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Grouping Towards Utopia: Capitalism, Public Policy, and Rawls' Theory of Justice

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Cover Page Footnote

James Ottavio Castagnera holds the J.D. and PhD. from Case Western Reserve University. A labor lawyer with a major Philadelphia law firm for nearly ten years, he has published a dozen law books and some 50 articles and book chapters on law and labor topics. Currently the associate provost at Rider University (Lawrenceville/Princeton, NJ), his professional and scholarly interests are focused on the role of higher education in creating a just society and bringing the American dream to the Global Village.

GROPING TOWARD UTOPIA: CAPITALISM, PUBLIC POLICY, AND RAWLS' THEORY OF JUSTICE

JAMES OTTAVIO CASTAGNERA*

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I. INTRODUCTION

Adam Smith got it right, once and for all:

It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages.¹

Capitalism—the free market—works so well because it reflects our very nature. It is a morally “good” system only insofar as human nature is “good.” It is a just system only insofar as our fundamental nature is “just.”

A decade after the fall of the Berlin wall and the collapse of the “evil empire,” we continue to sing capitalism’s praises, as if our free-market economy were the best of all imaginable worlds. Even amidst the first flush of the West’s Cold War victory, however, some thoughtful thinkers raised doubts. In his swan song to George Smiley—the clerk *qua* Cold Warrior in such classic novels as *Tinker, Tailor, Soldier, Spy*—John LeCarré had a Smiley mentee muse, “I thought of telling him that now we had defeated Communism, we

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1. ADAM SMITH, *THE WEALTH OF NATIONS* 7 (Wallace Brockway ed., Encyclopedia Britannica, Inc. 1952).

were going to have to set about defeating capitalism, but that wasn't really my point: the evil was not in the system, but in the man."²

LeCarré's narrator did not get it quite right, though. To call it "evil" is to place our moral judgment upon nature's indifference . . . her neutrality. Maladaptation may be the work of the devil, but if so, he works with exquisite patience within the evolutionary process. Maladaptation is both physical³ and societal.⁴

American economists sang the praises of capitalism long before we won the Cold War,⁵ but the disintegration of the Soviet Union has raised the chorus of adulation to new decibel levels. In fact, some have gone as far as to credit the Reagan administration's use of America's economic might for causing, or at least hastening, the collapse of the "evil empire."⁶ This author will not dispute that thesis, which may very well have much merit.

Rather, the thesis of this article is drawn from LeCarré's observation, quoted above: now that Communism—which indeed is a perversion of human society—is fading from the world, we must turn our attention to the dark side of capitalism . . . recognizing that, as socioeconomic systems go, it is only the best of a very bad lot.

If capitalism is a maladaptation—if in moral terms, it is "evil" and in biological terms it is "sick"—what are the symptoms that lead to this diagnosis? In ancient times, and into the Middle Ages and even the early-modern age, illness was attributed to imbalance,⁷ and we must look to our society's imbalances to find those

2. JOHN LECARRÉ, *THE SECRET PILGRIM* 334 (Alfred A. Knopf 1991) (1990).

3. See, e.g., David P. Barash, *Why Bad Things Have Happened to Good Creatures*, *CHRON. OF HIGHER EDUC.*, Aug. 17, 2001, at B13 ("An especially awkward design flaw of the human body—male and female alike—results from the close anatomical association of the excretory and reproductive systems, a proximity attributable to a long standing, primitive vertebrate connection, and one that is troubling, not only for those who are sexually fastidious.").

4. See, e.g., ROBERT B. EDGERTON, *SICK SOCIETIES: CHALLENGING THE MYTH OF PRIMITIVE HARMONY 1* (The Free Press 1992).

All societies are sick, but some are sicker than others. . . . [T]here are some customs and social institutions in all societies that compromise human well-being. Even populations that appear to be well-adapted to their environments maintain some beliefs or practices that unnecessarily imperil their well-being or, in some instances, their survival.

Id.

