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THE FABIAN SOCIALISTS AND LAW AS AN INSTRUMENT OF SOCIAL PROGRESS: THE PROMISE OF GRADUAL JUSTICE

ELLIOTT M. ABRAMSON*

I. INTRODUCTION

On January 4, 1884, in a London meeting at 17 Osnaburgh Street, attended by approximately fourteen people, the Fabian Society was formally organized.¹ A resolution adopted at the meeting, expressive of the purposes of these individuals in organizing the Society, read:

The members of the Society assert that the Competitive system assures the happiness and comfort of the few at the expense of the suffering of the many and that Society must be reconstituted in such a manner as to secure the general welfare and happiness.²

The aim was to bring social improvement to English society and emphasize values which were basically spiritual and moral over those accentuating acquisitiveness and materialism.

In time, the Society came to number among its members such eminent Britons as H.G. Wells, George Bernard Shaw, and the in-

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¹ E.R. PEASE, THE HISTORY OF THE FABIAN SOCIETY 33-34 (1963). The name of the Society refers to the Roman General Fabius. "For the right moment you must wait, as Fabius did most patiently when warring against Hannibal, though many censured his delays; but when the time comes you must strike hard as Fabius did or your waiting will be vain and fruitless." K. MUGGERIDGE & R. ADAM, BEATRICE WEBB: A LIFE 1858-1943, at 131 (1968) (quoting the diaries of Beatrice Webb).

² E.R. PEASE, supra note 1, at 32.
defatigable social reformers Beatrice and Sidney Webb. The latter two have been described as “among the most influential architects of modern British society.”3 Such talented individuals, in their efforts for the Fabian Society, as well as for society at large, made significant contributions to the evolution in Great Britain of the humane social structure known today as the Welfare State.4 In this evolution, the concepts of law, and its processes and institutions were effective instruments. The Fabians sought to identify problems which plagued the nation, and then, through rational analysis, provide solutions that could be implemented through the democratic-constitutional process.

However, the Fabian Society’s utilization of legal institutions to achieve its desired objectives flowed from certain overarching conceptual notions espoused by a majority of Fabian Socialists. This article will seek to illustrate how such notions galvanized the efforts of the Fabians to strive for the type of social transformation they were largely successful in accomplishing. It will suggest how the institutions and procedures of democratic legalism were meshed and blended effectively with these, more or less, philosophical and theoretical ideas to peacefully bring about a better world—or, at least, a better England.

II. Permeation

The Fabian Society functioned, in large measure, as a study group, employing careful analysis and historical perspective in addressing social problems. The methods it advocated were systematic and peaceful, and concentrated on changing society from within, rather than by flagrantly undermining its current institutions. For example:

[The Education Act for London] as finally passed [in 1903] incorporated many amendments suggested by the Society and [was] pressed, after careful couching, by supporters in many quarters; and there is no doubt that the story of the Education Acts [was] very nearly the dream of Fabian “permeators” come to life—proposals drafted by intelligent and hard-working Fabians, conveyed to puzzled or sympathetic administrators, and carried into effect

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4 Id. at 7. The Webbs, along with Lloyd George and Beveridge, have been credited as being the founders of the modern welfare state. Id.
by a Conservative Government.\footnote{M. Cole, The Story of Fabian Socialism 107 (1961).}

The notion of permeation involved individual Fabians joining other social and political groups, persuading the members of such groups of the soundness of anonymously presented Fabian positions, and quietly convincing them to advocate reforms endorsed by the Society.\footnote{A.M. McBriar, Fabian Socialism and English Politics 1884-1918, at 95 (1962). In her diary, Beatrice Webb wrote of the necessity of Fabians assuming the roles of aides and confidantes, rather than “scolding” politicians or standing “aloof as a ‘superior’ person.” 2 The Diary of Beatrice Webb: 1892-1905, at 238 (N. MacKenzie & J. MacKenzie eds. 1983) [hereinafter Diary of Beatrice Webb].}

The Society’s emphasis on “education” as a means of bringing about social change was to be applied to two very different realms. When addressing politicians and bureaucrats in control of the major institutions of society, the thrust was either to cater to their own selfish interests in pragmatically furthering their careers or, in the case of an “enlightened individual,” advocating socialism in terms of noblesse oblige. The working classes, on the other hand, had no significant political power to cultivate and certainly did not view themselves as the “stewards” of society. Their “education” involved pointing out the inadequacies of individualism, asserting the virtues of altruism, and pressing for practical socialist measures, such as enfranchisement, and health and safety regulations in the workplace.

Eric Bentley, in Bernard Shaw, 1856-1950, remarked that, in contrast to Marxist doctrine:

The Fabians offered a much less dramatic program: that of permeating the liberals, of using parliamentary methods, of gradualness. What could be more disgusting to the political salvationist? To this day our scorn for the Fabians unconsciously echoes the indignation of the outraged revolutionaries. The defense of the Fabian position [is] two-fold. First, sanity is often less exciting than insanity. Second, permeation and gradualness were the beginning, not the end, of Fabian policy.\footnote{E. Bentley, Bernard Shaw 1856-1950, at 9 (1957).}

The first published Fabian work mentioning permeation was Hubert Bland’s The Outlook, in which he argued that only through the infiltration of other socialist parties which claimed to be similar in orientation to the Fabians, but which were, in reality,
“shams,” would true Socialist progress be achieved. Bland’s argument had a significant effect on the posture the Fabian Society adopted vis-à-vis other groups and, in retrospect, was perhaps most important in influencing Beatrice and Sidney Webb to embrace permeation as a legitimate political tool. The Webbs, in utilizing permeation as a means of fostering social change, “found the politicians and public servants who ran the political system much more congenial than radical demagogues, and believed that they could work through them to achieve their ends.”

The effect of pursuing the policy of permeation was to greatly increase the influence of the Fabians as a whole. Unlike other more radical socialist organizations, their approach was rooted in constitutionalism and a sense of intellectual pride. Just as they did not advocate violent confrontation with existing social and political institutions, they did not employ inflammatory rhetoric or fanatical propaganda. The Fabian Parliamentary League, in its 1887 Manifesto, approved of a measured and gradual approach, stating that:

[U]ntil a fitting opportunity arises for putting forward Socialist candidates to form the nucleus of a Socialist party in Parliament, [the Fabian Parliamentary League will] . . . support . . . those candidates who will go furthest in the direction of Socialism. . . . [B]efore long [Socialists will] be able to influence effectively the course of public opinion.

As their influence gradually expanded, the Fabians permeated numerous local councils, regulatory boards, and governmental committees. Sidney Webb led the Fabian march into formal politics when he and five other members were elected to the London City Council in 1892. In the November 28, 1902 entry of her diary, Beatrice Webb wrote that she had spent over an hour with Prime Minister Arthur Balfour at a social gathering: “I set myself to amuse and interest him, but seized every opportunity to insinuate sound doctrine and information.” The extremely influential role which Sidney Webb played within the Labour Party, and the efforts of Beatrice on the Royal Commission on the Poor Law were

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11 A.M. McBriar, supra note 6, at 198.
12 2 Diary of Beatrice Webb, supra note 6, at 262.
prototypical examples of successful permeation.

The policy of permeation, however, was not without its liabilities. Because of the Fabians' pragmatic approach, they would resign from organizations which they had enthusiastically joined whenever it became expedient to push their views elsewhere. Beatrice Webb had written to her sister, Georgina, in 1903 that "[p]olitics are very topsy-turvy just now, . . . [O]ne never knows who is to be one's bedfellow." Norman and Jeanne MacKenzie, in The Diary of Beatrice Webb, pointed out that "[i]t was this conviction . . . that led the Webbs into a succession of tactical (and sometimes tactless) alliances." Consequently, Liberals regarded the Fabians with suspicion, believing them ever ready to manipulate their political colleagues in whatever way it suited them at a given time. Meanwhile, the Labour Party saw the Fabians as "spiders without principle, spinning webs of intrigue which could entrap honest Socialists."

