

Book Review

The Myth of the American Welfare State

America's Misunderstood Welfare State: Persistent Myths, Enduring Realities.
By Theodore R. Marmor,[†] Jerry L. Mashaw,^{††} and Philip L. Harvey.^{†††}
New York, N.Y. 1990. Pp. xvii, 268. \$22.95.

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The relationships among “poverty,” “welfare,” and “the poor” have always been some of the most controversial and misunderstood issues in American social policy. Throughout history, American attitudes and opinions in this area have changed greatly, largely reflecting shifts in who or what the enemy has been perceived to be. Three major historical periods are discernible.

In the beginning, the poor were the enemy. Colonial Settlement and Removal Laws enabled local officials physically to remove poor strangers from their localities.¹ In part, officials were concerned not only to forestall any economic burden on their communities. In addition, however, they sought to protect their citizenry from morally undesirable elements: an individual's economic condition was presumed to reflect his moral character—or lack thereof.²

After the Great Depression until the late 1970s, we fought various wars on poverty.³ The enemy was now the undesirable concomitant of an otherwise-good economic system. Poverty, like a disease-causing germ, was an impersonal hazard that could strike anyone—even the virtuous—at any time.⁴ By attacking the germ, policy makers hoped to eradicate the adverse social effects of the disease.

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1. See, e.g., Riesenfeld, *The Formative Era of American Public Assistance Law*, 43 CALIF. L. REV. 175 (1955).

2. See, e.g., A. DE TOCQUEVILLE, *MEMOIR ON PAUPERISM* (1835); F. PIVEN & R. CLOWARD, *REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE* 46 (1971); Riesenfeld, *supra* note 1.

3. See, e.g., M. KATZ, *THE UNDESERVING POOR: FROM THE WAR ON POVERTY TO THE WAR ON WELFARE* (1989); F. PIVEN & R. CLOWARD, *supra* note 2, at 57, 61.

4. In a fascinating piece, Theodore Lowi has noted that this shift in attitudes toward the poor parallels the shift in attitudes toward the sick at the end of the 1800s prompted by Pasteur and Koch's “germ theory” of disease. T. Lowi, *The Welfare State, the New Regulation, and the Rule of Law*, in *DISTRIBUTIONAL CONFLICTS IN ENVIRONMENTAL-RESOURCE POLICY* 109, 121-23 (A. Schnaiberg, N. Watts & K. Zimmerman eds. 1986).

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And in the 1980s, the Reagan Revolution brought the War on Welfare. With Charles Murray's *Losing Ground*⁵ as battle cry and ammunition, conservatives attacked the programs that had been much-praised weapons during the wars on poverty.⁶ Our well-intentioned efforts to alleviate poverty through government income transfers have not only failed to do so, they have exacerbated the problem. We have lost ground. The enemy is us.

America's Misunderstood Welfare State: Persistent Myths, Enduring Realities by Theodore R. Marmor, Jerry L. Mashaw, and Philip L. Harvey, is an eloquent, engaging, and highly persuasive counter-attack on the War on Welfare. The book brings together three established experts on various government income transfer programs. Professor Marmor has written extensively on both Medicare and national health care policy.⁷ Professor Mashaw is a leading scholar of the Social Security Disability Program and, more generally, of social welfare claims procedures.⁸ Mr. Harvey has previously published a book on unemployment programs.⁹

Their message in *America's Misunderstood Welfare State* is a self-proclaimed simple one: "America's social welfare efforts are taking a bum rap."¹⁰ The authors' primary project, therefore, is to set the record straight—to provide a careful, accurate, and well-reasoned account of both the purposes and effects of American social welfare spending. As a second major

5. C. MURRAY, *LOSING GROUND: AMERICAN SOCIAL POLICY 1950-1980* (1984).

6. Murray's was neither the first nor (more surprisingly) the best selling of this genre. The most notable precursor was George Gilder's *Wealth and Poverty* published in 1981, which was (unlike Murray's) a best-selling Book of the Month Club selection. Gilder's book was, until Murray's, the "Bible of the Reagan administration" on social policy. M. KATZ, *supra* note 3, at 143-44.

7. See, e.g., T. MARMOR, *POLITICAL ANALYSIS AND AMERICAN MEDICAL CARE: ESSAYS* (1983); T. MARMOR, *THE POLITICS OF MEDICARE* (1973); *SOCIAL SECURITY: BEYOND THE RHETORIC OF CRISIS* (T. Marmor & J. Mashaw eds. 1988); Marmor, *Can the U.S. Learn from Canada?*, in *NATIONAL HEALTH INSURANCE: CAN WE LEARN FROM CANADA* (S. Andreopoulos ed. 1975); Marmor & Klein, *Cost v. Care: America's Health Dilemma Wrongly Considered*, 4 *HEALTH MATRIX* 19 (Spring 1986); Marmor, *A New Look at Nonprofits: Health Care Policy in a Competitive Age*, 3 *YALE J. ON REG.* 313 (1986); Marmor, *Reflections on Medicare*, 13 *J. MED. & PHIL.* 5 (1988).

8. See, e.g., J. MASHAW, *BUREAUCRATIC JUSTICE: MANAGING SOCIAL SECURITY DISABILITY CLAIMS* (1983); J. MASHAW, *DUE PROCESS IN THE ADMINISTRATIVE STATE* (1985); J. MASHAW, C. GOETZ, F. GOODMAN, W. SCHWARTZ, P. VERKUIL & M. CARROW, *SOCIAL SECURITY HEARINGS AND APPEALS: A STUDY OF THE SOCIAL SECURITY ADMINISTRATION HEARING SYSTEM* (1978); *SOCIAL SECURITY: BEYOND THE RHETORIC OF CRISIS* (T. Marmor & J. Mashaw eds. 1988); Mashaw, *Administrative Due Process as Social-Cost Accounting*, 9 *HOFSTRA L. REV.* 1423 (1981); Mashaw, *Administrative Due Process: The Quest for a Dignitary Theory*, 61 *B.U. L. REV.* 885 (1981); Mashaw, *Conflict and Compromise Among Models of Administrative Justice*, 1981 *DUKE L.J.* 181; Mashaw, *How Much of What Quality? A Comment on Conscientious Procedural Design*, 65 *CORNELL L. REV.* 823 (1980); Mashaw, *The Management Side of Due Process: Some Theoretical and Litigation Notes on the Assurance of Accuracy, Fairness, and Timeliness in the Adjudication of Social Welfare Claims*, 59 *CORNELL L. REV.* 772 (1974); Mashaw, "Rights" in the Federal Administrative State, 92 *YALE L.J.* 1129 (1983); Mashaw, *The Supreme Court's Due Process Calculus for Administrative Adjudication in Mathews v. Eldridge: Three Factors in Search of a Theory of Value*, 44 *U. CHI. L. REV.* 28 (1976).