5. See, e.g., MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* 4 (University of Chicago Press 1964) (1962) ("This book discusses some . . . great issues. Its major theme is the role of competitive capitalism—the organization of the bulk of economic activity through private enterprise operating in a free market—as a system of economic freedom and a necessary condition for political freedom.").

6. See, e.g., PETER SCHWEIZER, *VICTORY* (The Atlantic Monthly Press 1994).

7. For a brief discussion of these archaic views, see James Ottavio Castagnera, *The Rule of Four: Personality Types or Stereotypes?*, *MERCER COUNTY BUS. MAG.*, Mar. 2001, at 30.

symptoms. Then, having noted the symptoms, some solutions will be suggested.

II. BIG!

Middle America likes things to be BIG.

It likes big communities. "Sprawl is claiming farmland at the rate of 1.2 million acres a year. Throw in forest and other undeveloped land and . . . you're waiving good-bye to more than two million acres."⁸ If sprawl "keeps a person in the driver's seat,"⁹ those seats are in ever-larger vehicles.

Maybe the SUV, like the fur coat, will eventually be labeled a consumer product of shame. This is obviously not a view shared by . . . the millions of Americans who plop down 30, 40 or 50 grand for a bulky, gas-guzzling monster called "an off-road vehicle" even though its closest encounter with rough terrain is the speed bumps in the mall parking lot.¹⁰

Despite relentless highway expansion to keep up with suburban sprawl, "[t]raffic delays rack up more than 72 billion dollars in wasted fuel and productivity" annually.¹¹

The average home, like the average car, gets larger as the 'burbs march on: Phoenix spreads into the desert at the rate of an acre an hour, while Atlanta boasts a metropolitan area larger than Delaware.¹² What are these Middle Americans looking for? "[T]hey want larger homes on larger lots [A] piece of the American dream."¹³

Even Middle Americans' bodies are bigger.¹⁴ More than half the population is overweight, and it seems destined to swell by another sixty-three million by 2025, requiring thirty million more homes.¹⁵ Even Middle America's dogs are getting bigger on average: the golden retriever is now the dog of choice to climb in the back of that

8. John G. Mitchell, *Urban Sprawl*, NAT'L GEOGRAPHIC, July 2001, at 58.

9. *Id.*

10. Jane Eisner, *Religious Leaders Urge Conscientious Car Buys*, PHILA. INQUIRER, Aug. 5, 2001, at E1.

11. Mitchell, *supra* note 8, at 58.

12. *Id.* at 55-56.

13. *Id.*

14. See Michael Kelly, *If You've Got Too Much, Please Don't Flaunt It*, PHILA. INQUIRER, Aug. 26, 2001, at E5 ("My fellow . . . Americans, we are some kind of fat. I don't mean getting a bit thick around the middle. . . . I mean we are fat, fat, fat.").

15. Mitchell, *supra* note 8, at 58.

SUV as it rumbles from home to mall to school to home again in suburbia.

III. SMALL

There is—as there always has been—another America. That it is easy to ignore inside a \$50,000 SUV is somewhat surprising, given this other country's sheer size. How big is this “small” America? Consider the following:

[B]asic family budgets for a two-parent, two-child family range from \$27,005 a year to \$52,114, depending on the community. The national median is \$33,511, roughly twice the poverty line of \$17,463 for a family that size; nationally, 29% of families with one to three children under 12 fell below basic family budget levels for their communities in the late 1990s; over two-and-a-half times as many families fall below family budget levels as fall below the official poverty line.¹⁶

Beyond America's borders the picture becomes far grimmer. Every year an estimated 700,000 human beings—mainly women and children—are trafficked across international borders to serve as slaves in brothels, sweatshops, construction sites and fields.¹⁷ In the African nations of Mali, Niger, Chad, Democratic Republic of Congo, Ethiopia and Mozambique, per capita annual income is less than \$250.¹⁸ In South Africa, 20% of adults are infected with HIV; in Botswana the figure is 36%.¹⁹ Closer to home, the unemployment rate in El Salvador has been put at 60%.²⁰

Immigrants fleeing such horrific and demoralizing conditions flock to America, where low paying personal service jobs await them. A janitor in a southern state will earn as little as \$13,000 per year.²¹ A taxi driver in New York City will begin his shift \$120 in the hole, having paid the company for the use of the cab and filled

16. HEATHER BOUSHEY ET AL., *HARDSHIPS IN AMERICA: THE REAL STORY OF WORKING FAMILIES I* (Economic Policy Institute 2001).

