

CALLING THE STATE TO ANSWER FOR CHILD POVERTY: "WHAT THEN?"

Lucie White*

I want to begin by commending Professor Mossman for drawing our attention so forcefully to the dismal track record of the North American democracies in the domain of child and family poverty. I also want to commend her for drawing on discourse analysis in a decidedly down to earth way. Listening to her enabled me to understand, in a very practical way, what all of the talk about "discourse" has to do with policy decisions that improve low-income women's lives. Her lecture elegantly explained the crucial, yet intuitively simple point that the language we use to name and discuss social problems like child poverty is of great importance. Our language matters because how we choose to speak of social problems shapes the way we understand those problems. Our words carry hidden assumptions about where to lay blame for a social problem and, in consequence, where to search for solutions.

Professor Mossman invoked the theme of privatization to explain what is wrong with the lens through which Canadian law has increasingly come to view child poverty. The major cause of child poverty, according to the prevailing legal discourse in both Canada and the United States, is not a retrenchment in state programs. Rather, according to the prevailing discourse, it is "deadbeat dads". If we take deadbeat dads to be the problem, then it follows that the main focus of corrective social policy should be to encourage delinquent fathers to make good on their debts to their children. Social policy should therefore devise tougher laws to make men pay and should criminally sanction those who seek to evade them.

This way of naming the problem of child poverty screens out the profound macroeconomic dislocations that have disabled many fathers — perhaps most fathers — from earning the wages necessary to raise their children out of poverty. This is particularly the case for fathers who have had more than one intimate relationship and are consequently supporting children in more than one household. This way of naming the problem of children's poverty deflects our remedial gaze away from the positive state — the social state, the agent that might take a lead in addressing the root causes of families' destitution. Instead, our policy attention is turned toward the negative state — the repressive state, the state that deploys criminal stigma and sanctions to blame the victims of economic dislocation for their families' poverty.

It is fortunate that I am the last commentator on Professor Mossman's lecture because the question that I want to address in my comments is a question that arises at the end of her presentation. It arises, like an echo, precisely at that moment when one has found oneself convinced by the force of her ideas. As I nodded in agreement

*Of the Faculty of Law, Harvard University. This paper was presented at the Viscount Bennett Seminar held at the Faculty of Law, University of New Brunswick (Fredericton), 8 November 1996.

with each step of Professor Mossman's argument, I heard a whisper that turned my increasingly enthusiastic acquiescence back upon itself as a question. By the end of Professor Mossman's lecture, this echo had become louder and more insistent, and began to remind me of the haunting refrain from one of William Butler Yeats's most powerful poems.

Professor Mossman argues that we must rename the phenomenon of child poverty in a way that targets economic dislocation, rather than deadbeat dads, as the root cause of the problem.¹ She argues that this kind of naming will turn our moral and remedial gaze away from impoverished men and toward the state, the positive state, as both the most appropriate moral agent to blame for the problem and the most appropriate social agent to look to for solutions. Once our remedial attention is focused on the state, she continues, we will be able to envision practical, well-focused policy responses — responses that we could not have imagined had we continued to diagnose the problem as one of deadbeat dads. Privatization, she then notes, is but a trendy mantra that fuzzes our thinking each time we hear it.

Indeed, the arguments that Professor Mossman sets out in her lecture are both astute and visionary. But, asks the ghost from Yeats's poem, "What then?"² So we manage to change our linguistic focus from dads to "The Man", as my legal aid clients refer to the state that they encounter in means-tested welfare programs. So we expose the call for privatization as an agenda for speeding the flow of social wealth from poor to rich, and for isolating the people in both of these camps from wider networks of care. But, "What then?" Once we have focused our gaze on the state in this fashion, what do we then ask it to *do*?

Indeed, the very act of asking this question unveils a deep problem. The very act of addressing the state in this manner constructs the state as a Great Person, who holds the power to end child poverty in his own mighty hand. This way of asking the question, and therefore configuring the subject of state action, actually assures our own exclusion from that power. When we implore the state to *do* something about child poverty, we implicitly place ourselves outside of the privileged circle of state action. We implicitly renounce our claim to be the peculiar, paradoxical sovereign of a democratic state. We renounce our claim to locate ourselves inside the rituals of citizenly participation through which such a state performs the only action it can legitimately call its own.

¹M.J. Mossman, "Child Support or Support for Children? Re-thinking 'Public' and 'Private' in Family Law" (1997) 46 U.N.B.L.J. 63.