9. *SECURING THE RIGHT TO EMPLOYMENT: SOCIAL WELFARE POLICY AND THE UNEMPLOYED IN THE UNITED STATES* (1989).

10. T. MARMOR, J. MASHAW & P. HARVEY, *AMERICA'S MISUNDERSTOOD WELFARE STATE: PERSISTENT MYTHS, ENDURING REALITIES* 1 (1990) [hereinafter *WELFARE STATE*].

task, Marmor, Mashaw, and Harvey strive to explain, and thereby dispel, the doom and gloom that pervade the “new consensus” on social welfare policy. A third, and clearly subsidiary, project on their agenda is normative: they suggest (sometimes merely hint at) various improvements in our social welfare scheme that they believe would be consistent with the “set of enduring commitments” that have shaped it.¹¹

Marmor, Mashaw, and Harvey are not the first to take on one or more of these three projects since *Losing Ground* appeared in 1984. Scholars associated with the Wisconsin Institute for Research on Poverty, for example, have published several respected books, thick with data, that attempt to set the record straight on the effects of American social welfare spending during the last several decades.¹² Explaining how and why the gloomy “new consensus” on American social welfare policy came to be is also the topic of important books by Michael Katz,¹³ and by Fred Block, Richard Cloward, Barbara Ehrenreich, and Frances Fox Piven.¹⁴ And the most celebrated book to attempt all three projects, albeit with a substantially narrower focus than *America's Misunderstood Welfare State*, is surely William Julius Wilson's *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy*.¹⁵

Even among this distinguished company, *America's Misunderstood Welfare State* makes an important contribution. The book provides a broad, persuasive, and eminently readable rejoinder to the conservative War on Welfare. Other parts of the book, unfortunately, are less successful due in part to the self-defeating ambitiousness of the authors' agenda.

Part I of this review begins with a brief summary of Charles Murray's attack on welfare, then sets out Marmor, Mashaw, and Harvey's counter-attack. Part II examines the intellectual centerpiece of *America's Misunderstood Welfare State*: a descriptive theory and model of American social welfare spending. Marmor, Mashaw, and Harvey's normative proposals are the focus of Part III. The essay concludes by examining the authors' goal of creating a rational national discourse on social welfare programs.

11. *Id.* at 31.

12. Marmor, Mashaw, and Harvey note that if one reads only these books, “much of what passes for knowledge or fact in public debates concerning ‘poverty’ policies would rapidly be called into question.” *Id.* at 46 n.16. See, e.g., FIGHTING POVERTY: WHAT WORKS AND WHAT DOESN'T (S. Danziger & D. Weinberg eds. 1986); D. ELLWOOD, POOR SUPPORT: POVERTY IN THE AMERICAN FAMILY (1988). Pertinent pre-*Losing Ground* books by persons associated with the Wisconsin Institute for Research on Poverty include A DECADE OF FEDERAL ANTI-POVERTY PROGRAMS: ACHIEVEMENTS, FAILURES, AND LESSONS (R. Havemann ed. 1977); and R. PLOTNICK & F. SKIDMORE, PROGRESS AGAINST POVERTY: A REVIEW OF THE 1964-74 DECADE (1975).

13. M. KATZ, *supra* note 3.

14. THE MEAN SEASON: THE ATTACK ON THE WELFARE STATE (1987).

15. Published in 1987.

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I. THE COUNTER-ATTACK

A. *The War on Welfare*

Although Charles Murray's *Losing Ground* was never a best-seller,¹⁶ his message has had extraordinary influence. One reason is easy enough to see. Murray gave us what we have always, with varying degrees of embarrassment, yearned for: freedom from wealth-inequality guilt. He provided an authoritative "it's-for-their-own-good" argument that we and the White House could invoke to explain our opposition to social welfare spending—an opposition that might otherwise be considered heartless or selfish.

The foundation of Murray's argument is the "poverty/spending paradox."¹⁷ Although the U.S. spent far more "by many orders of magnitude" on federal need-based cash assistance¹⁸ during the 1970s than during the 1960s, poverty declined steeply between 1964 to 1968, and did not decline at all during the 1970s.¹⁹ Murray and his cadre have used these numbers as the central statistic in their war on welfare.

More damning still, according to Murray, are the statistics on "latent poverty," the number of poor people before governmental cash transfers are taken into account. Murray considers latent poverty a measure of economic dependence because if one needs government transfers to stay above the poverty line, one is not "standing on one's own abilities and accomplishments."²⁰ Murray's statistics show that latent poverty decreased from approximately one-third of the population in 1950 to 18 percent by 1968.²¹ Then, as expenditures on need-based cash assistance began to increase markedly during the 1970s, we saw a simultaneous growth in latent poverty: to 19 percent in 1972, 21 percent in 1976, and 22 percent by 1980.²²

Murray's explanation for these statistics is that the social policy of the 1970s provided the poor many incentives to maximize various short-term gains, which ensured and exacerbated their dependency. Murray claims more particularly that changes between 1960 and 1970 in the laws governing Aid to Families with Dependent Children (AFDC) encouraged certain subsets of the

16. *Losing Ground* did not make the *New York Times* bestseller list in either hardcover or paperback. Nonetheless, the publisher of Murray's next book, *In Pursuit: Of Happiness and Good Government* (1988), described Murray on that book's cover as "author of the national best-seller *Losing Ground*."

17. C. MURRAY, *supra* note 5, at 56-58.

18. By "federal need-based cash assistance," Murray means the sum of the "Public Assistance" category in the Statistical Abstract of the U.S. (less "Vendor Payments" and "Social Services," which are in-kind) and the "Supplementary Security Income" category. According to Murray, "These capture the cash programs that were most specifically intended for the poor. . . ." *Id.* at 272 n.3.

19. *Id.* at 57-58.

20. *Id.* at 64-65.