17. U.S. DEPT OF STATE, *TRAFFICKING IN PERSONS REPORT 1* (2001); see also James Ottavio Castagnera, *Of Cloning and Human Trafficking*, *THE TIMES* (Trenton, N.J.), Aug. 3, 2001, at A18; *Justice Department Announces Guilty Plea in Sex Trafficking Case*, 78 No. 15 *INTERPRETER RELEASES* 675 (West Group, Apr. 16, 2001).

18. *Africa Today*, NAT'L GEOGRAPHIC, Sept. 2001, map insert.

19. *Id.*

20. John Lavin, *Workers Struggle in El Salvador*, NAT'L CATH. REP., Mar. 10, 2000, at 10.

21. See Martin Van Der Werf, *How Much Should Colleges Pay Their Janitors?*, *CHRON. OF HIGHER EDUC.*, Aug. 3, 2001, at A27.

the tank with gas, all at his own expense; for a twelve-hour shift he may net as little as \$30.²² Such jobs are overwhelmingly staffed by immigrants and minorities . . . the millions of little people in this other, this “small” America. I think these few stark examples will suffice.

IV. THE CHASM

Clearly there exists a disconnect between the America of suburban sprawl and SUVs and the impoverished majority of human beings. Some have called it “the chasm.”²³ If we find ourselves squarely on the right side of this divide, should we care? Down the ages many writers have suggested that we should, and marveled that so often we have not, preferring to protect our own prerogatives at poor people’s expense. For example:

The present position which we, the educated and well-to-do classes, occupy, is that of the Old Man of the Sea, riding on the poor man’s back; only, unlike the Old Man of the Sea, we are very sorry for the poor man, very sorry; and we will do almost anything for the poor man’s relief. We will not only supply him with food sufficient to keep him on his legs, but we will teach and instruct him and point out to him the beauties of the landscape; we will discourse sweet music to him and give him abundance of good advice. Yes, we will do almost anything for the poor man, anything but get off his back.²⁴

It must in truth be admitted that the main effect of the spectacle of the misery of the toilers at the rope was to enhance the passengers’ sense of the value of their seats upon the coach, and to cause them to hold on to them more desperately than before. If the passengers could only have felt assured that neither they nor their friends would ever fall from the top, it is probable that, beyond contributing to the funds for liniments and bandages, they would have troubled themselves extremely little about those who dragged the coach.²⁵

22. Dominique Esser et al., *Reorganizing Organizing: Immigrant Labor in North America*, 25 AMERASIA J. 170, 173 (1999).

23. UPTON SINCLAIR, *THE CRY FOR JUSTICE* (Edward Sagarin & Albert Teichner eds., Barricade Books rev. ed. 1996) (1963).

24. LEO TOLSTOY, *RICH AND POOR*, reprinted in SINCLAIR, *supra* note 23, at 60.

25. EDWARD BELLAMY, *LOOKING BACKWARD*, reprinted in SINCLAIR, *supra* note 23, at 62.

Primarily . . . I observe that men of business rarely know the meaning of the word "rich" . . . Men nearly always speak and write as if riches were absolute, and it were possible, by following certain scientific precepts, for everybody to be rich. Whereas riches are a power like that of electricity, acting only through inequalities or negations of itself. The force of the guinea you have in your pocket depends wholly on the default of a guinea in your neighbor's pocket. If he did not want it, it would be of no use to you; the degree of power it possesses depends accurately upon the need or desire he has for it,—and the art of making yourself rich . . . is therefore equally and necessarily the art of keeping your neighbor poor.²⁶

All three of these quotations, drawn from significant thinkers of their times, imply the same proposition . . . that affluence rides upon the back of poverty. Let me suggest that each writer reflected the general belief of his time and that this belief is alive and well on both sides of the chasm. But is it true?

