is at the level of individual preferences. Once individual choices are summed the "aggregate of pleasures" becomes the primary unit of legislation. This collectivism leads to the charge made by Nozick that traditional utilitarianism's emphasis of aggregate utility ignores individual identity.

While every position, including the libertarian, maintains that the very structure of the market generated within the incentives provided by the institutions of the private property system always produce, accidentally, greater benefit of outcomes than any alternative system, still these libertarian consequentialists would argue that the measure of individual utilities is wrong. They reject the idea that one can establish a cardinal measure of utility. Libertarians would also argue that Benthamite utilitarianism does not depend very much on experience, in fact the economist Hayek specifically rejects classical utilitarianism because it is impossible for a centralized administrator to possess that knowledge which the Benthamite planners of happiness require since that knowledge is dispersed throughout a community <sup>298</sup>.

Benthamites assume the twin rationalist postulates that utility can be measured and that interpersonal utility is comparable at some general level. These assumptions lead to

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<sup>298</sup> F. A. von Hayek, The Constitution of Liberty. London: Routledge and Kegan Paul, 1960 (See especially Ch. 2)

the further assumption that problems associated with the free market, like poverty, unemployment, and welfare can be alleviated by deliberate, planned measures. One consequence of this general position is that if a market can be shown to fail the "maximization of happiness" test, then there is no reason to oppose rationalist and centralized interventions of the supposedly benign and omniscient government. Some libertarians argue that the virtues of any market cannot be demonstrated by reason. According to these "consequentialists" market values emerge, or should be allowed to emerge, under the natural pressure of unregulated social processes are left unrestricted by reasoned and essentially centralist interventions.

Most libertarians view themselves as consequentialists, but of a different stripe than those normally associated with traditional liberalism because they want to develop a system of liberty from an anti-rationalist theory of nature. According to Hayek<sup>299</sup> Bernard Mandeville's Fable of the Bees<sup>300</sup> contains two central ideas to the formation of liberal thought: the spontaneous formation of order, and the evolution of rules and institutions in an unplanned manner.

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<sup>299</sup> F.A. von Hayek, New Studies in Philosophy, Politics, Economics and the History of Ideas London: Routledge & Kegan Paul, 1978) pp. 249-66

<sup>300</sup> For a general introduction to the thought of Mandeville, see T. Horne, The Social and Political Thought of Bernard Mandeville London: Macmillan, 1978

While Mandeville argued this system of "unintended consequences"<sup>301</sup> is in opposition to virtue, Adam Smith argued that such mechanisms as are required to generate the 'system of natural liberty' are not themselves disruptive of a non-rationalistic moral order. Smith's point is that there is no dichotomy between virtue and commerce, as was claimed by Mandeville.

Even if we acknowledge that the only legitimate role for government is to provide for freedom of access to the marketplace Barry gives us enough to argue for the justification of a welfare right. This right must be acknowledged, by libertarians, when market forces interfere with an individual's ability to freely exchange his or her labor because of some market dislocation. It is precisely in this circumstance that by Barry's own argument the government has a duty to curtail unlimited freedom in order to assure freedom of access. What Barry does not discuss, but what is an obvious consequence of his argument, is that when marketplace dislocations interrupt free access, and as a consequence of that interruption of free access the individual is harmed, someone must be held responsible for compensation to that individual.

I will mention only briefly here that several arguments exist which take up the two points I have only hinted at

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<sup>301</sup> This concept is normally associated with Adam Smith, but Mandeville's Fable of the Bees predates Smith's The Wealth of Nations

above. Namely, what prompts society's concern over someone being denied free market access, and how one moves from an assignable harm against someone to a general social obligation to provide for those individuals harmed by marketplace dislocations. I will address both of these points in other sections of this chapter, and hopefully, tie the various threads together by its end. In order to show just how my argument works I want to begin with some more traditional positions which attempt to justify the welfare state and then offer my corrective of them. This corrective will also serve as the foundation of my own justification of a welfare right.