21. *Id.* at 64.

22. *Id.* at 64-65.

poor not to work, not to marry, to give birth to children out of wedlock, and then not to put those children up for adoption.²³ By encouraging such choices, according to Murray, the new AFDC laws increased, rather than eliminated, recipients' continued need for welfare. He concludes that in order to do more good than harm, our future social policy must incorporate, not ignore, "core premises of the popular wisdom" of the 1980s, such as "People are not inherently hard working or moral."²⁴

Murray thus proposes that we consider "scrapping the entire federal welfare and income-support structure for working-aged persons, including AFDC, Medicaid, Food Stamps, Unemployment Insurance, Worker's Compensation, subsidized housing, disability insurance, and the rest."²⁵ Murray envisions great good resulting from a regime that "leave[s] the working-aged person with no recourse whatsoever except the job market, family members, friends, and public or private locally funded services."²⁶ The working poor will no longer be considered "fools" for working, but will "regain the status that is properly theirs."²⁷ Family and friends will be left with the choice of supporting lazy young adults (and those adults' children), or prodding them to get an education, find work, marry, and have fewer children.²⁸ And the needy who truly have no one else to turn to can seek help from the network of local services.²⁹ Although a large majority of the population would be unaffected by this (or any other) income-support regime, Murray predicts that "the lives of large numbers of poor people would be radically changed for the better."³⁰

Enter Marmor, Mashaw, and Harvey. Their counter-attack unsurprisingly focuses on Murray's charge that our existing social welfare programs are undesirable. But *America's Misunderstood Welfare State* does not limit its rebuttal to such claims. Instead, the book persuasively describes the War on Welfare as being fought on three fronts: unaffordability, ungovernability, and undesirability. And Marmor, Mashaw, and Harvey consider all three fronts

23. *Id.* at 154-66. To illustrate the incentives provided by these laws, and how they changed between 1960 and 1970, Murray presents a hypothetical young couple, Harold and Phyllis, who are poor, unmarried, have high school educations, and are facing the birth of their first child. As Murray portrays the couple, the AFDC laws dramatically affect many of their life decisions.

24. *Id.* at 146.

25. *Id.* at 227-28.

26. *Id.* at 228.

27. *Id.* at 229.

28. *Id.* at 228-29.

29. *Id.* at 229.

30. *Id.* Although obviously congenial, Murray's message alone did not ensure that *Losing Ground* would become the "Bible of the Reagan administration" on social policy. M. KATZ, *supra* note 3, at 143-44. The book's influence is, at least in part, attributable to the efforts of the conservative Manhattan Institute. In addition to supporting Murray while he wrote *Losing Ground*, the Institute hired a public relations expert to manage the "Murray campaign." This campaign included sending some 700 free copies of the book to "influential politicians, academics, and journalists" (at a cost of \$15,000), and organizing a seminar on the book "with intellectuals and journalists influential in policy circles." *Id.* at 152.

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worth defending. The statistical analyses the authors use for ammunition are highly effective and constitute one of the book's important contributions.

B. Affordability, Governability, Desirability

According to *America's Misunderstood Welfare State*, the conservative critics' claims that our welfare state is no longer affordable are typically based on two premises: that *welfare* spending has grown dramatically over the past two decades, and that the federal deficit could be significantly reduced by cutting such spending.³¹ Closely linked to these charges of unaffordability are the welfare warriors' accusations of ungovernability. Having opened the spigot of social welfare spending, can we modulate the flow? How responsive is our welfare state to larger, sometimes-unpredictable economic fluctuations and crises?³² The issue of desirability is more complicated. It includes conservative claims that the increasingly poor performance of our national economy is due to overspending on welfare programs,³³ as well as Murray's charges that "welfare" has actually exacerbated the problem of poverty by generating "dependency."³⁴ In combating these "myths" of unaffordability, ungovernability, and undesirability, *America's Misunderstood Welfare State* marshals impressive and persuasive evidence.

Regarding the affordability of our welfare state, Marmor, Mashaw and Harvey concede that by any measure *total* federal social welfare spending has increased dramatically since 1960.³⁵ Spending for AFDC, however, "the program that most people equate with welfare,"³⁶ has actually *decreased* by any of those same measures.³⁷ Indeed, AFDC currently accounts for less than 4 percent of total federal social welfare spending, and less than 2 percent of the total federal budget.³⁸ At less than two-fifths of one percent of GNP, "welfare's" contribution to—and capacity to reduce—the federal deficit is both small and diminishing.³⁹

Even if "welfare" is more broadly defined to include all means-tested aid to low-income persons—*i.e.*, the far less controversial programs providing educational assistance, job training, energy assistance, housing benefits, food aid, and medical care, in addition to cash aid—"the total bill comes to only about half the deficit total."⁴⁰

31. WELFARE STATE, *supra* note 10, at 84-96.

32. *Id.* at 75-78.

33. *Id.* at 58.

34. C. MURRAY, *supra* note 5, at 154-91.

35. WELFARE STATE, *supra* note 10, at 84.

36. *Id.*

37. *Id.* at 85.

38. *Id.*

39. *Id.* at 86.

40. *Id.* at 95. Means-tested aid constitutes less than 30% of total social welfare spending. *Id.* at 94.

Thus, both factual premises that underlie the popular unaffordability claim are seemingly incorrect. Marmor, Mashaw, and Harvey attribute both inaccuracies to a common “tendency to equate ‘welfare’ with AFDC, to equate both with the ‘welfare state,’ and to regard the latter as synonymous with ‘antipov-erty’ programs.”⁴¹

On the issue of governability, Marmor, Mashaw, and Harvey concede that recent Presidential aspirants have spoken as if “adjustments to the welfare state, particularly those aspects dealing with the aged, were to be ruled firmly off the public policy agenda for the foreseeable future.”⁴² History shows, however, that our Presidents (and senators and representatives) usually “govern better than they campaign.”⁴³ Thus, even in the case of that most sacred political cow, Social Security, the history is in fact one of incremental adjustment: “Since 1935 the amendment process has been almost continuous in Congress.”⁴⁴

Nor has our welfare state been slow to respond even to unexpected fluctuations in the health of our national economy. For example, during the economic crisis that followed the 1973 oil crisis, the reduced growth in our gross national product was matched by reductions in social spending growth.⁴⁵ Indeed, from 1975 to 1981, “social expenditures and GNP grew at exactly the same rate.”⁴⁶ The authors emphasize that this welfare state responsiveness “was all the more remarkable since deteriorating economic conditions meant that claims on welfare state institutions were increasing.”⁴⁷