Arguably the most important effect generated by the policy of permeation was that of a constant, reforming pressure upon social institutions. Margaret Cole, in The Story of Fabian Socialism, describes it as "honeycombing"—similar in effect to the American concept of lobbying. Such an infusion of Fabians, whether into the Radical or Conservative Parties, had as its ultimate goal the "education" of the British populace and the reaching of its conscience. The Fabians also sought to directly persuade the general citizenry; they believed "that any reasonable man or woman could be moralized into supporting reforms, and educated by social science into choosing those which were most likely to come to the desired result." Such an "education" was the "best way of building up a new party on the basis of collectivism." Two purposes were to be served. On the one hand, the "education" of the masses was itself a potent influence on behalf of achieving socialism. On the other hand, "education" served to develop the responsible ex-

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13 Id. at 11.
14 Id. at 10.
15 M. Cole, supra note 5, at 87.
16 Id. at 85.
17 2 Diary of Beatrice Webb, supra note 6, at 10. The hero in Shaw's An Unsocial Socialist similarly came to the realization that "the triumph of Socialism could only be brought about by realistic middle-class intellectuals who would utilize superior brains, organization, and political skill to radicalize their own class." W. Wolfe, supra note 10, at 146 (emphasis added).
18 2 Diary of Beatrice Webb, supra note 6, at 17.
ercise of the political power which was to be accorded typical women and men. In this sense, the policy incorporated the idea of waiting for the "slow and gradual turning of the popular mind." Importantly, "education" was not restricted to formal political and economic areas; rather, it also sought to "awaken" or "free" individuals to act in a socially responsible and constructive manner. Consequently, the Society circulated leaflets, published tracts and essays, and had individual members give lectures and speeches (often as members of political parties) throughout the country. Such methods of "education" were primarily factual and practical in character and tended not to rely on emotional appeal. When the Society became the beneficiary of a significant legacy it employed the funds in founding an educational facility which "would train experts in the task of reforming society." Thus, the London School of Economics was born.

III. THE COMMITMENT TO DEMOCRACY

The Fabian conception of Democracy is unexceptional in comparison to that current in most contemporary western societies. The Webbs wrote:

[Not even the wisest of men can be trusted with that supreme authority which comes from the union of knowledge, capacity and opportunity with the power of untrammelled and ultimate decision. Democracy is an expedient ... for preventing the concentration in any single individual or in any single class of what inevitably becomes, when so concentrated, a terrible engine of oppression.]

Thus, democracy was seen by the Fabians as a system under which authority was delegated among several, independent bodies with each exercising self-restraint and providing a check on the activities of the others. The Fabians continually stressed that socialism and its reforms must be found to be morally acceptable by a ma-

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20 Shaw, for example, in his play Candida, has the character Morell state: "An honest man feels that he must pay Heaven for every hour of happiness with a good spell of hard unselfish work to make others happy. We have no more right to consume happiness without producing it than to consume wealth without producing it." G.B. SHAW, CANDIDA 6 (1939).
21 2 DIARY OF BEATRICE W-BBB, supra note 6, at 16.
22 L. RADICE, supra note 3, at 10-11.
23 Id. at 12.
majority of citizens. Those who were to live under a given social arrangement should have a voice in deciding whether that particular arrangement, rather than an alternate one, should prevail.

The Fabian Society promoted what may be thought of as an "aggressive" democracy, one whose legislators were not exclusively "delegates," or representatives, but rather creative, socially responsible forces as well. Specific proposals of the Fabians were directed at utilizing constitutional processes in order to reform Parliament, to grant suffrage without gender discrimination, and to increase the power of local bodies to administer programs in their own regions. Also, of course, of utmost importance was the need to increase responsiveness to the plight of the disadvantaged so that they might become more authentically integrated into the nation's social, political, and economic fabric.

The Fabians perceived that English society had been dominated by those who controlled capital through Parliament. Indeed, it is undeniable that a small fraction of society did in fact command a disproportionate and conclusive amount of power. According to the Fabians, what was required was an equitable distribution of representative authority, with neither the owners nor the working class monopolizing political power.24

Sidney Webb noted in Historic, that "De Tocqueville [had] expressly pointed out that the progress of Democracy meant nothing less than a complete dissolution of the nexus by which society was held together under the old régime."25 Webb had identified the "old régime" as a network of "superiority versus inferiority."26 Political power through the mid-nineteenth century was distributed, principally, in the landed aristocracy, who dominated the legislative as well as the judicial and executive spheres of government. The lord's "word was law, and his power irresistible."27 Laborers

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24 It has been noted that:
The conception of government by representatives of the whole community was... not embodied in the local institutions of the 18th century. The distinctly oligarchial expedient of a Close Body recruiting itself by cooption was the dominant, if not the universal, device of all the constitutions resting on the decaying remnants of vocational organisation. The right of persons charged with carrying out any service to nominate their colleagues and successors, was taken for granted...


25 Webb, Historic, supra note 19, at 50.

26 Id. at 52.

27 Id. at 54.
were, realistically, chattel bound to the inherited lands of the "great families" of England. In 1896, Shaw had sent a paper to the Fabian Society's Executive Board which indicated changes that were necessary to convert the political system into an effective one:

When the House of Commons is freed from the veto power of the House of Lords and thrown open to candidates from all classes by an effective system of Payment of Representatives and a more rational method of election, the British Parliamentary system will be, in the opinion of the Fabian Society, a first-rate practical instrument of democratic government . . . .

Interestingly, Sidney Webb, in his lectures entitled Machinery of Democracy, argued that most of the prevailing forms of choosing elected officials did not accomplish the chief objective of the electoral process: the establishment in office of qualified and responsible individuals. Perhaps most objectionable to Webb was the prospect of a candidate winning an election because of personal popularity rather than administrative or leadership prowess. He proposed, instead, a system analogous to that used by the Cotton Cooperatives. Individuals interested in vying for office would be required to successfully complete an examination—thereby meeting an objective standard for overall fitness. The citizenry would then select from the field of qualifying candidates. In effect, pure democratic choice was to be tempered by considerations of competence and efficiency. Such procedures, of course, did not become part of the general political system.

The need to actively participate in the existing political system was stressed early on in the Fabian Society's history. In The Impossibility of Anarchism, Shaw had written that the anarchist, in effect, by refusing to participate in the electoral process, had repudiated the idea of a rational, legal approach to social change. Shaw argued that the anarchists' position was irresponsible since their withdrawal from England's political institutions contributed to the disintegration of society. The nihilism of the anarchists was, thereby, just as destructive as the "sordid" level of existence under capitalism.

According to the Fabian view, democracy was, in and of itself,

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28 A.M. McBRiAR, supra note 6, at 78.
29 Id. at 75-76.
30 Shaw, The Impossibility of Anarchism, Fabian Tract No. 45 (1893) [hereinafter Shaw, The Impossibility of Anarchism].
a constructive, positive institution, and participation in it contributed to individual fulfillment. Through participation in the socio-political system, a citizen could achieve satisfying self-expression. The Fabians trusted in and advocated cooperation, and rooted it in democracy.

The value of co-operation . . . did not consist exclusively, or even primarily, in "a more equitable diffusion of the necessaries and comforts of life," or in any material advancement for individuals; it was to be found, instead, in "the ancient doctrine of human fellowship, . . . [in] the new spirit of social service, . . . [in] a firm faith that the day would come when each man and woman would work, not for personal subsistence or personal gain, but for the whole community."[31]

Democracy was not only an institutional means; the active, vital, and ongoing participation in democratic processes was, in itself, a valuable end. Extending suffrage was integral to the Fabians' efforts at parliamentary reform; enlarging the popular vote would result in a government responsive, and responsible, to a majority of the population. The efforts of the Fabians, in this regard, were instrumental to bringing about changes in Great Britain. Although the concessions stemmed primarily from the majority bowing to political reality rather than from any idealistic spirit of democratisation, those demanding suffrage were motivated by a desire for social reform and, in the end, it was reform, indeed, that took place.

