

## EDWARD V. SPARER

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Edward V. Sparer was one of the most intellectually and socially generative people of our time. I was blessed to have known him for many years.

The starting point of Ed's work was a systematic, passionate concern for the poor, coupled with intellectual rigor and a vision to see where change was possible. His commitment to the most oppressed was grounded in his endless empathy with others and his conviction that the problems of poverty are solvable. He founded Mobilization for Youth, the first neighborhood legal services program in 1963 and the Columbia Center on Social Welfare Policy and Law, the first national support center for legal services work, in 1965. Within legal services, he chose to work with the people who are the most despised: welfare mothers. This work was not a product of youthful idealism or the fashion of the 1960's. Until his death he remained active in struggles for both welfare rights and legal services, and served as mentor and colleague to several generations of poverty lawyers.

In the early 1960's, Ed outlined a program of litigation, fact finding, and political activity that set the agenda for welfare rights advocacy for the next decade.<sup>1</sup> He taught and organized to broaden the circle of people working to address the problems he had identified. While he was the principal architect of the work that won the minimal judicial protection afforded to welfare recipients, he remained a perceptive critic of litigation as a tool of social reform.<sup>2</sup> He worked with others to influence legislative and administrative poverty policy, yet never stopped reevaluating the choices made, in light of growing experience and insight.<sup>3</sup>

Ed never believed that lawyers and law suits were to be the primary agents of social change. In part, this belief was based on the prag-

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<sup>1</sup> See Sparer, *The Role of the Welfare Client's Lawyer*, 12 UCLA L. REV. 361 (1965).

<sup>2</sup> See Sparer, *The Right to Welfare* in THE RIGHTS OF AMERICANS: WHAT THEY ARE—WHAT THEY SHOULD BE 65 (N. Dorsen ed. 1971).

<sup>3</sup> Sparer, *Welfare Reform: Which Way is Forward?*, 35 NAT'L LEGAL AID & DEFENDERS A. BRIEFCASE 110 (1978).

matic observation that social movement and transformation of consciousness are more important factors producing reform. Modification of legal doctrine affects social conditions in a profound way only when it is part of a larger change in social organization and consciousness. His limiting view of the appropriate role of lawyers was also grounded in his commitment to democracy and the understanding that lawyers, like all experts and professionals, have a dangerous capacity to disguise political choices as technical givens.

In the late 1960's, Ed's concern for poor people led him to address the dual track nature of our health system, in which less affluent people receive care that is different from, and inferior to, that provided to the more wealthy. He worked with others to improve the quality of services provided at Philadelphia General Hospital (PGH), Philadelphia's public hospital and the first public hospital in the United States. He struggled, unsuccessfully, to stop PGH from closing.<sup>4</sup> His work illuminates and rejects a framework that says that for poor people the choice is between inferior service and no service at all.<sup>5</sup> There is broad support among the American people for the principle that health care services should not be allocated solely on the basis of ability to pay.<sup>6</sup> That health care is, in fact, allocated on that basis poses a challenge to both democratic principles and egalitarian ideals.

Ed understood that social movement produces change, and that radical transformation arises from movements that address the needs of most people. His welfare rights work was shaped by the understanding that "poverty" is not simply a matter of nutritional adequacy, but is rather a social relation that demands an understanding of the disparities between the top and the bottom of the economic hierarchy, and of the pervasiveness of economic insecurity. Commitment to democracy and majoritarian values means that income redistribution cannot be achieved at the expense of the lower and middle classes. In the late 1960's this insight led him to shift the major focus of his work from the problems of welfare mothers, the most oppressed and insulated minority, to issues of health care delivery.

Ed quickly came to see that the "problem" in health care is not simply that the poor are excluded from an otherwise humane and dem-

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<sup>4</sup> See *Preston v. City of Philadelphia*, 26 Pa. Commw. 106, 362 A.2d 452 (1976).

<sup>5</sup> Sparer, *Is There a Need for Health Care Insurance for Unemployed Workers and Their Families in Pennsylvania?*, 2 HEALTH L. PROJECT LIBR. BULL. 1, 2 (1976).

<sup>6</sup> For example, in 1972, 69% of the American people surveyed in a Gallup Poll indicated that they were more likely to vote for a presidential candidate who supported national health insurance. G. GALLUP, *THE GALLUP POLL: PUBLIC OPINION 1972-1977*, at 53 (1977).

ocratically accountable service. His examination of decisionmaking and governance at the Hospital of the University of Pennsylvania is the most trenchant account ever written of the way an elite medical institution makes decisions, allocates resources, and determines the shape of medical care in a hospital and in a city. It is not a story of either democracy or health.<sup>7</sup>

While much of Ed's life was devoted to understanding the ways in which dominant social institutions divide and oppress people and fail to fulfill their own highest ideals, the work that most excited him were efforts to build cooperative institutions which both meet real human needs and demonstrate that people can work for mutual interests. Ed believed that, "*People break out of their accustomed ways of responding to domination by acting as if they would change things. Acting means struggling for and living in a different way, even if only experimentally.*"<sup>8</sup> As General Counsel to the National Welfare Rights Organization, Ed acted as a lawyer whose clients, the welfare mothers, could shape their own lives and organization.<sup>9</sup> Ed saw Operation Life, a multi-service health center owned and operated by the Las Vegas welfare rights organization as a model of people living and working in a different way.<sup>10</sup> He was an important leader of the political and organizational work that made Operation Life possible. In recent years much of his energy was devoted to efforts to create a "new institutional basis for social movement," rooted in developing non-alienating work opportunities, providing superior social and health services, decentralized and controlled by the people they serve, and uniting people across the divisive barriers created by the New Deal-Great Society social welfare programs.<sup>11</sup>

<sup>7</sup> E. SPARER, *MEDICAL SCHOOL ACCOUNTABILITY IN THE PUBLIC HOSPITAL: THE UNIVERSITY OF PENNSYLVANIA MEDICAL SCHOOL AND THE PHILADELPHIA GENERAL HOSPITAL* (1974).

