

# Michigan Law Review

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Volume 77 | Issue 3

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1979

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### Recommended Citation

Gerald N. Grob, *Doing Good and Getting Worse: The Dilemma of Social Policy*, 77 MICH. L. REV. 761 (1979).  
Available at: <https://repository.law.umich.edu/mlr/vol77/iss3/30>

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# DOING GOOD AND GETTING WORSE: THE DILEMMA OF SOCIAL POLICY

Gerald N. Grob\*†

DOING GOOD: THE LIMITS OF BENEVOLENCE. By Willard Gaylin, Ira Glasser, Steven Marcus, and David J. Rothman. New York: Pantheon Books. 1978. Pp. xv, 170. Paper, \$2.95.

## I

Since the Second World War historians and social scientists have become increasingly interested in the concept of "social policy." A vague term, social policy generally refers to actions taken by governments to deal with social and economic distress and other problems of modern society. More specifically, social policy has a variety of different but related goals: (1) to mitigate or abolish poverty; (2) to provide for groups unable to survive without some form of economic assistance; (3) to improve and humanize conditions of work; (4) to grapple with the sanitary and hygienic problems resulting from modern technology and urbanization; (5) to deal with the problem of crime; (6) to establish surrogate structures for functions once performed by the family, church, or local community.

The reasons for the contemporary fascination with social policy are not difficult to understand. Intrinsic issues aside, many human beings hold values that imply the possibility of a better or more ideal society, as contrasted with the imperfect conditions in which they live. It is not surprising, therefore, that interest in social policy issues should be on the rise; scholarly detachment and moral commitment have rarely been viewed as inherently antagonistic. Long-standing reformist and melioristic traditions within history and other social science disciplines have merely stimulated a kind of scholarship that aims as much to change the world as to understand its ways.

The publication of *Doing Good: The Limits of Benevolence* illustrates in a remarkably accurate manner many of the issues that are at the center of the debate over social policy.<sup>1</sup> The book

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† Some of the material used in this paper is drawn from research supported by a grant from the Public Health Service (HEW), National Library of Medicine, No. 2306.

1. The individual authors and chapters in *Doing Good* are as follows: Gaylin, *In The Beginning: Helpless and Dependent*; Marcus, *Their Brothers' Keepers: An Episode from*

originated when the New York Council for the Humanities brought together a group of humanists with a group of practitioners involved directly with social policy issues. Out of these symposia came this volume, which includes essays by four individuals who are from different backgrounds and disciplines, but who are all concerned with the problems of dependency and their alleviation—past, present, and future.

## II

At the center of the debate over social policy lies a series of basic and sometimes conflicting concerns. What is the obligation of the state toward various distressed groups, including (but not limited to) the aged, the infirm, the unemployed, the mentally ill, and the orphaned? Perhaps even more important, if the state has an obligation, what constitutes appropriate means? Are formal institutions that provide total care most desirable? Would a policy based upon the goal of integrating dependent persons into the community better meet existing needs? Or should the state merely provide dependent persons with a minimum cash stipend, thus permitting them to decide all issues affecting their personal well-being? Beneath such questions lies an equally pressing dilemma, namely, how to reconcile the power and authority of the state with the rights of dependent populations. That no consensus to such questions has emerged is evidenced by the animated and sometimes acrimonious debate both in the public arena and the courts over public power and public responsibility versus private and individual rights.

It is precisely to these issues that *Doing Good* addresses itself. The first essay by Willard Gaylin (a practicing psychoanalyst and psychiatrist, author of some eight books, and co-founder and president of the Institute of Society, Ethics, and the Life Sciences) deals with the very concept of dependency. Unlike many contemporary critics who see the roots of dependency in a cruel and unjust social system, Gaylin employs a biological model of the caring parent and helpless infant to illuminate this term. Many animals are capable of participating in the struggle for survival either at birth or shortly thereafter. Newborn infants, on the other hand, require an extraordinary amount of care if they are to survive. Indeed, infants need not only food but “the give

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*English History*; Rothman, *The State as Parent: Social Policy in the Progressive Era*; and Glasser, *Prisoners of Benevolence: Power versus Liberty in the Welfare State*.

and take of talk and touch, of feeding and fondling, of loving and caring" if they are to develop into mature adults capable of assuming a comparable role with their own offspring. To be helpless is a natural phenomenon that is rooted in the biological experience of the human race and only becomes a liability when unaccompanied by love. Parentalism and caring, then, are vital for the survival of the human species.

Gaylin, however, is too sophisticated and sensitive a thinker to extend a biological paradigm without introducing fine distinctions. Conceding that dependency is intended to be outgrown, he also observes that there are various stages in the life cycle when individuals will be reduced to states of dependency in that they require the aid and assistance of others. Moreover, there are those who, for one reason or another, will never reach independence. In his eyes, therefore, it is crucial to distinguish between the intrinsically dependent and the extrinsically dependent. The first group includes physically, mentally, or emotionally handicapped persons unable to care for themselves, while the second is composed of persons who are made dependent by the culture in which they live. The latter have the capacity to be independent, but because of social or economic disabilities remain in a dependent position. This group is made up of the poor, part of the aged, and women constricted by cultural barriers, to mention only a few.

At this point Gaylin insists that the concept of dependency should not be applied to the extrinsically dependent. The solution to the problems of the extrinsically dependent is to change the category, and then find an appropriate means to create an adult role. A change in the condition of this group, in other words, depends upon economic and political solutions. The intrinsically dependent, by way of contrast, require parental compassion, partly because of a moral obligation that we owe to such persons and partly because we ourselves might one day join a dependent constituency (*e.g.*, the senile). His concluding remarks echo his basic theme: "If we are not cared for by others, we cannot care for ourselves. . . . When we neglect the weak and helpless, the disenfranchised and disadvantaged, we betray our loving nature and endanger the social future that depends on our caring."

The remaining three essays in *Doing Good* represent the views of three individuals who are sharply critical of the results of benevolence. Indeed, each shares a belief that institutions for dependents and social policy generally have done greater harm than good, and that good intentions and parental concern in the aggregate can have disastrous consequences. In this respect all

three authors mirror the mood of disillusionment that appeared in the latter part of the 1960s and became pervasive in the 1970s. Institutions, once regarded as the fruits of liberal and progressive reform, are in their view instruments of coercion and repression, depriving individuals of their rights and making them conform to the behavioral standards of dominant elites.