This brings us to desirability. Can our progressively worsening national economic performance be attributed to the welfare state? “No,” say Marmor, Mashaw, and Harvey. Although the American economy’s average rate of growth declined from 1973 to 1989, that “trend has not been caused by a decline in growth rates across all phases of the business cycle.”⁴⁸ Rather, “it is associated with deeper recessions and the absence of wartime stimuli in expansionary periods.”⁴⁹ In addition, comparative data indicate that there is no consistent relationship between overall economic growth rates and either the percentage of GNP spent on social welfare programs or the rate of growth of social welfare expenditures.⁵⁰ The authors note that these findings are entirely predictable when one considers that social welfare spending consists of transfer payments that simply redistribute claims on the economy’s output.

41. *Id.* at 86.

42. *Id.* at 76.

43. *Id.*

44. *Id.*

45. *Id.* at 77.

46. *Id.*

47. *Id.* at 78.

48. *Id.* at 60.

49. *Id.*

50. *Id.* at 61.

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“The public has the same aggregate purchasing power after the transfer is made as it did before. What is different is the relative size of individual claims on total output.”⁵¹

But there is another desirability issue that has been the central and best-publicized concern of Murray and other conservative critics: Has social welfare spending in fact made any headway against poverty? Marmor, Mashaw, and Harvey warn that the answer is necessarily complicated. At the very least, the answer depends on what is measured, how it is measured, and over what time period.⁵² For example, between 1968 and 1988, total spending on means-tested benefits for low-income persons increased from 1.9 percent of GNP to 3.6 percent.⁵³ Census Bureau figures indicate that the incidence of post-transfer poverty simultaneously fell from 22.2 percent in 1960 to 13.5 percent in 1988.⁵⁴ Almost all of that decline in the poverty rate occurred before 1973, however,⁵⁵ while the growth in means-tested spending was relatively constant.⁵⁶ Thus, between 1960 and 1973, increases in means-tested spending were consistently matched by decreases in post-transfer poverty. We did not lose ground during those years, we gained it. But from 1973 to 1988, increases in means-tested spending were matched by a gradual edging-up of the poverty rate from 11.1 percent to 13.5 percent.⁵⁷

Why did the effectiveness of our anti-poverty efforts reach a plateau in 1970?⁵⁸ Does Charles Murray’s “dependency” theory provide the explanation? No. The “simple but bland truth,” according to the authors, is that the *pre-transfer* poverty rate stopped declining in 1970.⁵⁹ That is, the post-transfer and pre-transfer poverty rates show a strong positive correlation. And three broad economic factors explain virtually all of the increase in pre-transfer poverty rates which has occurred in the United States since 1960: rising average unemployment rates, an increase in the percentage of the population in high-risk demographic groups (such as the aged), and a long-term trend toward inequality in the distribution of market income.⁶⁰

What about Murray’s claim that “welfare” breeds dependency? Marmor, Mashaw, and Harvey note first that such a claim is “enormously overgeneral. Does he really mean that income transfers and other supports are causing people to get old, to become blind or disabled, to need medical care?”⁶¹ The

51. *Id.* at 64.

52. *Id.* at 96.

53. *Id.* at 94.

54. *Id.* at 97.

55. *Id.* at 10, 97-98.

56. *Id.* at 94.

57. *Id.* at 10

58. *Id.* at 98.

59. *Id.* at 112-13.

60. *Id.* at 114.

61. *Id.* at 105.

authors point out that “dependency” takes on a pejorative tone only when it is used in connection with those we believe should be supporting themselves.⁶² Thus, they conclude that Murray can really be concerned only with AFDC recipients.⁶³ And they accuse Murray of using “latent poverty” interchangeably with “dependency” in order to mislead, “to justify a massive and unnecessary sense of disquiet about our social welfare arrangements.”⁶⁴

Conservatives may also be troubled by the fact that Marmor, Mashaw, and Harvey focus nearly exclusively on changes in the poverty rate when discussing the effects of welfare. What about the possible positive correlation between increases in welfare expenditures and rising crime rates or increasing numbers of single-parent households? Even if welfare makes the poor less poor, we may nonetheless want less of it (or none) if it brings other social ills. Marmor, Mashaw, and Harvey never directly confront this issue. But they do examine unemployment and illegitimacy as two key indicators of welfare dependency.

Marmor, Mashaw, and Harvey note that AFDC spending does not appear to be significantly positively correlated with either illegitimacy or unemployment. To take just two statistical examples: The illegitimacy rates in states with very high AFDC payments are not significantly greater than in states with lower payments.⁶⁵ And the unemployment rate of young black men actually fell as AFDC benefits increased in the late 1960s, and rose as the real value of AFDC benefits declined over the 1970s.⁶⁶

As *America's Misunderstood Welfare State* acknowledges, identifying these trends and correlations (or their absence) will scarcely simplify social welfare policymaking. But we can at least take comfort in the fact that our efforts to relieve poverty do not appear to have been exacerbating it.⁶⁷

A final issue remains. What accounts for the “poverty gap,” the difference between the pre-transfer incomes of the poor and the amount necessary to raise all families to the poverty level? In 1987 (to take just one representative year), the poverty gap was about \$124 billion, while social welfare expenditures totaled more than four and one half times that amount.⁶⁸ Why do we tolerate a welfare state that appears to be so “spectacularly inefficient”?⁶⁹ In response to this question, Marmor, Mashaw, and Harvey analyze the purposes of American social welfare spending. One cannot, they remind us, evaluate the efficiency or effectiveness of a social welfare program without knowing the program's purpose.

62. *Id.* at 106.

63. *Id.* at 105.

64. *Id.* at 106.

65. *Id.* at 110.

66. *Id.* at 111-12.

67. *Id.* at 114.

68. *Id.* at 98.