#### New Arguments for Welfare

John Rawls posits a concept of justice based upon two fundamental principles. The first principle is that each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all; second, he contends that inequalities are arbitrary unless it is reasonable to expect that they will work out for everyone's advantage, and provided the positions and offices to which they attach, or from which they may be gained, are open to all.<sup>302</sup> Justice, in his formulation, is a complex of three distinct ideas: lib-

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<sup>302</sup> John Rawls, A Theory of Justice (Cambridge: Harvard University Press, 1971), p. 60.

erty, equality, and reward for services contributing to the common good. What is crucial in his defense of a just social welfare concept is that these three ideas bear equal weight.

Rawls clearly recognizes that in a complex social system, inequality (in terms of power and prestige, wealth and poverty, etc.) is inevitable. Such systems create inequalities by their very nature and function, and while efforts to deinstitutionalize these inequalities are noble, it is more than probable that the inequalities created by society through its formal and informal contractual arrangements will continue to exist despite man's best effort to eradicate them. This, he would suggest, is not the problem at hand. Rather, the problem is that if we allow inequality to exist, we must have reason to believe that inequality itself will work for the advantage of the worst off individuals existing within that social order.<sup>303</sup> In the present case, the nature of the capitalist market as described above gives rise to these very inequalities; the support provided to the market by the state--or the locus of what Rousseau and Rawls would describe as the social contract--contains the tacit recognition that all parties in society have "engaged" in allowing the inequalities resulting from this market construction. This, in turn, necessitates, in justice, other efforts to render these inequalities beneficial to the worst off

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<sup>303</sup> John Rawls, *op. cit.*, p. 81.

namely, those who are prevented from participating equally within the free market.

The "principle of difference" identified by Rawls serves as the basis for his argument in favor of creating a market system in which basic institutions from the start put into the hands of citizens generally, and not a select few, the productive means to be fully cooperating members of society. Through the steady dispersal, over time, of capital, resources, and wealth (via the laws of inheritance and bequest), equality of opportunity and equitable education and training of all citizens, Rawls believes that inequalities created by the market and its centrifugal tendencies can be overcome.<sup>304</sup> Lacking a full realization of the principle of difference, however, the modern state, created and maintained by a social contract between all of its citizens regardless of their standing, perforce must rely upon a tax-funded welfare scheme in justice.

A second group of arguments in favor of social welfare have been offered which suggest that social welfare programs should be regarded in the light of insurance or compensation based upon actual or potential market distortions.<sup>305</sup> In this view, the market itself will create ever-changing

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<sup>304</sup> Thomas W. Pogge, Realizing Rawls (London: Cornell University Press, 1989), p. 215.

<sup>305</sup> Rex Martin, Rawls and Rights (Lawrence, KS.: University of Kansas Press, 1981), pp. 56-58.

groups of the unemployed, the under-employed, and the actually un-employable. Given that these citizens, who remain a critical element in this formulation as well as in that of Rawls, are not, for the most part, in and of themselves responsible for the dislocations by which they are affected, it follows that they must be understood as victims. Further, given that the market itself recognizes its potential for victimization of workers (though workmen's compensation laws, payments for job-related illness, injury, or death, and unemployment insurance due to a termination of employment for reasons other than just cause), it is a logical "next step" to position social welfare programs as an extension of the obligations of the market to that citizenry upon which it directly depends for its own existence.

Robert E. Goodin also supports the necessity of social welfare, but takes a substantially different approach. He argues that while we all acknowledge strong special responsibilities to those we know and love, or self-assumed obligations, we often experience difficulty in agreeing upon obligations to those not so intimately or directly connected to ourselves.<sup>306</sup> Goodin's position is that it is the vulnerability of the beneficiary and not any voluntary commitment on the part of the benefactor that generates these "special responsibilities." If we accept this premise as valid, then

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<sup>306</sup> Robert E. Goodin, "Vulnerabilities and responsibilities: An Ethical defense of the welfare state," The American Political Science Review, 1985, 79(3), p. 775.

the existence of a social welfare state or series of social welfare programs becomes understandable and justifiable in terms of the vulnerability of the beneficiaries of these programs. Goodin believes that members of a collective, or a society, often are made vulnerable by forces that they, as individuals, cannot control or shape; in the very formation of a collective, its members accept the necessity of ensuring the common good. As Goodin puts it, all collectives acquire certain responsibilities; making some duty or responsibility a collective rather than an individual one should remove any objection to the enforcement of that responsibility.<sup>307</sup>

Goodin's argument is that the *raison d'être* of the welfare state "clearly is to discharge in part the responsibility to protect vulnerable members of society."<sup>308</sup> For the most part, he sees vulnerability as a direct consequence of collectivist actions and policies, a line of reasoning in keeping with the thesis of this dissertation; namely, that societies enter into compacts involving all citizens in the economic market, and that by defining and supporting the market through state and government policy, a vulnerable segment of the population is thereby created. Because of this the state or the collective must accept a responsibil-

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<sup>307</sup> Ibid., p. 781.