The Fabian Society had also worked for the democratization of local government, which was substantially accomplished by the passage of the Local Government Act in 1888.[32] The effective development of local governmental bodies most likely began with the Municipal Corporations Act of 1835,[33] which gave the middle class authority to administer outlying towns:[34]

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[32] The Act also established payment for members of Parliament, thus making it possible for members of the working class to serve. See Webb, The Workers' Political Programme, FABIAN TRACT NO. 11, at 6 (1890); see also A. Ulam, PHILOSOPHICAL FOUNDATIONS OF ENGLISH SOCIALISM 75 (1964); Webb, Historic, supra note 19, at 77. The concept of "salaried officers" administering local government had been previously accepted by the Poor Law Amendment Act of 1834, as well as the Municipal Corporations Act of 1835. STATUTORY AUTHORITIES, supra note 24, at 457.
[33] Municipal Corporations Act, 1835, 5 & 6 Will. 4, ch. 76.
[34] Webb, Historic, supra note 19, at 57.
The passing of [the Act] . . . [c]oupled with the unopposed adoption in the Poor Law Amendment Act of 1834 of a representative body for the administration of the Poor Law . . . meant, as the subsequent history has demonstrated, the definite acceptance of representative Democracy throughout the whole sphere of Local Government. Francis Place was right in 1836 when he foresaw . . . “the whole country” becoming eventually “Municipalized;” by which he meant, “an incorporation of the whole country which [would] be the basis of a purely representative government.”

The notion that government is really most responsive when organized according to local administration was at the same time the Society’s means of mildly structuring collectivized industry. Webb drew upon Auguste Comte’s “economic trusteeship,” substituting for Comte’s “elite,” duly elected representatives. “In effect, this was a restatement of the [Comtian] Positivist social ideal in democratic terms.” However, with the democratization of local government in 1888, one of the crucial problems of modern society was that of achieving administrative efficiency and popular control. The passage of the Local Government Act of 1894 (the Parish Councils Act) created an organized administrative structure for a majority of the outlying rural areas.

Wells had noted that:

[B]efore you can transfer property from private to collective control you must have something in the way of a governing institution with a reasonably good chance of developing into an efficient controlling body. . . . [A] scientific reconstruction of the methods of government constitute a necessary part of the complete Socialist scheme . . .

The Webbs had embarked upon a course of intensive analytical study of such local institutions, and had conducted the investigation with sensitivity to these institutions’ historical development. Although, the Municipal Corporations Act of 1835 was the practical beginning of affirmatively functioning local government, that Act also had nearly two centuries of English socio-political history and struggle as its background. The seed of local government had been laid, according to Sidney Webb, by the Revolution

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35 Statutory Authorities, supra note 24, at 451 (emphasis added). Fabian policy has often been referred to as “municipal socialism.” Webb, Historic, supra note 19, at 72.
36 W. Wolfe, supra note 10, at 269.
37 A.M. McBriar, supra note 6, at 78.
38 H.G. Wells, New Worlds for Old 256-57 (1907).
39 See generally Statutory Authorities, supra note 24, at 445.
of 1689, which provided a "summary end to 'arbitrary interference' with 'local liberties.'" The result was either significant restraint exercised by national government or its apathy concerning the administrative needs of remote areas. In any event, parliamentary and judicial action were reduced to such a level that national policies became articulated not through a "statute of general application," but instead by "literally thousands of separate Local Acts." 

These peculiar and little studied emanations of national law were not devised by the Government or by its central departments, but were spontaneously initiated and contrived by little groups of the principal inhabitants of particular areas; they were debated and amended in the House of Commons, not by committees of impartial persons, but mainly by the representatives of the Boroughs and Counties concerned . . . .

Wells' criticism of the condition of local governments in *New Worlds For Old* was supported by evidence marshalled by the Webbs that demonstrated there was no overarching, rationally planned system. Rather, there existed "a confused network of local customs and the Common Law, of canon law and royal decrees or charters, interspersed with occasional and unsystematised Parliamentary statutes." The Webbs argued that local governing bodies wielded such unrestrained and consolidated political power that:

[T]hose who strove for reforms of any kind long beat in vain. In the Municipal Corporations the vice of exclusiveness had even more sensational results. These oligarchies often controlled large incomes and an indefinite amount of patronage. They provided the bench of magistrates which administered justice, and they controlled such police forces as existed. More important than all, they frequently elected the Members of Parliament.

There was, however, a resurgence of national control during the latter part of the nineteenth century. This occurred due to a perceived need to implement laws which would safeguard the public at large, as well as from pressure applied by groups such as the Fabian Society which called attention to political, social, and economic inequities.

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40 Id. at 351.
41 Id. at 352.
42 Id.
43 Id. at 353.
44 Id. at 382.
Thus, it was not the administrative inefficiency or the failure in honesty that brought down the local oligarchies, but above all their exclusiveness. Without the prodding of hatred caused by their political and religious partisanship it is doubtful whether there could have arisen in 1830-36 any popular movement for their radical reform.  

Given the impetus to reform regional governmental units and the Fabians' faith that local administration was, in general, more efficient and responsive than overly centralized control, the Society recognized that it was an opportune time to establish local self-government as a legitimate and respectable democratic institution which could also function in a rational, progressive fashion.

IV. EQUALITY OF OPPORTUNITY

Edward Pease, in his History of the Fabian Society, had remarked that there was "significance to the publication of 'Progress and Poverty' . . . [which] proposed to abolish poverty by political action . . . ." Similarly, in his Preface to Major Barbara, George Bernard Shaw satirized the position of a cold, callous, individualistically oriented society:

If a man is indolent, let him be poor. If he is drunken, let him be poor . . . . If he chooses to spend his urban eighteen shillings a week . . . on his beer and his family instead of saving it up for his old age, let him be poor. Let nothing be done for "the undeserving": let him be poor. Serve him right!

Shaw then went on the attack against those who felt no social obligation to come to the aid of fellow citizens subsisting below a "decent" standard of living. To allow a person to remain poor, he reasoned, was to let him be weak and ignorant. Eventually, a class of such people would become malnourished, vulnerable to disease, and politically imbecilic. The dilemma was two-fold: certain individuals would be disabled from participating in society in a constructive fashion and society would be burdened by the cumulative effect of nonproductive or ill-productive citizens. Their "habita-

46 Id. at 384.
47 E.R. Pease, supra note 1, at 19.
48 G.B. Shaw, Preface to Major Barbara, in John Bull's Other Island with How He Lied to Her Husband and Major Barbara 210-11 (1931) [hereinafter Preface to Major Barbara].
49 Id. at 211.
tions turn our cities into poisonous congeries of slums." Shaw sharply questioned whether it is in the root interests of any society, even before socialism is adopted, to allow any of its members to remain in such a condition: "[s]ecurity, the chief pretence of civilization, cannot exist where the worst of dangers, the danger of poverty, hangs over everyone’s head . . . ." The Fabian Society had come to the conclusion that poverty was essentially a condition of inequitable social and economic relations, rather than an unavoidable, intractable evil. Such inequitable economic and social relations had clearly polarized Great Britain. On the one hand were those who, through their economic and political superiority, had accomplished the goal of the laissez-faire marketplace—highly profitable commercial activity restrained only by the laws of supply and demand. On the other hand were those without any significant economic resources. The latter group did not affirmatively participate in the management of the marketplace; they existed, ultimately, only as a passive supply of labor.

A society whose institutions had created groups of such economically deprived individuals was, for the Fabians, incapable of authentic progression. Without the ownership of capital-generating property, success, in practical economic terms, was an impossibility. In such a light, "Shaw agree[d] with Proudhon that ‘property is theft.’" It would have been unjust to allow the majority to become enriched while remaining apathetic to the plight of unskilled laborers whose "worth" was determined only by the level of consumption of those who could afford to buy what they produced.