<sup>8</sup> Sparer, *Fundamental Human Rights, Legal Entitlements and the Social Struggle: A Friendly Critique of the Critical Legal Studies Movement*, 36 STAN. L. REV. — (forthcoming 1984) (emphasis in original) (typewritten draft at 64) [hereinafter cited as *Fundamental Human Rights*].

<sup>9</sup> For a description of this work, see N. KOTZ & M.L. KOTZ, *A PASSION FOR EQUALITY: GEORGE WILEY AND THE MOVEMENT 207-08* (1977).

<sup>10</sup> For a description of Operation Life, see Anderson, *Can Welfare Mothers Do Community Economic Development?*, 13 CLEARINGHOUSE REV. 929 (1980).

<sup>11</sup> See *Fundamental Human Rights*, *supra* note 8, typewritten draft at 78; see also Sparer, *The Family Medical Centers of Philadelphia; What They Are, What Their Promise Is, and How the Citizens of Philadelphia Can Help*, 3 HEALTH L. PROJECT LIBR. BULL. (1978); Sparer, *The Case of the Sarah Allen Nursing Home; Personal Reactions, Speculations, and Proposals Concerning the Plight of the Aged in Philadelphia*, 4 HEALTH L. PROJECT LIBR. BULL. 343 (1979); Sparer, *Health Planning For—or Against—Innovative and Improved Maternity Care; The Case of the Closing of Obstetrical Services at Presbyterian Medical Center in Philadelphia*, 5 HEALTH L.

Ed saw healing as a human relation in which both individual integrity and connection depended upon honesty.<sup>12</sup> Few of us could meet the high standard that Ed set for truth and trust in human relationships. The notion that medicine has anything to do with human relationships, let alone relationships based on truth and trust, is rare in America today. In this, as in so much of his life, Ed was a visionary who saw a way of being and living that, once glimpsed, is so powerfully attractive that it feels wrong to settle for less.

If Ed had lived to be a hundred, his death would have been a tragedy. But his years were barely half that number, and for many reasons his death was acutely untimely. He died at the beginning of a fifteen month sabbatical. Through much of his life, his intense devotion to the causes in which he believed exacted a high cost on his relationship with his wife, Tanya, and his children, Ellen, Michael, and Carol. His family sustained him in his work and gave him joy and strength. Each of the Sparers is a strong, complex person. They had achieved a deep harmony with one another. Ed and all of them relished the freedom of the sabbatical.

His death was untimely because writing had always been exceedingly difficult for Ed. He saw human problems in their complexity, and was not content to distort by abstracting particular issues from their context. He cared about facts, and facts are always elusive and changing. He sought to speak and write in a personal voice, and the words did not come easy. He produced much more than he published.<sup>13</sup>

It is likely that, had he lived, these years would have been a time of great scholarly productivity for Ed and great benefit for all of us. In the last two years he published two major articles, and felt good about them.<sup>14</sup> For much of his life, he was constrained by the fear that his history in the Communist Party would become known and would damage his family and causes for which he struggled. His *Stanford Law Review* article, discussing his experience in the Party, tamed that particular dragon, and liberated him to integrate the insight of his radical past with the vision of his radical present.

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PROJECT LIBR. BULL. 291 (1980).

<sup>12</sup> A recent manifestation of this concern was the class action suit Ed initiated against University of Pennsylvania Hospital when they refused to allow him to undergo minor surgery without signing a general consent form purporting to give the hospital broad control over treatment decisions.

<sup>13</sup> Ed's major work, which exists in several unpublished drafts, began as an analysis of poverty called *The Right to Live* and subsequently became *Class Medicine*. [copy on file at the *University of Pennsylvania Law Review*].

<sup>14</sup> *Fundamental Human Rights*, *supra* note 8; Sparer, *Gordian Knots: The Situation of Health Care Advocacy for the Poor Today*, 15 CLEARINGHOUSE REV. 1 (1981).

At his death he was beginning work on an analysis of how a bureaucracy can connect rather than alienate people and thus serve human values. Generally, when a close friend summarizes the thesis of a proposed scholarly work, we can deduce much of what he will say from our knowledge of the problem and of his values and mind. The depth of Ed's perspective is such that, even though I knew both him and the problems he proposed to address, I have no idea where his insight would have led him.

Finally, his death was untimely because he was embarked on a quest that I believe would have enabled him to live, not forever of course, but longer and more fully. Everyone who knew Ed knew his absolutely singular capacity to feel another's pain. It fired his work for social justice, and it made him an extraordinary friend to so many of us. But Ed was also coming to understand that it was not good for him to allow so many things to tear him apart. He was beginning to plumb his own spirituality to find a path to retain compassion, without allowing it to destroy him. Death came too soon.