<sup>308</sup> Ibid., p. 784.

ity for protecting those it has rendered or allowed to be rendered vulnerable.

Goodin states that when it is recognized that citizenship or membership in the collective confers rights, it is inevitable that the state assumes obligations to those with rights and who are the ultimate source of the state's legitimacy claims.<sup>309</sup> As he puts it,

The welfare state, defined as an institution which meets people's basic needs as a matter of right, is therefore a morally necessary adjunct to other more individualistic responses to the problems of vulnerability and dependency in our larger community.<sup>310</sup>

In each of the above arguments several common threads can be identified. First, each argument recognizes that in establishing itself as a legitimate entity, the state does so with the consent of its citizens. The state assumes obligations and responsibilities, while individuals also retain rights as well as obligations and responsibilities of their own (for their own well-being and with respect to their reciprocal duties to the state itself).<sup>311</sup> In addition, these

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<sup>309</sup> Ibid., p. 783.

<sup>310</sup> Ibid., pp. 785 -786.

<sup>311</sup> A further explication of this view is provided by Rodney Peffer, in "A Defense of Rights to Well-being," Philosophy and Public Affairs, 1978, 8(1), 65 -70. In this essay, Peffer states that all individuals within a society, regardless of their social, economic, or educational status, and

theorists take cognizance of the fact that the economic infrastructure of any collective plays a seminal role in defining "opportunity" for individuals and groups within that collective. Since this is the case, and since in the capitalist state the market and the government are inextricably associated with each other, a rational, just, and rights-centered justification of social welfare programming can be identified.

#### The Nay-Sayers: Nozick and the Libertarians

Robert Nozick takes a radically different approach to identifying the obligations of the state vis-à-vis social welfare programs, arguing that "within a state of nature" one might establish inter- and intra-group "protective associations" that would assume the responsibilities of social welfare or protection of the more vulnerable members of the association. <sup>312</sup> One could, of course, respond by

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without regard to special circumstances such as ethnicity, race, or geographic region, possess "social contract rights" that accrue to all individuals simply by virtue of their being members of a particular society at a particular time. He further argues, as does the author of this dissertation, that a just society is one in which these rights are respected and upheld; one such right is the right to economic subsistence, and by a simple and logical extension of his view and that of Goodin and others, if the market system supported by and supportive of the state (and, thereby, of the social contract) cannot meet the economic needs of all, it becomes the responsibility of the state to see that these needs are met.

<sup>312</sup> Robert Nozick, "From Anarchy, State and Utopia," in R. C. Soloman and M.C. Murphy, Ed., What is Justice (Oxford: Ox-

pointing out that in its most basic form, the state is a "protective association" into which its citizens freely or at least tacitly enter (or are entered into by virtue of birth) and from which they should therefore "expect" protection at times of vulnerability. Nozick and other libertarians argue for certain entitlements as a consequence of justice, but depart from Rawl's configuration of a distributive, "end-state" theory of justice. <sup>313</sup>

Nozick believes that social welfare mandated by an adherence to a distributive principle fails to take into account the reaction of the people against unpatterned principles of distribution. Justice, he would suggest, is linked to "inalienable natural rights," but not to distribution (of wealth, goods, services, income, opportunity) patterns that fail to take into account individual initiative, effort, achievement and accomplishment. <sup>314</sup> Nozick argues for a patterned distribution of property, goods, and other material benefits based upon individual worth, moral merit, usefulness to society, intelligence, or even need. At the same time, however, he conjures up the horror of government mandated "redistribution," arguing that the social welfare state, taken to its logical extreme, would not provide for basic human needs but would rather eliminate private owner-

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ford University Press, 1990), pp. 131-132.