Shaw had repeatedly espoused a system based upon equality of income. While all Fabians did not wholly endorse such wage "equality," they did argue that a "wage floor" should be established—one not affected by business cycles, but rather correlated with certain types of minimal living conditions. In New Worlds For Old, Wells called for "[t]he systematic raising of the minimum standard of life by factory and labour legislation, and particularly by the establishment of a minimum wage." It was the position of

49 Id.
50 Id. at 209.
51 See generally B. Disraeli, Sybil: Or the Two Nations passim (1925).
52 E. Bentley, supra note 7, at 5.
53 Sidney and Beatrice Webb had devoted a good deal of successful effort in developing the theory behind the minimum standard, culminating in their Industrial Democracy, infra note 74.
54 H.G. Wells, supra note 38, at 249.
the Fabian Society that:

Capitalism had given a monopoly of the necessary means of livelihood to the proprietary class, so that all who lacked a share in that monopoly had to work for the proprietors and on their terms or starve. Socialism, by insisting upon economic honesty, now sought to liberate mankind from that dilemma.\(^5\)

Shaw ascribed to society responsibility for the alleviation of poverty. He believed a society that failed to effectively address the problem of poverty was one that had failed of one of its fundamental purposes. Indeed, Shaw proposed that:

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\text{[E]quality of income for everyone from birth [was] the only conceivable means of abolishing this monstrous crime. Capitalism perpetuates [poverty] by throwing up giant unearned incomes, the owners of which exercise relatively enormous purchasing power to which production eagerly responds . . . the result being a disastrous reversal of the natural order of production in which needs come first and luxuries last.}^{58}
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Furthermore, given the Fabians' concrete belief in a participatory democratic system, it would seem rather hypocritical, not to mention fatuous, to theoretically recognize the right of all citizens to a voice in government, only to deny the neediest the right to look to the system, their system, for practical, meaningful help. Sidney Webb argued for "a systematic approach towards a healthy equality of material circumstances for every person born into the world . . . in industry, as well as in government, . . . that general consciousness of consent, and that widest participation in power which is characteristic of Democracy."\(^67\)

The Fabians analytically attacked the problem of economic inequality on two fronts. First, it was argued that poverty was the result of the disassociation of the worker from profit—his wages were determined by the relative supply of labor rather than the value of his product.\(^58\) Secondly, individuals must have equal opportunities to succeed in the marketplace. According to Shaw, "a life-interest in the Land and Capital of the nation is the birthright of every individual born within its confines; and that access to this birth-right should not depend upon the will of any private

\(^{55}\) W. Wolfe, supra note 10, at 130 (emphasis added).


\(^{57}\) See M. Cole, supra note 5, at 173 (footnote omitted).

\(^{58}\) See E. Bentley, supra note 7, at 5-6.
person other than the person seeking it." Thus, only the considered action of a democratic society can legitimately constrain a particular individual—not the sheer power and ruthlessness of a superior competitor.

However, it was not enough to merely subsidize income or place "disadvantaged" persons in desired positions. Beatrice and Sidney Webb had called for the establishment of a "meritocracy" to replace the old régime. The new system was to be "founded on a wide definition of equality of opportunity and environment." Shaw represented human beings as being superbly adaptable and, for better or worse, chiefly as products of their own individual environments. The Webbs had been "passionate believers in the rights of individuals to better themselves, and that opportunities had to be provided, as of right, for those who were disadvantaged." "[T]he only satisfactory plan [was] to give everybody an equal share no matter what sort of person he [was]... or what sort of work he [did]...." Furthermore, the foundations of true equal opportunity were to be laid well before an individual was old enough to enter the marketplace; they included accessibility to education and the basic physical necessities of life.

The Webbs were in the vanguard of the Fabian campaign against poverty. The Campaign for the Prevention of Destitution helped make the demand for the establishment of a welfare state one of the main objectives of the Labour Party. Sidney Webb's influence on the Labour Party in this, and other respects, was tremendous. Amongst the many other tasks he performed for it, he composed the Party's 1918 Manifesto and took the opportunity to generously fill it with Fabian proposals for reform. Beatrice Webb, likewise, had worked to develop a set of policies which urged that a "[N]ational [M]inimum of civilized existence, ... be legally ensured for every citizen' in the form of public education, public health, public parks and [the] provision for the 'aged and infirm.' The policy of the National Minimum embodied the "first

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50 A. Henderson, supra note 56, at 220.
51 L. Radice, supra note 3, at 8.
60 Id.
63 L. Radice, supra note 3, at 8.
64 A. Henderson, supra note 56, at 279 (describing Shaw's concept of equality of income).
65 See W. Wolfe, supra note 10, at 279-80.
principle” of social organization, that of “securing to every member of the community . . . all the requisites of health, life, and worthy citizenship.”

It should be noted that the sheer idea of equality of opportunity does not itself address the outcome of distribution—who will wind up with what. The concept of equality of opportunity requires that no one should be prevented from achieving what he or she otherwise would have achieved had it not been for the intervention of fortuitous factors such as geography, poverty, or illness. Inhibiting factors not integral to the matter at hand are to be remedied so that the full, “true” potential of an individual can be realized. For example, if there is a civil service examination being given on which “X” would score well if she could obtain appropriate reading glasses, arrangements should be made for her to have the glasses through the state if she cannot afford to obtain them through her own means. Similarly, a wealthy individual should not secure a job over an impecunious one simply because the latter cannot afford transportation to an interview. Arrangements should be made so that each is interviewed vis-à-vis her suitability for the job. Remediable defects, obstacles, and the like, must be cured or removed if they would otherwise impede the achievement of full potential.

However, arranging for equality of opportunity does not address the problem of the final appropriate or “just” distribution of rewards. Even if an individual is given the opportunity to compete equally for jobs, she may still never succeed in finding one. Should needed benefits be arranged for distribution to this individual, notwithstanding her inability to earn these necessities by her own efforts, no matter how “free” and equal an opportunity was afforded her? This type of question leads to notions, such as the National Minimum, which suggest that fundamental human needs be met qua needs, irrespective of the “merit” of those having the needs. A decent existence is to be provided notwithstanding the fact that a given individual may not be sufficiently adroit at the daily affairs of life to achieve such for herself.

Pursuant to National Minimum thinking, the burden of find-

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68 “No one deserves either so generous a reward or so severe a penalty for a quality implanted from the outside and for which he can claim only a limited responsibility.” L. Radice, supra note 3, at 8 (quoting A. Crosland, The Future of Socialism).
ing suitable employment for all was to be ultimately borne by the
government. This concept further proposed a systematic plan spec-
ifically addressing perceived needs, including a national minimum
wage, a shortened work week, new educational programs, improved
standards for work, health and safety, and programs for those un-
able to contribute to society. In such a vein, the Fabians also advo-
cated free compulsory education for lower levels and a “scholarship
ladder” to the university level so that capable students would not
be hampered by poverty. Shaw suggested that the state have the
responsibility for “secur[ing] a liberal education . . . to each of its
units.”

Having begun to address the problem of the poverty of future
generations, the Fabians also directed their attention to the masses
currently subsisting below the National Minimum. Shaw charged
that:

At present we say callously to each citizen “If you want money,
earn it” as if his having or not having it were a matter that con-
cerned himself alone. We do not even secure for him the opportu-
nity of earning it: on the contrary, we allow our industry to be
organized in open dependence on the maintenance of “a reserve
army of unemployed” for the sake of “elasticity.”

The Fabians believed that the National Minimum would have a
salutary effect on existing commercial conditions. Application of
the National Minimum would tend to inhibit the type of bitter,
economic backbiting competition in industry which generated con-
ditions detrimental to the public welfare. “[U]nder the existing
system of leaving the National Industry to organize itself, Compe-
tition ha[d] the effect of rendering adulteration, dishonest dealing,
and inhumanity compulsory.”

The Factory Acts were one of the earliest successes credited to
the Fabian movement. Children from ten to eighteen years of age
commonly worked long “sweated” hours for very low wages. The
Fabians believed the system generated, among other evils, a class
of unskilled, depleted, and physically unfit young people who
would never significantly contribute to Britain’s economy.

\[69\] A.M. McBriar, supra note 6, at 27.
\[70\] A. Henderson, supra note 56, at 221.
\[71\] Preface to Major Barbara, supra note 47, at 212.
\[72\] A. Henderson, supra note 56, at 220 (Shaw’s position in Fabian Tract No. 2).
\[73\] Shaw, Report on Fabian Policy, Fabian Tract No. 70 (1896); see Shaw, Economics,
ever, the Factory Acts, while somewhat helpful, did not completely solve the general problem of abuse of child labor in early twentieth century England. It was still permissible to employ many youths at certain occupations with no restriction on number of hours worked. Consequently, the Fabians demanded additional governmental activity in order to further alleviate these conditions. They contended that the country should regard the young boy or girl, not as a wealth-producing unit to be "paid" only what was barely enough for daily subsistence, but rather, as a future citizen and parent.

In order to be truly effective, the Fabian Society conceived that the National Minimum would have to be applied to wages. This National Minimum wage, guaranteeing a definite level of weekly earnings, would be aimed at eliminating industrial parasitism. True to the highly empirical Fabian approach, the appropriate level was to be determined by a practical inquiry into the cost of food, clothing, and shelter necessary to maintain a healthy existence. It was believed that the outcome would provide English workers with a higher standard of living without an increase in unemployment, nor long-term disadvantage to the community. Certainly some marginal firms might go under, but the hardier firms, while incurring initial additional costs, would continue under the new conditions and eventually profit by having a more efficient, productive work force. In the Fabians' view, it would be a "national benefit for [the marginal firms] to disappear rather than to continue by living upon the life capital of the nation."