²W.B. Yeats, "What Then?" in *The Collected Poems of W.B. Yeats* (New York: The Macmillan Company, 1965) 229.

Does Professor Mossman's wisdom not turn back then, like a serpent, to bite its own tail?³ The act of chiding the state for inaction inadvertently but inevitably endorses an image of the state as a higher power, who can be called down from above to lift the problem — whatever problem — out of our own joined hands. The result is ironic, because it subverts Professor Mossman's own feminist wisdom. The unintended result of her call to the state to solve the problem of child poverty undercuts the teachings that she has so eloquently professed throughout her scholarly career. The unintended result of her rhetoric is to undermine the feminist effort to place the moral responsibility for the state's action, and its violence, in the hands of real people, with real bodies, wounds, and passions — people who can only speak and act in real ... imagined ... remembered time.

Let us try for a moment to embrace this feminist wisdom. Let us try to imagine what we might do and say in response to child poverty, were *we* to claim our power, as citizens, to speak *as* the state, rather than *to* it, on the subject of child poverty. What specific changes would we seek, in the United States and Canada today, if citizenly responsibility for child poverty were to animate the state's power? What would we do together to bring about the changes in our laws, institutions and shared moral climate that we so ardently desire the state to realize in our name? What yearnings — what loss — might we have to live with in order to take back the state's power into our own hands?

Critical race scholar and human rights activist Professor Derrick Bell has spoken with wisdom on these hard questions. Over the last decade, Professor Bell has written a series of moving books about race, poverty, personal and public responsibility, and social justice. The theme of this work sounds clearly in his recent book, *Gospel Choirs*.⁴ Bell's work reminds us that we can never finally resolve the fundamental issues, such as race, which divide us. The best we can hope for is to try to keep our eyes wide open to history, as we seek to move along.

Bell's teaching can guide us as we face the challenge of taking back into our own hands the state's power, and responsibility, to address hard issues like child poverty. His voice counsels us to call forth the state through the personal and political choices that we make every day, in small and big ways, in our lives. It also teaches us to recognize that the state's power to resolve the problem is no greater than the creativity and energy with which we infuse it, and no less than the weight of history on our lives.

³See R. Behar, *Translated Woman: Crossing the Border with Esperanza's Story* (Boston: Beacon Press, 1993).

⁴D.A. Bell, *Gospel Choirs: Psalms of Survival for an Alien Land Called Home* (New York: Basic Books, 1996).

Professor Bell's wisdom about the state's real power to address child poverty was brought home to me recently, as I worked through the final chapter of Gøsta Esping-Anderson's dark and illuminating book, *The Three Worlds of Welfare Capitalism*.⁵ Esping-Anderson's book sets out a conceptual framework for comparing the laws and institutions of social welfare in the industrial democracies, including Canada and the United States. He identifies three ideal "regime types" in these societies, which he labels "liberal", "corporatist" and "social democratic". He considers the Anglo-American industrial countries — the United Kingdom, Australia, Canada and the United States — to share many features of what he calls the "liberal" regime. These states deliver most social welfare benefits through the private market, as stably-employed workers bargain with their employers to provide such protections as pensions, health insurance and disability benefits. For those people who are not stably attached to a mainstream employer, these states provide minimal, means-tested welfare programs. These programs are kept small by two basic means. First, the culture of these programs is kept punitive and stigmatizing in order to discourage people from sponging from welfare instead of getting a job. Second, the benefits provided in these programs are kept below the minimal benefits that one might get from working full-time.

Furthermore, these "safety net" programs tend to divide people into two rigid categories. First, there are the people who are morally excused from working in the private sector. These people are paid enough to allow for minimal subsistence. Second, there are the people who are deemed to be "able-bodied" and therefore eligible to work. For these people, the liberal regimes typically impose an explicit, administrative work requirement in addition to the *de facto* work requirement that is imposed upon people who are driven from means-tested programs by demeaning treatment and low benefits.⁶ Esping-Anderson's theoretical contribution is to demonstrate how a dual track social welfare system, a system in which poor aid must be less generous and more demeaning than the lowest paying job, is a typical pattern in states with a constitutional commitment to a *laissez-faire* economy.

The second type of regime that Esping-Anderson posits is what he calls "corporatist". In this regime-type, which he associates with Italy, Germany and France, the welfare-state institutions were shaped by socio-political processes in which a powerful, hierarchical, nationally centralized state church — generally the Roman Catholic Church — played a central role. In these regimes, quasi-universal social welfare is provided to mainstream, generally male employees through publicly-subsidized pension programs administered by a strong, bureaucratic national state. The eligibility and payment provisions of these programs differentiate among

⁵G. Esping-Anderson, *The Three Worlds of Welfare Capitalism* (Princeton: Princeton University Press, 1990).