<sup>313</sup> Ibid., p. 313.

<sup>314</sup> Ibid., p.319 -320.

ship and the "right" of the individual to enjoy the fruits of his labor.<sup>315</sup> The problem with Nozick's view, as expressed by Thomas Pogge, is that he offers reasons for conceiving of rights as side constraints in contrast to a concept of rights as goals which would urge agents to act so as to maximize the weighted sum of rights fulfillment overall.<sup>316</sup>

Antagonism toward a continuation, much less an extension, of the American social welfare system is again on the rise. Part of the responsibility for this situation is what Pogge has described--and others also agree to--as the perceived failure of many of the current social welfare programs to achieve an end to the "war on poverty."<sup>317</sup> Karger and Stoesz have pointed out that this "failure" is perhaps best understood as a failure on the part of government to construct fragmented programmatic approaches to "ending" poverty and "interrupting the poverty cycle" rather than to develop a viable welfare state in which the rights of the citizens, acquired by their participation in the social contract legitimizing the state, are recognized as inviola-

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<sup>315</sup> Thomas W. Pogge, *op. cit.*, p. 17.

<sup>316</sup> *Ibid.*, p. 18.

<sup>317</sup> *Ibid.*, p. 171.

ble.<sup>318</sup> What is needed now is the development of a rights-centered, morally adequate welfare system for this country in which the right to welfare is finally and firmly positioned within the larger legal and ethical construct of the social contract upon which the legitimacy of the state itself is formed.

### Toward Welfare Reform

The entire thrust of the above argument has been toward the development of an understanding of where the rights of individuals to public assistance and to protection during periods of vulnerability are located. As has been seen, Western society has moved inexorably from the concept of charity and alms giving as religious virtues which must be accepted and undertaken by the ethical man to a more formal and structured concept of necessity. The assertion which fuels the machinery of any "natural" rights based claim for assistance from individuals or the government, as I have shown, must connect in some logical manner to the ethical principle which requires that those who are harmed have some legitimate expectation of re-compensation. Various theorists have argued in favor of natural rights, claiming that it is by virtue of his humanity alone that man is entitled to protection, or, correspondingly, to offer protection to

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<sup>318</sup> Howard J. Karger and David Stoesz, "Welfare Reform: Maximum Feasible Exaggeration," Tikkun, 1990, 4(2), 26-27.

those less able to provide it for themselves. Other theorists have tended to concentrate upon the notion that once a social contract is established in which individuals create and legitimize a collective or a state, the nature of the contract itself confers rights upon its signatories as well as duties and obligations upon both parties to the agreement. Under both views of the right to assistance, the individual is more often than not vulnerable to forces beyond his or her control.

Some critics as well as supporters of the social welfare state have recognized that among the dominant factors influencing the capacity of the individual to achieve and sustain independence are such things as education, birth status, race and ethnicity, gender, family composition, and the larger, more compelling factor of opportunity. Opportunity is created or eliminated almost exclusively by economic market forces. The foregoing discussion has demonstrated that when major market dislocations have taken place, a new class of the poor has invariably been created; the industrial revolution, the advent of the microchip, and the assembly line are only three examples of these economic shifts which have significantly dislocated members of the working class and consequently created new sub-populations of the poor.

Every market system, regardless of its orientation, creates these dislocations. In the case of the United States

it has been demonstrated that the intricate linkage between the capitalist free market and the government is such that they are mutually interdependent. Thus, it becomes the responsibility of the government by virtue of both its social contract with its citizenry and its overt support of the negative market forces which serve as the source of those citizens' needs, to provide ameliorating services and assistance in times of crisis. Thus, the ethical grounding of the right of the individual to welfare assistance is within the provisions of the social contract between individual man and society.

This is not to suggest that all of the social welfare programs which have been created over the past forty odd years in this country should be exempt from careful scrutiny and reform. Karger and Stoesz have pointed out that legitimate welfare reform is mandatory.<sup>319</sup> What is missing in the current social welfare state is twofold: (1) a recognition of the economic realities caused by the economic system of this country and (2) the inclusion of a reciprocity component within the social welfare system which would ally welfare with productivity, thereby drawing social programs closer to the American economic system.