Two of these essays seek to legitimate their criticisms of the existing order by studying the past. The first is by Steven Marcus, a specialist in nineteenth-century English literature, author of four books, and currently director of planning for the National Humanities Center. At the very outset Marcus rejects Gaylin's biological model of the loving parent, pointing out that a dramatic epistemological rupture takes place when we move from individual to group or class behavior. Somehow, the latter leads to certain kinds of acts that would be unthinkable to persons acting in an individual capacity toward another. "How is it," asks Marcus, ". . . that good people—decent, upright, and well-meaning citizens—can contrive, when they act on behalf of others and in the name of some higher principle or of some benign interest, to behave so harshly, coercively, and callously, so at odds with what they understand to be their good intentions."

To illustrate in a concrete manner the thrust of his argument, Marcus examines in detail the evolution of the English Poor Law system in the four decades following 1795. After a brief description of the Elizabethan Poor Law Act of 1601, he describes the social changes that followed the enclosure movement. By the second half of the eighteenth century the typical English agricultural worker had become a rootless individual whose condition was determined not by the reciprocal rights and duties of medieval society, but rather by an impersonal wage system. The destruction of the social fabric of the English countryside was completed in 1795 with the annulment of the Act of Settlement of 1662, which had restricted mobility and bound a laborer to his parish. At the same time, local officials, concerned with rising unemployment, greater relief expenditures, and a widespread degradation of the poor, began to experiment with administrative solutions. In so doing they introduced a momentous reform, namely, the subsidization of wages along a scale dependent upon the price of bread. Intended to protect workers against the vagaries of a free and impersonal market, the new system ultimately universalized pauperism. Given a guaranteed minimum subsistence, workers lacked any incentive to increase productivity and farmers had little incentive to pay them higher wages. Degradation, dehu-

manization, and a fall in productivity went hand in hand.

Between 1795 and 1834, according to Marcus, Englishmen engaged in the first detailed and extended debate on poverty in Western society. Figures such as Thomas Malthus and Jeremy Bentham focussed their attention on the alleviation of poverty. Out of their efforts (and others') came the passage of the Poor Law Act of 1834, which attempted to make relief so odious and humiliating that people would do everything within their power to avoid having to apply for it. Moreover, the Act created a new kind of administrative machinery that involved centralized decision-making by a professional bureaucracy. The poor in England were thus forced into an impersonal and competitive labor market, the results of which were described in vivid terms by Charles Dickens, who was acutely aware that a free labor market could easily become synonymous with isolation and abandonment. The lesson that can be learned from these events, concludes Marcus, "is that we can degrade people by caring for them; and we can degrade them by not caring for them." All interventions have consequences. "Dependents, precisely because they are dependent and often unable to help themselves, deserve more than others to be protected from the unintended consequences of our benevolence and the incalculable consequences of our social good will."

In the next essay David J. Rothman, a Columbia University historian and author of several books (including the well-known, influential, and controversial *The Discovery of the Asylum*), examines social policy in the Progressive era (1900-1920) from the perspective of the 1960s and 1970s. During the first two decades of the twentieth century, a group of "reformers" helped to shape a concept of the state as parent. Concerned only with the "needs" of disadvantaged groups and oblivious of the "rights" of client populations, these reformers expanded the boundaries of political intervention and created new forms of social amelioration. This Progressive tradition, according to Rothman, was so attached to a paternalistic model that its proponents never recognized that moral coercion could as easily injure people as it could aid them. Indeed, many Progressive innovations—including what is today the Aid to Dependent Children program, juvenile courts, and programs to deal with recidivists, defectives, mentally retarded, and the unworthy poor—adversely affected the recipients of government welfare programs.

At the heart of Progressive ideology, moreover, lay a series of unquestioned assumptions. First, Progressives rejected the

nineteenth-century liberal idea that the sum of individual self-interest maximized the common welfare. Second, they had curious faith in the ability of the state to accomplish desirable social ends. Finally, they assumed that the goal of social policy was the transformation of a heterogeneous social mass into a single middle class in which diverse cultural and ethnic traditions would conform to a unitary moral code. Within the framework of these assumptions, there could be no adversarial relationship between the state and the client. Slowly but surely, argues Rothman, the prerogatives of public officials were correspondingly increased as the legal protections and rights of their clients were diminished.

Paradoxically, by the 1960s virtually every Progressive innovation and institution was regarded as a failure. Why did such a radical transformation in attitudes and perceptions occur? In recent decades, writes Rothman by way of explanation, there has been a general decline in the legitimacy of institutions and individuals, and a pervasive mistrust of all constituted authority. Significantly, contemporary Americans no longer adhere to the idea of community and a harmony of social interests; they perceive individuals in positions of authority as acting on behalf of their own self-interest rather than for the benefit of others. The civil rights and other liberation movements of the 1960s and 1970s brought before the public the concept of individual autonomy and also developed a strategy that was founded on the premise that minority groups had to organize in order to press their particularistic demands. Finally, the changes in the economy that retarded rapid growth coincided with the disillusionment engendered by the Vietnam conflict; both completed the destruction of the Progressive consensus.

Such developments helped to create a new libertarian model that accepted the need for state intervention, but simultaneously insisted that public authority be curbed and the objects of protection given a major role in the shaping of various ameliorative programs. Conceding that such a model could easily give a new legitimacy to social neglect, Rothman nevertheless emphasizes its benefits. "Can we do good to others, but on their own terms?" he asks in his concluding paragraph. "Rather than wondering how professional expertise and discretionary authority can be exercised in the best interest of the client or the patient, we should ponder how the objects of authority can protect themselves against abuse without depriving themselves of the benefits that experts can deliver."