69. *Id.*

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C. Conceptions of Purpose

The second major contribution of *America's Misunderstood Welfare State* is its original and provocative thesis that "at least four fundamental conceptions of purpose . . . co-exist, often uneasily, in the design of American social welfare programs."⁷⁰ The implications of this thesis are central to the book's argument: The elimination of poverty has never been *the* purpose of American income transfer programs.⁷¹

This latter claim, to be sure, is not original with Marmor, Mashaw, and Harvey. Professors Piven and Cloward, to take perhaps the best-known example, have long argued that the function and purpose of welfare is not the alleviation of poverty, but rather the regulation of the poor.⁷² The claim is nonetheless worth repeating because welfare warriors like Murray have asserted that "[r]educing poverty was the central objective of federal social programs" during the years that the poverty-spending paradox was at its worst.⁷³

Marmor, Mashaw, and Harvey therefore set out to combat a common form of "critical myopia" in which social welfare programs are imagined "to have single purposes that have somehow been lost in their implementation."⁷⁴ The authors argue that our social welfare spending embodies, in various combinations, four "visions" or "fundamental conceptions of purpose," which they term "behaviorist," "residualist," "social insurance," and "populist."⁷⁵

The "behaviorist" conception views government transfer payments as incentives aimed at "inducing the poor to behave in a more socially acceptable manner."⁷⁶ The poor are thought to be poor "because they do not live as they should,"⁷⁷ and the government must therefore take care not to encourage "dependency" and various "suspect behaviors."⁷⁸ The "residualist" conception embodies the notion of the "safety net." Notwithstanding its many benefits, capitalism has victims who will sometimes need subsistence-level relief in order to survive. "The net is close to the ground," and is large enough to protect only the "truly needy."⁷⁹ The "social insurance" view conceives of the welfare state as a provider of economic security against illness, injury, retirement, widowhood, and involuntary unemployment.⁸⁰ It prevents those

70. *Id.* at 23.

71. *Id.* at 22-31.

72. F. PIVEN & R. CLOWARD, *supra* note 2, at 3.

73. C. MURRAY, *supra* note 5, at 56.

74. WELFARE STATE, *supra* note 10, at 22.

75. *Id.* at 23.

76. *Id.*

77. *Id.* at 23-24.

78. *Id.* at 25.

79. *Id.* at 26.

80. *Id.* at 27.

who contribute to our economy from ever becoming destitute, rather than rescuing them after they have.⁸¹ This view focuses on the “earned” rather than the means-tested entitlement, and “[e]quitable treatment, not the equalizing of incomes, is the controlling standard.”⁸² In contrast, the “egalitarian populist” conception is primarily concerned with equalizing American incomes and, therefore, with fundamental social and economic transformation by the people, for the people.⁸³

Appropriately, the authors do not claim ultimate originality for any of these four fundamental conceptions of purpose. Indeed, they assert quite the opposite: Each of these four conceptions embodies “a distinct ideological vision of the welfare state and [each] tends to be preferred by certain political actors and interest groups.”⁸⁴ Nonetheless, in discussing the topic of purposes, *America’s Misunderstood Welfare State* makes three original and important contributions. First, the authors separate, and thereby make visible, each of the four often-conflicting strands of our social welfare policy. Second, they argue that these purposes simultaneously coexist despite their inherent and irreconcilable incompatibilities. “To aspire to a welfare state that is free of such inconsistencies,” they write, “is to reject political and social complexity.”⁸⁵ Third, Marmor, Mashaw, and Harvey exhort us to remember that evaluating the efficiency and success of our social welfare spending requires a criterion, a clear understanding of its purposes.

II. THE AMERICAN OPPORTUNITY-INSURANCE STATE

Given their insistence that our social welfare programs inescapably express political and social complexities, the reader is somewhat startled by the authors’ next move. Marmor, Mashaw, and Harvey claim to have discerned “a more or less coherent set of enduring commitments” in “the jumble of seemingly contradictory goals,”⁸⁶ and they proceed to divide all of our income transfer programs into two straightforward categories. With this categorization, the authors arrive at the descriptive theory that is seemingly intended to be the intellectual centerpiece of their book. For purposes of prediction, however, the theory proves to be more interesting than useful.

According to the authors, social welfare programs “either *insure broad strata* of the nation’s population against impoverishment from the loss of a breadwinner’s income, or they assist those whom *opportunity has passed*

81. *Id.* at 26-27.

82. *Id.* at 27.

83. *Id.* at 28-29.

84. *Id.* at 23.

85. *Id.*

86. *Id.* at 31.

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by.”⁸⁷ Thus, Marmor, Mashaw, and Harvey suggest the American “opportunity-insurance state” as a more accurate and precise term than the Rorschach-like “welfare state.”⁸⁸ Its combination of economic opportunity and social insurance “captures precisely the American political spirit,” according to the authors.⁸⁹ “It harmonizes the Marlboro man with neighborly barn raising, rugged individualism with mutual support.”⁹⁰

The “insurance” prong of our opportunity-insurance state has always dominated. At present, the vast bulk of all federal, state, and local social welfare spending⁹¹ (71%) is on “insurance” programs of which the principal beneficiaries are the elderly: Social Security old-age pensions (28% of all social welfare spending), Medicare (15%), old-age pensions for government and railroad workers (9%), Social Security survivors’ benefits (7%), worker’s compensation (5%), Social Security disability benefits (4%), and unemployment insurance (4%).⁹² Eligibility for these social insurance programs is based on prior wages rather than a means test. Thus, their direct target is not the poor, nor is their purpose income equalization. These programs instead are “designed to help families maintain the security they have achieved through productive work.”⁹³

“Opportunity” programs, by contrast, currently constitute only 29 percent of all social welfare spending. These programs are based on need and typically provide in-kind aid:⁹⁴ Medicaid and other medical benefits (10% of all social welfare spending), food stamps and other food benefits (4%), AFDC (3%), Supplemental Security Income (2.5%), other cash aid (2%), housing benefits (3%), educational loans and special programs (2%), jobs and training (0.7%), and social services (0.9%).⁹⁵ To varying degrees, these programs constitute the “safety net” that protects Americans from destitution, if not poverty.⁹⁶ Marmor, Mashaw, and Harvey note, however, that “[I]f ensuring a minimally adequate income for all were the primary focus of American social welfare policy outside the domain of social insurance, it could have been pursued more readily by other means”—most obviously a straightforward negative income tax.⁹⁷ Here, too, according to the authors, the actual programmatic goal is

87. *Id.* (emphasis added).

88. *Id.* at 22, 31, 43-46.

89. *Id.* at 43.