### In Conclusion

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<sup>319</sup> Ibid., p.119.

The above survey of society's involvement in the lives of individuals, to protect them from extreme harm and death, has demonstrated the beginnings of an organized social response to this problem. While this response began in the tradition of religious charity, the history of this social movement has shifted from its religious roots to become a formal, bureaucratic, state responsibility. The idea that an individual citizen has a right against someone for protection in this way is reflected in that shifting responsibility. However, the larger issue I have dealt with is whether or not one is able to ground such a right.

In general, one may argue, as some of the early political philosophers have, that such a right is to be found within the contract created with the origination of society. While one may realistically doubt that any event such as a general discussion about the conditions of this contract actually occurred, still one may assert that the expectation was, and for that matter still is, that every individual citizen has such a right or at least ought to have one.

I have taken up this two-fold argument (that one does, or ought to have such a right) by rehearsing arguments which ground the right within a more factual need, as well as those that attempt to justify the right based on some principle which demonstrates an ethical necessity for the creation or maintenance for such a right. The shift from a church dominated relief program to the creation of the wel-

fare state presupposes a recognized and accepted need, on the part of the state, for a program which exists outside the "alms giving" of charity. Because of this one may justifiably infer a necessity driven or rights based principle to be in operation.

Because charity denotes the voluntary offering of gifts, for whatever purpose and in whatever manner, the church deems as sufficient reason warranting redistribution, it follows that the underlying principle of charity is benefit. Since the nature of gift giving is voluntary and, because it is considered a supererogatory act, which can be withdrawn or reduced at any time one is not able, within this system, to even attempt to meet the real and legitimate needs of every citizen. It follows that when this historical shift occurred, from church based to governmental welfare, some thought must have been given to the basis by which redistribution would occur. In fact Grotius offered just such an argument in chapter 2 above. The beauty of his argument is that he grounds his "right of necessity" in the principle of private land holding, which it turns out is one of the foundation principles of Capitalism and a cornerstone of contemporary "new right," libertarians.

Grotius's argument is fundamental to any welfarist legitimization move simply because his is the first, and most important, attempt to construct rational principles upon which to base redistribution. He also provides the

foundation for the means by which government will provide the goods it uses to meet human needs. Although the details of this argument are found in chapter 2, the thrust of his agenda is to show that the "right of necessity" is grounded within private land ownership. In other words, it is only because one can own private property, and the goods which are thereby produced, that one must make these goods available to those citizens who are in extreme need. It is not a very large conceptual leap from Grotius to modern state taxation programs whose purpose, amongst other purposes, is the provision of goods to meet individual needs.

A survey of the empirically based arguments which seek to justify the right to welfare is needed in order to lay some groundwork for support of the concept of "necessity" which conveys to the state the duty to tax. The duty here is linked, logically, to necessity. This is so because since one of the legitimate functions of the state is to provide social goods, and these goods must be distributed on some principle (which ought to be just), the connection between necessity and needs must be provided for by society in general and not voluntary groups of individual citizens.

Charity, or alms giving, can no longer suffice to provide for the needs of citizens, simply because, by definition, gifts mandate no obligation on the part of the gift giver to continue to provide sufficient goods to meet material needs. Since the state has an obligation to collect

goods for redistribution, for various purposes and not only welfare, it follows that one of the state's duties must be to provide for the needs of citizens, at least in those cases where one is able to establish a connection between some harm produced by an activity of the state and a resulting need.

The final stage of my overall strategy has been to show that the activity of the state which produces harm, and, thereby a "right of necessity," is the establishment and maintenance of an orderly and functioning free market. While one may find other state functions which harm citizens at the very least (and even in the most benign capitalist states) free market dislocations produce harm sufficient to warrant a state duty to protect its citizens. While my argument is grounded within Goodin's: that someone who cannot negotiate the true value of his or her labor freely within the market, because of some imposed disadvantage, has a claim to be protected from extreme harm, I take it one step further. I generalize Goodin's claim right from one that obligates citizens to provide for others needs, to a right against the state to provide sufficient goods to protect this disadvantaged citizen from extreme harm.

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