The final essay in this collection is by Ira Glasser, who began

his career in social work for the blind and is currently executive director of the New York Civil Liberties Union. In a deliberately provocative manner, Glasser attempts to lay down a series of principles that will somehow reconcile power with liberty in the modern welfare state. His beginning point is the eighteenth-century fear of power and constituted authority that lay at the center of the American Revolution and ultimately gave rise to the adoption of the Bill of Rights. Eighteenth-century Americans, he argues, wanted to create legal and political structures in order to protect liberty, structures that would institutionalize an adversarial relationship between individuals and their government.

Unfortunately, the growth of the political institutions of the state was accompanied by the proliferation of social institutions of caring, including public schools, mental hospitals, housing authorities, centers for the retarded, foster care agencies, homes for the aged, and welfare agencies for the poor. Unknowingly, liberals who created these allegedly beneficent institutions assumed the role of parents and failed to resist the impulse toward paternalism. Vast discretionary power accrued to a public bureaucracy, which silently trespassed upon the private lives and rights of millions of individuals. Indeed, the Bill of Rights was no longer applicable to actions by school officials, social workers, housing officials, or mental health professionals; these groups were free to impose their own morality upon helpless clients. Social dependency, in other words, resulted in profound violations of individual liberty. To prove his case, Glasser provides a lengthy list of the ways in which the rights of school children, welfare recipients, and mentally ill persons, to cite only a few examples, were systematically ignored or violated.

What is required, insists the author, is a new set of principles to govern the relationship between social institutions and client populations. First, the Bill of Rights must apply to such institutions in order to limit their authority over the lives of dependents. Second, the enforcement of these rights requires an external force, usually in the form of adversarial organizations whose employees owe loyalty only to their clients. Finally, every program for the dependent must be evaluated not on the basis of the good that it might achieve, but rather on the basis of the harm it might inflict. The application of such principles would limit the discretionary authority of the government, which—beginning with the New Deal and ending with Richard M. Nixon—demonstrated the dangers of an unlimited public authority. Nor should the concept of the rights of dependents be equated with governmental neglect.



Instead, institutionalized means should forbid that type of excessive zeal that often accompanies governmental power. "The encroachments of power upon liberty," concludes Glasser, "has many disguises"; there is less of a difference between a midnight knock on the door in the form of an eighteenth-century British soldier and a comparable visit by a twentieth-century caseworker than is commonly assumed.

### III

Provocative in tone and challenging in nature, *Doing Good* focusses on the kinds of concerns that presently occupy the attention of lawyers, academics, and public decision-makers and officials. The eloquence and passion of each of the contributors attests to the significance of the issues. Moreover, the book catches to a remarkable degree the contemporary disillusionment with the institutional solutions of the past. With the exception of Gaylin, each author sees fundamental flaws in America's effort to cope with social problems, and each offers in one way or another a prescription for change.

Yet despite their eloquence, the authors have not conclusively demonstrated the validity of their analysis or their proposals for change. Indeed, *Doing Good* can be criticized on two basic counts. First, the historical data that is employed is open to challenge. Second, the recommendations for new policies are not without problems. Taken together, both present formidable barriers to an uncritical acceptance of some of the views expressed in this work.

Let us turn first to the quality of the historical data used in these essays. That historical knowledge conditions to some degree attitudes and behavior in the present is obvious. The issue, therefore, is not whether historical knowledge will be employed to influence decision-making and public policies, but what kind of history will be used. Recently Ernest R. May observed that most policy-makers and policy advocates employ history badly rather than well:

When resorting to an analogy, they tend to seize upon the first that comes to mind. They do not search more widely. Nor do they pause to analyze the case, test its fitness, or even ask in what ways it might be misleading. Seeing a trend running toward the present, they tend to assume that it will continue into the future, not stop-

ping to consider what produced it or why a linear projection might prove to be mistaken.<sup>2</sup>

May's observations, in modified form, are equally applicable to some of the generalizations deduced from historical data in *Doing Good*.

The analyses of Rothman and Glasser, for example, rest in part upon a series of historical statements. Both present a view of the American past that assumes fundamental flaws in the social order. Specifically, they maintain that welfare institutions, in spite of the good and benevolent intentions of their founders, were quickly transformed into the instruments of self-serving bureaucracies that ignored and abused the rights of clients. Moreover, institutions not only failed to rehabilitate but often infantilized their inmates and made their future adaptation to society more problematic.

These are, of course, blanket indictments that no doubt appeal to many. The difficulty with such claims is that in many instances the available *evidence* does not substantiate such claims. As a matter of fact, detailed studies of institutions make such sweeping generalizations untenable. For example, in a recent micro-analysis of public poor relief in a mid-nineteenth-century county, Elizabeth Gaspar Brown provided some data that hardly supports the allegation that such institutions served only their managers and contributed little to their clients. She found that between 1857 and 1866 more than half of all welfare recipients were given outdoor relief. Of these, most went to the county poor farm. Two groups provided the bulk of admissions to the farm: those who were sick and disabled and hence unable to work; and those families without a male head, whether headed by the mother or composed of an orphan or group of siblings, and therefore without any means of support. Surprisingly, those persons sent to the county poor farm remained for only short periods of time; the poor farm "was not a dumping bin but a way station"; and the rate of recidivism was less than five percent of the total admitted. Brown concluded:

In the last analysis, and at the vantage point of 110 years later, it is just possible that, however unwittingly, the superintendents of the poor, within the framework established by the statutes and under the authority of the County Board, had operated an effective program of poor relief. After all, are not the realistic goals of any poor relief program the support of those absolutely unable to sup-

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2. E. MAY, "LESSONS" OF THE PAST xi (1973).

port themselves and the assistance of those who can be brought to care for themselves so that, in fact, they can and will? With or without compassion—and probably without—the superintendents of the poor . . . seem to have achieved these goals.<sup>3</sup>

Both Rothman and Glasser also have brief but harsh words about the seemingly universal violation of individual rights in mental hospitals. The former, for example, relates the story of one Catherine Lake, who went to the Department of Justice in Washington, D.C., to press a claim for a pension. As she left the building a female police officer spotted her as someone in need of assistance. When Lake was unable to supply her home address (even though she had found the Justice Department building), she was confined to St. Elizabeth's Hospital for "wandering" in mind and body and remained there for the rest of her days despite her persistent efforts to gain freedom.