90. *Id.*

91. Marmor, Mashaw, and Harvey use 1986 statistics, the most recent then available. See STATISTICAL ABSTRACT OF THE UNITED STATES (1989).

92. WELFARE STATE, *supra* note 10, at 32, 36-37.

93. *Id.* at 34.

94. *Id.* at 35.

95. *Id.* at 36-37.

96. *Id.* at 38-43.

97. *Id.* at 38.

more subtle: To “create opportunities for all Americans to become productive citizens” by investing in their human capital.⁹⁸

Although there is no glaring flaw in the authors’ categorization of programs or in their notion of “insurance,” their conception of “opportunity” rings startlingly hollow. If we truly wanted to “create opportunities for all Americans to become productive citizens,” would we not have some modern analogue of the Works Progress Administration to provide work for the able-bodied for whom there would not otherwise be a job in our economy? And would we not have some form of national health insurance as the most fundamental investment in our citizens’ human capital?

Both gaps are acknowledged by Marmor, Mashaw, and Harvey,⁹⁹ and they attribute them to some combination of conservative political interests and Americans’ preference, under unspecified circumstances, for limited government.¹⁰⁰ Well, all right. But this critical addition to the authors’ entirely interesting descriptive theory seems to diminish almost completely its predictive force and usefulness. Apparently, when our preference for social welfare spending overcomes our preference for limited government, that spending will be channeled toward “insurance” programs or “opportunity” programs. But when our preference for limited government is strong enough, it overrides our preference for certain kinds of social welfare spending.

Despite the predictive weakness of their descriptive theory, the authors seemingly take great pride in it. For the very last sentence of *America’s Misunderstood Welfare State* is presented as an apparently triumphant restatement of the theory: Our existing social welfare programs “reflect our enduring commitments to social insurance and equal opportunity, while recognizing that we are also committed to individualism, the market, and limited government.”¹⁰¹

III. IMPROVING THE OPPORTUNITY-INSURANCE STATE

The authors of *America’s Misunderstood Welfare State* warn in their preface that readers may miss the normative, reformist part of their message because, unlike other commentators, they do not ground their reform ideas on “a castigation of existing programs.”¹⁰² There is, however, a second, equally important reason for the low visibility of the authors’ reform proposals: affirmative reforms are in fact given very few words in *America’s Misunderstood Welfare State*. The authors claim that theirs is “not an argument for the

98. *Id.* at 39.

99. Indeed, they devote the whole of Chapter Six to the need for, and the feasibility of, filling the health insurance gap within the opportunity-insurance state.

100. *Id.* at 44-46.

101. *Id.* at 241.

102. *Id.* at xiv.

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status quo,”¹⁰³ and assure us that they “are not so naive as to believe that the status quo represents the best of all possible worlds.”¹⁰⁴ Nonetheless, much of the time the authors’ normative message is couched as an essentially defensive response to Murray-style welfare warriors who would eliminate programs, tighten eligibility requirements, and otherwise reduce social welfare spending. And at other times the authors seem only to pretend to have a normative message.

Early on, Marmor, Mashaw, and Harvey suggest that the political strength of conservative ideology “has been sufficient to hedge the American welfare state within narrower bounds than its guiding principles would seem to dictate.”¹⁰⁵ Despite their further explicit assessment that our “guiding principles” would permit some form of work relief, the authors inexplicably never propose that we fill that obvious gap in our complex of opportunity-insurance programs. They simply note that a Works Progress Administration no longer exists even though “a straightforward way to guarantee economic opportunity is to guarantee jobs.”¹⁰⁶ And they attribute this gap, as we have seen, to inevitable political compromise as well as to the public’s preference, at least under some circumstances, for limited government.¹⁰⁷

Marmor, Mashaw, and Harvey’s seeming lack of interest in any form of work relief is puzzling for two further reasons. First is the large role that a robust (but not yet programmatically realized) notion of “opportunity” plays in their descriptive model of our welfare state. The more intriguing reason, however, is that Philip Harvey has recently published a book in which he proposes an American “employment assurance policy.”¹⁰⁸ Although Harvey concluded in that book that “it is probably unrealistic to expect the right to employment to be secured in the United States any time soon,” he nonetheless also argued (for 88 of the book’s 117 pages) that “a practical program to secure the right to employment is both feasible and desirable.”¹⁰⁹ One wonders: Does Harvey no longer find his elaborate 1989 proposal worth mentioning? Did his co-authors resist its inclusion in any form, although mention of the proposal (as with each other proposal the authors mention) could surely have been followed by the reasons why it is ultimately politically unfeasible? This failure to discuss unemployment weakens the authors’ prescriptive message.

Marmor, Mashaw, and Harvey do discuss at varying lengths three specific areas for affirmative reform: child poverty, Social Security, and medical care.

103. *Id.*

104. *Id.* at 50.

105. *Id.* at 44.

106. *Id.*

107. *Id.*

108. P. HARVEY, *supra* note 9, at 5.

109. *Id.* at 7.

In each instance, however, the discussion is quickly slowed, then halted, by the authors' own pessimism about the feasibility of their proposal. For example, their normative discussion of the interrelated problems of child poverty and "the underclass" begins, "[t]his is not the place even to attempt to specify a grand strategy for coping with the underclass."¹¹⁰ Yet they state in the following paragraph, "[I]t may be that we should think of birth in disadvantaged circumstances as one of the risks against which the welfare state should provide insurance."¹¹¹ Then, with the very next sentence the authors shift their focus to the Family Support Act of 1988 and, ultimately, why "it is unlikely to ameliorate the condition of the core underclass."¹¹²

That Marmor, Mashaw, and Harvey devote so little of their normative attention to the problem of child poverty and the underclass is surprising in light of their proclaimed belief that "This is clearly not a group of Americans for whom the welfare state has attempted to do a great deal."¹¹³ Indeed, they state that "to provide no exit from intergenerational cycles of poverty. . . is to deny one of the fundamental principles of our insurance-opportunity state."¹¹⁴ Perhaps the authors simply had nothing to add to William Julius Wilson's authoritative study of, and proposal for alleviating, the problem of the underclass.¹¹⁵ In any case, this lack of discussion calls into further question the robustness of the authors' descriptive notion of "opportunity." And one wonders all the more why Marmor, Mashaw, and Harvey resist proposing that we fill the visible programmatic gaps in our "opportunity-insurance state."