The "unrestrained license" in the marketplace fostered by the doctrine of laissez-faire had brought about gross, even grotesque, inequities. Yet the Fabians did not react to the doctrine of freedom of contract as inherently evil. It was, however, necessary to infuse the precincts of commerce with notions of social responsibility. The effects of the laissez-faire doctrine were to be undercut by redefining "freedom" as an optimal personal and societal state. Thus, the concept of the National Minimum was intended to se-

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26 Id. at 771.
26 A.M. McBriar, supra note 6, at 108.
27 Industrial Democracy, supra note 74, at 774-75.
28 Sanders, The Case for a Legal Minimum Wage, Fabian Tract No. 128, at 5 (1906).
cure the health and welfare, in mind as well as body, of future generations by providing for both assistance to specific groups of individuals and proscription of injurious business practices. Such a policy would be fully consistent with the fundamental precept of the Fabian philosophy that "citizens as a body" are responsible for the condition of particular individuals. As Shaw argued, rather than rely upon some idea of the ultimate justice of the competitive system or expect God to assume all responsibility, "man must take the burden upon his own shoulders." Self-initiative or motivation is not to be replaced nor dampened, but instead augmented by an array of policies which assists the inherently weak competitor without unduly trammeling the naturally more adept one.

V. REJECTION OF REVOLUTIONARY DOCTRINE

The Fabian Society was known for the diversity of its individual members' views; it was a veritable mosaic of opinion. However, there was remarkable unanimity concerning the role of democracy. Ultimately, social progress was to be by the consent of the populace, exercising peaceful, orderly, legal power through democratic electoral institutions.

The Fabians fundamentally, and completely, rejected the notion of physical revolt, and stressed rational problem-solving methodologies. They envisioned a step-by-step progressive advance rather than a violently abrupt achievement of "Utopia." In April of 1885, Shaw wrote, "A party informed at all points by men of gentle habits and trained reasoning powers may achieve a complete Revolution without a single act of violence." Edward Pease, in *The History of the Fabian Society*, suggested that those not enjoying the ownership of capital were to seek change "by a political method, applicable by a majority of the voters, and capable of being drafted as an Act of Parliament."

Other critics of the status quo, including the Social Democrats, had defined "social salvation" as a progressive process which called for the "means of rifles and barricades"—patterned after the Paris Commune. Such an approach was anathema to the Fabians and completely inconsistent with the Society's tenets.

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[83] Id. at 61.
The Fabian faith was that solid, truly significant, lasting social change, and transformation would be brought about by measured, gradual growth toward meaningful improvement, rather than by sudden cataclysmic, revolutionary upheaval. Authentic amelioration would result from building useful modification on the stable base of the already well established. Thus, the Fabians thought of the anticipated triumph of socialism as basically an indefinitely long, progressive, incremental process.84

Deborah Nord, in *The Apprenticeship of Beatrice Webb*, suggested that groups such as the Fabians viewed law, within a democracy, as being inherently a gradual, reforming force.85 However, one might ask whether the evolutionary interpretation of history with which the Fabians were comfortable permitted them to avoid the issue of whether utilizing democratic institutions in militating for social progress was morally mandated or, rather, simply pragmatic. It may be that the Fabians’ expressed allegiance to democracy stemmed from both considerations: the gradual amelioration of the unacceptable conditions under which most of England existed was preeminently moral and, ultimately, the only approach which could have bid for success.

The Fabians’ commitment to democracy led to adamant repudiation of Marx’s dictatorship of the proletariat approach.86 Social change was not only to benefit the masses, but was to be engendered and ratified by them rather than paternalistically imposed on their behalf by a post-revolutionary trustee. The Fabians were, thereby, decidedly anti-revolutionary in their orientation. Too great a disruption of the existing social fabric in bringing about change might, in itself, lead to disenchantment with, and condemnation of, the change by the populace. Sidney Webb argued that important organic changes must be brought about through constitutional processes, and must be gradually introduced, “thus causing no dislocation, however rapid may be the rate of progress;” he also asserted that such changes should not be “subjectively demoralizing” to the citizenry, but instead must be acceptable to a majority of the people.87 Shaw prudently stated that:

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87 Webb, *Historic, supra* note 19, at 51. It should be noted that in the Fabian schema, “constitutional” connotes some sense of flux and elasticity; otherwise it would only be highly
The ordinary man . . . cannot be set against all the laws of his country and yet persuaded to regard law in the abstract as vitally necessary to society. Once he is brought to repudiate the laws and institutions he knows, he will repudiate the very conception of law and the very groundwork of the institutions . . . .

Naturally, the gradual approach to social change, endorsed by the Fabians, was likely to be far less disruptive and destructive of individual lives and institutions than a more aggressive, abrupt course. However, it should be emphasized that the Fabians made no real concessions in terms of ultimate objectives and values. Under the gradual approach, the end remained the same, while the cost of attainment, as far as injury and suffering was concerned, was thought to be much less. Such decreased costs warranted the perhaps longer period of time it would take the methodology of gradualism to produce the desired social improvements in comparison to violent revolution.

VI. The Perfected State

No authority need be cited for the proposition that human beings are highly social creatures. The social dimension of the human community exists and functions synergistically, as a whole which is larger than the simple sum of its parts. H.G. Wells once wrote: "[s]ocialism for me is a common step we are all taking in the great synthesis of human purpose . . . . We look towards . . . the day of the . . . awakening of a collective consciousness in humanity, a collective will and a collective mind out of which finer individualities may arise." When one adds the notion of women and men being innately rational and reflective beings to this conception of the social element, certain ideas respecting the arrangements necessary to carry on existence logically come to mind. Wells, in *New Worlds For Old*, asserted that "[w]hile science gathers knowledge, Socialism, in an entirely harmonious spirit, criticises and develops a general plan of social life. Each seeks to replace disorder by order." With the striving for improvement, the "perfecting" of things is energized. The Fabians believed in a citizen's capacity to exert a

suggestive of conserving the present social order. As so understood, it is readily discernible that the role of law is that of an instrument both reflective of existing society and effective as a catalyst which can be used to instigate its progression.

90 H.G. Wells, supra note 38, at 21-22.
positive influence for his or her own benefit, for that of individuals with whom he or she interacts, and, perhaps most importantly, for the benefit of society in general. H.G. Wells noted that “it is because we are episodical in the great synthesis of life that we have to make the utmost of our individual lives and traits and possibilities.” David Smith has elaborated upon this point of view: “In other words, man is perfectible within the great instinctual drives of life, and it is to that goal that we should strive, incidentally improving the race, and cutting down on the distortions and the prismatic views which most humans accept so easily.”

The determination to push forward is engendered by moral reflection and a sense of social responsibility on the part of members of a community. Such individuals envision the community itself as important: “[I]ts life transcends that of any of its members . . . . Without the continuance and sound health of the social organism, no man can now live or thrive; and its persistence is accordingly his paramount end.” People can influence their human condition. The belief behind this vision is that it is possible to perfect the community and human relations within it, so that the potential of individuals are maximized within a political state. In A Modern Utopia, Wells blended the ideas of “perfectibility” and constructive “progress” stating, “We have to plan ‘a flexible common compromise, in which a perpetually novel succession of individualities may converge . . . upon a comprehensive onward development.’”

The “parts” will become free to productively live and express themselves while the “whole” will be capable of effectively dealing with problems that arise, since its institutions, in the large, would no longer be in need of fundamental transformation. Realizing that the institutions of the future had to be developed from those of the present, the Fabians did not propose broad, novel social philosophies. Instead they worked toward the establishment of the Fabian “perfected” state. Such a state was not a Utopia because it did not represent a world free of problems. Indeed, Shaw remarked that socialism was not a panacea, regardless of the point to which a state had progressed. Even if a society could be considered “perfected,” the inevitable development and deployment of technology

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91 See D. Smith, supra note 89, at 124.
92 Id.
93 Webb, Historic, supra note 19, at 78.
94 H.G. Wells, A Modern Utopia 5-6 (1967).
95 E. Bentley, supra note 7, at 56.
would continually generate new challenges and frustrations. "Perfected" societies, however, would be fully capable of dealing expeditiously with any problems that arose and of achieving just, equitable, constructive solutions without significantly crippling each citizen's potential for leading a fulfilling human existence.