Certainly we can express our deep anger when violations of human dignity and rights occur. But Rothman's description of this case is grossly oversimplified, if not actually misleading. As in most cases, the issue was by no means simple or clearcut, for Lake, a woman of sixty-one years of age, was suffering from brain damage associated with senility. Rothman's discussion omits this fact, and also does not mention that the case was the subject of considerable litigation and played an important role in the evolution of the least-restrictive-alternative principle. Indeed, an analysis of the printed record pertaining to the case reveals the inherent dilemma between the goal of providing for an individual's welfare and simultaneously protecting that person's rights. As the *Lake* case abundantly demonstrates, there are no simple answers.<sup>4</sup>

But even if we concede that Rothman's summary of the tragedy of Catherine Lake was accurate, is the case typical? Is Rothman using some absolute, and utterly unattainable, standard to judge institutions? Unfortunately, neither Rothman nor Glasser addresses himself to such questions; each is content to substitute sweeping claims for hard data. This is not in any way to imply that mental hospitals did not violate the rights of some persons.

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3. Brown, *Poor Relief in a Wisconsin County, 1846-1866: Administration and Recipients*, 20 AM. J. LEGAL HIST. 79, 107 (1976).

4. Compare Rothman's description of the *Lake* case, *supra* note 1, at 73, 95, with *Lake v. Cameron*, 364 F.2d 657 (D.C. Cir. 1966); A. BROOKS, *PSYCHIATRY AND THE MENTAL HEALTH SYSTEM* 727-32 (1974); and Chambers, *Alternatives to Civil Commitment of the Mentally Ill: Practical Guides and Constitutional Imperatives*, 70 MICH. L. REV. 1108, 1121 n.59, 1140-41 (1972).

It is only to say that the record is far more complex than either author implies.

Fortunately, there is a good deal of data dealing with the characteristics of institutionalized populations. Such data do not sustain the view that mental hospitals incarcerated patients or even provided therapy, facts that ought to compel a reconceptualization about the role of mental hospitals. For example, the number of aged persons confined in mental hospitals rose sharply between 1890 and 1940. Nearly eighteen percent of all first admissions to New York State mental hospitals in 1920 were diagnosed as psychotic either because of senility or cerebral arteriosclerosis. By 1940 this group accounted for nearly thirty-one percent of all first admissions. Similarly, Goldhamer and Marshall, in their classic study of rates of institutionalization in Massachusetts and New York, detailed the rise in the rate of hospitalization among the aged mentally ill between 1885 and 1941.<sup>5</sup>

Why were aged persons committed to mental hospitals? There is little evidence that the community perceived of them as threats to security. Nor can it be said that the function of institutionalization was to alter the behavior of such persons according to middle-class norms. In point of fact, mental hospitals assumed responsibility for caring for older persons partly because of the absence of alternatives and partly because of the disproportionate increase in the number of individuals aged sixty-five and over from three to nine million between 1900 and 1940 (a period during which population increased from 75.9 to 131.6 million). Older persons were institutionalized in mental hospitals for a variety of reasons. Some were sent there because of the inability or unwillingness of relatives to assume responsibility. Others had no families to provide basic care. Still other senile individuals exhibited the kind of behavior that created family problems.<sup>6</sup>

Psychiatrists and public officials were well aware of the practice of committing older persons to mental hospitals. Unhappy with this situation but not lacking in compassion, they went along with this practice because there seemed in many cases to be no alternative. Dr. Charles C. Wagner, superintendent of the

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5. N.Y. ST. DEPT. OF MENTAL HYGIENE ANN. REP. 174-75 (1939-1940); H. GOLDHAMER & A. MARSHALL, *PSYCHOSIS AND CIVILIZATION* 54, 91 (1953). For additional data, see N. DAYTON, *NEW FACTS ON MENTAL DISORDERS* (1940); C. LANDIS & J. PAGE, *MODERN SOCIETY AND MENTAL DISEASE* (1938); B. MALZBERG, *SOCIAL AND BIOLOGICAL ASPECTS OF MENTAL DISEASE* (1940).

6. U.S. BUREAU OF THE CENSUS, *HISTORICAL STATISTICS OF THE UNITED STATES: COLONIAL TIMES TO 1970*, pt. 1, at 15 (1975).

Binghamton State Hospital in New York, defined the issue in simple yet moving terms. He observed in 1900:

We are receiving every year a large number of old people, some of them very old, who are simply suffering from the mental decay incident to extreme old age. A little mental confusion, forgetfulness and garrulity are sometimes the only symptoms exhibited, but the patient is duly certified to us as insane and has no one at home capable or possessed of means to care for him. We are unable to refuse these patients without creating ill-feeling in the community where they reside, nor are we able to assert that they are not insane within the meaning of the statute, for many of them, judged by the ordinary standards of sanity, cannot be regarded as entirely sane.<sup>7</sup>

Senility was by no means the only source of admissions of persons whose behavioral peculiarities were related to underlying physiological processes. Before the widespread use of penicillin and other antibiotics limited the course of venereal disease, insanity resulting from syphilis accounted for substantial numbers of admissions to mental hospitals. Between 1911 and 1920 about twenty percent of all male first admissions to mental hospitals in New York State were cases of general paresis (the comparable rate for women was about one third that of men); other states had similar rates.<sup>8</sup> Nor were syphilitic patients committed to mental hospitals necessarily being punished for their moral transgressions. In the tertiary stage of this disease, massive damage to the central nervous system resulted not only in bizarre behavior but in dramatic neurological symptoms, paralysis, and eventually death. For such cases institutional care was almost a *sine qua non*; few households were prepared to cope with such problems. Since general hospitals lacked facilities to care for patients in the tertiary stage (which could last up to one or more years), responsibility devolved upon the mental hospital.

Overall at least one-third (and probably more) of all first admissions to state mental hospitals represented cases where behavioral symptoms were probably of somatic origin. In 1922, for example, 52,472 persons were admitted for the first time into

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7. 12 N.Y. ST. COMM. ON LUNACY ANN. REP. 29-30 (1900). See also 22 PA. COMM. ON LUNACY ANN. REP. 8-9 (1904).