The authors' suggestions for reform of the Social Security program are more specific and better supported than those for child poverty and the underclass. As before, however, their (arguably rational) pessimism quickly takes over. For example, they advocate changes in the tax treatment of Social Security benefits, such as including Social Security benefits in the definition of taxable income in order to achieve greater social equity and help reduce the federal deficit.¹¹⁶ They suggest that "Congress could increase tax revenues without unfairly burdening the least secure among the elderly by lowering or eliminating the income threshold above which Social Security benefits are taxed or by increasing the fraction of benefits subject to taxation."¹¹⁷ They quickly note, however, that the appeal of such tax reform proposals is (perhaps fatally)

110. WELFARE STATE, *supra* note 10, at 115-16.

111. *Id.* at 116.

112. *Id.* at 119.

113. *Id.* at 116.

114. *Id.*

115. It is interesting, however, that Wilson's 1987 award-winning book, *The Truly Disadvantaged: The Inner City, The Underclass, and Public Policy* is nowhere mentioned in *America's Misunderstood Welfare State*.

116. *Id.* at 169-70.

117. *Id.*

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limited because “most Americans perceive their contributions to the Social Security trust funds as coming out of already taxed income.”¹¹⁸

Marmor, Mashaw, and Harvey are at their normative best and most persuasive when discussing medical care. Indeed, this is the only programmatic gap in our “opportunity-insurance state” that they explicitly propose that we fill. Consistent with Marmor’s earlier writings,¹¹⁹ they suggest that we adopt a national health insurance scheme based on the Canadian model. Perhaps because they acknowledge that the Canadian scheme undeniably works (at least in Canada),¹²⁰ they are relatively optimistic about this one of their reform proposals. Before too many paragraphs pass, however, the authors revert to their familiar pessimism: “The politics of medical care in the United States has traditionally favored free market ideology. . . . Only a substantial change in politics as usual could produce major reform. . . . We are hardly sanguine that such reforms will be forthcoming in the near term.”¹²¹ A sentence later, however, the authors claim that there is actually cause for optimism.

One can partially understand this lack of development and detail in the authors’ reform proposals. Genuinely new affirmative proposals that would be worthy of extended and detailed discussion are not easily come by in the realm of social welfare policy. In addition, the authors’ stated agenda was largely descriptive rather than normative: even the book’s title promises, not a vision, but a clarifying description. The authors’ goal was to clear the deck—not to build a new ship.

Perhaps most important, however, the authors’ constructive posture toward the existing scheme of social welfare spending necessarily makes normative theorizing more difficult and complicated. Charles Murray could spell out his “Proposal for Public Welfare” in only two sentences because it had a simplicity only negative proposals can ever have: “[S]crap[] the entire federal welfare and income-support structure for working-aged persons [And] leave the working-aged person with no recourse whatsoever except the job market, family members, friends, and public or private locally funded services.”¹²²

There is a second issue here, however, embodied in the fact that Marmor, Mashaw, and Harvey warn the reader in the book’s preface to be suspicious of their normative message. “[T]hose who want to dismantle the welfare state will heap scorn on it,” the authors note. “But it is both unnecessary and counterproductive for those who want to strengthen the welfare state to do the same.”¹²³ As the authors surely realized, even reform proposals intended to “strengthen” rather than “dismantle” the welfare state heap some measure of

118. *Id.* at 171.

119. *See, e.g.*, Marmor, *Can the U.S. Learn from Canada?*, *supra* note 7.

120. WELFARE STATE, *supra* note 10, at 204.

121. *Id.* at 209.

122. C. MURRAY, *supra* note 5, at 227-28.

123. WELFARE STATE, *supra* note 10, at xiv.

implied scorn on the existing arrangement. Thus, reformist suggestions that more than minor tinkering with the present system is in order could undermine their own powerful counter-attack on the War on Welfare. So, in the end, we should not be surprised that the authors' normative message lacks force. All the same, the reader is disappointed not to have received a strong, crisp statement of the authors' normative views.

IV. TOWARD A RATIONAL DISCOURSE

Throughout its battle against the War on Welfare, *America's Misunderstood Welfare State* does a largely persuasive job of attacking the central enemies of myth and misperception. The most pernicious enemy, however, may be the rhetoric that sells this misinformation to the public. Although it is one of the welfare state's more abundant "goods," public misinformation matters in a democracy. "If reform must be marketed in terms of dominant misconceptions, certain things are both unthinkable and undoable."¹²⁴ Mistaken ideas can lead not only to mistaken policies,¹²⁵ but ironically also to social insecurity in the face of actual economic security.¹²⁶

The authors describe the social commentary from the mid-1970s through the mid-1980s as a "chorus of complaint[s]" about what social welfare spending (allegedly) had not achieved and, more generally, about the (alleged) ineffectiveness of government social action.¹²⁷ How and why did negativism become the conventional wisdom during these years? After all, the facts evince much accomplishment and cause for pride. And public opinion concerning the specific major programs of the American welfare state was—and is—consistently and overwhelmingly positive.¹²⁸ For example, one of the most extensive recent surveys of public attitudes toward American social welfare programs found that the percentage of respondents who wished either to increase or maintain expenditures for existing programs ranged from 97.5 percent for Medicare to 75.6 percent for the Food Stamp Program.¹²⁹

Marmor, Mashaw, and Harvey offer several plausible explanations for the negative conventional wisdom of the 1970s and 1980s. First, during the late 1960s and early 1970s, the American Left had unintentionally supported later conservative positions by encouraging "a cynical view of antipoverty programs."¹³⁰ Most notably, two widely read and influential books appeared in the early 1970s that argued that American welfare programs had never been

124. *Id.* at 214.

125. *Id.*

126. *Id.* at 173-74.

127. *Id.* at xiii-xiv, 1-2.

128. *Id.* at 2, 47-49.

129. *Id.* at 47-48.

130. *Id.* at 14.

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motivated by humanitarian concern or a desire to end poverty. In their 1971 book, *Regulating the Poor*, Frances Fox Piven and Richard Cloward claimed that welfare was a nefarious instrument of social control: “[E]xpansive relief policies are designed to mute civil disorder, and restrictive ones to reinforce work norms.”¹³¹ And in 1975, James O’Connor argued in *The Fiscal Crisis of the State* that America had become a “warfare/welfare state.”¹³² Military and social welfare spending provided the imperial power, social control, and fiscal stimulus upon which America had come to depend for its prosperity, but could no longer afford.