⁶See J.F. Handler, *The Poverty of Welfare Reform* (New Haven: Yale University Press, 1995); J.F. Handler & Y. Hasenfeld, *Reform Work, Reform Welfare* (Princeton: Princeton University Press) [forthcoming].

workers on the basis of job status and social affiliations, however, thereby preserving elaborate and deeply entrenched systems of stratification. In addition, these regimes typically entitle women to income security through their connection to a bread-winning male. In return for the state's underwriting of a male worker's family wage through periods of job instability, his wife is expected to care for the worker's children in the home. Esping-Anderson observes that this regime type does not provide child care assistance directly to women. He links this gap to the close enmeshment of this regime-type with the state-established church's normative vision of gender roles and family forms, and notes it as a gap which ensures the exclusion of women from full integration into mainstream labour markets.

The third regime type that Esping-Anderson sets out is the "social democratic". He links this type most closely with the post-World War II welfare-state arrangements in Sweden, Denmark and Norway. This type is defined by the state's direct provision of extensive income support and social service to the entire population, without regard to employment status, on the basis of need. Esping-Anderson argues that this kind of social welfare regime gives individual citizens a baseline of economic and social security that enables them to bargain meaningfully with prospective employers about the terms and conditions of waged work. This measure of power contributes to the "decommodification" of human beings, in the following way. With the margin of power that a generous, non-job-linked social safety net provides, people's expressions of their human potential are not constrained by employers' narrow economic demands. Social democratic welfare regimes also promote equality among social groups because they effect substantial redistribution of social wealth, particularly into the households of families at the very bottom of the society's income scale.

Now I want to spell out a link between Professor Mossman's call to action, Yeats's haunting question, Derrick Bell's prophetic vision and Esping-Anderson's conceptual scheme. When Professor Mossman urges us to look toward the state, rather than dads, to address children's poverty, her vision of the state's involvement evokes Esping-Anderson's third, social democratic, welfare state form. Mossman speaks about programs like direct allowances to children or child support assurance, both of which are income transfer programs that fit closely with the social democratic model. She also calls for generous, high quality, universally accessible child care for women, another welfare state program that fits closely with the social democratic model. Mossman gives little detail about how these universal state programs might be funded, administered or delivered. Yet her critique of "privatization" suggests that she envisions these programs to be delivered by a strong national state — one with the fiscal and administrative capacity to ensure that these programs get delivered to the entire population on terms that, at the very least, are consistent with formal procedural justice.

Mossman's clear evocation of the social democratic template invites us to look more closely at the track record of the social democratic regimes in the half-century

since the Second World War. How are these regimes faring in the face of the familiar global pressures that have rationalized deep retrenchment in social spending throughout the industrial world? Esping-Anderson addresses this question in the final chapter of his book. He observes that the three flagship regimes of social democracy — Norway, Sweden and Denmark — all developed in political circumstances which allowed an unlikely alliance between urban workers and affluent farmers — a red-green coalition, to use Esping-Anderson's phrase. Landed farmers and organized workers often have clashing interests. Their conflict has undermined social democratic movements in other industrial countries. Without this alliance, which had sufficient societal power to override the economic self-interest of employers, the Nordic states could not have enacted social welfare legislation that was bold enough to address the deep structural roots of problems like child poverty.

In addition to this alliance between farmers and workers, the social democratic regimes were linked to other political and economic conditions with a clear historical life span. Even absent significant global pressures, the Nordic democracies were able to maintain full employment and generous, universal social benefits only so long as the costs of those policies were not imposed on unwilling employers through excessive taxation. In Norway, this was accomplished, for a time at least, through wealth generated from North Sea oil. In Sweden, the unlikely equilibrium was maintained for a short while through the power of strong centralized labour unions to work out long-term deals with entire sectors of the economy.

With the rise of global competitive pressures, the consequent demise of the labour movement and the inevitable depletion of oil supplies, these fundamental, enabling conditions of social democracy in northwest Europe have eroded. In the face of this changing picture, the social democracies, just like the liberal regimes of Canada and the United States, are retrenching on their post-World War II welfare entitlements. Furthermore, even at the height of their power, the Nordic regimes did not do very well to support women's integration into paid labour on equal terms with men. Nor do these countries have an exceptional track record in preventing the sexual exploitation of girls and adult women. Finally, the social democratic welfare states, for all of their generosity, came under sharp attack by feminists for imposing narrow paternalist values on women's expression of their gender roles and sexual identities.