8. 52 N.Y. ST. DEPT. OF MENTAL HYGIENE ANN. REP. 176 (1939-1940). For comparable data for other states, see 12 ILL. DEPT. OF PUBLIC WELFARE ANN. REP. 310 (1928-1929); N.C. CHARITABLE, PENAL, AND CORRECTIONAL INSTITUTIONS BIENNIAL REP. 48 (1930-1932); 15 OHIO DEPT. OF PUBLIC WELFARE ANN. REP. 304 (1936); 1 OHIO BD. OF ADMIN. ANN. REP. 43-44 (1912); 4 OR. ST. BD. OF CONTROL BIENNIAL REP. 47 (1919-1920); 7 WASH. ST. DEPT. OF BUSINESS CONTROL BIENNIAL REP. 27 (1933-1934).

state mental hospitals. Of this number, 15,916 were sent there because of senility, cerebral arteriosclerosis, general paresis, cerebral syphilis, Huntington's chorea, brain tumor or disease, or other somatic illnesses. The statistics a decade later showed much the same pattern.<sup>9</sup>

To maintain that aged and senile groups as well as those suffering from physical impairments with accompanying behavioral symptoms did not belong in mental hospitals, or to insist that individual rights were ignored, is in part to misunderstand the broader context of social change in the nineteenth and twentieth centuries. In point of fact, a high rate of geographical mobility, a rapid increase in the size of urban areas, and the inability of traditional means of alleviating distress and dependency by reliance on familial and community traditions and practices, led Americans increasingly to turn to quasi-public or public institutions that acted in surrogate capacities. Schools assumed responsibility for the education and socialization of children; mental hospitals were given authority to care for the mentally ill; and institutions for diverse groups, including orphans, juveniles, retarded, unemployables, and unemployed, to cite only a few, proliferated rapidly.

Mental hospitals, in other words, cared for a variety of persons. Some individuals were institutionalized because of physical disability. In other cases, hospitals served as asylums for persons who for one reason or another seemed to require a structured environment. Noting that it was often alleged that public mental hospitals cared for persons who could have just as easily been sent home, the Pennsylvania Commission on Lunacy concluded in 1898 that no doubt many could be sent home "provided that the home existed, or that conditions at home were suitable for the patient's return"; unfortunately these conditions did not always exist. Frederick H. Wines, one of the most influential figures in late nineteenth-century public welfare, observed that many men-

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9. U.S. BUREAU OF THE CENSUS, *MENTAL PATIENTS IN STATE HOSPITALS 1926 AND 1927*, at 9 (1930); U.S. BUREAU OF THE CENSUS, *MENTAL PATIENTS IN STATE HOSPITALS 1931 AND 1932*, at 6 (1934).

There are, of course, some significant regional variations. Pellagra (a disease caused by a dietary deficiency and often accompanied by behavioral symptoms) was generally confined to the South. Between 1900 and 1932 the State Hospital at Goldsboro, North Carolina (which was limited to black patients), reported that no less than 19% of its admissions were due to pellagra. In Northern hospitals, on the other hand, the disease was virtually unknown. See N.C. CHARITABLE, PENAL, AND CORRECTIONAL INSTITUTIONS BIENNIAL REP. 48 (1930-1932).

tal hospitals were imposed on in "that patients are sent to them who should not be so sent, because their friends wish to avoid the responsibility of keeping and caring for them at home."<sup>10</sup> To discuss institutional populations only with reference to abstract rights and not to take into consideration concrete situations is to distort issues in very significant ways.

Implicit in the essays by Rothman and Glasser is also the view that dependent populations had little authority and power to determine their fate; basic decisions were made by bureaucratic managers and others. Such a thesis runs directly counter to the work of many social historians, some of whom have gone to considerable lengths to demonstrate that lower-class and dependent groups were not powerless. Indeed, the functions of some institutions reflected as much the characteristics of their inmate populations as the desires of their staffs. In a forthcoming study of the Temporary Home for the Destitute and the Massachusetts School for the Feeble-Minded, both of which were established in Boston in 1847, Peter L. Tyor and Jamil S. Zainaldin stress the developmental and variegated character of two kinds of institutions. Initially each came into existence to meet a perceived need in society. In a second stage of their history each began to adjust and to specialize to meet unanticipated demands for care. During the third stage policy underwent further changes as client needs changed. In the case of the Home, new functions—including infant adoption and internal agency services—altered its original character; in the case of the School custodialism emerged as a major theme. The fourth and final stage was marked by rationalization and consolidation; service referrals; increased contacts with other institutions; and a growing professionalization. Indeed, the discovery of seemingly high rates of retardation in the Bay State led the superintendent of the School for the Feeble-Minded to emphasize noninstitutional rather than custodial solutions. The findings of Tyor and Zainaldin, which may or may not be applicable to other types of institutions, are nevertheless revealing; they demonstrate the importance not only of institutional leadership and perceived social needs, but also the significance of those who patronize institutions. Moreover, their data and analysis render it virtually impossible to view institutions in static terms or to neglect the influence of client populations upon their internal development.<sup>11</sup>

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10. 16 PA. COMM. ON LUNACY ANN. REP. 44-45 (1898); 17 PROCEEDINGS OF THE NATIONAL CONFERENCE OF CHARITIES AND CORRECTION 431 (1890).

11. See P. Tyor & J. Zainaldin, *Redefining the American Asylum: A Case Study*

To those who are unfamiliar with the rich literature of American history, Glasser's description of the origins and meaning of the American Revolution and Rothman's analysis of Progressivism will seem authoritative and convincing. Yet there are fundamental problems with the ways in which each uses historical data. Glasser's interpretation of the American Revolution, for example, rests largely, if not exclusively, upon a reading of Bernard Bailyn's study of its ideological origins.<sup>12</sup> Bailyn stressed that an elaborate theory of politics lay at the heart of Revolutionary ideology—an ideology that could be traced back to the anti-authoritarian tradition in England. Man, according to this tradition, had a natural lust for power, and power by its very nature was a corrupting force that could be attained only by depriving others of their liberty. During the 1760s and 1770s this ideology became a driving force among colonials, who saw in the actions of British ministers and officials a conspiracy to deprive them of their liberties. Beginning with Bailyn's brilliant analysis of the origins of the Revolutionary crisis, Glasser incorporates into his own chapter the idea that public officials and bureaucrats subverted the goals of the American Revolution by gaining unwarranted and corrupt power over client populations.