VII. The Inevitability of Progress

Progress, of course, is the road toward perfection. The Fabian Society, from its inception, was strongly committed to the notion of progress—-to the belief that society's problems, whether social, political, or economic in character, could be solved by means of rational, logical thought. Socialism provided a paramount example of such thought. As H.G. Wells wrote in *Socialism and the Family*, "[s]ocialism is something more than an empty criticism of our contemporary disorder and waste of life; it is a great intimation of construction, organization, science, and education." For the Fabians, "progress" was attainable through the rational development and implementation of legislation, and the use of other social institutions, in order to incrementally alleviate inequities. Problems in their specific contexts, could be solved by addressing them with logic and rational techniques. It was felt, as H.G. Wells wrote, that "[o]n the whole . . . almost steadily . . . things get better. There is a secular amelioration of life, and it is brought about by Good Will working through the efforts of [individuals]." And each improvement could be structured to purposefully assimilate previous advances and build further upon them.

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98 “Progress,” as defined herein, is limited to advances of the type described by R.G. Collingwood in *The Idea of History*:

If thought in its first phase, after solving the initial problems of that phase, is then, through solving these, brought up against others which defeat it; and if the second solves these further problems without losing its hold on the solution of the first, so that there is gain without any corresponding loss, then there is progress. And there can be progress on no other terms. If there is any loss, the problem of setting loss against gain is insoluble.

R.G. COLLINGWOOD, THE IDEA OF HISTORY 329 (1956). Significantly, legislation and rule making seem to be exactly the types of institutional instruments which can produce a specific gain in a particular way, without any losses as side effects.


100 H.G. WELLS, SOCIALISM AND THE FAMILY 27 (1908).

101 M. COLE, supra note 5, at 32.

102 H.G. WELLS, supra note 38, at 5.

103 Id. at 10.
The world is now a better place for a common man than ever it was before . . . more charged with hope and promise. Think of the universal things it is so easy to ignore; of the great and growing multitude, for example, of those who may travel freely about the world, who may read freely, think freely, speak freely!^{102}

"Progress," therefore, was defined as a "gradual," cumulative process.\textsuperscript{103}

The evolution of society, however, in a concerted, positive direction, was not inherently dependent upon a concept of static finality. Wells, in \textit{A Modern Utopia}, wrote:

The Utopia of a modern dreamer must . . . differ in one fundamental aspect from the . . . Utopias men planned before Darwin quickened the thought of the world. Those were all perfect and static States, a balance of happiness won for ever against the forces of unrest and disorder . . . . \[T\]he Modern Utopia must be not static but kinetic, must shape not as a permanent state but as a hopeful stage, leading to a long ascent of stages.\textsuperscript{104}

According to the Fabian philosophy, socialism "was nonutopian, precisely because it offered no blueprints for social reconstruction and was always in a state of evolution. Consequently, 'there will never come a moment when we can say now socialism is established.'\textsuperscript{105}

The process of "bettering" social institutions was seen as at least bidimensional. There was measurable reward in adopting a particular reform, since a specific inequity would have been addressed and alleviated.\textsuperscript{106} Also, the cumulative effect of many such reforms would improve the general quality of living. A society in which such a process occurs is a "healthy" society—one increasingly capable of dealing with problems, without the need for further dramatic reform, because existing institutions are competent

\begin{itemize}
  \item[\textsuperscript{102}] Id. at 10.
  \item[\textsuperscript{103}] \textit{See} Socialism in England, supra note 86, at 11. In New Worlds For Old, Wells remarked that "even in the comparatively short perspective of history, one can scarcely deny a steady process of overcoming evil . . . . In the manner of thoughtless and instinctive cruelty—and that is a very fundamental matter—mankind mends steadily." H.G. Wells, supra note 38, at 8-9.
  \item[\textsuperscript{104}] H.G. Wells, supra note 94, at 5.
  \item[\textsuperscript{105}] W. Wolfe, supra note 10, at 213 (quoting Sidney Webb).
  \item[\textsuperscript{106}] "Certain grave social evils . . . that once seemed innate in humanity, have gone—gone so effectually that we cannot now imagine ourselves subjected to them; the cruelties and insecurities of private war, the duel, overt slavery . . . have altogether ceased." H.G. Wells, supra note 38, at 9.
\end{itemize}
and responsive.

But purposeful change was impossible when one person was “pitted against the next.” Thus, the Fabians envisioned social interaction as fruitful when individuals would cooperate with each other rather than ruthlessly compete and contend.\textsuperscript{107} Wells argued that the social evolution of humans demonstrated a developing “sense of community . . . the possibilities of cooperation leading to scarce dreamt-of collective powers, of a synthesis of the species.”\textsuperscript{108}

Although the Fabians had consistently asserted that socialism is the “inevitable outcome” of democracy and the Industrial Revolution, they did not conceive that the path would be easy or one of unobstructed progression. They were concerned with the masses of citizens who lacked cohesiveness or any real sense of community or social responsibility. The Webbs had observed that the unfettered exercise of capitalism had generated a revolt against authority, and that “individualism [had] run wild.”\textsuperscript{109} Sidney Webb argued that:

The historic ancestry of the English social organization during the present century stands witness to the irresistible momentum of the ideas which Socialism denotes. The record of the century in English social history begins with the trial and hopeless failure of an almost complete industrial individualism, in which . . . unrestrained private ownership of land and capital was accompanied by subjection to a political oligarchy.\textsuperscript{110}

Such an atmosphere compounded inequities and would appear likely to retard the advance toward socialism. Ultimately, the lack of social cohesion, not to mention the dearth of authentic community, would lead to a “general denial of the very idea of society.”\textsuperscript{111} Consequently, Sidney Webb had declared “[w]e must abandon the self-conceit of imagining that we are independent units, and bend our jealous minds, absorbed in their own cultivation, to this . . .

\textsuperscript{107} Wells, in \textit{Socialism and the Family}, noted that “[t]he Socialist does not propose to destroy something that conceivably would otherwise last forever . . . [He does not regard] a state of competitive industrialism as a permanent thing. In the economic sphere, quite apart from Socialist ideas . . . it is manifest that competitive industrialism destroys itself.” H.G. \textit{Wells, supra} note 98, at 42. As Annie Besant would state, “I am a Socialist because I am a believer in Evolution.” W. \textit{Wolfe, supra} note 10, at 262-63.

\textsuperscript{108} D. \textit{Smith, supra} note 89, at 123.

\textsuperscript{109} D. \textit{Nord, supra} note 31, at 186.

\textsuperscript{110} Webb, \textit{Historic, supra} note 19, at 46-47.

\textsuperscript{111} \textit{Id.} at 50.
higher end: the Common Weal." Thus, the Fabians indicted individualism as sharply antithetical to the conception of a rational and socially progressive society. Individualism, however, can be seen as either impeding socialization or as its necessary precondition. It is the latter perspective that is reflected in the Fabians' view that "[t]he necessity of the constant growth and development of the social organism has become axiomatic . . . the gradual evolution of the new order from the old." Thus, the Fabian conception of "progress" was not necessarily limited to constructively socializing events such as establishing universal suffrage or the collectivization of major utilities. Rather, "progress" is broad and evolutionary in its sweep and, as a sort of historical force, will ultimately prevail over irrational social institutions. Furthermore, it will not engender "dislocation" and destruction but instead gradually transform society. In New Worlds For Old, Wells claimed that "[s]ocialism . . . is a great intellectual process, a development of desires and ideas that takes the form of a project, a project for the reshaping of human society upon new and better lines." For the Fabians, that "project" was the constructive, concerted, and rational effort to improve social conditions, that is, to achieve "progress." As Wells also wrote in Socialism and the Family:

Socialism is the still incomplete . . . plan of a new life for the world, a new and better way of living, a change of spirit and substance from the narrow selfishness and immediacy and cowardly formalism, the chaotic life of individual accident . . . a life that dooms itself and all of us to thwartings and misery.