V. A THEORY OF JUSTICE

In the introduction I quoted Adam Smith. While Smith acknowledged the inherent selfishness of economic man, he postulated a market economy that—while grounded in the bedrock of this fundamental trait of human nature—worked to the betterment of all participants. One might go a step farther and wonder why either the buyer of the bread or the seller would mind that the other was also better off for the achievement of their transaction. Perhaps an unusually mean or avaricious person might wish to impoverish his counterpart while maximizing his own betterment—monopolists are not unknown to students of history²⁷—but anthropologists and psychologists tell us that enlightened self-interest and reciprocal altruism are more common traits in the run of humanity.²⁸

26. JOHN RUSKIN, *THE VEINS OF WEALTH*, reprinted in SINCLAIR, *supra* note 23, at 73.

27. See, e.g., James Ottavio Castagnera, *As the Juggernaut of the Information Highway, Gates' Microsoft Resembles Rockefeller's Standard Oil of a Century Ago*, L. OFF. TECH. SOLUTIONS, Mar. 1998, at 1-3.

28. See CARL N. DEGLER, *IN SEARCH OF HUMAN NATURE* 281 (Oxford University Press 1991) ("Kin selection is nothing more than what in human affairs is called 'enlightened self-interest,' since the individual organism that appears to be sacrificing itself for another is actually gaining an advantage through that behavior."); see also *id.* at 284 ("As the name ['reciprocal altruism'] suggests, the behavior pattern is one in which an individual is supportive of a non-relative on the assumption that at a future time that non-relative will reciprocate.").

If this is so, then a good working hypothesis might be that, where my neighbor gains at no cost to me, or where we both gain, my natural reaction will be to favor the transaction or system which consistently provides this result.

Enter Harvard Philosopher John Rawls. In his seminal and highly influential work on the subject of social justice, Rawls put forward a proposition that he labeled "the difference principle" and defined it as the "strongly egalitarian conception . . . that unless there is a distribution that makes both persons better off . . . an equal distribution is to be preferred."²⁹ He gave an example that is highly relevant here:

To illustrate the difference principle, consider the distribution of income among social classes. Let us suppose that the various income groups correlate with representative individuals by reference to whose expectations we can judge the distribution. Now those starting out as members of the entrepreneurial class in property-owning democracy . . . have a better prospect than those who begin in the class of unskilled laborers. It seems likely that this will be true even when the social injustices which now exist are removed. What, then, can possibly justify this kind of initial inequality in life prospects? According to the difference principle, it is justifiable only if the difference in expectation is to the advantage of the representative man who is worse off, in this case the representative unskilled worker.³⁰

Consequently, Rawls rejected meritocracy . . . the system under which society levels the playing field, so that the best qualified will win. Rawls called this system "natural aristocracy." "On this view no attempt is made to regulate social contingencies beyond what is required by formal equality of opportunity, but the advantages of persons with greater natural endowments are to be limited to those that further the good of the poorer sectors of society."³¹

This, of course, is the present American model. In the employment arena, discrimination in hiring, pay, promotion, discipline and firing on the basis of race, religion, national origin, sex, age—and in some states and cities sexual preference, marital

29. JOHN RAWLS, *A THEORY OF JUSTICE* 76 (Harvard University Press 1973) (1971).

30. *Id.* at 78.