The difficulty with such a thesis (as any good historian recognizes) is that there are some major problems with Bailyn's view of the Revolutionary crisis. If a persuasive and powerful ideology lay at the heart of the Revolution, why did so many colonials choose to remain loyal to the Crown? John Adams once estimated that one third of the American people were revolutionaries, one third loyalists, and one third had remained neutral. If Adams's observation was valid (and most scholars concede that it was), can Bailyn's interpretation be accepted without any qualifications? Moreover, Glasser ignores the often harsh treatment of loyalists, whose individual rights were often violated in massive ways. There are real dangers in accepting uncritically a particular historical interpretation merely because it provides a convenient base from which to launch one's own thesis.

Similarly, Rothman's description of the Progressive tradition is open to challenge because of its one-sided and sometimes extreme nature. Progressives, according to Rothman, developed a

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Approach (forthcoming in *J. Soc. Hist.* [Sept. 1979]). Other institutional studies also demonstrate the important role of inmates in determining the functions and structures of such institutions. See, e.g., G. SYKES, *THE SOCIETY OF CAPTIVES* (1958).

12. B. BAILYN, *THE IDEOLOGICAL ORIGINS OF THE AMERICAN REVOLUTION* (1967).



concept of the state based on the analogy of the relationship between parent and child. Consequently, Progressive programs were paternalistic and coercive, ignored the rights of clients, and above all were committed to the goal of obliterating the characteristics of different social and ethnic groups. In short, Progressives were moral absolutists who were persuaded that the legitimacy of their values gave them unlimited dominion over the lives of others.

It cannot be denied, of course, that *some* Progressives were of the type described by Rothman. But were *all* Progressives alike? Again, a detailed knowledge of the reform tradition in twentieth-century America hardly supports such sweeping claims; Progressives were a far more diverse group than Rothman implies. Progressivism was a broad movement that included figures who disagreed over both means and ends. Some Progressive programs were undoubtedly coercive in nature; the eugenics movement, which resulted in the passage of numerous state laws providing for the involuntary sterilization of thousands of persons, is perhaps an extreme example.<sup>13</sup> But not all Progressives were hostile toward different social groups; some were able to empathize and to appreciate the value of cultural heterogeneity. Indeed, even within social work there was a split between the charity-organization movement of the 1880s and its successor in the early part of the twentieth century. Although both accepted the superiority of middle-class values, the latter was far more understanding and appreciative of alternative traditions and lifestyles. Moreover, some Progressives came out of immigrant backgrounds and understood the vitality of their cultural, religious, and social traditions.<sup>14</sup>

What is most objectionable about Rothman's essay is his refusal to pay attention to the nuances and subtleties of Progressivism. His generalizations may appeal to contemporary activ-

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13. For an analysis of the eugenics movement and the history of sterilization in the United States, see M. HALLER, *EUGENICS* (1963); D. PICKENS, *EUGENICS AND THE PROGRESSIVES* (1968); Vecoli, *Sterilization: A Progressive Measure?*, 43 *Wis. Mag. Hist.* 190-202 (1960).

14. Data illustrating the heterogeneity of Progressive thought can be gleaned from the following sources: P. BOYER, *URBAN MASSES AND MORAL ORDER IN AMERICA, 1820-1920* (1978); R. BREMNER, *FROM THE DEPTHS: THE DISCOVERY OF POVERTY IN THE UNITED STATES* (1956); C. A. CHAMBERS, *PAUL U. KELLOGG AND THE SURVEY: VOICES FOR SOCIAL WELFARE AND SOCIAL JUSTICE* (1971); C. CHAMBERS, *SEEDTIME OF REFORM: AMERICAN SOCIAL SERVICE AND SOCIAL ACTION, 1918-1933* (1963); A. DAVIS, *SPEARHEADS FOR REFORM: THE SOCIAL SETTLEMENTS AND THE PROGRESSIVE MOVEMENT 1890-1914* (1967); D. LEVINE, *JANE ADDAMS AND THE LIBERAL TRADITION* (1971).

ists, but they hardly represent the best in historical scholarship. It is also noteworthy that Rothman is deliberately selective in the specific programs he chooses to discuss. Absent from his chapter is any mention of the effort to secure passage of a compulsory health insurance program between 1912 and 1920 or the background of the passage of the Social Security Act of 1935. Neither of these examples would necessarily support his broad conceptualization of Progressivism.<sup>15</sup> In raising such criticisms, I do not deny that there is *some* truth in Rothman's presentation. His skewed analysis, however, hardly does justice to the issues even though it supports his prescriptions for the present and future.

If the quality of the historical data leaves something to be desired, the strength of some of the logic and policy recommendations in *Doing Good* are also open to challenge. Overall, Gaylin's essay is easily the most persuasive, partly because of his willingness to make distinctions. Indeed, the thrust of his remarks is strikingly similar to the thinking of many of those who were part of America's Progressive tradition. Gaylin's basic theme is that caring for others, particularly those unable to care for themselves, is what defines our very humanity.<sup>16</sup> Perhaps his only vulnerability arises out of his insistence that the category of the extrinsically dependent be altered, and that the solution "merely" involves an appropriate use of economic and political mechanisms. Unfortunately, the problem of finding solutions is not as simple as he assumes. Often resolution of one problem creates new ones; to believe that it is easy to transform the condition of individuals allegedly made dependent by their culture is to assume a degree of control over human affairs that I am not persuaded is justified.

Steven Marcus's eloquent discussion of English welfare in the eighteenth and early nineteenth century also raises problems. Marcus relies on older classic works by Sidney and Beatrice Webb and J.L. and Barbara Hammond as well as more recent studies by E.J. Hobsbawm, David Roberts, W.E. Tate, and others.<sup>17</sup> As

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15. See A. ALTMAYER, *THE FORMATIVE YEARS OF SOCIAL SECURITY* (1966); R. LUBOVE, *THE STRUGGLE FOR SOCIAL SECURITY 1900-1935* (1968); D. NELSON, *UNEMPLOYMENT INSURANCE: THE AMERICAN EXPERIENCE, 1915-1935* (1969); R. NUMBERS, *ALMOST PERSUADED: AMERICAN PHYSICIANS AND COMPULSORY HEALTH INSURANCE, 1912-1920* (1978).