Importantly, paternalism was to be eschewed in bringing about the brighter world. Instead, the Fabian Society encouraged change which would be a product of democratic interplay. Meaningful participation in the process was seen as fulfilling a basic need of the individual as a social animal. Additionally, popular involvement served to insure that socio-economic and political arrangements were both responsive and responsible from a national point of view: "If by the 'socialist commonwealth' we mean a society in which a larger measure of social justice has been established

112 Id. at 79-80.
115 H.G. Wells, supra note 38, at 3.
116 H.G. Wells, supra note 98, at 8.
through the instrumentality of a planned economy, then . . . the
democratic method is an inherent part of socialism." 117 In such a
society, each individual was expected both to exercise free choice
and to be active in the management of societal affairs. 118

The faith of the Fabians in the possibility of "planned" im-
provements caused them to consistently oppose the position of the
anarchists. The Fabians believed the lack of organization inherent
in anarchy needlessly exposed society to tensions and dysfunctions
which were preventable through the use of well-thought-out, sound
legal processes. 119 Consequently, anarchism was incompatible with
constructive, constitutional change and was, indeed, seen by the
Fabians as antithetical to their notion of progress. Shaw warned
that when the law lags behind the unlegislated form society has
adopted, or "[w]hen some huge change in social conditions such as
the industrial revolution . . . throws our legal and industrial institu-
tions out of date, Anarchism becomes almost a religion." 120 Thus,
the law must embody Vernunft and remain synchronized with so-
cial development, becoming a handmaiden to progress. Ultimately,
progress means the widening and enriching of social life as life
lived, not merely its formal "improvement" in terms of material
goods.

VIII. FABIAN COLLECTIVISM—A RATIONAL FAITH:
The Socialization of Critical Industry

The Fabians saw Socialism as the result of the socialization of
all important industry. 121 The cooperative management and the
universal ownership of industry were regarded as important means
of developing an economy which genuinely served a self-governing
people. 122 H.G. Wells, in A Modern Utopia, wrote of the State
which "holds all the sources of energy . . . and renders the energy

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118 The American sociologist Lester Frank Ward had posited the "argument that soci-
ety possessed a 'collective mind' which directed and was capable of modifying its evolution
so as to better fulfill its basic needs—the theory of 'telic' or purposeful evolution—strongly
influenced some of the early Fabians." W. Wolfe, supra note 10, at 270-71.
119 Id. at 263.
120 Preface to Major Barbara, supra note 47, at 237.
121 A.M. McBriar, supra note 6, at 71.
122 The Fabians believed in the "necessity of an 'all-pervading control, in the interest of
the community, of the economic activities of the landlord and the capitalist' to be achieved
through state regulation (legislation) and trade union pressure." D. Nord, supra note 31, at
186.
available for the work of life . . . . It will maintain order, maintain
roads . . . be the common carrier of the planet . . . maintain the
public health . . . and reward such commercially unprofitable un-
dertakings as benefit the community as a whole . . . .”123 The Fabi-
ans, conscious of the danger of becoming shortsighted by merely
focusing on specific targets for reform, also sought to establish a
systematic and comprehensive plan. In New Worlds For Old, Wells
acknowledged that:

[T]he Socialist . . . attacks and criticises the existing order of
things at a great number of points . . . . At all points, however,
you will find . . . that his criticism amounts to a declaration that
there is wanting a sufficiency of CONSTRUCTIVE DESIGN.
That in the last resort is what he always comes to.

He wants a complete organization for all those human affairs
that are of collective importance. He says . . . that our ways . . . of
getting and distributing food, of conducting all sorts of business
. . . are chaotic and undisciplined; so badly done that here is
enormous hardship and there enormous waste, here excess . . .
there privation . . . . In place of disorderly individual effort, each
man doing what he pleases, the Socialist wants organized effort
and a plan . . . . [T]he Socialist seeks to make an orderly plan for
the half-conceived wilderness of human effort.124

The Fabians basically believed in centralized, collective, plan-
ing as the most logical, rational technique for ordering, reorder-
ing, organizing, and distributing goods, services, and resources.
They felt that the best way to allocate specifics and deal with par-
ticulars was by coordinating them with each other in the context of
a comprehensive view of the whole. When all needs and capabili-
ties were known, benefits could be fairly allocated and intelligently
sorted to optimize the general social situation. As Wells explained
in Socialism and the Family:

We want to get the land out of the control of the private owners
among whom it is cut up, we want to get houses, factories, rail-
ways, mines, farms out of the dispersed management of their pro-
ipitors, not in order to secure their present profits and hinder
development, but in order to rearrange these things in a saner

123 H.G. WELLS, supra note 94, at 89-90.
124 H.G. WELLS, supra note 38, at 24-25. “Shaw is against fascism for the same reason
he is against nineteenth-century liberalism: both are doctrines which relieve us of responsi-
bility, of controlling and planning our communal life. That is to say, they are anti-socialist
doctrines . . . .” E. BENTLEY, supra note 7, at 29.
and finer fashion. An immense work of replanning, rebuilding, re-distributing lies in the foreground of the Socialist vista.\textsuperscript{128}

Planning also prevents problems by arranging and distributing goods and resources so that dysfunctions and disparities, such as shortages, do not develop. The Fabians believed that the reasonable application of intelligence and purposeful rationality in a prospective manner would bring about a more desirable set of social affairs than would be produced by the sum of the uncontrolled, random, haphazard, selfish, and uncoordinated actions of individuals.

The collectivism which was endemic to Fabian proposals for socializing the industrial capacity of England was rooted in confidence in the possibility of meaningful and legal change. Laws, regulations, rules, and other authoritative measures were the purposeful implementation of rational solutions to problems of unruly human experience. Wells, in \textit{New Worlds For Old}, wrote that:

\begin{quote}
[The] fundamental idea upon which Socialism rests . . . is the denial that chance impulse and individual will and happening constitute the only possible methods by which things may be done in this world. It is an assertion that things are in their nature orderly; that things may be computed, may be calculated upon and foreseen.\textsuperscript{126}
\end{quote}

Similarly, Annie Besant, a founding member of the Fabian Society, and described as the "original architect" of Fabian collectivism, wrote that "the progress of society [socialism being a scientific and a necessary outcome of social evolution] has been from individualistic anarchy to associated order; from universal, unrestricted competition to competition regulated and restrained by law."\textsuperscript{127}

However, the Fabians, strictly speaking, were reluctant to equate collectivism with total centralization. In fact, the Society was reluctant to advocate intense centralization for most industries. Nevertheless, for the Fabians, law was a critical instrument

\begin{itemize}
  \item H.G. WELLS, \textit{supra} note 98, at 23.
  \item H.G. WELLS, \textit{supra} note 38, at 21.
  \item W. WOLFE, \textit{supra} note 10, at 263. It has been suggested that the arguments of the American Laurence Gronlund, in \textit{Co-operative Commonwealth}, played an important role in Besant's substantial reliance on the state and a centralized economy. Gronlund presented American "industry [as] already centralized and administered by salaried managers to an extent still almost unknown in England, demonstrating to her that massive centralized production was more efficient than . . . [small firm organization] . . . but the 'social union' rather than the individual capitalist should be its beneficiary." \textit{Id.} at 265.
\end{itemize}
in effectuating collectivist methods, thus reflecting the general philosophical attitude that management of society’s resources should rest with society at large.

Willard Wolfe, in *From Radicalism to Socialism*, noted that Fabian theory drew heavily upon Comte and his Positivist notion that “all material wealth is the common product of society . . . and is never merely an individual creation.” George Bernard Shaw argued that the marketplace was not capable of dispensing moral or economic justice, but merely provided an environment in which wealth got distributed to the fiercest competitors. Shaw, therefore, regarded the state as a legitimate coercive power, whose functions were perpetually supported by the “historic” tendency of communities to increase in efficiency and organization. Unlike the market, the democratic state did possess the means and the motivation for dispensing justice. British society, during the last two decades of the nineteenth century, had begun to assume Comtian characteristics; that is, it had become “melioristic, evolutionary and increasingly collectivist in outlook.”

In becoming a conscript to such an approach, Sidney Webb came to regard the gradual collectivization of major industry as a “world-historical idea,” one which “progressively manifest[ed] itself through changes in the thought and institutions of the present age and [drew] nourishment from all its chief intellectual tendencies.” The motivating force behind socialization, on behalf of which collectivism was to be applied, was rational and positive and embodied the Fabian idea of “progress” on individual as well as societal levels. Sidney Webb believed that:

[Only] when the English social organism had built up the “collective” cells and tissues required for coping with the new industrial order could the persons making up that society fully develop their individual potentials . . . . The crucial point . . . was that individual self-development remained the goal and purpose of all social progress.