31. *Id.* at 74.

status, and even height and weight—is illegal.³² However, during the 1990s affirmative action—based upon a Rawlsian recognition that merely outlawing discrimination was not enough to give groups starting far behind in the race for workplace success—fell into judicial and political disrepute.³³

In the area of labor relations, the ostensible goal of the National Labor Relations Act historically has been to “level the playing field” between labor and management.³⁴ When organized labor represented one worker in three, during the 1950s and early 1960s, this federal neutrality worked pretty well. As European and Asian competitors began cutting into America’s manufacturing monopoly, however, labor unions began to lose their hold on the American worker. Astute observers realized as early as the mid- to late-1960s that this was a long-term trend, not merely a short-term fluctuation.³⁵ For a time, this resulted in relatively peaceful coexistence.³⁶ A sea-change occurred in 1981, when President Ronald Reagan “busted” the air traffic controllers union. The employer’s right to permanently replace striking workers had been established by the Supreme Court more than four decades earlier.³⁷ However, in organized labor’s “heyday” this right was rarely exercised. But when it was reaffirmed by the Supreme Court shortly after Reagan’s union busting action against PATCO,³⁸ it became open season on economic strikers across the country. Besides organized labor’s decline to where it represents only about

32. See generally PATRICK J. CIHON & JAMES OTTAVIO CASTAGNERA, *EMPLOYMENT AND LABOR LAW* chs. 3-7 (4th rev. ed. West Publishers 2002).

33. See, e.g., *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 201-02 (1995) (reviewing the legality of a minority set-aside program and holding that “the Fifth and Fourteenth Amendments to the Constitution protect persons, not groups. It follows . . . that all governmental action based on race . . . should be subjected to detailed judicial inquiry.”); *Taxman v. Bd. of Educ. of the Township of Piscataway*, 91 F.3d 1547 (3d Cir. 1996) (holding that a school district’s affirmative action plan was unconstitutional because it was not instituted to remediate proven past racial discrimination); *Coalition for Econ. Equal. v. Wilson*, 122 F.3d 692 (9th Cir. 1997), cert. denied, 522 U.S. 963 (1997) (upholding the constitutionality of a California referendum requiring the state to end all programs that gave preferential treatment on the basis of race, color, or gender).

34. See generally CIHON & CASTAGNERA, *supra* note 32, chs. 12-20.

35. See, e.g., JOHN KENNETH GALBRAITH, *THE NEW INDUSTRIAL STATE* 264 (Houghton Mifflin Co. 1971) (1967) (“[A]s this is written, union growth within the industrial system has long since tapered off.”).

36. *Id.* (“Industrial relations have become markedly more peaceful as collective bargaining has come to be accepted by the modern large industrial enterprise. Union members and their leaders are widely accepted and on occasion accorded a measure of applause for sound social behavior both by employers and the community at large.”).

37. *NLRB v. MacKay Radio & Tel. Co.*, 304 U.S. 333 (1938).

38. *Belknap v. Hale*, 463 U.S. 491 (1983) (holding that replacement workers hired under promises of permanent employment could sue the employer for breach of contract if laid off at the end of the strike).

one in ten workers in the private sector, the ineffectiveness of National Labor Relations Board remedies is frequently cited as a principal cause of the current weakness on the "labor" side of the labor-management equation on what remains in theory a level playing field.

Although the NLRB has rather broad remedial powers under the NLRA, the delays involved in pursuing the board's remedial procedures limit somewhat the effectiveness of such powers. The increasing caseload of the board has delayed the procedural process to the point at which a determined employer can dilute the effectiveness of any remedy in a particular case.

Because unfair practice cases take so long to be resolved, the affected employees may be left financially and emotionally exhausted by the process. Furthermore, the remedy, when it comes, may be too little, too late. One study found that when reinstatement was offered more than six months after the violation occurred, only 5 percent of those discriminatorily discharged accepted their old jobs back.