16. See W. GAYLIN, *CARING* (1976).

17. Marcus's essay used the following sources: J. CHAMBERS & G. MINGAY, *THE AGRICULTURAL REVOLUTION 1750-1880* (1966); J. CLAPHAM, *ECONOMIC HISTORY OF MODERN BRITAIN 1926-1938*; F. EDEN, *THE STATE OF THE POOR* (1797); S. FINER, *THE LIFE AND TIMES OF SIR EDWIN CHADWICK* (1952); J. HAMMOND & B. HAMMOND, *THE VILLAGE LABOURER, 1760-1832: A STUDY OF THE GOVERNMENT OF ENGLAND BEFORE THE REFORM BILL* (1911); E. HOBSBAWM & G. RUDÉ, *CAPTAIN SWING* (1969); S. PASSFIELD & B. PASSFIELD, *ENGLISH LOCAL GOVERNMENT: A SERIES . . . ON THE GROWTH AND STRUCTURE OF ENGLISH LOCAL*

a group, these works tend to emphasize the evolution of laws governing welfare and, to a lesser extent, concepts of poverty and its relief. They are, on the other hand, less revealing about the manner in which English welfare actually functioned. Consequently, we are forced to suspend a measure of judgment until English historians illuminate in greater detail the practice (as compared with the theory) of welfare.

Much more troubling is Marcus's conclusion. Granted that dependents, precisely because they are often unable to help themselves, deserve to be protected from "the unintended consequences of our benevolence and . . . our social good will." What does such a statement mean in operational terms? If unintended consequences give rise to less than desirable results, how is it possible, at least from a logical viewpoint, to anticipate those consequences if they were unanticipated? Moreover, the lessons to be drawn from Marcus's presentation are at best ambiguous. Is he arguing that wage supplements destroyed both the incentive to pay high wages and the incentive to increase productivity? Or is he insisting that institutional relief in almshouses and workhouses created a situation where people refused to avail themselves of relief until they were actually faced with starvation? It is possible to draw from Marcus's presentation a variety of programmatic and political conclusions, precisely because of his ambiguous mode of presentation. Until he can clarify his argument, the relevance of his remarks for social policy issues will remain obscure.

Rothman's and Glasser's essays exemplify the contemporary reaction against many aspects of the modern welfare state. What both demand is a clearer delineation and limitation of state authority and an end to open-ended grants of power to bureaucratic administrators in order to limit their discretionary authority over dependent groups. To achieve these goals they would expand sharply the role of lawyers, who would represent the interests of dependent populations and assume an adversarial role toward the state and public agencies.

To expand individual rights and to limit state power are surely laudable goals. That the achievement of such goals is necessarily compatible with an enhanced role for the legal profession

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GOVERNMENT (1963 reprint); K. POLANYI, *THE GREAT TRANSFORMATION* (1944); J. POYNTNER, *SOCIETY AND PAUPERISM* (1969); D. ROBERTS, *VICTORIAN ORIGINS OF THE BRITISH WELFARE STATE* (1960); W. TATE, *THE ENGLISH VILLAGE COMMUNITY AND THE ENCLOSURE MOVEMENTS* (1967).

(or for individuals acting in a surrogate capacity) is more questionable. Indeed, there are many reasons why it may be undesirable to move in the direction of maximizing the importance of legal and formal rules. Insistence that society function according to strict rules and procedures may very well promote rather than diminish the dehumanizing bureaucratization that Glasser and Rothman condemn. I also have grave reservations about permitting any occupational group, including the legal profession, to play an unduly influential role in the public policy and administration process. That dependent clients deserve to have their rights protected and their welfare enhanced is true; that the way to achieve these goals is to increase the involvement of the legal profession is another question entirely.

#### IV

Not long ago J.H. Plumb, the eminent English scholar, drew a sharp distinction between the past and history. History, he insisted, is not the past, even though there are common elements to both. History represented an effort "to see things as they actually were, and from this study to formulate processes of social change which are acceptable on historical grounds and none other." The past, on the other hand, had always been a "created ideology with a purpose, designed to control individuals, or motivate societies, or inspire classes."<sup>18</sup>

Plumb's comments are particularly relevant to the issues raised in *Doing Good*. In their efforts to promote social change, some of the authors have employed a one-sided view of the past that is open to challenge. Nevertheless, they have also performed a useful service by focussing attention on a subject largely ignored by historians. Given the fact that American society is acutely conscious of the social problems of aging, illness, and unemployment—to mention only a few examples—it is important that we should at least begin with a more accurate re-creation of the history of social problems and social policy.<sup>19</sup>

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18. J. PLUMB, *THE DEATH OF THE PAST* 13, 17 (1970).

19. There are a variety of historical problems that require study in order to ensure that our view of the present is not colored by distorted perceptions of the past. We need to know more about the composition and demographic characteristics of dependent populations and how these characteristics changed over time. Equally important, we must be aware that social policy has not been static; it is just as important to understand the process as it is to understand the outcome. Too little attention has been given to the relationship between the origins and development of policy, the structure of the political system, and public perceptions of social problems. Too often scholars have uncritically

Our understanding of social policy issues, however, is not threatened solely by a distorted view of the past. On the contrary, it is threatened as well by current formulations based on dubious logic and knowledge. One of the underlying assumptions of *Doing Good* is that benevolence and good intentions can have disastrous consequences. What is left unresolved is the question of why goals and accomplishments are often at variance. To insist that an unequal distribution of power between elites and dependent populations is the critical element is unsatisfactory. The problem in fact may be far more complex. Put in simple terms, I am not fully persuaded that the modern confidence in the ability of human beings to control their environment is completely warranted. The record of the past should make us somewhat suspicious about a faith that comes close to assuming a form of human omnipotence. Social and behavioral science to the contrary, knowledge about social behavior and institutions—to say nothing about individual behavior—remains limited and fragmentary. To pass laws embodying desirable social goals is one thing; to guarantee that they will function in the intended manner is quite another. Indeed, there is much to be said in favor of a view that begins with an acceptance of human fallibility rather than human omnipotence. To recognize that human beings are capable of evil is not, after all, synonymous with the concept of negative government.