Thus, if we open our eyes to what is really happening, we may have to conclude that there is no place on earth that exemplifies the kind of direct, positive state intervention to eliminate child poverty that Professor Mossman seems to call for. Simply invoking "the state" does not provide the answer we long to find. So, to return to Yeats's question, "What then?" Once we wean ourselves from talking about state action in nostalgic terms, where can we turn for guidance? How can we learn to engage state power to support the efforts of families and communities to secure our children's welfare, particularly in the face of callous public attitudes toward the poor and seemingly overwhelming need?

The hardest part of our work, which may lie behind us, may be simply to let go of the dream of social democracy and to begin to mourn that loss. It is understandable that we want to cling to an easy dream of state action when we face the patent injustice of child poverty in a wealthy society. When confronted by such great wrong, we need to look to our history for clues to the best paths forward. The challenge is to study history with an acute, fine-grained sense of vision, rather than the nostalgia that comes when moral outrage has not yet been tempered by despair.

Beyond this hardest lesson, are there signposts to guide us? I close with two citations that might be of some use in response to this question. The first is to Professor Mossman's wonderful article, "Running Hard to Stand Still".⁷ This article puts forth the image of "family conversation" to evoke an ethic that might inform public, as well as private interaction in a better world. Professor Mossman suggests that the listening, loving, learning and growing that *might* go on in families, were they guided by internal norms of mutual respect and democratic conversation, could offer a normative lodestar for interaction in wider institutional settings in the plural, robustly democratic societies to which we aspire. What might the state look like, if its constitutional project were to enable vulnerable, mutually dependent and irreducibly different people to come together in multiple spheres of "conversational" interaction? What kinds of state intervention against child poverty, for instance, might be called for, in the here and now, if enabling citizens to engage more fully in democracy were the normative horizon toward which the state's action was poised?

A second citation comes from the writings of Fauzia Ahmed, a feminist human rights activist who has investigated women's grassroots development projects for the United Nations.⁸ In a recent evaluation of such initiatives in industrial and less developed countries, she observed how in the United States and other industrial countries, many low-income women seem constrained by a sense of isolation, stigmatization and political disengagement. She contrasts this feeling with the sense of creativity and momentum that she saw among women who were active in grassroots initiatives in less-developed countries. Perhaps we should take these forms of self-organization among women more seriously. Perhaps these grassroots institutions point toward a different kind of "state" action — action that is oriented less toward solving big problems in one blow, and more toward enabling people to continue and expand the work of democratic communities that they have already undertaken on their own ground.

Taken together, these two images — of family conversation and grassroots institution-building — provide glimpses of paths through which we might engage a

⁷M.J. Mossman, "Running Hard to Stand Still: The Paradox of Family Law Reform" (1994) 17 Dalhousie L.J. 5.

⁸F.E. Ahmed, *Beyond Beijing '95: Building the Road as You Walk* (Cambridge, MA.: Radcliffe Public Policy Institute, 1996).

democratic state to help us answer for child poverty, through our own action. The images are sketchy, however. What might they point us to *do*, with respect to state programs, in concrete terms? One sphere of action to which we might look for guidance is women's activism against domestic violence. In this domain, feminists have launched many different kinds of state-connected action on different levels of government, from the local to the transnational. These programs engage the state's power in multiple ways. A close study of the state's roles in these programs might expand our imagination as we seek ways to call on the state to respond to child poverty. A first step in these strategies of state action against domestic violence involves enlisting the state to help create safe, healing spaces, where women and families can come together, share their ideas, and develop their own initiatives. A second step seeks state support for implementing these self-help initiatives and action plans. A third and crucial step seeks to revise the nexus of public and private law that constrains — but might do more to sustain — these life projects and community-based initiatives, over time.

Thus, to move toward a new kind of state engagement in addressing child poverty, one strategy might be to devise ground-level programs and practices, and then to tease from these living projects specific opportunities for the state to play enabling roles. The architects of this new kind of state engagement must learn to work back and forth, up and down, between “best” practices and the kinds of state roles that might support and expand them. This kind of engagement with state action gets beyond the dualism of attacking the state as the source of the problem, on the one hand, and imploring it to resolve the problem, on the other. The task, in short, is to let go of a nostalgic picture of the social democratic state that is no longer viable, if indeed it ever was. The challenge is to use the space that is opened up by this absence to map out the everyday work of citizenship in a feminist, democratic society.