Indeed, the final resolution of back-pay claims of the employees [in one notorious case] did not occur until . . . fully twenty-four years after the closing of their plant to avoid the union!³⁹

Thus, while we regularly refer to the 1964 Civil Rights Act and the National Labor Relations Act as "remedial" statutes, in fact the remedies are limited by the illusion of the "level playing field." The reality is justice delayed and justice denied to the large percentage of our population identified earlier in this article.⁴⁰

VI. A MODEST PROPOSAL

Rawls' theory of justice requires the advantaged to help the disadvantaged under circumstances in which the disadvantaged

39. CIHON & CASTAGNERA, *supra* note 32, at 491-92. The case reference is to *Textile Workers Union v. Darlington Mfg. Co.*, 380 U.S. 263 (1965).

40. A textbook example is the dilemma of the New York taxi drivers. Having been converted from employees to independent contractors and thus forced to shoulder all the risk with no salary or benefits of any kind, they are caught in the "Catch 22" of enjoying no organizing rights or protections under the NLRA, because that act extends its benefits only to "employees." See Esser et al., *supra* note 22, at 171-81.

benefit more than the advantaged do themselves. The anthropological principles of enlightened self-interest and reciprocal altruism suggest that such policies are not necessarily unacceptable to the advantaged members of a society. Past public policies support this conclusion.

For example, in 1960 the maximum federal income tax rate was ninety percent, making it a major factor in narrowing the gap between the highest and the lowest levels of corporate compensation; consequently, the average CEO's take-home pay was only twelve times that of the men and women on the corporation's factory floor, as compared to a ratio of about seventy to one during the past decade.⁴¹ The one-third of the workforce that was unionized was in no small measure responsible for keeping the gap so narrow. This power balance was widely accepted in corporate America.⁴²

Can it be that such Rawlsian policies may become once again acceptable to the advantaged half of American society in this new decade? It is axiomatic that the public policy pendulum swings. Eight years of Democratic control of the White House notwithstanding, the past two decades are best characterized as politically conservative, to wit the Clinton Administration's almost slavish dedication to the creation and capturing of budgetary surpluses.

If our college campuses are good barometers of the political climate—as I believe they are—then the faculty and student activism of the 1960s and 1970s can be instructively contrasted to the careerism of the 1980s and 1990s.⁴³ In 2001, our campuses have shown signs of stirring.⁴⁴ The new administration, and its economic and political policies,⁴⁵ are more likely to antagonize activists than

41. ROBERT B. REICH, *THE WORK OF NATIONS* 204-05 (Alfred A. Knopf, Inc. 1991).

42. GALBRAITH, *supra* note 35, at 263.

43. See James Ottavio Castagnera, *Professors Without Picket Signs (II): Where is the Professorate When We Really Need It?*, LAB. L.J., Fall 2001, at 157-165.

44. Liza Featherstone, *The New Student Movement*, THE NATION, May 15, 2000, at 11; Jane Manners, *Joe Hill Goes to Harvard*, THE NATION, July 2, 2001, at 16; Jack Brown, *Top 10 Activist Campuses: Giving It the Old College Outcry* (Sept. 7, 2001), at <http://www.motherjones.com/magazine/S001/top10.html>; James Ottavio Castagnera, *The Role of Higher Education in the 21st Century: Collaborator or Counterweight?*, CHANGE MAG., Sept./Oct. 2001, at 39-44.

45. For example, the tax cut and the concomitant evaporation of the budgetary surplus; the president's apparent support for drilling in the Alaskan wilderness preserves; the administration's stance on world trade/globalization, see Featherstone, *supra* note 44; the executive order limiting federal funding with regard to stem-cell research, see Ron Southwick, *Ground Zero in the Debate Over Stem-Cell Research*, CHRON. OF HIGHER EDUC., Sept. 7, 2001, at A30; R. Alta Charo, *Bush's Stem-Cell Decision May Have Unexpected—and Unintended—Consequences*, *id.* at B14.

did Mr. Clinton's "open zipper" policy.⁴⁶ Thus the time may well be ripe for a return to Rawlsian public policies.