A second explanation is that from 1974 until the early 1980s, the U.S. economy suffered its worst recession since the 1930s.¹³³ Because that economic downturn followed on the heels of the Great Society and the War on Poverty, a causal fallacy awaited exploitation. At the same time, political leaders were beginning to exalt rugged individualism, family, voluntary associations, and the market.¹³⁴ Conservative critics were poised to prey upon the public’s growing unease that the welfare state was synonymous with government profligacy and constraints on freedom.¹³⁵

Also during the 1970s, unprecedented amounts of financial support for both the generation and dissemination of conservative critiques appeared.¹³⁶ Conservative academics were therefore happy to provide scholarly analyses of social welfare spending and set the intellectual foundation for the war on welfare. And conservative commentators and editors ensured that policymakers and the public were regularly fed easily digestible morsels of this scholarship.¹³⁷ Meanwhile, according to Marmor, Mashaw, and Harvey, “much truly fine research on the problems and prospects of American social welfare policy” was not circulated beyond the specialist policy community.¹³⁸

One wants to know why not. The authors’ passing suggestion that “[l]iberalism was whipsawed”¹³⁹ for an entire decade by earlier left-wing criticisms of the welfare state is not a very satisfying explanation. Surely in the 1980s there were commentators and editors inclined toward the “L-word” who could have distilled and popularized this other (presumably less conservative) research. Who or what stopped them? Money? The ideological tenor of the times? Lack of conviction? Lack of interest? That the authors do not really attempt to answer this question is especially odd in light of their repeatedly

131. F. PIVEN AND R. CLOWARD, *supra* note 2, at xiii.

132. WELFARE STATE, *supra* note 10, at 14.

133. *Id.* at 8.

134. *Id.* at 12.

135. *Id.* at 13.

136. *Id.* at 15-16. See *supra* note 30 for a discussion of the efforts of the Manhattan Institute to promote *Losing Ground*.

137. *Id.* at 15.

138. *Id.* at 51-52.

139. *Id.* at 15.

expressed concern with how popular misunderstandings about American social policy emerge.

Other scholars have attempted to answer this question. To take just one example, Michael Katz has recently suggested two highly plausible reasons why no liberal response to the conservative welfare critiques of the 1980s was quickly forthcoming, let alone broadly circulated. First, the “capture” of poverty issues by economists and the new breed of public policy analysts meant that liberals could not construct a fresh defense of the welfare state using the materials on which they had so effectively relied during the Welfare Revolution of the 1960s: “new definitions of rights and entitlements, emergent conceptions of distributive justice, ethnographic data about poor people, and revised historical and political interpretations of poverty and welfare.”¹⁴⁰

Second, Katz notes that the liberals failed “to relate an invigorated welfare state to economic and moral renewal.” The liberals “lacked a plausible response to the intuitively interconnected problems troubling ordinary Americans: stagflation; declining opportunity; increased taxes and welfare spending; crime and violence on the streets; and the erosion of families and moral standards.”¹⁴¹ For the conservative critics, on the other hand, “welfare” provided a convincing interpretation for these manifold worries of the typical American: “Welfare became the centerpiece of [the conservative] explanation for economic stagnation and moral decay.”¹⁴²

No matter who its audience might be, a single chapter of *America's Misunderstood Welfare State* is unlikely to remedy the problem of persuasion that liberals now face. Marmor, Mashaw, and Harvey clearly understand this, even though their book concludes with a chapter, seemingly aimed at “the public,” titled “How Not to Think About the Welfare State.” In the chapter's early pages, the authors display their recurring pessimism about the feasibility of even this reform proposal. “People believe what they want to believe,” they sigh, “and no amount of haranguing by well-intentioned fact-grubbers is likely to change their minds.”¹⁴³ More persuasive (and quotable) still: “[T]he American public is not going to be converted overnight from sports fans into policy analysts.”¹⁴⁴ One begins to think that the authors have given up their project of trying to dislodge American ideology from the iron grip of Murrayite welfare warriors.

But Marmor, Mashaw, and Harvey survive even this last paroxysm of pessimism: “[W]e are not yet ready to throw in the towel.”¹⁴⁵ And they

140. M. KATZ, *supra* note 3, at 139.

141. *Id.* at 139.

142. *Id.*

143. WELFARE STATE, *supra* note 10, at 216.

144. *Id.* at 215.

145. *Id.* at 216.

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provide a set of rules—“likely policy-analytic blunder[s]”¹⁴⁶—that they hope will enable “concerned citizens [to] protect themselves in a policy dialogue that too often features nonsense in place of sense.”¹⁴⁷ Their plan is to “induce our readers to adopt a reflexive skepticism when confronted with certain varieties of unhelpful social welfare policy talk.”¹⁴⁸ The rules are pithy:

Rule 1: Projections are not forecasts.

Rule 2: Incentives are not behaviors.

Rule 3: Purposes are never unitary.

Rule 4: Comprehensive reform is usually not on the agenda.

Rule 5: Ideology drives analysis.

But how useful do *you* find these rules? And is the more ordinary American likely to be helped by them?

V. CONCLUSION

America's Misunderstood Welfare State is required reading for both the policy expert and the concerned citizen. Its statistical and analytical counter-attack on the War on Welfare is excellent and compensates for weaknesses elsewhere in the book. One hopes only that its nuanced, scholarly timbre will not diminish the audibility of the collective voice of Marmor, Mashaw, and Harvey “in a public world in which to be shrill is to be heard.”¹⁴⁹

The somewhat less successful parts of the book are largely victims of the ambitious scope of the authors' agenda. Some endeavors simply do not combine well with others within the confines of the same book. And 241 pages is, after all, not a very big book in which to attempt a panoply of projects. Reform proposals are a difficult follow-up to a highly persuasive defense of the existing system. The hows and whys of our ever-changing “conventional wisdom” on social welfare is a topic to which entire books have been devoted. And teaching the American public how to think is a project that is probably best left undeclared, even when attempted. Nonetheless, *America's Misunderstood Welfare State* extends a strong and needed “hand up” to the national discourse on the state of our welfare state.

146. *Id.* at 20.

147. *Id.* at 20-21.

148. *Id.* at 20.

149. *Id.* at 51.