Without the progression of society via socialization, individuals would stagnate both morally and intellectually.

Beatrice Webb also felt that collectivism served to “increase mutual dependence” and thereby resuscitated the social cohesion

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128 *Id.* at 267-68.
129 *Id.* at 287.
130 *Id.* at 270.
131 *Id.* at 275.
132 *Id.* at 281.
and sense of community lost in periods of individualism.\textsuperscript{133}

"Collective regulation" had an impact, Webb believed, that extended far beyond the physical well-being and comfortable subsistence of the . . . workers: it was also responsible for the personal and civil morality of . . . citizens. Collective activity "raised" the workers "into an effective democracy" and fostered in them the capacity for "self-government."\textsuperscript{134}

Similarly, Wells wrote of a new mass of learned and skilled individuals, persons with "‘a strong imperative to duty,’ a will to subordinate their appetite to the service of the state.”\textsuperscript{135} Policies grounded in a sense of social responsibility would be promoted by such individuals as they exercised the influence of their positions in the incompletely or yet-to-be socialized state. They would assist in moralizing the marketplace, forcing the controlling capitalist to slowly adapt.\textsuperscript{136}

Socialists sought to utilize collectivism to eliminate the inequities and abuses of laissez-faire capitalism. The goal was to moralize the system. In 1886, Sidney Webb stated:

"I am by no means sure that the capitalist can be moralised,” for by itself, the process would be “too slow,” and “economic rent would remain unaltered.” Hence, moralization would have to be supplemented by Socialist legislation . . . and regulation of industry in the public interest — so as to “enforce” the social duties of the capitalists and make them less tempted to squander wealth upon themselves. Indeed “the enforcement of [that] social duty” was now seen as the chief “mission of Socialism.”\textsuperscript{137}

Beatrice Webb, similarly noted that the effects of laissez-faire capitalism could only be eradicated by placing "limits on individual freedom for the ultimate good of the group.”\textsuperscript{138}

\textsuperscript{133} D. Nord, supra note 31, at 194.
\textsuperscript{134} Id. at 187.
\textsuperscript{135} N. MacKenzie & J. MacKenzie, supra note 9, at 164.
\textsuperscript{136} Id.
\textsuperscript{137} W. Wolfe, supra note 10, at 212 (quoting Sidney Webb).
\textsuperscript{138} D. Nord, supra note 31, at 186-87.

The work [of the Webbs] was all to the same point—in general to develop a science of society which like the natural sciences, would give mankind “an ever-increasing control of the forces amid which it lived” and in particular to do so by transferring the production and distribution of wealth from the “anarchic industrial profit-making” of an individualist society to the “regulated social service” of collectivism. [The Webbs believed the transition was imminent and] were bent on doing all they could to hurry on that change.
While members of the Fabian Society during the latter part of the nineteenth century believed that "piecemeal" reforms would gradually congregate into socialism, Willard Wolfe has argued that the majority of the early adherents may not have been so comprehensive in their orientation: "[I]nstead, they regarded the projected Socialist consummation as so distant that it became fashionable to argue that it need never arrive in any full-fledged form." Indeed, initially the appropriation of capital was to be a gradual, constitutional socialization carried on mainly at the municipal level. By focusing on municipal socialism at the outset, the Fabians evinced basic disapproval of an intensely centralized state. The Society had formulated a program promoting the state as a manifold, rather than a homogeneous body, which emphasized local government and regional collectivism. However, in a discussion of the National Minimum, Sidney Webb and Sidney Ball wrote of the danger of upsetting the comprehensive mechanism of collectivized industry if minimum wages were allowed to vary across the nation. They argued that the effect would be to undercut the production of regions offering a higher minimum. Thus, the Fabians urged that economic policy should be articulated on a national basis. Workers were to be paid "real wages: that is to say such a wage as worked out in its cash equivalent will equalize all local variations in [the] cost of living." But a practical appropriation of capital could best be accomplished by the locality which had supplied the labor by which such capital had been raised.

Just as the Fabian Society generally began and developed as a distinct alternative to Marxism and other revolutionary dogmas, its policies regarding the capitalist marketplace struck a characteristically moderate note. Collectivization of industry did not necessarily mean the end of capitalism; rather, some private enterprise was to remain as a valuable adjunct to municipalization. The focus, therefore, was on the excesses and abuses of capitalism and its repudiation of social responsibility, and did not express fundamental hostility toward individuals producing on their own. For example, as municipalities acquired land, the Fabians advocated that local

2 Diary of Beatrice Webb, supra note 6, at 9-10.
139 W. Wolfe, supra note 10, at 261 (emphasis added).
140 Id. Historic, supra note 19, at 70.
141 Sanders, supra note 78, at 9.
142 Id.
governments should rent out small parcels to individuals. It was
thought that as long as the leasehold remained under the control
of the municipality, then the use of that land would likely remain
socially responsible. The socialized state, in this view, has a signifi-
cant interest in monitoring use; the establishment of cottage indus-
try is but a precursor to renascent capitalism. Peasant proprietors
would, therefore, represent only a substitution of capitalists, rather
than a substitution for capitalism.

IX. Conclusion

The Fabians repeatedly spoke of a gradual transformation to
the society for which they strove. They appreciated the develop-
ment of British culture that had occurred in centuries past and
feared that violent revolution, in quest of dramatic economic and
political changes, would rend the social fabric in irrevocably de-
structive ways. The decided moderation of their sentiments is re-
lected in a comment made by Stafford Cripps identifying his posi-
tion in the Labour Government after the Labour Party had won
the 1945 post-war election in Great Britain. In response to criti-
cism that the 1946 Coal Nationalization Bill lacked provision for
substantial worker control he commented:

There is not yet a very large number of workers in Britain capa-
ble of taking over large enterprises. Until there has been more
experience by the workers of the management side of business, I
think it would be almost impossible to have worker-controlled in-
dustry in Britain, even if it were on the wholesale desirable.

Yet, in their judiciousness, the Fabians were instrumental in
bringing about a more humane society in which those not so adept
at fending for themselves were assured the basic civilities and
amenities of a decent human existence. The real memorials to their
efforts were some of the measures enacted by the first majority La-
bour Government, elected in 1945, and headed by Clement Attlee
as Prime Minister. One such measure, the Parliament Act, was di-
rected at reducing the power of the House of Lords to delay legis-
lation and effectively prevent its passage. The Bill, which received
the quiet support of the King, not only addressed the problem of
the distribution of power to a nonelected legislative unit, but also

A.M. McBriar, supra note 6, at 25.
played an integral part in the collectivization program.\[145\] "The reduction in [the House of Lords'] powers was important; the Lords were sure to resist the controversial plans to nationalize steel."\[146\]

The actual impact of such measures on the day-to-day content and conduct of human lives is not to be doubted. Although they may have been talismans of Sidney Webb's phrase "the inevitability of progress," and were certainly only evolutionary rather than revolutionary, they enormously enhanced the daily existence of millions of people. Not having to calculate whether one has enough money to see a physician when necessary may not seem like something that shakes the world—but it is a tremendous comfort to the impecunious who, but for the National Health scheme, would not be able to afford medical attention. As Attlee observed respecting nationalization of the Bank of England:

This vigorous and forceful action rather upset our opponents, for some of them seemed to be rather scandalised that having gone out to the country with a clear and definite programme we should carry it out. It was always their pretence that programmes of nationalization were theoretical, ideological fads . . . . The fact is, these measures of ours are not theoretical trimmings. They are the essential part of a planned economy . . . . vital to the efficient working of the industrial and political machinery of this country, the embodiment of our Socialist principle of placing the welfare of the nation before that of any section.\[147\]

Much of the Fabian effort was directed toward achieving "progress" by the analytical deployment of appropriate legislation. Much of their agenda is unshakably in place. Their work has by no means secured, and likely never will, the perfect state they may have thought possible. Nevertheless, their contribution to the beneficent dimensions of the Welfare State more than conclusively validates H.G. Wells' assertion that human beings have a remarkable capacity to make things better.\[148\]

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\[145\] Id. at 351.
\[146\] Id. at 352.
\[147\] Id. at 324 (emphasis added).
\[148\] H.G. WELLS, supra note 38, at 5.