If so, what sort of policies might these be? Let me suggest that the most promising place to pursue such Rawlsian policy choices is at the bottom of the human barrel. Recall that the New Deal justification for federal legislation promoting labor organizing, minimum wages, overtime compensation, social security, and numerous other social reforms was the strengthening of America's consumer base in the hope that the worker *qua* consumer would pay our way out of the Depression.⁴⁷ Similarly, I am suggesting that improving the lot of the lowest common denominator of our sisters and brothers—while raising them up will benefit them more than those of us better blessed—will improve life for us all by replacing handouts with disposable income. This, indeed, is the essence of Rawls' theory of justice.

Consider two related examples here: the anti-sweatshop movement⁴⁸ and the international effort to end traffic in human beings.⁴⁹ Without question, the success of these two policies will benefit the victims of these evils the most. But their success also

46. In revising this essay after September 11, 2001, one must wonder what will be the long range impact of the terrorist attacks on America. In the short run, our President has looked and sounded very presidential. The majority response has been an outburst of patriotism. Meanwhile, mixed signals are coming from our college campuses. The CIA recently reported high interest among University of Maryland students at a campus job fair. *UM Students Eager to Join the Fight Against Terrorism; CIA Recruiters Swamped at College Career Fair*, BALT. SUN, Oct. 4, 2001, at 14A, available at <http://ptg.djnr.com/ccroot/asp/publib/story.asp>. By contrast, Wesleyan University students rallied recently for "peaceful justice," joining others on some 140 campuses who engaged in teach-ins reminiscent of the early days of the anti-Vietnam War movement. John Nichols, *Peaceful Justice: Wesleyan Students Advocate Non-Military Attack on Terrorism*, THE NATION, Oct. 15, 2001, at 8. Caught in the middle are those students who graduated in December and will graduate in June and who see their job prospects—the CIA apparently excepted—threatened by the economic downturn that intensified in the days following the attacks. See Michael Rubinkam, *College Seniors Anxious About Their Job Prospects*, ASSOCIATED PRESS, Oct. 4, 2001, available at http://www.eagletribune.com/news/stories/20011004/BU_001.htm. Meanwhile, polls indicate that American workers are reevaluating their priorities. One such poll found that while "career" was first and "wealth" third on American's list of priorities prior to September 11, "family" and "God" have filled those slots post-September 11, with "career" and "wealth" sinking to the bottom of the barrel. Stephanie Armour, *American Workers Rethink Priorities*, USA TODAY, Oct. 4, 2001, at B1, available at <http://www.usatoday.com/money/covers/2001-10-04-bcovthu.htm>. Whether these stories have chronicled the occurrence of long- or merely short-term changes remains to be seen.

47. See, e.g., STEVEN FRASER, *LABOR WILL RULE: SIDNEY HILLMAN AND THE RISE OF AMERICAN LABOR 394* (The Free Press 1991) (regarding the purpose of the federal Fair Labor Standards Act, which still governs overtime, minimum wages, and child labor, "The . . . bill . . . was the key to reconciling industrial progress with industrial democracy, because it would function as an antidote to the instability of cyclically competitive, low-wage industries.").

48. See Featherstone, *supra* note 44.

49. *U.N. Urges Laws on Human Rights*, PHILA. DAILY NEWS, Dec. 15, 2000, at 15, available at http://inq.philly.com/content/daily_news/2000/12/15/national/cwir15.htm.

will benefit workers in the developed nations whose wages are depressed and whose jobs are placed in jeopardy by unfair price competition created by sweatshops and slave labor.

Furthermore, while liberals and conservatives may clash on issues such as unionism and affirmative action, a position favoring slavery and sweated labor is hardly viable in the arena of public opinion, if one speaking from either side of the public policy debate is to be taken seriously.

Such policies still leave us a long way from a Utopian—or even a truly just—society. But such policies do bring us together across the chasm and hold out the promise of eliminating at least some of the worst levels of the human condition. We will be defeating the worst abuses of capitalism, those harking back to the eighteenth and nineteenth centuries. At least we will be groping toward Utopia.