It is equally important to recognize that there may be no solutions that are themselves not the source of further problems. The history of disease is a case in point. Public policy and attitudes in America seem to be based in large measure upon the belief that it is possible to conquer disease; the result has been a phenomenal increase in the resources allocated to treatment and research. The actual record, on the other hand, hardly warrants such optimism. When infectious diseases (which killed large numbers of infants and children) began to decline in importance as a result of public health innovations and changes in the standard of living in the late nineteenth and early twentieth centu-

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accepted a rational model of politics (which holds that there are direct linkages between the preferences of the electorate, legislators, and policy outcomes), even though there is relatively little empirical data to substantiate the accuracy of such a model. Similarly, our knowledge of the manner in which laws were administered and how modes and styles of administration reflected or determined policy is deficient. Finally, in undertaking further research into the history of social policy, we must not simplify when to do so may distort the past beyond redemption. Indeed, it is entirely possible that the very concept of social policy is misleading, particularly when the varied nature of dependent populations, geography, and political and cultural traditions are taken into account.

ries, more people survived to adulthood. Consequently, there was an increase in degenerative disease (e.g., cardiovascular disease and cancer), the incidence of which is proportionately higher in nations with aged populations. The decline in one set of illnesses, therefore, was in part the occasion for a corresponding increase in a different group. Given the inevitability of death, the "conquest" of cancer and cardiovascular diseases would in all likelihood enhance the significance of other diseases.<sup>20</sup>

Moreover, social policy issues are rarely simple or clear-cut. The issue of involuntary commitment of the mentally ill is particularly enlightening in this respect. Influenced by the opponents of institutionalization, a number of state legislatures during the 1960s and 1970s passed laws whose goals—at least in theory—were to discharge as many involuntarily committed patients as possible from mental hospitals and thereby to restore to them their rightful liberties. An unstated objective of some advocates of such legislation, perhaps, was the eventual abolition of all public mental hospitals. Contributing to the attack on institutional care was the growing activism of both the federal and state judiciary. In *Rouse v. Cameron*,<sup>21</sup> David L. Bazelon, Chief Judge of the United States Court of Appeals for the District of Columbia, insisted that if the purpose of involuntary hospitalization was treatment (as distinguished from preventing some real danger to self or others), then the absence of treatment called into doubt the constitutionality of confinement. In the equally famous decision in *Wyatt v. Stickney*,<sup>22</sup> Federal District Judge Frank M. Johnson of Alabama established minimum constitutional standards for adequate treatment of the mentally ill. With the support of various groups and organizations, the amount of such litigation increased dramatically during the past decade. Many

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20. For brilliant discussions of this theme, see R. DUBOS, *MIRAGE OF HEALTH: UTOPIAS, PROGRESS, AND BIOLOGICAL CHANGE* (1959); R. DUBOS, *MAN ADAPTING* (1965).

The introduction of the widespread use of antibiotics during the 1940s provides an illustration of this theme. Prior to the introduction of penicillin, the infections that played a major role in morbidity were caused by pneumococci, streptococci, tubercle bacilli, and staphylococci. By about 1958, with the exception of staphylococci, these bacteria were rarely a factor in fatal diseases; they had been replaced by fungi and gram-negative rods. Moreover, certain species, hitherto relatively harmless, now assumed an infectious nature since other microorganisms that had competed with them had been suppressed by the introduction of antibiotic drugs. Finally, resistance to antibiotic drugs can be transferred under specific kinds of conditions. For a discussion of these points, see H. DOWLING, *FIGHTING INFECTION: CONQUESTS OF THE TWENTIETH CENTURY 191-92* (1977).

21. 373 F.2d 451 (D.C. Cir. 1966).

22. 344 F. Supp. 373 (M.D. Ala. 1972), *modified sub nom.* *Wyatt v. Aderholt*, 503 F.2d 1305 (5th Cir. 1974).

of the court cases involved such issues as the right to least restrictive treatment, compensation for labor within hospitals, freedom from cruel and inhuman punishment, and due process.<sup>23</sup>

The results of such agitation, however, were at the very least ambiguous. In a large number of cases individuals were discharged from mental hospitals, only to be thrust into a setting that was not necessarily conducive to their welfare. The theoretical emphasis on the right to least restrictive treatment, moreover, was hardly relevant to cases involving individuals unable to care for themselves and for whom there was no known treatment. Indeed, critics of institutionalization, precisely because they discussed the issue of involuntary commitment largely in terms of abstract individual rights, avoided the far more difficult task of evaluating theory in the light of concrete situations that rarely offered clear-cut moral choices. In many instances the application of a single general principle often has the inadvertent consequence of invalidating another general principle that may be equally compelling. An absolutist definition of freedom, for example, may very well negate other humanitarian or ethical principles and rights. It is entirely possible to honor the absolute rights to liberty of persons in an advanced state of senility by not hospitalizing or institutionalizing them, while denying their right to care from society when they are helpless by not hospitalizing them and allowing them to die from exposure, starvation, and lack of care.

Although *Doing Good* raises interesting questions, its flawed, one-sided, and simplistic historical foundations makes it difficult to accept either its analyses or policy recommendations (at least in the form in which they are put). It is unfortunate that its authors chose to act as committed activists and thus avoided dealing with the complexity and ambiguity of social policy issues. Indeed, if the ultimate standard against which social policy should be judged is the benefit and welfare of the dependent, increasing individual freedom may be just as debilitating as institutionalization. In other words, the authors of this volume (Gaylin excepted) may be as guilty as those they attack. They assume their solutions will achieve the results that earlier policies and institutions could never achieve, in terms of alleviating distress and caring for dependent persons. They could be quite wrong.

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23. For a general discussion of psychiatry and policy, see R. SLOVENKO, *PSYCHIATRY AND LAW* (1973).

After all, no matter how good their intentions, they can still pave that proverbial road to hell!